

I MINA'TRENTAI TRES NA LIHESLATURAN GUÅHAN
2015 (FIRST) REGULAR SESSION

Bill No. 119-33 (COR)

Introduced by:

N.B. Underwood, Ph.D.



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AN ACT TO *AMEND* §§ 3207(h) AND (i) OF CHAPTER 3, ARTICLE 2, TITLE 10 GUAM CODE ANNOTATED, § 3102, § 3105, § 3108, § 3109, § 3202(a)(7), § 3204, AND § 3206 OF CHAPTER 3, TITLE 19 GUAM CODE ANNOTATED, RELATIVE TO PROVIDING EQUAL PROTECTION FOR ALL FAMILIES IN GUAM BY CREATING EQUALITY IN CIVIL MARRIAGE.

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

2 **Section 1. Title.** This Act may be known and referred to as the “Guam
3 Marriage Equality Act of 2015.”

4 **Section 2. Legislative Intent.** *I Liheslaturan Guåhan* recognizes that on June
5 5, 2015 the District Court of Guam ruled that existing marriage laws in Guam are
6 unconstitutional. Pursuant to this ruling, *I Liheslaturan Guåhan* intends to comply
7 with the District Court of Guam judgement and amends local statute to allow for
8 same-sex marriage in Guam.

9 **Section 3. Subsections 3207(h) and (i) of Chapter 3, Article 2 of 10 Guam**
10 **Code Annotated are hereby *amended* to read as follows:**

11 § 3207. Definitions.

12 (h) Marriage means the legal union ~~of~~ between two persons without
13 regard to gender. ~~of opposite sex. The legality of the union may be~~
14 ~~established by civil or religious regulations, as recognized by the laws of~~

1 ~~Guam:~~

2 (i) Divorce or annulment means the final legal dissolution of a marriage,
3 void or otherwise, that is, the separation of husband and wife spouses by
4 a judicial decree which confers on the parties the right to remarriage,
5 according to the laws of Guam.

6 **Section 4. Section 3102 of Chapter 3, Title 19 Guam Code Annotated is**
7 **hereby *amended* to read as follows:**

8 § 3102. Minors.

9 (a) Any unmarried person of the age of eighteen (18) years or upwards,
10 and not otherwise disqualified, is capable of consenting to and consummating
11 marriage. Provided, that any person under the age of eighteen (18) years and
12 over the age of sixteen (16) years, with the consent in writing of their parents of
13 the person under age, or one of such parents, or of his or her guardian, where
14 such written consent is filed with the Director of Administration, as provided in
15 § 3202 of this Title, is capable of consenting to and consummating marriage.
16 ~~Provided, further that any female under the age of sixteen (16) years and over~~
17 ~~the age of fourteen (14) years, with the consent in writing of her parents or one~~
18 ~~of her parents or one of her parents, or of her guardian, where such written~~
19 ~~consent is filed with the clerk issuing the marriage license, as provided in §~~
20 ~~3202 of this Title and where, after such showing as the Superior Court may~~
21 ~~require, an order of said Superior Court is entered in the minutes of the clerk of~~
22 ~~said Court, granting permission to said female to marry, is capable of~~
23 ~~consenting to and consummating marriage.~~

24 **Section 5. Section 3105 of Chapter 3, Title 19 Guam Code Annotated is**
25 **hereby *amended* to read as follows:**

26 § 3105. Illegal and Void Marriages.

1 A subsequent marriage contracted by any person during the life of a
2 former ~~husband or wife~~ spouse of such person, with any person other than such
3 former ~~husband or wife~~ spouse is illegal and void from the beginning, unless:

4 (a) The former marriage has been annulled or dissolved. In no case
5 can a marriage of either of the parties during the life of the other, be valid
6 in Guam, if contracted within one (1) year after the entry of an
7 interlocutory decree in a proceeding for divorce.

8 (b) Unless such former ~~husband or wife~~ spouse is absent and not
9 known to such person to be living for the space of five (5) successive
10 years immediately preceding such subsequent marriage, or is generally
11 reputed or believed by such person to be dead at the time such
12 subsequent marriage was contracted. In either of which cases, the
13 subsequent marriage is valid until its nullity is adjudged by a competent
14 tribunal.

15 **Section 6. Section 3108 of Chapter 3, Title 19 Guam Code Annotated is**
16 **hereby *amended* to read as follows:**

17 “Upon entering into a contract of marriage a ~~woman~~ spouse may elect to retain
18 his or her maiden name as her surname before marriage as his or her surname upon
19 marriage. Upon entering into a contract of marriage, either spouse may elect to
20 hyphenate his or her surname with the surname of the other spouse. Intention of the
21 exercise of said election shall be indicated upon the marriage license application as
22 provided for by § 3202 of this Title.”

23 **Section 7. Section 3109 (“Same: Exclusive Election”) of Chapter 3, Title 19**
24 **Guam Code Annotated is *repealed*.**

25 **Section 8. Section 3202(a)(7) of Chapter 3, Title 19 Guam Code Annotated**
26 **is hereby *amended* to read as follows:**

1 “(7) Whether ~~the female~~ a spouse elects to retain ~~her maiden name as her~~
2 ~~surname upon marriage~~ his or her surname before marriage as his or her surname upon
3 marriage as provided for by § 3108.”

4 **Section 9. Section 3204 of Chapter 3, Title 19 Guam Code Annotated is**
5 **hereby *amended* to read as follows:**

6 § 3204 Who May Solemnize.

7 (a) Marriage may be solemnized by:

8 (1) The Governor of Guam or his substitute;

9 (2) The judges of the District Court, and Superior Court;

10 (3) All ordained clergymen and priests of whatsoever religious faith who
11 are recognized as such by the religious body whose faith they represent;

12 (4) The Director of Revenue and Taxation or the Director of
13 Administration;

14 (5) The Speaker of the Guam Legislature, or his/her designee;

15 (6) All village mayors and vice mayors.

16 (b) No regularly licensed or ordained minister or any priest, or similar official
17 of any religious organization is required to perform the solemnization of any marriage.

18 **Section 10. Section 3206 of Chapter 3, Title 19 Guam Code Annotated is**
19 **hereby *amended* to read as follows:**

20 “§ 3206. Particular Form Not Necessary.

21 No particular form for the ceremony of marriage is required, but the parties
22 must declare in the presence of the person solemnizing the marriage that they take
23 each other as husband and wife, or as spouses.”

24 **Section 11.** When necessary to implement the rights, benefits, protections, and
25 responsibilities of spouses under the laws of Guam, all gender-specific terminology,
26 such as “husband”, “wife”, “widow”, “widower”, or similar terms, shall be construed

1 in a gender-neutral manner. This interpretation shall apply to all sources of law,
2 including statutes, administrative rules, court decisions, common law, or any other
3 source of law.

4 **Section 12. Effective Date.** The effective date of implementation of this Act is
5 immediate upon enactment.

6 **Section 13. Severability.** If any provision of this Act or its application to any
7 person or circumstance is held invalid, the invalidity *shall not* affect other provisions
8 or applications of this Act which can be given effect without the invalid provision or
9 application and to this end the provisions of this Act are severable.