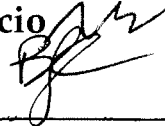


I MINA' BENTE OCHO NA LIHESLATURAN GUÅHAN
2005 (FIRST) Regular Session

Bill No. 40 (EC)

Introduced By:

R.J. Respicio
B.J. Cruz 

AN ACT TO AMEND §§ 3212, 3213, 3214 AND 3215,
AND TO ADD A NEW §3215.1 ALL OF TITLE 10
GUAM CODE ANNOTATED RELATIVE TO
CERTIFICATES OF BIRTH FOR FOREIGN-BORN
CHILDREN WHOSE ADOPTIVE PARENTS RESIDE
IN GUAM.

1 **BE IT ENACTED BY THE PEOPLE OF GUAM:**

2 **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan*
3 finds that adoption is one of the most loving expressions of hope that can
4 be bestowed upon a child without parents. Many families and individuals
5 in Guam and throughout the world have chosen to reach out and bring
6 into their household children who might otherwise not grow up in a family
7 environment. Studies show that adopted children who are raised in a
8 loving family environment usually have happier and more well-adjusted
9 lives than children who are raised in foster homes, orphanages or other
10 similar institutions.

11 *I Liheslaturan Guåhan* additionally finds that a common practice in
12 many states is to provide a new certificate of birth for lawfully adopted
13 children of foreign birth. By law, the newly issued certificate of birth

1 replaces the original certificate issued by the actual country of birth, if one
2 exists.

3 While Guam law states that the court may order that a new certificate
4 of birth be issued for adoptees, this is not a requirement for foreign-born
5 children adopted by Guam residents. In some cases, these children may not
6 even have certificates of birth, the court having utilized other means to
7 determine the facts of their birth, leaving the children without valid birth
8 certificates.

9 It is therefore the intent of *I Liheslaturan Guåhan* to amend Guam law
10 to allow the Office of Vital Statistics of the Department of Public Health
11 and Social Services (DPH&SS) to issue certificates of birth for foreign-born
12 children who have been lawfully adopted by Guam residents.

13 **Section 2. §3212 (a) of Title 10 Guam Code Annotated is amended**
14 **to read:**

15 **“§3212. Delayed registration. (a) Birth:**

16 (1) When a birth of a person either born in Guam , or who
17 is a non-U.S. citizen born in a foreign country and adopted by a
18 resident of Guam has not been registered, a certificate may be
19 filed in accordance with the regulations of the Office of Vital
20 Statistics. Such certificate shall be registered subject to such
21 evidentiary requirements as the Office of Vital Statistics shall by

1 regulation prescribe to substantiate the alleged facts of birth.

2 (2) Certificates of birth registered seven (7) years or more
3 after the date of occurrence shall be marked "Delayed" and
4 show on their face the date of delayed registration.

5 (3) In all instances of delayed birth registration, the
6 following facts concerning the person whose birth is to be
7 registered are required and must be established: Date of birth;
8 place of birth; and parentage.

9 (4) When an applicant does not submit the minimum
10 documentation required in the regulation for delayed
11 registration, or when the Territorial Registrar of Vital Statistics
12 finds reason to question the validity or adequacy of the
13 certificate or the documentary evidence, the Territorial
14 Registrar shall not register the delayed certificate and shall
15 advise the applicant of the reasons for this action.

16 (5) If the person whose birth is to be recorded be a child
17 under the age of eighteen (18), the birth certificate shall be
18 signed by one of the following in the indicated order of
19 priority:

20 a. The attendant at birth;

21 b. By either parent or adoptive parent;

1 c. By the child's guardian; or

2 d. By relatives in the next immediate degree of
3 kindred; provided, that each person signing a certificate
4 shall attest under oath to his belief in the truth of the
5 statements made concerning the age, birthplace, and
6 parentage of the person whose birth is being recorded.

7 (6) If the person whose birth is to be recorded be of legal
8 age, the date of birth and place of birth shall be supported by at
9 least two (2) documents of which only one (1) may be an
10 affidavit; the facts of parentage must be supported by at least
11 one (1) document which may be one (1) of the two (2)
12 submitted as evidence of the other facts."

13 **"Section 3. §3213 of Title 10 Guam Code Annotated is amended to**
14 **read:**

15 **"§3213. Judicial procedure to establish facts of birth. (a) If a**
16 **delayed certificate of birth is rejected under the provisions of §3212 of**
17 **this article, a petition may be filed with the Superior Court of Guam**
18 **for an order establishing a record of the date and place of birth and**
19 **the parentage of the person whose birth is to be registered.**

20 (b) Such petition shall allege:

21 (1) That the person for whom delayed certificate of birth is

1 sought was born in ~~the~~ Guam , or is a non-U.S. citizen born in
2 a foreign country and adopted by a resident of Guam;

3 (2) That no record of birth can be found in the Office of
4 Vital Statistics;

5 (3) That diligent efforts by the petitioner have failed to
6 obtain the evidence required in accordance with §3212 of this
7 article.

8 (4) That the Territorial Registrar of Vital Statistics has
9 refused to register a delayed certificate of birth; and

10 (5) Such other allegations as may be required.

11 (c) The petition shall be accompanied by a statement of the
12 registration official made in accordance with subsection (a)(4) of said
13 §3212 and all documentary evidence which was submitted to the
14 registration official in support of such registration. The petition shall
15 be sworn to by the petitioner.

16 (d) The court shall fix a time and place for hearing the petition
17 and shall give the registration official who refused to register the
18 petitioner's delayed certificate of birth (5) days' notice of said hearing.
19 Such official or his authorized representative, may appear and testify
20 in the proceedings.

21 (e) If the Court from the evidence presented finds that the

1 person for whom a delayed certificate of birth is sought was born
2 [~~on~~] in Guam, or is a non-U.S. citizen born in a foreign country and
3 adopted by a resident of Guam, it shall make findings as to place and
4 date of birth, parentage and such other findings as the case may
5 require, and shall issue an order on a form prescribed and furnished
6 by the Registrar of Vital Statistics to establish a record of birth. This
7 order shall include the birth data to be registered, a description of the
8 evidence presented in the manner prescribed by said §3212, and the
9 date of the Court's action.

10 (f) The clerk of the Superior Court shall forward each such
11 order to the Territorial Registrar of Vital Statistics not later than the
12 tenth (10th) day of the calendar month following the month in which
13 it was entered. Such order shall be registered by the Territorial
14 Registrar of Vital Statistics and shall constitute the record of birth,
15 from which copies may be issued in accordance with §3226 of this
16 article.

17 (g) Any person who objects to the accuracy of any of the
18 information on a certificate of birth may petition the Superior Court
19 to correct the certificate, using the same procedures as for obtaining a
20 change of name."

1 Section 4. §3214 of Title 10 Guam Code Annotated is amended to
2 read:

3 “§3214. Court reports of adoption. (a) For each adoption
4 decreed by a court of competent jurisdiction, the court shall require
5 the preparation of a certificate of adoption on a form prescribed and
6 furnished by the Territorial Registrar of Vital Statistics. The certificate
7 shall include such facts as are necessary to locate and identify the
8 certificate of birth of the person adopted; provide information
9 necessary to establish a new certificate of birth of the person adopted,
10 and shall identify the order of adoption and be certified by the clerk
11 of court.

12 (1) For a person born in a foreign country who is not a
13 citizen of the United States, and for whom a final order of
14 adoption has been decreed by a court of competent jurisdiction,
15 the court shall require the preparation of a certificate of foreign
16 birth as provided in §3215.1.

17 (b) The certificate of adoption shall be filed with the original
18 record of birth, if such record exists, which shall remain as a part of
19 the permanent records of the Office of Vital Statistics.

20 (c) Whenever an adoption decree is amended or annulled, the
21 clerk of the court shall prepare a certificate thereof, which shall

1 include such facts as are necessary to identify the original adoption
2 report, and the facts amended in the adoption decree as shall be
3 necessary to properly amend the birth record.

4 (d) When the Territorial Registrar of Vital Statistics receives a
5 record of adoption or annulment of adoption or amendment thereof
6 from a court for a person born elsewhere, such record shall be
7 forwarded to the appropriate registration authority in the place of
8 birth of the child adopted."

9 **Section 5. §3215 (a) of Title 10 Guam Code Annotated is amended**
10 **to read:**

11 **"§3215. New certification of birth following adoption,**
12 **legitimation and paternity determination.** (a) The Territorial
13 Registrar of Vital Statistics shall establish a new certificate of birth for
14 a person [~~born in the Guam~~] when he receives one (1) of the
15 following:

16 (1) An adoption report as provided in §3214 of this article,
17 or a certified copy of the decree of adoption, together with the
18 information necessary to identify the original certificate of birth
19 and to establish a new certificate of birth; (except that a new
20 certificate of birth shall not be established if so requested by the
21 court decreeing the adoption, the adoptive parents or the

1 adopted person).

2 (2) An affidavit of acknowledgment of paternity signed
3 by both parents; or

4 (3) A court order determining paternity.”

5 **Section 6. A new §3215.1 is added to Title 10 Guam Code Annotated**
6 **to read:**

7 §3215.1. Certificate of Foreign Birth. (a) The Territorial Registrar of
8 Vital Statistics shall, upon request, establish a new certificate of birth for a
9 person born in a foreign country when in receipt of a report of adoption
10 decreed by a court of competent jurisdiction, proof of the date and place of
11 the person’s birth, and a request from the court, the adopting parent or
12 parents, or the adopted person if 18 years of age or over, that such a
13 certificate be prepared. The certificate shall be labeled “Certificate of
14 Foreign Birth” and shall show the actual country of birth. The certificate of
15 foreign birth shall show the true or probable foreign country of birth, and
16 shall state that the certificate is not evidence of United States citizenship for
17 the child for whom it is issued or for the adoptive parent or parents. After
18 registration of the Certificate of Foreign Birth in the new name of the
19 adopted person, the Territorial Registrar shall seal the report of adoption,
20 which shall not be subject to inspection except upon order of a court of
21 competent jurisdiction.”

1 **Section 7. Severability.** If any part or provision of this Act, or the
2 application of this Act to any person or circumstance, is held invalid, the
3 remainder of this Act, including the application of such part or provisions
4 to other persons or circumstances, shall not be affected by such a holding
5 and shall continue in full force and effect. To this end, the provisions of this
6 Act are severable.