

I MINA'TRENTAI SAIS NA LIHESLATURAN GUÅHAN

2021 (FIRST) Regular Session

VOTING RECORD

Bill No. 109-36 (COR) As amended by the Committee on Air Transportation, Parks, Tourism, Higher Education and the Advancement of Women, Youth, and Senior Citizens.	Speaker Antonio R. Unpingco Legislative Session Hall Guam Congress Building July 8, 2021					
NAME	Aye	Nay	Not Voting/ Abstained	Out During Roll Call	Absent	Excused
Senator V. Anthony Ada					✓	✓
Senator Frank Blas Jr.	✓					
Senator Joanne Brown		✓				
Senator Christopher M. Dueñas	✓					
Senator James C. Moylan	✓					
Vice Speaker Tina Rose Muña Barnes	✓					
Senator Telen Cruz Nelson	✓					
Senator Sabina Flores Perez		✓				
Senator Clynton E. Ridgell	✓					
Senator Joe S. San Agustin	✓					
Senator Amanda L. Shelton	✓					
Senator Telo T. Taitague		✓				
Senator Jose "Pedo" Terlaje	✓					
Speaker Therese M. Terlaje		✓				
Senator Mary Camacho Torres	✓					

TOTAL

10

4

1

1

Aye

Nay

Not Voting/
Abstained

Out During
Roll Call

Absent

Excused

CERTIFIED TRUE AND CORRECT:

I = Pass



 RENNAE V. C. MENO
 Clerk of the Legislature

I MINA 'TRENTAI SAIS NA LIHESLATURAN GUÅHAN
2021 (FIRST) Regular Session

Bill No. 109-36 (COR)

As amended by the Committee on Air Transportation,
Parks, Tourism, Higher Education, and the
Advancement of Women, Youth, and Senior Citizens.

*

Introduced by:

Mary Camacho Torres
Tina Rose Muña Barnes
Amanda L. Shelton
Telena Cruz Nelson
Jose "Pedo" Terlaje
Joe S. San Agustin
Frank Blas Jr.
James C. Moylan
V. Anthony Ada
Christopher M. Dueñas

AN ACT TO AMEND §§ 13502(a) AND 13505 OF ARTICLE 5, CHAPTER 13, TITLE 19, GUAM CODE ANNOTATED, RELATIVE TO EXPANDING THE NEWBORN INFANT SAFE HAVEN ACT TO INCLUDE 911 SERVICE PROVIDERS; TO INCLUDING ADOPTION AGENCIES IN THE CHAIN OF CUSTODY FOR INFANTS RELINQUISHED UNDER THE NEWBORN INFANT SAFE HAVEN ACT; TO REQUIRING THE DISTRIBUTION OF MATERIALS ATTACHED HERETO AS EXHIBITS A THROUGH D; AND TO REQUIRING THE ADOPTION AND TRANSMITTAL OF WRITTEN POLICY AND PROCEDURES IN ACCORDANCE WITH THE NEWBORN INFANT SAFE HAVEN ACT.

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

2 **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan* finds
3 that it is in the best interest of the community to protect children from abandonment.

1 In response to a highly-publicized case of a baby abandoned on the doorsteps of a
2 home in the village of *Dededo* in 2018, Guam Public Law 34-120 was enacted,
3 offering a protected, legal alternative to unsafe infant abandonment. Under the law,
4 an unharmed newborn infant, up to thirty (30) days old, may be handed to authorized
5 personnel at a hospital, fire station, free-standing birthing center, or community
6 health center. The mother will not be subject to arrest for abandonment, provided
7 that she relinquishes the child to authorized personnel and that no abuse or neglect
8 has occurred.

9 *I Liheslaturan Guåhan* duly notes that cases of child abandonment are often
10 linked to economic hardship, post-natal depression, mental health issues, substance
11 misuse, a lack of sexual health education and family planning, restrictions regarding
12 access to abortion, the child having some form of disability or infection, and
13 pregnancy resulting from rape or abuse. Furthermore, mothers in distress may not
14 have the resources or means of transportation to relinquish their child at an
15 authorized safe haven location. At a moment of crisis, this predicament may compel
16 a mother to discard her infant or leave the child at an unsafe nearby location.

17 Recognizing that mothers in distress should have every available option to
18 ensure their baby is safe and taken care of, *I Liheslaturan Guåhan* intends to aid
19 those under extenuating circumstances to relinquish custody of their newborn infant
20 while remaining anonymous and protected under the law.

21 *I Liheslaturan Guåhan* further finds that, under current statute, relinquished
22 infants are placed in foster custody until permanent placement can be arranged—a
23 process that may take months, if not longer, to complete. According to the Bureau
24 of Social Services and Administration, Guam has over two hundred fifty (250)
25 children in foster care and less than fifty (50) licensed foster families.

26 *I Liheslaturan Guåhan* further finds that, at the time Public Law 34-120 was
27 enacted, Guam did not have non-profit adoption services to aid in placing

1 relinquished infants with pre-approved adoptive homes. Amending custody
2 requirements for infants relinquished under Public Law 34-120 would authorize
3 existing adoption agencies to assume physical custody of the newborn.

4 It is, therefore, the intent of *I Liheslaturan Guåhan* to insert adoption agencies
5 identified by Child Protective Services (CPS) into the chain of custody—allowing
6 relinquished infants to be placed in a loving home while easing the burden on
7 Guam’s already strained foster care system.

8 **Section 2.** § 13502(a) of Article 5, Chapter 13, Title 19, Guam Code
9 Annotated, is hereby *amended* to read:

10 **“§ 13502. General Policy.**

11 (a) The mother of a newborn infant may relinquish custody of the
12 newborn infant to an authorized Safe Haven by voluntarily surrendering the
13 newborn infant to authorized Safe Haven personnel; provided, that:

14 (1) the infant is thirty (30) days or younger, as determined to
15 a reasonable degree of medical certainty by authorized Safe Haven
16 personnel;

17 (2) the mother expresses no clear intention to return for the
18 newborn infant; and

19 (3) the infant presents no evidence of child abuse that
20 occurred at any time prior to the act of relinquishment.

21 Due to extenuating circumstances, if the mother of a newborn infant is
22 unable to relinquish custody of the newborn infant at an authorized Safe
23 Haven, emergency medical services personnel, as defined in 10 GCA Chapter
24 84, may take custody of the infant upon the consent of the mother, if the
25 mother dials the 911 emergency call number and stays with the infant until
26 emergency medical services personnel arrive to take custody of the infant. An
27 infant relinquished under this Section must meet the conditions under

1 Subsections (a)(1)-(3) of this Section. The dispatch center or the emergency
2 medical services personnel shall inform the infant’s mother of the ability to
3 remain anonymous as described in § 13504 of this Article.”

4 **Section 3.** § 13505 of Article 5, Chapter 13, Title 19, Guam Code
5 Annotated, is hereby *amended* to read:

6 **“§ 13505. Custody.**

7 (a) Notwithstanding any other provision of law, an authorized Safe
8 Haven shall assume emergency protective custody of a relinquished newborn
9 infant immediately upon surrender by the mother to authorized Safe Haven
10 personnel affiliated with the authorized Safe Haven, and shall maintain
11 protective custody until custody is assumed by Child Protective Services. The
12 authorized Safe Haven shall transfer physical custody of the relinquished
13 newborn infant to the nearest hospital with an emergency department,
14 pursuant to § 13507(a)(3) of this Article. The hospital shall maintain physical
15 custody of the relinquished newborn infant for forty-eight (48) hours.

16 (b) Child Protective Services shall assume temporary protective
17 custody of the relinquished newborn infant immediately upon receipt of notice
18 under § 13507(a)(8) of this Article and shall take any action authorized under
19 Guam law to achieve safety and permanency for the newborn infant subject
20 to the limitations of this Article.

21 (c) Notwithstanding any other provision of law, no court of Guam
22 shall enter an order pertaining to custody of the relinquished newborn infant,
23 and Child Protective Services shall not relinquish temporary protective
24 custody until:

- 25 (1) forty-eight (48) hours have elapsed from the time of
26 relinquishment by the mother; and

1 (2) Child Protective Services has reported within forty-eight
2 (48) hours all identifying information known to the agency concerning
3 the infant, except personally identifying information pertaining to the
4 relinquishing mother, to the Guam Police Department for a
5 determination that the infant, based on all available information, has not
6 been reported as a missing person.

7 (d) Notwithstanding any other provision of law, Child Protective
8 Services shall contact an adoption agency duly licensed under Guam law to
9 take physical custody of the infant; provided, that forty-eight (48) hours have
10 elapsed from the time of relinquishment by the mother, the mother has made
11 no request for reunification to Child Protective Services under § 13506 of this
12 Article, and the infant has not been reported as a missing person. If there are
13 multiple adoption agencies, Child Protective Services shall contact the next
14 adoption agency on a rotating list maintained by Child Protective Services
15 until an agency agrees to take physical custody of the infant. If no agency is
16 identified to take custody, Child Protective Services shall take custody of the
17 infant.

18 (e) Notwithstanding any other provision of law, the hospital shall
19 transfer physical custody of the infant to the adoption agency identified by
20 Child Protective Services under Subsection (d) of this Section. If no agency is
21 identified to take custody, Child Protective Services shall take custody of the
22 infant.

23 (f) Rebuttable Presumption. Relinquishment of a newborn infant
24 creates a rebuttable presumption effective forty-eight (48) hours after the time
25 of relinquishment that the mother who relinquishes a newborn infant in
26 accordance with this Article intends to permanently relinquish custody of the
27 newborn infant and consents to termination of parental rights.”

1 **Section 4. Effective Date.** This Act shall be effective upon enactment.
2 Child Protective Services shall have thirty (30) days from the date of enactment to
3 implement the administrative requirements for the distribution of materials attached
4 hereto as Exhibit “A”: “*General Guidelines for Authorized Safe Havens*”; Exhibit
5 “B”: “*Letter to Mother Relinquishing Infant*”; Exhibit “C”: “*Medical Information*
6 *Questionnaire*”; and Exhibit “D”: “*Drop-Off Report Form.*” All authorized Safe
7 Havens shall:

8 (a) ensure staff is familiar with this Act and distribute materials
9 provided by Child Protective Services;

10 (b) adopt written policies and procedures in accordance with the
11 provisions of the Newborn Infant Safe Haven Act; and

12 (c) transmit written policies and procedures in accordance with the
13 provisions of the Newborn Infant Safe Haven Act to the Speaker of *I*
14 *Liheslaturan Guåhan* no later than forty-five (45) days from the date of
15 enactment.

16 Child Protective Services may amend the materials, as necessary.

17 **Section 5. Severability.** If any provision of this Act or its application to any
18 person or circumstance is found to be invalid or contrary to law, such invalidity shall
19 not affect other provisions or applications of this Act that can be given effect without
20 the invalid provision or application, and to this end the provisions of this Act are
21 severable.

Exhibit “A”:
“General Guidelines for Authorized Safe Havens”

GENERAL GUIDELINES FOR AUTHORIZED SAFE HAVEN FACILITIES

BACKGROUND

Guam Law (19 GCA § 13502) states that:

“The mother of a newborn infant may relinquish custody of the newborn infant to an authorized Safe Haven by voluntarily surrendering the newborn infant to authorized Safe Haven personnel; provided, that:

- (1) the infant is thirty (30) days or younger, as determined to a reasonable degree of medical certainty by authorized Safe Haven personnel;
- (2) the mother expresses no clear intention to return for the newborn infant; and
- (3) the infant presents no evidence of child abuse that occurred at any time prior to the act of relinquishment.”

Under Guam’s Newborn Infant Safe Haven Act (19 GCA § 13503), the following are Authorized Safe Havens:

- » Hospitals
- » Free-standing Birthing Centers
- » Community Health Centers
- » Fire Departments

If you are an employee working in an Authorized Safe Haven, you may receive an infant at any time, with no prior notice. The following guidelines will help you to carry out your responsibilities in regard to this law.

PREPARATION TO RECEIVE AN INFANT:

- Ensure that all staff in your facility know about the law and are trained in these guidelines.
- Familiarize your staff with the Newborn Infant Safe Haven Act packet, including:
 - For your staff:
 1. General Procedures for Authorized Safe Havens
 2. Drop-Off Report Form
 - For the mother:
 1. Letter to Mother Relinquishing Infant
 2. Medical Information Questionnaire
 3. Health Literature for Birth Mother
 4. List of Contact Numbers
- Ensure that all staff know where the Newborn Infant Safe Haven packet is kept.
- Post these guidelines in a visible location for staff reference.

WHEN AN INFANT IS BROUGHT TO YOUR FACILITY:

Immediately upon receipt of a newborn (19 GCA, § 13507):

□ Require authorized medical personnel to perform all reasonable acts to ensure the health and safety of the child including:

1. A preliminary medical screening
2. Necessary stabilizing treatment
3. Checking the infant for any visible signs of abuse.
4. Estimating if the infant is 30-days-old or younger.
 - If the infant shows signs of abuse or appears much older than a 30-day old infant, contact the Guam Police Department and Child Protective Services.
 - If the infant seems to be a newborn and there are no signs of abuse, proceed with the following steps.

□ Arrange for the immediate transportation of the newborn infant to the nearest hospital with an emergency department.

□ Retrieve a Newborn Infant Safe Haven Act packet

□ Give the mother the

1. Dear Parent Letter
2. Medical Information Questionnaire
3. Health Information for Birth Mother
4. List of Contact Numbers

□ Ask if the mother would fill out a voluntary Medical Information Questionnaire about the infant.

WITHIN THE FIRST TWENTY-FOUR (24) HOURS, YOUR FACILITY MUST:

□ As soon as possible but no later than twenty-four (24) hours after receiving the newborn, notify Child Protective Services that a newborn infant has been relinquished at your facility.

□ Record the receipt of the infant on the Drop-Off Report Form.

□ Provide Child Protective Services with all information the facility has regarding the newborn, including the Drop-Off Report Form and, if received, the Medical Information Questionnaire.

Any subsequent inquiry regarding a relinquished newborn infant should be directed to Child Protective Services.

Exhibit “B”:
“Letter to Mother Relinquishing Infant”

LETTER TO MOTHER RELINQUISHING INFANT

Dear Birth Parent:

Thank you for giving your baby to a Safe Haven. You have made a difficult but responsible decision. Your baby will be adopted by a family that is waiting for the opportunity to love and care for a child.

Guam law (19 GCA § 13502) says:

- You can leave your unharmed infant, who can be **up to 30 days old**,
- You can walk away with no questions asked, and
- Remain **anonymous** and **protected from prosecution**.

What Happens Now?

If you leave the baby with authorized safe haven personnel, the baby will be transported to a nearby hospital and seen by a doctor.

There is a legal presumption that you are the baby's biological mother, that you consent to the termination of your parental rights and you are relinquishing your baby for adoption.

A check will be done to make sure the baby has not been reported missing. Child Protective Services will contact an adoption agency, which will place the baby with an adoptive family.

Custody and Parental Rights Notice:

If you change your mind within 48 hours, call Child Protective Services at 671-475-2672.

- You must submit a request for reunification to Child Protective Services.
- If you submit a request for reunification, you will waive your right to anonymity and confidentiality, meaning Child Protective Services could identify you and contact you.
- After forty-eight (48) hours, you will have to petition the Superior Court of Guam to prevent final termination of your parental rights.

Your Feelings

It is natural for you to feel sad or depressed right now or later on. We hope you have someone that you can talk to about how you are feeling. If you would like to talk to a professional counselor and don't know how to find one, please call (671) 647-8833/647-8834.

You Can Help Your Child

Your choice to leave your baby in a safe place means that what happens to him or her is important to you. Even if you can't take care of your child, one of the things that you can do is to share important information that will help the people who take care of your child to know what your child needs.

In this packet is a short form called a **Medical Information Questionnaire**. This form does not ask you to give any information about who or where you are. The information you share will help your child to receive the best care possible. It will become part of your child's permanent social record. It's OK if you don't know all the answers, but whatever you do know will be a big help to both your baby and his or her adoptive family.

You have made an important decision for your baby by giving him or her to a safe place. If you change your mind, please call Child Protective Services as soon as possible at 671-475-2672.

Again, we encourage you to take care of yourself.

Thank you.

Exhibit “C”:
“Medical Information Questionnaire”

MEDICAL INFORMATION QUESTIONNAIRE

The infant you have brought in today may have serious medical needs in the future that we don't know about today. Some illnesses, including cancer, are best treated when we know about family medical histories. In addition, sometimes relatives are needed for lifesaving treatments. To make sure this baby will have a healthy future, your assistance in fully completing this questionnaire is essential. Thank you.

What is the infant's birth date? _____ Was the infant premature? Yes No

Were there any problems with the pregnancy or delivery? Yes No If yes, what were they?

Were you physically abused during the pregnancy? Yes No If yes, please describe:

Where did you leave the infant? _____ Date: _____

MOTHER

FATHER

<p>Does the infant's mother have any medical conditions such as:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Diabetes <input type="checkbox"/> Asthma <input type="checkbox"/> Allergies <input type="checkbox"/> Seizures <input type="checkbox"/> Cancer <input type="checkbox"/> Heart Disease <input type="checkbox"/> High Blood Pressure <input type="checkbox"/> Mental Illness <input type="checkbox"/> Sexually Transmitted Disease <input type="checkbox"/> Other, please describe: _____ <p>Did the mother do one of the following before or during the pregnancy:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Smoke <input type="checkbox"/> Use alcohol <input type="checkbox"/> Use drugs or medication <p>If yes, what kinds of drugs or medication: _____</p> <p>What is the mother's: Age _____ Ethnicity _____</p>	<p>Does the infant's father have any medical conditions such as:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Diabetes <input type="checkbox"/> Asthma <input type="checkbox"/> Allergies <input type="checkbox"/> Seizures <input type="checkbox"/> Cancer <input type="checkbox"/> Heart Disease <input type="checkbox"/> High Blood Pressure <input type="checkbox"/> Mental Illness <input type="checkbox"/> Sexually Transmitted Disease <input type="checkbox"/> Other, please describe: _____ <p>Did the father do one of the following before the pregnancy:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Smoke <input type="checkbox"/> Use alcohol <input type="checkbox"/> Use drugs or medication <p>If yes, what kinds of drugs or medication: _____</p> <p>What is the father's: Age _____ Ethnicity _____</p>
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IMPORTANT

You have **forty-eight (48) hours to request return of your child. To do so, you must submit a request for reunification to Child Protective Services. If you submit a request for reunification, you will waive your right to anonymity and confidentiality, meaning Child Protective Services could identify you and contact you. **After forty-eight (48) hours, you will have to petition the Superior Court of Guam to prevent final termination of your parental rights.****

NOTE TO PARENT

If this form is not completed at the time the infant is left at a safe place, you may mail this form to:

Child Protective Services
194 Hernan Cortez Avenue, Suite 309 Hagåtña, Guam 96910-5052

You may write a note to your child or the people who will adopt your child on the reverse side of this form.

Exhibit “D”:
“Drop-Off Report Form”

DROP OFF REPORT FORM

(to be completed by authorized Safe Haven personnel)

Today's date _____ Time infant was relinquished _____AM PM

Your Name _____

Location where child was relinquished _____

Facility Name _____

Facility Address and Phone Number: _____

Did you give the mother a "Dear Birth Parent" letter and the contact number for Child Protective Services? Yes No

Did you give the mother a Medical Information Questionnaire? Yes No

Did the mother fill out a Medical Information Questionnaire? Yes No
If yes, please attach the Medical Information Questionnaire to this form.

Please describe the event of the mother leaving the infant with you. Include any information the mother may have stated about the infant. _____

Signature **Date**