


I MINA'TRENTAI UNU NA LIHESLATURAN GUÅHAN
2012 (SECOND) Regular Session

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Bill No. 504-31(COR)

Introduced by:

Adolpho B. Palacios, Sr. 

AN ACT RELATIVE TO AUTHORIZING THE RE-ALLOCATION OF UNDISTRIBUTED COLLECTION FUNDS BY THE CHILD SUPPORT ENFORCEMENT DIVISION OF THE OFFICE OF THE ATTORNEY GENERAL, TO PROVIDE FOR THE CRITICAL SUPPORT NEEDED FOR CHILD SUPPORT ENFORCEMENT SERVICES; THROUGH AMENDING SECTION §34111 OF CHAPTER 34, TITLE 5, GUAM CODE ANNOTATED.

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

2 **Section 1. Legislative Findings and Intent.** *I Liheslaturan*
3 *Guåhan* finds that over the years the Child Support Enforcement
4 Division of the Office of the Attorney General has worked
5 aggressively toward the collection of child support obligations, and
6 has further actively addressed the remittance of such payments to the
7 respective child recipient. Although the Child Support Division has
8 been able to provide this critical service to the community over the

1 years, there have been times in which the Division has experienced
2 difficulty in locating the recipient entitled to the funds. Whenever an
3 entitled recipient of the funds is not identified within a period of not
4 less than two (2) years, unclaimed funds may through a court order
5 be deposited and retained with the Treasurer of Guam for a period of
6 no less than five (5) years, whereupon if it is still unclaimed by the
7 individual entitled to such funds, then it would be escheated to the
8 government of Guam. *I Liheslaturan Guahan* further finds that with
9 today's technological tools and resources being utilized to locate the
10 entitled recipient of the funds, these child support funds are being
11 disbursed in a more expeditious manner.

12 However, according to information recently provided to *I*
13 *Liheslatura* by the Office of the Attorney General, during the agency's
14 FY 2013 Budget Hearing held in June 2012, there is approximately
15 five million dollars (\$5,000,000.00) worth of undistributed child
16 support checks that remain in an interest-bearing bank account.
17 These unclaimed payments represent an amount that has passed the
18 two (2)-year hold period provided by law.

19 Unfortunately, *I Liheslaturan Guahan* finds that there continues
20 to be instances in which funds are not disbursed accordingly due to
21 the inability of the Division to identify or locate the entitled recipient,
22 thereby having such funds remain in the interest-bearing bank

1 account, unnecessarily, for an extended period of time, at times in
2 excess of an additional five (5) years.

3 Therefore, it is the intent of *I Liheslaturan Guahan* to continue to
4 allow the Child Support Enforcement Division the opportunity to
5 ensure the aggressive disbursement of child support funds within the
6 existing two (2)-year timeframe, and if not disbursed accordingly,
7 then said undistributed collection funds would be escheated to the
8 government of Guam shortly therefore; with said proceeds to be
9 remitted to the Child Support Enforcement Division and to be
10 expended toward updating and enhancing its vital services,
11 including the procurement and maintenance of a new child support
12 computer system. Through the re-allocation of these undistributed
13 collection proceeds to the Child Support Enforcement Division of the
14 Office of the Attorney General, the Division would have the use of
15 these limited resources to further support its essential child support
16 enforcement services to the island community.

17 **Section 2. Remittance of Any Child Support Undistributed**
18 **Collection Proceeds to the Child Support Enforcement Division**
19 **to Sustain its Critical Services to the Community.** Section §34111
20 of Chapter 34, Title 5, Guam Code Annotated, relative to Child
21 Support Collection, Accounting and Disbursement of Funds, is
22 hereby amended to read as follows:

23 **“§ 34111. Collection, Accounting and Disbursement of Funds.**

1 (a) The ~~Department~~ Child Support Enforcement Division of the
2 Office of the Attorney General shall cooperate with the Department
3 of Public Health and Social Services, the Department of
4 Administration, and the Superior Court of Guam in the collection,
5 accounting for and disbursement of funds paid pursuant to any order
6 of support issued by the Superior Court or any other state having
7 jurisdiction when such order affects the Department of Public Health
8 and Social Services, a welfare recipient or a person receiving
9 assistance pursuant to the provisions of this subchapter.

10 (b) With respect to any funds paid to the ~~Department of Public~~
11 ~~Health and Social Services~~ Child Support Enforcement Division of
12 the Office of the Attorney General, pursuant to any order of support,
13 which have remained unclaimed for not less than two (2) years after
14 diligent effort to locate the person entitled to such funds, the Superior
15 Court may enter an order decreeing:

16 (1) That the funds be returned to the person who paid them
17 pursuant to the order of support; or

18 (2) That the funds be deposited with the Treasurer of Guam in
19 an interest-bearing account for a period of an additional ~~five (5)~~ one
20 (1) years, after which time, if still unclaimed, the funds shall escheat
21 to the government of Guam. Said funds, to include any and all
22 interest earned within the specified time period outlined above, shall
23 be set aside specifically for use by the Child Support Enforcement

1 Division of the Office of the Attorney General to update and enhance
2 its vital services, including the procurement and maintenance of a
3 new child support computer system; which shall be subject to
4 legislative appropriation. The Division shall provide written or
5 electronic reports to I Maga'lahaen Guahan and the Speaker of I
6 Lihaslaturan Guahan bi-annually on the application and use of any of
7 the funds outlined herein.

8 (c) If a claimant proves to the satisfaction of the Superior Court
9 within ~~five (5)~~ one (1) years after the deposit of funds under
10 paragraph (2) of subsection (b) of this section that he or she has a just
11 and legal claim to any part of the funds, the Court may order that
12 repayment shall be made to such claimant. The clerk of the court
13 shall issue a certificate under the official seal of the court embodying
14 the terms and provisions of the order and transmit the certificate to
15 the Office of the Treasurer with whom the funds were deposited.

16 (d) The Department shall ascertain the ability of an absent
17 parent to support or contribute to the support of his or her
18 dependents, in accordance with a child support formula accepted
19 and approved by the Attorney General."

20 **Section 3. Effective Date.** The provisions contained herein
21 shall be effective immediately upon enactment of this Act.

22 **Section 4. Severability.** If any provision of this Act or its
23 application to any person or circumstance is found to be invalid or

1 contrary to law, such invalidity shall not affect other provisions or
2 applications of this Act which can be given effect without the invalid
3 provisions application, and to this end the provisions of this Act are
4 severable.