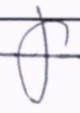




SENATE
S. No. **931**

'19 AUG 20 P 2 :36

Introduced by Senator Grace Poe

RECEIVED BY: 

AN ACT
PROVIDING BURIAL ASSISTANCE FOR UNCLAIMED REMAINS AND FOR
INDIGENT DECEDENTS, APPROPRIATING FUNDS THEREFOR, AND FOR
OTHER PURPOSES.

Explanatory Note

The rise of extrajudicial and vigilante killings in the war on drugs has resulted in a concurrent rise in unclaimed bodies at funeral homes. Reports have surfaced that victims of extrajudicial killings are given a pauper's burial only after "months" of stay at a funeral home. In these cases, unclaimed bodies remain floating in rectangular pools of formaldehyde for months. Many of the dead remained unidentified, unclaimed and unmourned. In other cases, it has been reported that mass burials of victims of extrajudicial killings are being conducted, with no priest to bless the dead, and with no one else present except for cemetery personnel.¹

At present, the Department of Social Welfare and Development (DSWD), through its Protective Services Program, offers various types of assistance to those in need which include the Assistance to Individuals in Crisis Situations (AICS). As the lead agency in social protection, the DSWD places emphasis in ensuring that indigent and vulnerable individuals are provided with the necessary assistance to help them cope during crisis situations. Under AICS, the DSWD provides medical, educational, burial and transportation assistance to persons/families in crisis situations, specifically those belonging to the informal sector and other poor, marginalized, vulnerable, and disadvantaged individuals.²

This bill aims to expand the existing AICS by mandating burial assistance to indigent decedents whose bodies remain unclaimed or unidentified, regardless of the cause of death, whether crime-related or not. Under the bill, if the Crisis Intervention Unit (CIU) of the DSWD determines that the body of the decedent

¹ <http://newsinfo.inquirer.net/818194/11-ejk-victims-given-paupers-burial>

² <http://www.gov.ph/2015/06/25/dswd-extends-operations-for-indigents-seeking-aid/>

remain unclaimed, or, if claimed by the decedent's next of kin, the decedent belongs to an indigent family, the DSWD shall provide burial assistance either by directly contracting with burial service providers or by granting financial assistance to the next of kin. The bill fixes burial assistance to an initial sum of ten thousand pesos (P10,000.00), adjustable to present value every six years. Burial assistance shall defray the costs of the casket or urn, embalming, cremation, and other related burial services such as viewing or wake cost and transportation from the hospital morgue to the intended burial site.

The bill also mandates the DSWD to expedite the processing of burial assistance by refusing to treat the lack of documentation as a ground to deny or withhold assistance. It would be absurd to require documentation when the body of the victim remains unclaimed or unidentified for many months despite all reasonable efforts in locating the victim's next of kin and with no one appearing on behalf of the decedent.

Immediate approval of this measure is eagerly sought.


GRACE POE



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AN ACT
PROVIDING BURIAL ASSISTANCE FOR UNCLAIMED REMAINS AND FOR
INDIGENT DECEDENTS, APPROPRIATING FUNDS THEREFOR, AND FOR
OTHER PURPOSES.

*Be it enacted by the Senate and the House of Representatives of the
Philippines in Congress assembled:*

1 Section 1. *Short Title.* – This Act shall be known as the "*Burial Assistance*
2 *Act.*"

3 Sec 2. *Declaration of Policy.* – It shall be the policy of the State to provide for
4 burial assistance to decedents whose bodies remain unclaimed, regardless of the
5 causes of death, as well as to decedents whose families are indigent and cannot
6 afford a proper burial for the deceased.

7 Sec 3. *Burial Assistance for Unclaimed Remains and Indigent Citizens.* – If
8 the Department of Social Welfare and Development (DSWD), through its Crisis
9 Intervention Unit (CIU), determines that the body of the decedent remains
10 unclaimed or if the CIU is unable to locate the decedent's next of kin after
11 reasonable diligence, given burial time constraints, the DSWD shall directly contract
12 with service providers to arrange for the decedent's proper burial and defray the
13 expenses for the funeral of the deceased in the sum of no more than ten thousand
14 pesos (P10,000.00): *Provided*, that every six (6) years thereafter, this amount shall
15 be adjusted to their present value using the consumer price index as published by
16 the Philippine Statistics Authority.

17 In cases where the next of kin of the decedent appear but are indigent and
18 cannot afford a proper burial, the DSWD shall provide burial assistance as defined in

1 this Section and shall respect, to the extent practicable, the wishes and preferences
2 of the family of the decedent regarding the disposition of the remains of the
3 deceased person, the location and conditions of interment, and arrangements for
4 funeral goods and services to be provided, unless other directions have been given
5 by the decedent pursuant to a will or last testament.

6 Burial assistance as defined under this Act shall include sums and services
7 that cover the costs of the casket or urn, embalming, cremation, and other related
8 services such as viewing or wake cost, pick-up from the hospital morgue, and
9 transport of the body to the intended burial site, but in no case shall exceed ten
10 thousand pesos (P10, 000) or its adjusted value after every six years.

11 The current Assistance to Individuals in Crisis Situations (AICS) under the
12 Protective Services Program of the DSWD shall be expanded to include burial
13 assistance as set forth in this Act.

14 *Sec 4. Expedited Processing. –*

15 (a) Upon receipt of a request for burial assistance for an unclaimed decedent
16 made by a funeral home, law enforcement official, medial or health
17 institution, or any other reputable institution or person whose business is
18 to attend to the remains of deceased persons, or upon notice or
19 knowledge acquired by a CIU official or employee in his or her official
20 capacity over the specific whereabouts of unclaimed remains, the DSWD
21 shall immediately act upon such request, notice, or knowledge and grant
22 or deny burial assistance as soon as practicable, and in any case within a
23 non-extendible period of fifteen (15) working days from such request,
24 notice, or knowledge. The DSWD shall establish a system of inter-agency
25 coordination and monitoring of unclaimed bodies by entering into
26 memoranda of agreement with other agencies, local government units,
27 and accredited health service providers.

28 (b) Where the next of kin of the decedent request for burial assistance, the
29 DSWD shall grant or deny burial assistance as soon as practicable and in
30 any case within a period of ten (10) working days from the submission of
31 all necessary documents in support of the request.

1 Sec 5. *Incomplete Documentation.* – The lack or incompleteness of any of the
2 following documentation shall not constitute grounds for inaction, denial, or
3 withholding of the grant of burial assistance:

- 4 a) medical, hospital, laboratory, or other health records of the decedent;
- 5 b) civil status documents such as death certificate, birth certificate, *etc.*, of
6 the decedent;
- 7 c) identification and residency documents of the decedent;
- 8 d) Other reports, referrals, endorsements, certificates, documents, and
9 permits which the DSWD may, from time to time, choose to exempt from
10 processing requirements for the grant of assistance provided under this
11 Act.

12 In every case of lack or incomplete documentation, the DSWD shall be the
13 sole authority in determining the circumstances of death, indigence, and other
14 conditions in support of the grant of burial assistance as set forth in Section 3 of this
15 Act, which findings shall be clearly stated and substantiated in its social case
16 summary.

17 Sec 6. *Social Case Summary; Crisis Intervention Monitoring System.* – The
18 social worker in charge of processing the burial assistance shall prepare a social case
19 summary that shall either recommend or deny burial assistance. The report shall be
20 uploaded into and form part of an online database system for CIU matters. Absent a
21 modern online database system, the existing Crisis Intervention Monitoring System
22 (CrIMS) shall serve as the requisite online database system. To the extent required
23 to prevent an unwarranted invasion of privacy, the DSWD may redact such personal
24 data from a record made available to the public.

25 Sec 7. *Additional Benefits from Local Governments.* – Notwithstanding any
26 existing laws, rules and regulations, benefits granted under this Act shall not
27 foreclose additional benefits granted by local governments.

28 Sec 8. *Use of Remains for Medical Studies and Scientific Research.* – The
29 provisions of this Act shall be without prejudice to the use of unclaimed remains by
30 medical and scientific institutions for studies and research in accordance with
31 Presidential Decree No. 856 (1975), otherwise known as the Code on Sanitation of

1 the Philippines, and the rules and regulations prescribed by the Department of
2 Health.

3 *Sec 9. Administrative Offenses and Penalties. –*

4 (a) The acts enumerated in this sub-section shall be tantamount to less grave
5 administrative offenses and shall constitute grounds for administrative and
6 disciplinary sanction against any public official or employee who commits the
7 following:

8 (1) Failure to grant or deny burial assistance within the periods required by
9 this Act;

10 (2) Denial of burial assistance without setting forth substantial basis for
11 such denial;

12 (b) The acts enumerated in this sub-section shall be tantamount to grave
13 administrative offenses committed by any public official or employee:

14 (1) Denial or approval of burial assistance knowing that the basis for the
15 decision is materially false, fictitious, manufactured, or fraudulent;

16 (2) Willful destruction, alteration, or falsification of information and/or
17 documents which form the basis of a grant or denial of burial assistance;

18 (3) Reviewing any transaction with a burial or funeral service provider in
19 which the official or employee has a direct or indirect financial and material
20 interest;

21 (4) Including in the grant of burial assistance items or services that are not
22 reasonably related to burial rites for indigents and paupers;

23 (c) The preceding subsections do not bar filing of appropriate administrative
24 cases other than those offenses enumerated above.

25 *Sec 10. Criminal Offenses and Penalties. –* The penalty of imprisonment of not
26 less than one (1) month but not more than six (6) months and a fine ranging from
27 ten thousand pesos (Php 10,000.00) to one hundred thousand pesos (Php
28 100,000.00) shall be imposed upon:

29 (a) Any public officer or employee who knowingly grants any burial assistance
30 request that is manifestly devoid of factual basis;

1 (b) Any public official or employee who willfully destroys, alters, tampers,
2 manufactures, or falsifies documentary evidence which forms the basis of a
3 grant or denial of burial assistance;

4 (c) Soliciting or accepting anything of value to secure a promise, offer, grant, or
5 denial of burial assistance;

6 (d) Knowingly soliciting, paying, and/or accepting gifts or remuneration to/from
7 anyone to induce or reward referrals for items or services covered by burial
8 assistance as defined in this Act;

9 (e) Any individual who knowingly directed, induced or caused the commission of
10 the foregoing acts shall be liable as principal by inducement in the
11 prosecution of public officials or employees under this section;

12 If the violation committed in this Act is induced and assisted by a private
13 individual or a corporation, partnership or any kind of judicial entity, the penalty
14 provided herein shall be imposed on its executive officer and/or other officials
15 responsible therefor: *Provided*, That they shall suffer, in addition to the penalties
16 provided herein, the automatic revocation of their license to operate.

17 Sec 11. *Implementing Rules and Regulations.* – The DSWD, in consultation
18 with the Commission on Human Rights, Philippine National Police, National Bureau of
19 Investigation, Office of the Civil Registrar, Department of Health, Department of
20 Interior and Local Government, and two (2) representatives from charitable
21 organizations engaged in burial or funeral services, is hereby tasked to draft the
22 implementing rules and regulations of this Act within sixty (60) days following its
23 complete publication.

24 Such rules and regulations shall include provisions for inter-agency and inter-
25 stakeholder coordination and monitoring of unclaimed bodies.

26 Sec 12. *Appropriations.* – To carry out the provisions of this Act, such amount
27 as may be necessary is hereby authorized to be appropriated from the National
28 Treasury. Thereafter, the amount necessary for the continuous operation of the
29 burial assistance program as defined in this Act shall be included in the annual
30 appropriation of the DSWD.

1 Sec 13. *Separability Clause.* - If any provision of this Act is declared
2 unconstitutional or invalid, other parts or provisions hereof not affected thereby shall
3 continue to be in full force and effect.

4 Sec 14. *Repealing Clause.* - Any law, presidential decree or issuance,
5 executive order, letter of instruction, administrative order, rule or regulation contrary
6 to or is inconsistent with the provision of this Act is hereby repealed, modified, or
7 amended accordingly.

8 Sec 15. *Effectivity Clause.* - This Act shall take effect fifteen (15) days after its
9 publication in the Official Gazette or in a newspaper of general circulation.

10 *Approved,*