I MINA'TRENTAI UNU NA LIHESLATURAN GUÅHAN
2011 (FIRST) Regular Session

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

This is to certify that **Bill No. 97-31 (COR), "AN ACT TO *REPEAL AND RE-ENACT* §4502, TO AMEND §4503, AND TO *ADD* A NEW §4510 TO CHAPTER 4A; AND TO *AMEND* §3231 OF ARTICLE 2 OF CHAPTER 3, ALL OF TITLE 10, GUAM CODE ANNOTATED, RELATIVE TO THE CONTROL AND DISPOSITION OF A DEAD HUMAN BODY, AND THE DUTY OF BURIAL"**, was on the 10th day of May, 2011, duly and regularly passed.

Judith T. Won Pat, Ed.D.
Speaker

Attested:

Tina Rose Muña Barnes
Legislative Secretary

This Act was received by *I Maga'lahen Guåhan* this 12th day of May, 2011, at 10:30 o'clock A.M.

Assistant Staff Officer
Maga'lahi's Office

APPROVED:

EDWARD J.B. CALVO
I Maga'lahen Guåhan

Date: _____

Public Law No. _____

I MINA'TRENTAI UNU NA LIHESLATURAN GUÅHAN
2011 (FIRST) Regular Session

Bill No. 97-31(COR)
As amended on the Floor.

Introduced by: T. R. Muña Barnes
V. Anthony Ada
T. C. Ada
F. F. Blas, Jr.
B. J.F. Cruz
Chris M. Dueñas
Judith P. Guthertz, DPA
Sam Mabini, Ph.D.
Adolpho B. Palacios, Sr.
v. c. pangelinan
Dennis G. Rodriguez, Jr.
R. J. Respicio
M. Silva Taijeron
Aline A.Yamashita, Ph.D.
Judith T. Won Pat, Ed.D.

AN ACT TO *REPEAL AND RE-ENACT* §4502, TO AMEND §4503, AND TO *ADD* A NEW §4510 TO CHAPTER 4A; AND TO *AMEND* §3231 OF ARTICLE 2 OF CHAPTER 3, ALL OF TITLE 10, GUAM CODE ANNOTATED, RELATIVE TO THE CONTROL AND DISPOSITION OF A DEAD HUMAN BODY, AND THE DUTY OF BURIAL.

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. §4502 of Chapter 4A of Title 10, Guam Code Annotated, is *repealed and re-enacted* to read:

"§4502. Right of Sepulcher, the Right to Choose and Control Final Disposition of a Dead Human Body.

(a) As used in this Section, the term *right of sepulcher* means the right to choose and control the burial, cremation, or other final disposition of a dead human body.

(b) The next-of-kin, as defined in §4510 of this Chapter, of the deceased *shall* be entitled to control the final disposition of the remains of any dead human being consistent with all applicable laws, including all applicable health codes.

(c) A mortician or mortuary is entitled to rely on and act according to the lawful instructions of any person claiming to be the next-of-kin of the deceased; provided, however, in any civil cause of action against a funeral director or establishment licensed pursuant to this Chapter for actions taken regarding the funeral arrangements for a deceased person in the director's or establishment's care, the relative fault, if any, of such mortician or mortuary may be reduced if such actions are taken in reliance upon a person's claim to be the deceased person's next-of-kin.

(d) Any person who desires to exercise the right of sepulcher and who has knowledge of an individual or individuals with a superior right to control disposition *shall* notify such individual or individuals prior to making final arrangements.

(e) If an individual with a superior claim is personally served with written notice from a person with an inferior claim that such person desires to exercise the right of sepulcher and the individual so served does *not* object within forty-eight (48) hours of receipt, such individual *shall* be deemed to have waived such right. An individual with a superior right may also waive such right at any time if such waiver is in writing and dated.

(f) If there is more than one (1) person in a class who are equal in priority and the mortician has no knowledge of any objection by other members of such class, the mortician or mortuary *shall* be entitled to rely on and act according to the instructions of the first such person in the class to make arrangements; provided that such person assumes responsibility for the costs of disposition and no other person in such class provides written notice of his or her objection.

(g) Any person may designate an individual to be his or her closest next-of-kin, regardless of blood or marital relationship, by means of a written instrument that is signed, dated, and verified. Such designation of right of sepulcher *shall* be witnessed by two (2) persons, and *shall* contain the names and last known address of each person entitled to be next-of-kin but for the execution of the designation of right of sepulcher and who are higher in priority than the person so designated."

Section 2. A new §4510 is *added* to Chapter 4A of Title 10, Guam Code Annotated, to read:

"§4510. Next-of-Kin Defined.

For purposes of this Chapter and in all cases relating to the custody, control, and disposition of deceased human remains, where *not* otherwise defined, the term *next-of-kin* means the following persons in the priority listed if such person is eighteen (18) years of age or older, is mentally competent, and is willing to assume responsibility for the costs of disposition:

(a) The surviving spouse;

(b) A surviving child of the deceased. If a surviving child is less than eighteen (18) years of age and has a legal or natural guardian, such child *shall not* be disqualified on the basis of the

child's age and such child's legal or natural guardian, if any, *shall* be entitled to serve in the place of the child unless such child's legal or natural guardian was subject to an action in dissolution from the deceased. In such event the person or persons who may serve as next-of-kin *shall* serve in the order provided in Subsections (c) to (g) of this Section;

(c) A surviving parent of the deceased; or if the deceased is a minor, a surviving parent who has custody of the minor; or if the deceased is a minor and the deceased's parents have joint custody, the parent whose residence is the minor child's residence for purposes of mailing and education;

(d) A surviving sibling of the deceased;

(e) Any person designated by the deceased to act as next-of-kin pursuant to a valid designation of right of sepulcher as provided in §4502(g) of this Chapter;

(f) The next nearest surviving relative of the deceased by consanguinity or affinity;

(g) Any person or friend who assumes financial responsibility for the disposition of the deceased's remains if no next-of-kin assumes such responsibility."

Section 3. §3231 of Article 2 of Chapter 3, Title 10, Guam Code Annotated, is *amended* to read:

"§3231. Disposition.

(a) The right to control the disposition of a dead human body and the duty of burial or other disposition and the liability for the reasonable cost *shall* be pursuant to the provisions of §4502 and §4503 of Chapter 4A of 10GCA."

Section 4. §4503 of Chapter 4A of Title 10, Guam Code Annotated, is *amended* to read:

"§4503. Indigents: Duty of Director.

Where the duty of burial or other disposition of a dead human body does not devolve upon any other person in Guam, or if such person cannot after reasonable diligence be found within Guam, the Director shall arrange for burial at sea or on land, or cremation of such body."

Section 5. Effective Date. This Act *shall* be effective upon enactment.