

I Mina'trentai Sais Na Liheslaturan Guåhan
BILL STATUS

BILL NO.	SPONSOR	TITLE	DATE INTRODUCED	DATE REFERRED	CMTE REFERRED	PUBLIC HEARING DATE	DATE COMMITTEE REPORT FILED	FISCAL NOTES	NOTES
179-36 (LS) As amended by the Committee on Health, Land, Justice and Culture; and substituted on the Floor.	Telo T. Taitague Sabina Flores Perez Joanne Brown Therese M. Terlaje	AN ACT TO ADD A NEW § 13510 TO ARTICLE 5 OF, CHAPTER 13, TITLE 19, GUAM CODE ANNOTATED, RELATIVE TO REQUIRING RULES AND REGULATIONS FOR THE LICENSURE OF ADOPTION AGENCIES.	8/23/21 8:00 a.m.	9/3/21	Committee on Air Transportation, Parks, Tourism, Higher Education and the Advancement of Women, Youth, and Senior Citizens	10/8/21 9:00 a.m.	10/20/21 2:51 p.m.	Request: 9/7/21	9/14/21
				9/30/21	Re-Referred: Committee on Health, Land, Justice, and Culture		As amended by the Committee on Health, Land, Justice and Culture		
	SESSION DATE	TITLE	DATE PASSED	TRANSMITTED	DUE DATE	VETOED	NOTES		
	12/6/21	AN ACT TO ADD NEW §§ 13510 AND 13503(h) TO ARTICLE 5 OF CHAPTER 13, TITLE 19, GUAM CODE ANNOTATED, RELATIVE TO REQUIRING RULES AND REGULATIONS FOR THE LICENSURE OF ADOPTION AGENCIES, AND TO ADD THE DEFINITION OF AN ADOPTION AGENCY.	12/15/21	12/15/21	12/27/21	12/27/2021	Received: 12/28/21 Mess and Comm. Doc. No. 36GL-21-1462		



UFISINAN I MAGA'HÅGAN GUÅHAN
OFFICE OF THE GOVERNOR OF GUAM

December 27, 2021

HONORABLE THERESE M. TERLAJE, Speaker

I Mina'trentai Sais Na Liheslaturan Guåhan

36th Guam Legislature
Guam Congress Building
163 Chalan Santo Papa
Hagåtña, Guam 96910

Re: BILL NO. 206-36 (LS) – An Act to Require the Promulgation and Publication of Interim Rules for All Child Placement Agencies by the Department of Public Health and Social Services; and to Ensure Transparency, Permit Public Participation, and Provide a Method of Making Such Rules Readily Accessible to the Public; and to Further Appropriate One Thousand Dollars (\$1,000) from the Unexpended Funds of the Office of Senator Mary Camacho Torres of *I Liheslaturan Guahan* to the Department of Public Health and Social Services for Such Purposes

SUBSTITUTE BILL NO. 179-36 (LS) – An Act to Add New §§ 13510 and 13503(h) to Article 5 of Chapter 13, Title 19, Guam Code Annotated, Relative to Requiring Rules and Regulations for the Licensure of Adoption Agencies, and to Add the Definition of an Adoption Agency

Dear Madame Speaker,

Bill Nos. 206-36 and 179-36 were passed with similar goals – to enable the Department of Public Health and Social Services (“DPHSS”) to develop and implement interim and, ultimately, final rules and regulations governing the licensing of adoption agencies in Guam. Both bills contemplate the adoption of interim regulations outside of the Administrative Adjudication Law (AAL) process, with the additional safeguard of a public hearing and comment period. However, Bill No. 206-36 outlines several standards DPHSS should include in their interim rules, including rules that promote the health and welfare of children, promote safe facilities, include procedures for the report and resolution of violations of the Guam Child Protective Act, implement background checks, and provide for the proper retention of records. The DPHSS is already in the process of developing interim regulations with the assistance of its partners in the U.S. Health and Human Services Region 9 Office, which provides critical operations assistance for broad health-related programs in western, tribal and territorial jurisdictions in the U.S.

With the standards and priorities clearly articulated in Bill No. 206-36, along with the reasonable drafting and implementation period for the interim rules and the procedural safeguards allowing public participation and comment on the interim rules prior to implementation, I am confident that the DPHSS has the tools it needs to draft and implement these urgent interim regulations expeditiously and in a manner that properly accounts for the specific needs and customs of our community and, of course, the primacy of our children’s health, safety and welfare. For these reasons, I sign Bill No. 206-36 into law as ***Public Law No. 36-68***.

Though Bill 179 similarly speaks to the urgency of implementing interim rules and regulations for the licensure of adoption agencies, it fails to accomplish its intent. Given the length of time the

process of developing and implementing interim rules can take, an AAL exemption would have made sense. However, the bill does **not** require adoption agencies to be licensed until **after** the AAL process is completed, which is the day the interim rules expire. Thus, despite the urgency of interim rules, the practical effect is that adoption agencies in Guam can continue to operate without a license until Public Health has permanent rules in place.

Second, due to the fact that DPHSS has already begun the process for establishing permanent rules, Bill 179 authorizes nothing that DPHSS isn't already empowered to do.

Third, the sponsor made further substitutions to the bill on the floor, resulting in odd and confusing language. Specifically, Section 2 on page 2, lines 15-17 states, in relevant part:

"each adoption agency shall be required to be licensed by DPHSS in accordance with DPHSS rules and regulations to ensure the health, safety, and welfare of its clients" [emphasis added].

The bill then goes on to define an "adoption agency" as:

"a private, public, or non-profit child placement entity licensed by the Department of Public Health and Social Services..." [emphasis added].

As a result, under the sponsor's own language, **the requirement of licensing is only for those agencies that are licensed**. This means that if there are currently no licensed adoption agencies in Guam, none of them have to be licensed, due to this new definition. On its face, the legislation yields an absurd result.

Finally, the bill's comparison of Guam to unscrupulous adoptions in Haiti is misplaced and deceiving. Following the earthquake in Haiti in 2010, the U.S. announced a Humanitarian parole policy for Haitian orphans, which expedited adoptions and bypassed usual screening requirements, and resulted in increased potential for abuse of, and trafficking in, children.

Bill 179's reference to the Haitian parole policy in this context in its Factual Findings and Intent is misleading to the public and an insult to the standards of legislative drafting. Candidly, this bill was not fit to progress in the legislative process.

While I believe Bill 179's sponsors had good intentions with this legislation, for the reasons outlined above, Bill 179's flaws render it unsuitable to become law, and it is hereby vetoed.

Senseremente,



LOURDES A. LEON GUERRERO

Maga'hågan Guåhan

Governor of Guam

Enclosure: Bill No. 206-36 (LS) *nka P.L. No. 36-68 / VETOED* Sub. Bill No. 179-36 (LS)
cc via email: *Honorable Joshua F. Tenorio, Sigundo Maga'låhen Guåhan*
Compiler of Laws

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

CERTIFICATION OF PASSAGE OF AN ACT TO *I MAGA'HÅGAN GUÅHAN*

This is to certify that **Substitute Bill No. 179-36 (LS), "AN ACT TO ADD NEW §§ 13510 AND 13503(h) TO ARTICLE 5 OF CHAPTER 13, TITLE 19, GUAM CODE ANNOTATED, RELATIVE TO REQUIRING RULES AND REGULATIONS FOR THE LICENSURE OF ADOPTION AGENCIES, AND TO ADD THE DEFINITION OF AN ADOPTION AGENCY,"** was on the 15th day of December 2021, duly and regularly passed.



Therese M. Terraje
Speaker

Attested:



Amanda L. Shelton
Legislative Secretary

This Act was received by *I Maga'hågan Guåhan* this 15th day of December, 2021, at 6:50 o'clock P M.


D. Cruz

Assistant Staff Officer
Maga'håga's Office

APPROVED:


Lourdes A. Leon Guerrero
I Maga'hågan Guåhan

Date: 12/27/2021

Public Law No. _____

RCVD AT CENTRAL FILES
DEC 16 '21 AM 9:28
2021-15263
Elaine Tajalle

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

Bill No. 179-36 (LS)

As amended by the Committee on Health, Land,
Justice, and Culture; and substituted on the Floor.

Introduced by:

Telo T. Taitague
Sabina Flores Perez
Joanne Brown
Therese M. Terlaje
V. Anthony Ada
Frank Blas Jr.
Christopher M. Dueñas
James C. Moylan
Tina Rose Muña Barnes
Telen Cruz Nelson
Clynton E. Ridgell
Joe S. San Agustin
Jose "Pedo" Terlaje
Mary Camacho Torres

**AN ACT TO ADD NEW §§ 13510 AND 13503(h) TO
ARTICLE 5 OF CHAPTER 13, TITLE 19, GUAM CODE
ANNOTATED, RELATIVE TO REQUIRING RULES AND
REGULATIONS FOR THE LICENSURE OF ADOPTION
AGENCIES, AND TO ADD THE DEFINITION OF AN
ADOPTION AGENCY.**

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. Legislative Findings and Intent. *I Liheslaturan Guåhan* finds
that Guam remains without a set of rules and regulations for licensing independent
adoption organizations. The idea of establishing such rules and regulations prior to
authorizing an independent adoption agency to operate as a legitimate business in
Guam is basic and should not be a matter of controversy. Without rules and

1 regulations in place, our children may be susceptible to criminal activity to include
2 human trafficking.

3 In cautioning *I Liheslatura* against involving independent adoption agencies
4 in the DPHSS Bureau of Social Services Administration's process for finding homes
5 for children without rules and regulations, an editorial published by a local media
6 organization on July 5, 2021, further warned that "As it stands, anyone can open an
7 adoption agency, that opens the door wide for fraud and abuse. What's to keep the
8 unscrupulous from taking advantage of the lack of regulations for adoption agencies.
9 Following the Haiti earthquake in 2010, 47 children were adopted. It was discovered
10 the children weren't orphans, and those who 'found' them were child traffickers."

11 It is, therefore, the intent of *I Liheslaturan Guåhan* to compel the timely
12 adoption of rules and regulations, including interim policies as may be necessary,
13 for the licensure of independent adoption agencies.

14 **Section 2.** A new § 13510 is *added* to Article 5 of Chapter 13, Title 19,
15 Guam Code Annotated, to read:

16 **"§ 13510. Adoption Agency Licensure Requirement.**

17 Subject to the Administrative Adjudication Law, the Department of
18 Public Health and Social Services (DPHSS) shall promulgate, adopt, amend,
19 or repeal rules and regulations governing adoption agency licensure pursuant
20 to this Section. Notwithstanding any other provision of law, or rule or
21 regulation, effective June 1, 2022, each adoption agency shall be required to
22 be licensed by DPHSS in accordance with DPHSS rules and regulations to
23 ensure the health, safety, and welfare of its clients.

24 In the interim, DPHSS shall promulgate interim rules and regulations
25 governing adoption agency licensure which shall be exempt from the
26 provisions of the Administrative Adjudication Law; provided, that: (1)
27 DPHSS shall conduct a public hearing on such proposed rules and regulations;

1 and (2) such rules and regulations shall be transmitted to the Speaker of *I*
2 *Liheslaturan Guåhan* for publication on *I Liheslaturan Guåhan*'s website no
3 less than thirty (30) calendar days prior to becoming effective. The interim
4 rules and regulations shall remain in effect until June 1, 2022 or upon the
5 promulgation and adoption of rules and regulations pursuant to the
6 Administrative Adjudication Law, whichever is sooner."

7 **Section 3.** A new § 13503(h) is *added* to Article 5 of Chapter 13, Title 19,
8 Guam Code Annotated, to read:

9 " (h) *Adoption agency* means a private, public, or non-profit child
10 placement entity licensed by the Department of Public Health and Social
11 Services and the laws of Guam to place or arrange for the placement of a child
12 in a proposed adoptive home."

13 **Section 4. Effective Date.** This Act shall be effective upon enactment.