

I MINA'TRENTAI DOS NA LIHESLATURAN GUÅHAN
2013 (FIRST) Regular Session

Bill No. 28-30 (COR)

Introduced by:

Aline A. Yamashita, PhD 

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 AND PROTECTIVE SERVICES;
THROUGH AMENDING §34111 OF CHAPTER 34,
TITLE 5, GUAM CODE ANNOTATED.

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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
9 years, there have been times in which the Division has experienced

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

11 However, according to information recently provided to *I*
12 *Liheslatura* by the Office of the Attorney General, during the agency's
13 FY 2013 Budget Hearing held in June 2012 and reconfirmed via
14 correspondence in January 2013, there is approximately five million
15 dollars (\$5,000,000.00) worth of undistributed child support checks
16 that remain in an interest-bearing bank account. These unclaimed
17 payments represent an amount that has passed the two (2)-year hold
18 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.** §34111 of
20 Chapter 34, Title 5, Guam Code Annotated, relative to Child Support
21 Collection, Accounting and Disbursement of Funds, is hereby
22 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 and used accordingly:

1 1. \$500,000 for possible claimants who step forward after
2 the 2 year time frame;

3 2. \$1.5 million specifically for use by the Child Support
4 Enforcement Division of the Office of the Attorney General to
5 update and enhance its vital services, including the
6 procurement and maintenance of a new child support
7 computer system;

8 3. \$2 million for the Department of Public Health Social
9 Services to further support programs and services that
10 strengthen the health of growing families;

11 4. \$1million for the Judicial System of Guam to further
12 support programs and services that strengthen the
13 administration of justice for families.

14 The Director of Administration, in coordination with the Chief Justice
15 of Guam, Attorney General of Guam and the Director of the
16 Department of Public Health and Social Services, shall prepare and
17 submit annually, to the Speaker of *I Liheslaturan Guahan*, a report
18 summarizing all transactions relative to the use of the undistributed
19 child collections funds.

20 (c) If a claimant proves to the satisfaction of the Superior Court
21 within ~~five~~ (5) one (1) years after the deposit of funds under
22 paragraph (2) of subsection (b) of this section that he or she has a just
23 and legal claim to any part of the funds, the Court may order that

1 repayment shall be made to such claimant. The clerk of the court
2 shall issue a certificate under the official seal of the court embodying
3 the terms and provisions of the order and transmit the certificate to
4 the Office of the Treasurer with whom the funds were deposited.

5 (d) The Department shall ascertain the ability of an absent
6 parent to support or contribute to the support of his or her
7 dependents, in accordance with a child support formula accepted
8 and approved by the Attorney General.

9 (e) All further unclaimed funds that are unclaimed for two
10 years and the one additional year shall escheat to Government of
11 Guam and shall be invested in the Office of the Attorney General to
12 update and enhance its vital services.”

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

15 **Section 4. Severability.** If any provision of this Act or its
16 application to any person or circumstance is found to be invalid or
17 contrary to law, such invalidity shall not affect other provisions or
18 applications of this Act which can be given effect without the invalid
19 provisions application, and to this end the provisions of this Act are
20 severable.