

I Mina'trentai Siette Na Liheslaturan Guåhan
BILL STATUS

BILL NO.	SPONSOR	TITLE	DATE INTRODUCED	DATE REFERRED	CMTE REFERRED	FISCAL NOTES	PUBLIC HEARING DATE	DATE COMMITTEE REPORT FILED	NOTES
240-37 (COR)	Therese M. Terlaje	AN ACT RELATIVE TO EFFECTIVELY DISTRIBUTING AND DISPOSING OF UNDISTRIBUTED CHILD SUPPORT FUNDS AT THE OFFICE OF THE ATTORNEY GENERAL BY <i>REPEALING</i> §§34111 (b) AND <i>ADDING</i> A NEW §§34401, §§34402, AND §34403 ALL OF CHAPTER 34 TITLE 5 GUAM CODE ANNOTATED.	2/6/24 1:16 p.m.						

I MINA'TRENTAI SIETTE NA LIHESLATURAN GUÅHAN
2024 (SECOND) Regular Session

Bill No. 240-37 (COR)

Introduced by:

Therese M. Terlaje *TML*

**AN ACT RELATIVE TO EFFECTIVELY DISTRIBUTING
AND DISPOSING OF UNDISTRIBUTED CHILD SUPPORT
FUNDS AT THE OFFICE OF THE ATTORNEY GENERAL BY
REPEALING §§34111 (b) AND ADDING A NEW §§34401,
§§34402, AND §34403 ALL 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 Guåhan* finds
3 that this legislation was introduced at the request of the Attorney General of Guam.
4 *I Liheslaturan Guåhan* finds and declares that the Attorney General's Child
5 Support Enforcement Division (CSED) was created because public policy is in
6 favor of establishing paternity, of having parents support their children, and in
7 having fair and equitable support orders. Once child support orders are established,
8 the AG's CSED collects funds from the non-custodial parent, and is required by
9 local and federal regulations to distribute said funds to the custodial parent for the
10 support of the minor children, or back to the Government of Guam for
11 reimbursement in cases where the custodial parent received government assistance
12 under the AID to Families with Dependent Children ("AFDC"), now known as the
13 Temporary Assistance of Needy Families ("TANF").

14 However, with the passage of time, some parents changed their residences
15 but failed to update the CSED with their new contact information, failed to

1 maintain their bank account for direct deposits, or have since passed away. There
2 are also funds held for a long time wherein the bank holding the funds have been
3 unable to provide a proper accounting to identify who is entitled to the funds. As a
4 result, the AG’s CSED has accumulated a significant amount of undistributed
5 funds. That amount is currently estimated at approximately \$6,223,252.00 as of
6 June 30, 2023. In addition, undistributed funds include cancelled, returned and
7 stale dated checks prior to August 30, 1996, which cannot be reconciled totaling
8 \$823,119.84.

9 The problem of not being able to distribute these funds to the custodial or
10 non-custodial parents, and ultimately for their children’s benefit, has persisted and
11 increased for decades now, and grown to the extent that large sums of money now
12 simply remain in government accounts without any distribution to no one’s benefit.
13 It is the intent of this legislation, to create a process where undistributed funds can
14 be more effectively distributed, or otherwise escheat to the Government of Guam
15 in cases where after diligent efforts have been made to try and locate the custodial
16 parent, the non-custodial parent, or their heirs have been unsuccessful. Federal
17 grant requirements require that these funds must be attributed to the CSED’s child
18 support operations and cannot be used for any other purpose. *I Liheslaturan*
19 *Guåhan* incorporates the Federal requirement and will escheat these funds and
20 deemed it as “income” to the Government of Guam. As such, these Federal
21 funding amounts in the undistributed accounts will be applied to offset the Federal
22 Government’s contribution to operating the CSED. It is the intent of this
23 legislation, to reprogram escheated funds back to the AG’s Child Support Division
24 to cover the reduction of federal funding.

25 For the Fiscal Year 2023, findings are as follows:

26 (1) The AG Child Support Enforcement Division has Undistributed

1 Funds totaling \$823,119.84 as of August 30, 1996, where it has already been
2 established that this amount cannot be reconciled.

3 (2) The AG’s Child Support Enforcement Division has Undistributed Funds
4 totaling \$4,814,186.92 as of March 31, 2023, where current efforts are being made
5 to locate the custodial parent or non-custodial parent.

6 (3) The AG’s Child Support Enforcement Division may have future Undistributed
7 Funds that may need to be escheated because the AG’s Child Support Enforcement
8 Division has lost contact with the custodial parent and the non-custodial parent and
9 their cases have been closed for a period of no less than two (2) years.

10 **Section 2.** Section 34111(b) of Article 1, Chapter 34, Title 5, Guam Code
11 Annotated is hereby *repealed*.

12 **“§34111. Collection, Accounting and Disbursement of Funds.**

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

18 ~~(1) That the funds be returned to the person who paid them pursuant~~
19 ~~to the order of support; or~~

20 ~~(2) That the funds be deposited with the Treasurer of Guam in an~~
21 ~~interest-bearing account for a period of five (5) years, after which time, if~~
22 ~~still unclaimed, the funds shall escheat to the government of Guam.”~~

23 **Section 3.** Section 34401 is hereby *added* to Article 1, Chapter 34 Title 5,
24 Guam Code Annotated to read as follows:

25 **“Section 34401. Depositing Undistributed Funds if Custodial Parents or**
26 **Non-Custodial Parents Cannot be Located.**

27 (a) The Attorney General shall commence an escheatment

1 proceeding on behalf of the Government of Guam in a court having jurisdiction to
2 have it adjudged that the Government of Guam is so entitled to the escheatment of
3 undistributed funds. Such action shall be commenced by filing a petition with a
4 description and the facts and circumstances by virtue of which it is claimed the
5 property should be escheated.

6 (b) Upon the filing of such petition, the Court must make an order
7 requiring the custodial and non-custodial parent associated with said funds and all
8 persons interested in the undistributed funds to appear and show cause, if any,
9 within sixty (60) days from the date of this order, why such undistributed funds
10 shall not vest in the Government of Guam. Such order shall be published in any
11 daily newspaper of wide circulation once each week and on the AG's Website and
12 the Government of Guam Central Website for three consecutive weeks during this
13 60-day period. In addition, such order must be posted for four consecutive weeks
14 on the public bulletin boards in *Hagåtña*. Upon the completion of the publication
15 of such order, the court shall have full and complete jurisdiction over the
16 undistributed funds and any persons claiming an interest in said undistributed
17 funds and shall have full and complete jurisdiction to hear and determine the issues
18 therein and render the appropriate judgment thereon.

19 (c) If proceedings for the administration of the estate of a deceased
20 custodial parent or non-custodial parent have been instituted, a copy of order to
21 show cause must be filed with the papers to such estate. If proceedings for the
22 administration of a deceased custodial parent or non-custodial parent have been
23 instituted and none of the persons entitled thereto have appeared or made a claim
24 to such undistributed funds, or any portion thereof, or if the court shall find that
25 such persons have appeared and are not entitled to the undistributed funds, the
26 court shall upon final settlement of the estate, after all payments of the debts and
27 expenses for the administration of the estate, distribute all moneys remaining to the

1 Government of Guam. Any person who does not appear and make a claim as
2 herein required shall be forever barred.”

3 **Section 4.** Section 34402 is hereby *added* to Article 1, Chapter 34, Title 5,
4 Guam Code Annotated to read as follows:

5 **“Section 34402. Case Closure and Escheatment of Undistributed Funds:**
6 **Notice of Custodial Parents and Non-Custodial Parents with Active Cases.**

7 When the Attorney General’s Child Support Enforcement Division (CSED)
8 has Undistributed Funds that may need to be escheated and has lost contact with
9 the custodial parent and the non-custodial parent:

10 (a) The Attorney General shall continue for at least six (6) months to
11 locate the custodial parent or payee whenever money is collected pursuant to
12 an order of support and has yet to be distributed. Such efforts to locate shall be
13 documented by the Attorney General.

14 (b) Whenever such funds have remained unclaimed for at least two years,
15 the Attorney General shall begin the process of closing the child support case by
16 sending a closure letter via certified mail to the custodial parent or payee at his or
17 her last known address. The closure letter shall advise the custodial parent that if
18 he or she does not contact the Attorney General within 60 days, his or her case will
19 be closed and the funds collected under an order for support shall be refunded to
20 the non-custodial parent. If the non-custodial parent cannot be located, the
21 Attorney General shall commence an action for escheatment pursuant to Section
22 34401.”

23 **Section 5.** Section 34403 is hereby *added* to Article 1, Chapter 34, Title 5,
24 Guam Code Annotated to read as follows:

25 **“Section 34403. Allocation of Escheated Funds.** Funds escheated pursuant
26 to this Chapter are hereby appropriated to the AG’s Child Support Division to
27 cover the reduction of federal funding.”

1 **Section 6. Effective Date.** This Act shall be effective upon enactment.

2 **Section 7. Severability.** If any provision of this Law or its application to any
3 person or circumstance is found to be invalid or contrary to law, such invalidity
4 shall not affect other provisions or applications of this Law which can be given
5 effect without the invalid provisions or application, and to this end the provisions
6 of this Law are severable.