



HOUSE OF REPRESENTATIVES
FIFTEENTH NORTHERN MARIANAS COMMONWEALTH LEGISLATURE
THIRD REGULAR SESSION, 2007

PUBLIC LAW NO. 15-100

H. B. No. 15-209, HD1

AN ACT

To establish financial standards and obligations for adults serving as guardians of minor children; and for other purposes.

BE IT ENACTED BY THE FIFTEENTH NORTHERN MARIANAS COMMONWEALTH LEGISLATURE:

1 **Section 1. Findings and Purpose.** The Commonwealth Legislature finds that the
2 current statutory provisions regarding the appointment of guardians for minor children are
3 insufficient to ensure both that children are placed in safe and financially sound homes and
4 that the guardianship process is not abused. The Legislature finds that in many cases
5 guardianship arrangements are used for the purpose of keeping a child in the CNMI contrary
6 to Commonwealth immigration laws and regulations. The Legislature finds that adding a
7 new section to the Commonwealth Code concerning guardianships will assist the Courts in
8 both ensuring the safe placement of minor children and rejecting guardianship petitions that
9 are an attempt to circumvent CNMI law. The Legislature further finds that there should be a
10 provision for certain off-island petitioners to be appointed guardians of minor children
11 present in the CNMI for familial and social reasons.

12 **Section 2.** A new section 1421 is added to Article 2 of Chapter 4 of Division 1 of
13 Title 8 of the Commonwealth Code to read as follows:

14 "§ 1421. Guardianships.

15 (a) Appointment. The Court may appoint, for a term or indefinitely
16 subject to review, an adult over the age of eighteen (18) years to serve as a legal
17 guardian of a minor child only after the following conditions are satisfied:

18 (1) A petition by the proposed guardian stating, under penalty of
19 perjury, the names, dates of birth, and residences of the minor child and the

1 proposed guardian, and the names and whereabouts of any surviving natural or
2 legal parents, grandparents, or siblings of the minor child is filed with the
3 Clerk of the Commonwealth Superior Court;

4 (2) A statement indicating who currently has custody of the minor
5 child and describing the reasons a guardianship is necessary is affixed to the
6 petition;

7 (3) Accompanying affidavits, sworn under penalty of perjury, of
8 any surviving natural or legal parents indicating their consent to the
9 guardianship arrangement are affixed to the petition;

10 (4) An affidavit by the petitioner sworn under penalty of perjury
11 that the guardianship arrangement is not an attempt to avoid or circumvent
12 CNMI immigration law is affixed to the petition;

13 (5) The minor child is not present in the Commonwealth pursuant
14 to a Visitor's Entry Permit (VEP) issued by the Division of Immigration, or
15 has any other immigration status the primary purpose of which is tourism;

16 (6) The petitioning adult has been a resident of the Commonwealth
17 of the Northern Mariana Islands for the one (1) year prior to the date of
18 Petition;

19 (7) A single petitioning guardian earns a salary of at least \$25,000
20 per annum, or a married couple serving as joint guardians earns a combined
21 salary of at least \$35,000 per annum;

22 (8) The Court is satisfied that the living arrangement of the
23 guardian and minor child are suitable. Factors the court may consider in
24 evaluating whether a living arrangement is suitable include but are not limited
25 to the size and number of bedrooms of the residence of the petitioner, and the
26 number of other minor children or family members living in the residence.
27 The Court may order a home study by the Department of Youth Services
28 (DYS) or a Family Service Division prior to granting a petition under this
29 section.

1 (9) The Court, after hearing on the petition, finds that the
2 guardianship arrangement is in the best interests of the child and is not in
3 violation of the law of the Commonwealth of the Northern Mariana Islands.
4 The Division of Immigration may be heard on all matters relating to the
5 immigration laws of the Commonwealth.

6 (10) Notice Requirement: Along with the petition, the petitioner
7 shall file an order prescribing notice which shall set forth the time, place, and
8 purpose of the hearing and require:

9 (i) Personal service or service by registered or certified mail
10 return receipt requested of the notice of petition on all living parents,
11 grandparents, and adult living siblings of the minor child as well as the
12 person or persons having custody of the minor child, if they are not
13 already included;

14 (ii) Posting of the notice of petition at the courthouse for a
15 period of ten (10) days;

16 (iii) Publication of the notice of petition once prior to hearing
17 in a newspaper of general circulation in the Commonwealth.

18 (b) Powers and Duties. A legal guardian appointed by the Superior Court
19 shall have all the rights and powers, duties, and obligations of a legal guardian of the
20 minor child, and shall have a valid and effectual claim of custody of the minor child
21 against every other person claiming custody of the minor child for the duration of the
22 guardianship.

23 (c) Review. The Superior Court may, in its discretion, order that a
24 guardianship be reviewed periodically on a schedule set by the Court.

25 (d) Termination. The Superior Court may terminate a guardianship if,
26 upon review, it finds that the guardianship is no longer in the best interests of the
27 minor child. A guardian who has had a guardianship terminated shall have all normal
28 avenues of appeal.

1 (e) Definitions. For the purposes of this section "resident" means
2 someone present in the CNMI with the intent to remain for a period of time in excess
3 of one year for employment or social purposes. The term "minor child" shall mean
4 any person under the age of eighteen (18) years.

5 (f) This statute shall supplement the common law and supersede any
6 regulation, rule, or common law practice to the contrary.

7 (g) Guardians Not Present in the Commonwealth. The Court may appoint
8 a guardian who is not present in the Commonwealth but present in another
9 jurisdiction of the United States provided that the minor child is present in the
10 Commonwealth and the guardian satisfies all conditions listed in "§ 1421(a), except for
11 "§ 1421(a)(6). A guardian not present in the Commonwealth must have been a
12 resident of the jurisdiction in which they live for at least one (1) year prior to
13 appointment. Guardians not present in the Commonwealth shall have all powers and
14 duties of guardians present in the Commonwealth."

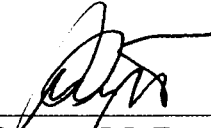
15 **Section 3. Severability.** If any provisions of this Act or the application of any such
16 provision to any person or circumstance should be held invalid by a court of competent
17 jurisdiction, the remainder of this Act or the application of its provisions to persons or
18 circumstances other than those to which it is held invalid shall not be affected thereby.

19 **Section 4. Savings Clause.** This Act and any repealer contained herein shall not be
20 construed as affecting any existing right acquired under contract or acquired under statutes
21 repealed or under any rule, regulation or order adopted under the statutes. Repealers
22 contained in this Act shall not affect any proceeding instituted under or pursuant to prior law.
23 The enactment of the Act shall not have the effect of terminating, or in any way modifying,
24 any liability, civil or criminal, which shall already be in existence on the date this Act
25 becomes effective.

1 **Section 5. Effective Date.** This Act shall take effect upon its approval by the
2 Governor, or it becoming law without such approval.

CERTIFIED BY:

ATTESTED TO BY:

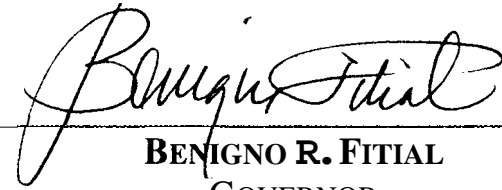


OSCAR M. BABAUTA
SPEAKER OF THE HOUSE



EVELYN C. FLEMING
HOUSE CLERK

APPROVED on this 23rd day of October, 2007



BENIGNO R. FITIAL
GOVERNOR
COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS