

CERTIFICATION OF PASSAGE OF AN ACT TO THE GOVERNOR

This is to certify that Bill No. 265, "An Act adding a new Section 956 to the Civil Code of Guam, repealing Sections 376 and 377 of the Code of Civil Procedure of Guam, and adding new Sections 376 and 377 to the Code of Civil Procedure of Guam, relative to the survival of tort actions, actions for injury to children, and actions for wrongful death.", was on the 27th day of January, 1966, duly and regularly passed.



CARLOS P. TAITANO
Speaker

ATTESTED:

Antonio S.N. Buenas

ANTONIO S.N. DUENAS
Legislative Secretary

This Act was received by the Governor this 15th
day of February 1966 at 1:59 o'clock
P. M.

1/s/ RUDOLPH G. SADLAN

SECRETARY
Acting Secretary of Guam

APPROVED:

1/s/ Denver Dickerson

Acting Governor of Guam

DATED: March 9, 1966
2:08 P.M.



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EIGHTH GUAM LEGISLATURE
1966 (SECOND) Regular Session

Bill No. 265

Introduced by

Alberto T. Lamorena
Vicente C. Reyes

AN ACT ADDING A NEW SECTION 956 TO THE CIVIL CODE OF GUAM, REPEALING SECTIONS 376 AND 377 OF THE CODE OF CIVIL PROCEDURE OF GUAM, AND ADDING NEW SECTIONS 376 AND 377 TO THE CODE OF CIVIL PROCEDURE OF GUAM RELATIVE TO THE SURVIVAL OF TORT ACTIONS, ACTIONS FOR INJURY TO CHILDREN, AND ACTIONS FOR WRONGFUL DEATH.

1 Be it enacted by the People of the territory of Guam, That the
2 following new Section 956 is added to Chapter 1 of Title II of Part 3 of
3 Division Second of the Civil Code of Guam:

4 "Section 956. Personal injury action; death not cause for
5 abatement; damages when plaintiff dies before judgment; assignment of cause
6 of action prohibited. A thing in action arising out of a wrong which results
7 in physical injury to the person or out of a statute imposing liability for
8 such injury shall not abate by reason of the death of the wrongdoer or any
9 other person liable for damages for such injury, nor by reason of the death
10 of a person injured or of any other person who owns any such thing in action.
11 When the person entitled to maintain such an action dies before judgment,
12 damages recoverable for such injury shall be limited to loss of earnings and
13 expenses sustained or incurred as a result of the injury by the deceased prior
14 to his death, and shall not include damages for pain, suffering or disfigure-
15 ment, nor punitive or exemplary damages, nor prospective profits or earnings
16 after the date of death. The damages recovered shall form part of the estate
17 of the deceased. Nothing in this section shall be construed as making such a
18 thing in action assignable."

19 Section 2. Section 376 of the Code of Civil Procedure of Guam
20 is repealed in its entirety and substituted therefor is a new Section 376 as
21 follows:

22 "Section 376. Parents; injuries to child; failure of one
23 parent to join as plaintiff; service on parent not joining; illegitimate child;

1 ward; parties defendant; death of defendant, child or ward; damages; consolida-
2 tion of injury and death action. The parent of an illegitimate unmarried minor
3 child, acting jointly, may maintain an action for injury to such child caused
4 by the wrongful act or neglect of another. If either parent shall fail on
5 demand to join us plaintiff in such action or is dead or cannot be found, then
6 the other parent may maintain such action and the parent, if living, who does
7 not join us plaintiff must be joined as a defendant and, before trial or hear-
8 ing of any question of fact, must be served with summons either personally or
9 by sending a copy of the summons and complaint by registered mail with proper
10 postage prepaid addressed to such parent's last known address with request for
11 a return receipt. If service is made by registered mail the production of a
12 return receipt purporting to be signed by the addressee shall create a disput-
13 able presumption that such summons and complaint have been duly served. In the
14 absence of personal service or service by registered mail, as above provided,
15 service may be made as provided in Sections 412 and 413 of this Code. The
16 respective rights of the parents to any award shall be determined by the court.

17 A mother may maintain an action for such an injury to her ille-
18 gitimate unmarried minor child. A guardian may maintain an action for such
19 an injury to his ward.

20 Any such action may be maintained against the person causing
21 the injury, or if such person be dead, then against his personal representa-
22 tives. If any other person is responsible for any such wrongful act or
23 neglect the action may also be maintained against such other person, or his
24 personal representatives in case of his death. The death of the child or
25 ward shall not abate the parents' or guardians' cause of action for his injury
26 as to damages accruing before his death.

27 In every action under this section, such damages may be given
28 as under all of the circumstances of the case may be just; provided, that in
29 any action maintained after the death of the child or ward, damages recoverable
30 hereunder shall not include damages for pain, suffering, or disfigurement nor
31 punitive or exemplary damages nor compensation for loss of prospective profits
32 or earnings after the date of death.

33 If an action arising out of the same wrongful act or neglect may
34 be maintained pursuant to Section 377 of this Code for wrongful death of any
35 child, the action authorized by this section shall be consolidated therewith

1 Section 3. Section 377 of the Code of Civil Procedure of Guam
2 is repealed in its entirety and substituted therefor is a new Section 377 as
3 follows:

4 "Section 377. Wrongful death of adults or certain minors;
5 action by personal representatives; death of wrongdoer; damages; consolidation
6 of actions. When the death of a person not being a minor, or when the death
7 of a minor person who leaves surviving him either husband or wife or child or
8 children or father or mother, is caused by the wrongful act or neglect of
9 another, his heirs or personal representatives may maintain an action for
10 damages against the person causing the death, or in case of the death of such
11 wrongdoer, against the personal representative of such wrongdoer, whether the
12 wrongdoer dies before or after the death of the person injured. If any other
13 person is responsible for any such wrongful act or neglect, the action may
14 also be maintained against such other person, or in case of his death, his
15 person representatives. In every action under this section, such damages may
16 be given as under all the circumstances of the case, may be just, but shall
17 not include damages recoverable under Section 956 of the Civil Code. The
18 respective rights of the heirs in any award shall be determined by the court.
19 Any action brought by the personal representatives of the decedent pursuant
20 to the provisions of Section 956 of the Civil Code may be joined with an
21 action arising out of the same wrongful act or neglect brought pursuant to
22 the provisions of this section. If an action be brought pursuant to the pro-
23 visions of this section and a separate action arising out of the same wrongful
24 act or neglect be brought pursuant to the provisions of Section 956 of the
25 Civil Code, such actions shall be consolidated for trial on the motion of any
26 interested party."