

*I Mina Trentai Kuåtto Na Liheslaturan*  
**BILL STATUS**

BILL NO.	SPONSOR	TITLE	DATE INTRODUCED	DATE REFERRED	CMTE REFERRED	PUBLIC HEARING DATE	DATE COMMITTEE REPORT FILED	FISCAL NOTES	NOTES
322-34 (COR)	Mary Camacho Torres	AN ACT TO ADD A NEW SUBSECTION (c) TO § 31.30 OF CHAPTER 30, TITLE 9, AND A NEW ARTICLE 5 TO CHAPTER 13, TITLE 19, BOTH OF GUAM CODE ANNOTATED, RELATIVE TO ESTABLISHING A DEFENSE TO PROSECUTION FOR CHILD ABANDONMENT, PROTECTING NEWBORN INFANTS FROM HARM BY PROVIDING A SAFE AND ANONYMOUS MEANS FOR MOTHERS IN DISTRESS TO RELINQUISH THE BABY TO MEDICAL PROFESSIONALS; TO BE KNOWN AS THE "NEWBORN INFANT SAFE HAVEN ACT."	7/12/18 11:04 a.m.  <b>AS CORRECTED</b> 7/23/18 5:01 p.m.	7/24/18	Committee on Innovation and Economic, Workforce, and Youth Development	8/21/18 10:00 a.m.	8/27/18 9:47 a.m.	Fiscal Note Request 7/24/18  Fiscal Note 8/1/18	
	<b>SESSION DATE</b>	<b>TITLE</b>	<b>DATE PASSED</b>	<b>TRANSMITTED</b>	<b>DUE DATE</b>	<b>PUBLIC LAW</b>	<b>DATE SIGNED</b>	<b>NOTES</b>	
	8/27/18	AN ACT TO ADD A NEW § 31.30(c) TO CHAPTER 31 OF TITLE 9, GUAM CODE ANNOTATED, AND ADD A NEW ARTICLE 5 TO CHAPTER 13 OF TITLE 19, GUAM CODE ANNOTATED, RELATIVE TO ESTABLISHING A DEFENSE TO PROSECUTION FOR CHILD ABANDONMENT, AND PROTECTING NEWBORN INFANTS FROM HARM BY PROVIDING A SAFE AND ANONYMOUS MEANS FOR MOTHERS IN DISTRESS TO RELINQUISH THE INFANT TO MEDICAL PROFESSIONALS; TO BE KNOWN AS THE "NEWBORN INFANT SAFE HAVEN ACT."	8/28/18	8/28/18 5:16 p.m.	9/8/18	34-120	9/8/18	Received: 9/18/18 Mess and Comm. Doc. No. 34GL-18-2321.	



**EDDIE BAZA CALVO**  
Governor

**RAY TENORIO**  
Lieutenant Governor

*Office of the Governor Of Guam.*

**SEP 18 2018**

Honorable Therese M. Terlaje  
Acting Speaker  
*I Mina'trentai Kuåttro Na Liheslaturan Guåhan*  
Guam Congress Building  
163 Chalan Santo Papa  
Hagåtña, Guam 96910

Vice Speaker Therese M. Terlaje

349L-18-2228

SEP 18 2018

Time: 3:04p

Received by: [Signature]

Dear Madam Speaker:

Transmitted herewith is Bill No. 322-34 (COR), "AN ACT TO ADD A NEW § 31.30(c) TO CHAPTER 31 TITLE 9, GUAM CODE ANNOTATED, AND ADD A NEW ARTICLE 5 TO CHAPTER 13 OF TITLE 19, GUAM CODE ANNOTATED, RELATIVE TO ESTABLISHING A DEFENSE TO PROSECUTION FOR CHILD ABANDONMENT, AND PROTECTING NEWBORN INFANTS FROM HARM BY PROVIDING A SAFE AND ANONYMOUS MEANS FOR MOTHERS IN DISTRESS TO RELINQUISH THE INFANT TO MEDICAL PROFESSIONALS; TO BE KNOWN AS THE 'NEWBORN INFANT SAFE HAVEN ACT,'" which was signed on September 8, 2018, as Public Law 34-120.

*Senseramente,*

**EDDIE BAZA CALVO**

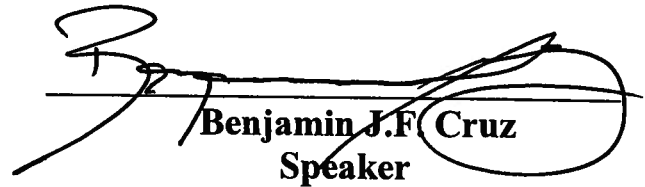
2018 SEP 18 PM 3:41



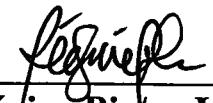
***I MINA'TRENTAI KUÁTTO NA LIHESLATURAN GUÅHAN***  
**2018 (SECOND) Regular Session**

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

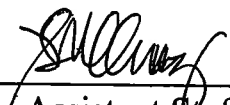
This is to certify that Bill No. 322-34 (COR), "AN ACT TO *ADD* A NEW § 31.30(c) TO CHAPTER 31 OF TITLE 9, GUAM CODE ANNOTATED, AND *ADD* A NEW ARTICLE 5 TO CHAPTER 13 OF TITLE 19, GUAM CODE ANNOTATED, RELATIVE TO ESTABLISHING A DEFENSE TO PROSECUTION FOR CHILD ABANDONMENT, AND PROTECTING NEWBORN INFANTS FROM HARM BY PROVIDING A SAFE AND ANONYMOUS MEANS FOR MOTHERS IN DISTRESS TO RELINQUISH THE INFANT TO MEDICAL PROFESSIONALS; TO BE KNOWN AS THE 'NEWBORN INFANT SAFE HAVEN ACT', " was on the 28<sup>th</sup> day of August 2018, duly and regularly passed.

  
Benjamin J.F. Cruz  
Speaker


Attested:

  
Régine Biscoe Lee  
Legislative Secretary

-----  
This Act was received by *I Maga'låhen Guåhan* this 28<sup>th</sup> day of AUGUST,  
2018, at 5:16 o'clock P.M.

  
Assistant Staff Officer  
*Maga'låhi's* Office

APPROVED:

  
EDWARD J.B. CALVO  
*I Maga'låhen Guåhan*

Date: SEP 08 2018

Public Law No. 34-120

***I MINA'TRENTAI KUÁTTRO NA LIHESLATURAN GUÁHAN***  
**2018 (SECOND) Regular Session**

**Bill No. 322-34 (COR)**

As corrected by the Prime Sponsor;  
and amended on the Floor.

Introduced by:

Mary Camacho Torres  
B. J.F. Cruz  
Régine Biscoe Lee  
Thomas C. Ada  
FRANK B. AGUON, JR.  
William M. Castro  
James V. Espaldon  
Fernando Barcinas Esteves  
Tommy Morrison  
Louise B. Muña  
Telena Cruz Nelson  
Dennis G. Rodriguez, Jr.  
Joe S. San Agustin  
Michael F.Q. San Nicolas  
Therese M. Terlaje

**AN ACT TO *ADD* A NEW § 31.30(c) TO CHAPTER 31 OF TITLE 9, GUAM CODE ANNOTATED, AND *ADD* A NEW ARTICLE 5 TO CHAPTER 13 OF TITLE 19, GUAM CODE ANNOTATED, RELATIVE TO ESTABLISHING A DEFENSE TO PROSECUTION FOR CHILD ABANDONMENT, AND PROTECTING NEWBORN INFANTS FROM HARM BY PROVIDING A SAFE AND ANONYMOUS MEANS FOR MOTHERS IN DISTRESS TO RELINQUISH THE INFANT TO MEDICAL PROFESSIONALS; TO BE KNOWN AS THE “NEWBORN INFANT SAFE HAVEN ACT.”**

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

2 **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guáhan* finds  
3 that Guam has experienced an increase in the abandonment of newborn infants

1 under unsafe circumstances; and, that it is in the best interest of the community to  
2 protect newborn babies from such circumstances.

3 *I Liheslaturan Guåhan* further finds that those who abandon their newborn  
4 infants are often desperate, young mothers who are unable or unwilling to deal  
5 with the responsibilities of parenthood. Their solution is abandoning the baby with  
6 the hope that someone will find and care for it. However, the act of abandonment  
7 endangers the baby and gives rise to criminal liability for parents who may already  
8 be under severe emotional distress.

9 Therefore, *I Liheslaturan Guåhan* intends to discourage baby abandonment  
10 by providing a safe alternative to a desperate mother who is unwilling or unable to  
11 care for her baby. As an incentive to relinquish the baby safely to medical  
12 professionals, this Act allows the mother to remain anonymous without fear of  
13 criminal prosecution; and furthermore, *I Liheslaturan Guåhan* adopts the following  
14 motto for this Newborn Infant Safe Haven Act: “*No Shame. No Blame. No*  
15 *Names.*”

16 **Section 2.** A new Subsection (c) is hereby *added* to § 31.30 of Chapter 31,  
17 Title 9, Guam Code Annotated, to read:

18 “(c) Voluntary surrender of physical custody of a newborn infant by  
19 a mother to authorized Safe Haven personnel pursuant to the provisions of  
20 the Newborn Infant Safe Haven Act, 19 GCA, Chapter 13, Article 5, is an  
21 absolute defense to prosecution for child abuse as a result of deserting that  
22 child with intent to abandon that child under Subsection (a)(2)(A) of this  
23 Section.

24 (1) For purposes of this Subsection, “authorized Safe Haven  
25 personnel” has the same meaning as defined under the Newborn  
26 Infant Safe Haven Act, 19 GCA § 13503(a).

1 (2) For purposes of this Subsection, “mother” has the same  
2 meaning as defined under the Newborn Infant Safe Haven Act, 19  
3 GCA § 13503(d).

4 (3) For purposes of this Subsection, “newborn infant” has the  
5 same meaning as defined under the Newborn Infant Safe Haven Act,  
6 19 GCA § 13503(e).”

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

9 **“ARTICLE 5**

10 **NEWBORN INFANT SAFE HAVEN ACT**

11 § 13501. Citation.

12 § 13502. General Policy.

13 § 13503. Definitions.

14 § 13504. Anonymity; Confidentiality; Waiver.

15 § 13505. Custody.

16 § 13506. Reunification.

17 § 13507. Duties of Authorized Safe Haven Personnel.

18 § 13508. Liability Protection.

19 § 13509. Penalties for Unauthorized Disclosure.

20 **§ 13501. Citation.**

21 This Article may be cited as the “Newborn Infant Safe Haven Act.”

22 **§ 13502. General Policy.**

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

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

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

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

5 (b) Authorized Safe Haven personnel *shall* receive an infant properly  
6 relinquished under this Article on behalf of an affiliated authorized Safe Haven.

7 (c) Any attempt to relinquish a newborn infant under this Article *shall*  
8 constitute implied consent for authorized Safe Haven personnel and any affiliated  
9 authorized Safe Haven to perform all necessary emergency medical services. The  
10 newborn infant *shall* be presumed eligible for coverage under Medicaid, subject to  
11 federal regulations.

12 (d) Proper relinquishment under this Article *shall not*, in and of itself,  
13 constitute abuse or neglect requiring reporting and investigation under Article 2 of  
14 this Chapter.

15 **§ 13503. Definitions.**

16 As used in this Article:

17 (a) *Authorized Safe Haven personnel shall* mean:

18 (1) any medical professional licensed under 10 GCA Chapter 12 to  
19 practice the Healing Arts, as defined by that Chapter, working in conjunction  
20 with an authorized Safe Haven; or

21 (2) any emergency medical services personnel certified by the  
22 Administrator of the Office of Emergency Medical Services under 10 GCA  
23 Chapter 84 working in their capacity as emergency medical services  
24 personnel.

25 (b) *Authorized Safe Haven* means a hospital, a free-standing birthing  
26 center, a fire station, or a community health center that employs authorized Safe  
27 Haven personnel.

1 (c) *Child abuse* has the same meaning as defined under 9 GCA §  
2 31.30(a).

3 (d) *Mother* means the biological mother, a woman who has conceived  
4 rather than adopted or acquired custody of a newborn infant by other means.

5 (e) *Newborn infant* means a human child thirty (30) days or younger.

6 (f) *Physician* means a person licensed to practice medicine by the Guam  
7 Board of Medical Examiners under 10 GCA, Chapter 12, Article 2.

8 (g) *Safe Haven facilitator* means any agent or employee of the  
9 government of Guam that, in the course of their duties as an agent or employee of  
10 the government of Guam, assists a mother in relinquishing her newborn infant  
11 under this Article, to include employees of Child Protective Services and the Guam  
12 Police Department.

13 **§ 13504. Anonymity; Confidentiality; Waiver.**

14 (a) Anonymity. A mother who relinquishes her newborn infant under this  
15 Article:

16 (1) has the right to remain anonymous and *shall not* be required to  
17 provide any personally identifying information; and

18 (2) has the right to leave the authorized Safe Haven at any time  
19 without being pursued, followed, or tracked in any way.

20 (b) Confidentiality. Notwithstanding any other provision of law, any  
21 personally identifying information that pertains to a mother who relinquishes a  
22 newborn infant under this Article is confidential, exempt from disclosure under the  
23 Sunshine Reform Act of 1999, and *shall not* be disclosed by any authorized Safe  
24 Haven personnel or any Safe Haven facilitator for any purpose, whether obtained  
25 as a result of the Medical Information Questionnaire described in § 13507 of this  
26 Article or in any other manner.



1 (c) Waiver. The rights of anonymity and confidentiality under  
2 Subsections (a) and (b) of this Section are waived where the infant presents  
3 evidence of child abuse that occurred at any time prior to relinquishment, as  
4 determined to a reasonable degree of medical certainty by authorized Safe Haven  
5 personnel.

6 **§ 13505. Custody.**

7 (a) Notwithstanding any other provision of law, an authorized Safe Haven  
8 *shall* assume emergency protective custody of a relinquished newborn infant  
9 immediately upon surrender by the mother to authorized Safe Haven personnel  
10 affiliated with the authorized Safe Haven, or upon transfer of physical custody by  
11 authorized Safe Haven personnel of another authorized Safe Haven that cannot  
12 provide necessary emergency medical services, and *shall* maintain custody until  
13 custody is assumed by Child Protective Services.

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

19 (c) Notwithstanding any other provision of law, an authorized Safe Haven  
20 *shall* transfer physical custody of the relinquished newborn infant to Child  
21 Protective Services as early as possible considering the newborn infant's medical  
22 condition as determined to a reasonable degree of medical certainty by a physician.

23 (d) Notwithstanding any other provision of law, no court of Guam shall  
24 enter an order pertaining to custody of the relinquished newborn infant, and Child  
25 Protective Services *shall not* relinquish temporary protective custody or place the  
26 infant into foster custody until:

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

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

8           (e) Rebuttable Presumption. Relinquishment of a newborn infant creates  
9 a rebuttable presumption effective forty-eight (48) hours after the time of  
10 relinquishment that the mother who relinquishes a newborn infant in accordance  
11 with this Article intends to permanently relinquish custody of the newborn infant  
12 and consents to termination of parental rights.

13           **§ 13506. Reunification.**

14           (a) Notwithstanding any other provision of law, a mother who has  
15 voluntarily relinquished her newborn infant pursuant to this Article *shall* have the  
16 child returned upon making a request for reunification to Child Protective Services  
17 no later than forty-eight (48) hours after relinquishment; provided, that Child  
18 Protective Services discovers no evidence of child abuse that occurred at any time  
19 prior to relinquishment, as determined by agents of Child Protective Services.

20           (1) A mother requesting reunification waives her rights to  
21 anonymity and confidentiality provided under § 13504 of this Article.

22           (2) In response to a request for reunification, Child Protective  
23 Services may conduct an investigation for the limited purpose of  
24 determining whether any evidence exists of child abuse that occurred prior  
25 to relinquishment. Such an investigation may include identifying and  
26 contacting the mother.

1 (b) If notice is not provided to Child Protective Services under §  
2 13507(a)(8) of this Article prior to a request for reunification, Child Protective  
3 Services *shall* determine the authorized Safe Haven location of the newborn infant  
4 based upon information provided by the mother and facilitate reunification, if  
5 appropriate, as directed under this Section.

6 (c) Relinquishment of a newborn infant under this Article does not, in and  
7 of itself, constitute child abuse and is not, in and of itself, a sufficient basis to deny  
8 reunification.

9 **§ 13507. Duties of Authorized Safe Haven Personnel.**

10 (a) Upon receiving a relinquished newborn infant under this Article,  
11 authorized Safe Haven personnel *shall*:

12 (1) perform a preliminary medical screening examination;

13 (2) provide necessary stabilizing treatment to the extent he or she is  
14 trained to provide those services;

15 (3) arrange for the immediate transportation of the newborn infant  
16 to the nearest hospital with an emergency department;

17 (4) assign the newborn infant a unique, confidential identification  
18 number;

19 (5) provide, or make a good faith effort to provide, to the mother a  
20 copy of the confidential identification number in order to facilitate  
21 reunification with the newborn infant pursuant to § 13506 of this Article;

22 (6) provide, or make a good faith effort to provide, to the mother a  
23 Custody and Parental Rights Notice as described under Subsection (b) of this  
24 Section, which may be declined by the mother;

25 (7) provide, or make a good faith effort to provide, to the mother a  
26 Medical Information Questionnaire as described under Subsection (c) of this

1 Section, which may be declined by the mother or voluntarily filled out at the  
2 time the child is relinquished;

3 (8) notify Child Protective Services of acceptance of emergency  
4 protective custody of the relinquished newborn infant on behalf of the  
5 authorized Safe Haven as soon as possible, but in no event later than twenty-  
6 four (24) hours after accepting custody of the newborn infant; and

7 (9) provide to Child Protective Services any medical information  
8 pertinent to the infant's health, including, but not limited to, information  
9 obtained pursuant to the Medical Information Questionnaire described in  
10 Subsection (c) of this Section, that has been received by or is in the  
11 possession of the authorized Safe Haven, not to include any personally  
12 identifying information pertaining to the relinquishing mother.

13 (b) Custody and Parental Rights Notice. Every notice provided pursuant  
14 to Subsection (a)(6) of this Section *shall* contain the following notice in no less  
15 than twelve (12)-point type:

16 NOTICE: YOU HAVE FORTY-EIGHT (48) HOURS TO REQUEST RETURN  
17 OF YOUR CHILD. TO DO SO, YOU MUST SUBMIT A REQUEST FOR  
18 REUNIFICATION TO CHILD PROTECTIVE SERVICES. IF YOU SUBMIT A  
19 REQUEST FOR REUNIFICATION, YOU WILL WAIVE YOUR RIGHT TO  
20 ANONYMITY AND CONFIDENTIALITY, MEANING CHILD PROTECTIVE  
21 SERVICES COULD IDENTIFY YOU AND CONTACT YOU. AFTER  
22 FORTY-EIGHT (48) HOURS, YOU WILL HAVE TO PETITION THE  
23 SUPERIOR COURT OF GUAM TO PREVENT FINAL TERMINATION OF  
24 YOUR PARENTAL RIGHTS.

25 (c) Medical Information Questionnaire. The Medical Information  
26 Questionnaire described under Subsection (a)(7) of this Section *shall not* require  
27 any personally identifying information about the newborn infant or the mother  
28 relinquishing the newborn infant, other than the identification code assigned to the

1 infant. Every questionnaire provided under Subsection (a)(7) of this Section *shall*  
2 begin with the following notice in no less than twelve (12)-point type:

3 NOTICE: THE INFANT YOU HAVE BROUGHT IN TODAY MAY HAVE  
4 SERIOUS MEDICAL NEEDS IN THE FUTURE THAT WE DON'T KNOW  
5 ABOUT TODAY. SOME ILLNESSES, INCLUDING CANCER, ARE BEST  
6 TREATED WHEN WE KNOW ABOUT FAMILY MEDICAL HISTORIES. IN  
7 ADDITION, SOMETIMES RELATIVES ARE NEEDED FOR LIFE-SAVING  
8 TREATMENTS. TO MAKE SURE THIS BABY WILL HAVE A HEALTHY  
9 FUTURE, YOUR ASSISTANCE IN FULLY COMPLETING THIS  
10 QUESTIONNAIRE IS ESSENTIAL. THANK YOU.

11 **§ 13508. Liability Protection.**

12 An authorized Safe Haven or any authorized Safe Haven personnel that  
13 accept(s) custody of a relinquished newborn infant under this Article *shall not* be  
14 subject to civil, criminal, or administrative liability for accepting the newborn  
15 infant and caring for the newborn infant in a good faith belief that the action is  
16 required or authorized by this Article, including, but not limited to, instances where  
17 the infant is older than thirty (30) days or the individual surrendering the newborn  
18 infant is not the mother. Nothing in this Article shall be construed as conferring  
19 immunity from liability for personal injury or wrongful death, including, but not  
20 limited to, injury resulting from malpractice.

21 **§ 13509. Penalties for Unauthorized Disclosure.**

22 Any authorized Safe Haven personnel or Safe Haven facilitator who violates  
23 a mother's right to anonymity or confidentiality under § 13504 is guilty of a  
24 misdemeanor, and is punishable by confinement for a term not to exceed six (6)  
25 months, by a fine of not more than One Thousand Dollars (\$1,000), or by both. A  
26 second or subsequent conviction *shall* be a felony in the third degree. Fines  
27 imposed for violations of this Chapter *shall* be deposited in the Victims  
28 Compensation Fund.”

1           **Section 4. Effective Date.** This Act *shall* become effective upon  
2 enactment.