Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City



THIRTEENTH CONGRESS
First Regular Session

HOUSE BILL NO. 497

Introduced by **Hon. Arthur "Dodo" Y. Pingoy, Jr., M.D.**

Explanatory Note

A victim who suffered a violent death or one who died unnaturally or under unusual, suspicious or questionable circumstances can no longer recount how the murder or homicide was perpetrated against him or how the accident happened but he always leave telltale signs that may not only unlock the mystery about his death but would also accomplish what the deceased can no longer do -- point the finger at the perpetrator of the crime or felony.

At the forefront of the investigation of cases involving criminal violence and negligence resulting to deaths are forensic pathologists and medico-legal practitioners. As their inquiry is directed towards the circumstances that led to death, how it occurred and the conditions consistent with the cause of death, their findings thereon including their expertise and training have always been helpful in reconstructing the crime scene and formulating the sequence of events. Together with the inputs of the police investigator, these practitioners arrive at a factual determination of what actually transpired by performing autopsy of the dead body, a very important stage of the investigative process.

With the proper, careful and thorough examination of the dead body and other methodologies that yield vital information at this stage, both the investigator and the prosecution officer can avoid problems with regards to all the evidence at hand when the case enters the adversarial proceedings of the courtroom. Further, as they could competently exclude natural deaths from accidents, suicides and murders, they save the law enforcement agents unnecessary work and expense.

It is unfortunate, however, in our country, that the families or relatives of a person who died from criminal violence, accidents and other unusual or mysterious circumstances can conveniently and easily deny, reject or interfere with the State's prerogative to have the body examined by a mere refusal to commit the cadaver for autopsy.

In a case, for example, involving a battered child who succumbs to internal injuries or of one who dies from a fall after he was jostled by an abusive parent, the State may never know the exact cause of death and all the other pertinent information that will authorize the State in filing the appropriate complaint against those responsible for the crime. The same may be encountered when a person dies in a hospital due to a medical malpractice or to a simple case of negligence by the attending medical staff.

In the same vein, government investigators can never fully ascertain the proximate and contributory causes of death of victims of a fire accident, ship disaster,

aviation tragedy, toxic waste contamination, or any environmental catastrophe if their bodies are not autopsied or when such examinations are not conducted as timely as possible because of the refusal of their families or relatives.

The reasons behind a family's refusal, reluctance or unwillingness to have their deceased relative autopsied may not only be to conceal foul play. This may also be intended to suppress a damning or damaging information about the dead person to be known by the public (e.g. AIDS positive, died due to a drug overdose and the like) or due to religious or aesthetic reasons or to prevent a further delay in the internment of the dead relative. Thus, the services of a private doctor would even be sought by concerned relatives who would declare a different cause of death and issue a death certificate even without performing the necessary autopsy of the dead body to bury any possible controversy or mystery surrounding the death of the person. Others resort to other subterfuges like a hurried burial or hasty embalming or cremation of the deceased. In all these instances, the State is deprived of vital information for the prosecution of the culpable person/s and the protection of innocent individuals from hasty and unconscionable prosecutions.

It is in this light that this bill is proposed. Among others, this proposed measure can ensure that the State's interest will be upheld with regards to the investigation of the violent, unnatural, questionable, mysterious or unusual death of the person and the prosecution and punishment of the person/s responsible therefore by requiring mandatory professional forensic autopsy under such circumstances. Such interest should be considered paramount and must neither be defeated nor frustrated by the refusal of the relatives of the dead person for whatever reasons that may be proffered.

This bill also intends to address the problem of deficient or inadequate autopsy and post-mortem reports that contributes to the non-prosecution or dismissal of complaints because of the absence or lack of guidelines in the conduct and preparation of the same. It is important that these reports must not only include information that is visible or easily ascertainable. It must be borne in mind that what is not found therein is just as important as what is found.

Thus, a minimum of standards, both in the conduct of the autopsy and in the preparation of the reports, is herein prescribed which the proponent hopes to be further improved with the public's growing awareness of the need for more trained forensic experts and more equipped crime laboratories or forensic science centers as well as the systematic coordination by law enforcement investigators in all the phases of the investigative process.

Moreover, this proposed measure justly limits the number of personnel allowed in the autopsy room to forestall or discourage possible tampering or destruction of available evidence in the autopsy room and any unnecessary disruption of the examinations being performed. The appropriate penalties therein provided may also check or deter the felonious participation of medical practitioners and even by government medico-legal officers in the issuance of dubious or questionable death certificates.

Based on the foregoing and to draw us nearer to the ideals of a more orderly and efficient administration of criminal justice in the country, the support for this bill is

earnestly sought. It is also hoped that this bill can institutionalize sound and appropriate policies in the field of criminal justice, particularly in the development of a competent and professional corps of professionals in forensic service, as we aggressively take advantage of major advances in technology to deal with the growing investigative challenges of the times.

Arthur "Dodo" Y. Pingoy, Jr., M.D.

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

THIRTEENTH CONGRESS
First Regular Session

HOUSE BILL NO. 497

Introduced by **Hon. Arthur "Dodo" Y. Pingoy, Jr., M.D.**

AN ACT
PROVIDING FOR THE MANDATORY AUTOPSY OF ANY PERSON WHO DIED IN A VIOLENT, SUSPICIOUS, QUESTIONABLE, UNUSUAL AND/OR UNNATURAL MANNER, THE CONDITIONS FOR THE PROPER ISSUANCE OF THE DEATH CERTIFICATE OF SAID PERSON AND FOR OTHER PURPOSES

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

SECTION 1. ***Title.***--This Act shall be known as the "Autopsy Act of 2004."

SEC. 2. ***Definition of Terms.***--The following terms shall mean and be understood to be as herein defined:

(a) "Autopsy" refers to the examination of the body of the dead person for the purpose of determining the cause as well as the circumstances surrounding his death;

(b) "Hospital autopsy" refers to the post mortem examination by a hospital of the body of a dead person for medical or research purposes;

(c) "Forensic autopsy" refers to the autopsy of the body of a person who died under violent, suspicious, questionable, unusual and/or unnatural circumstances, which has medico-legal implications;

(d) "Health Officer" refers to a provincial, city or municipal health officer;

(e) "Medical staff" refers to the medical and allied medical professionals who administer or provide aa comprehensive health care and other related services;

(f) "Physician" refers to a doctor of medicine licensed as such by the Professional Regulations Commission.

SEC. 3. ***Mandatory Autopsy***.-- The State shall, in the interest of law, justice and public order, conduct a mandatory or compulsory forensic autopsy in cases of death due to violence, or suspicious or questionable or unusual or unnatural causes.

SEC. 4. ***Persons Authorized to Conduct Forensic Autopsy***.--The following persons shall be authorized to conduct forensic autopsy under this Act:

a) Government health officers;

b) Medical officers of law enforcement and other concerned government agencies;
c) Members of medical staff of accredited hospitals, and
d) Physicians accredited by law enforcement agencies.

SEC. 5. ***Conduct of Autopsy***.--The autopsy shall be conducted in a manner that will ensure the proper determination of the cause, manner and other surrounding circumstances of death, and must rule out every other possible and conceivable contributing cause. The standards and procedures in the conduct of the autopsy shall be contained in the rules and regulations issued pursuant to this Act.

SEC. 6. ***Report of medico-legal cases***.--It shall be the duty of any person having knowledge of a death which occurs under the circumstances herein enumerated, to immediately notify the nearest police station or office of government forensic pathologist or medico-legal officer or the office of the local government unit where the death occurred:

(a) death where the criminal violence appears to have taken place;
(b) death by any accident or unintentional injury;
(c) suicide;
(d) death under suspicious, unusual, unnatural, or questionable circumstances;
(e) death following an illegal abortion;
(f) death related to occupational illness or injury;
(g) death while in custody, in any jail or correctional facility or in any mental health or social welfare facility;
(h) death where suspicion of abuse of a child, family or household member, elder or disabled person exists;
(i) death due to poison or acute or chronic use of drugs, alcohol and other similar or related substances;
(j) skeletal remains;
(k) death associated with diagnostic or therapeutic procedures;
(l) sudden death when the decedent was in apparent good health;
(m) death in any public or private conveyance;
(n) fetal and infant deaths;
(o) death in any emergency treatment facility, medical walk-in center or clinic;
(p) deaths occurring under such other circumstances as the government pathologist or medico-legal officer may include in the implementing rules and regulations.

SEC. 7. ***Designation of hospitals and other medical centers for the conduct of the autopsy***.--The Department of Health, in coordination with and participation of local government units, shall designate one hospital or medical center under its control or supervision for every province as the official site for the conduct of autopsy of persons, in addition to existing crime laboratories of the PNP and NBI, who died in any of the circumstances mentioned in Section 6 of this Act.

The Department shall also ensure that these designated hospitals or medical centers shall set aside or construct, when not available, a room or section which shall be equipped with all the necessary chemicals, equipment and morgue, and further, shall be manned by competent personnel and support staff for a thorough, competent and careful autopsy of the dead person and its proper safekeeping prior to its release to the family or relatives.

SEC. 8. ***Re-autopsy***.--The conduct of re-autopsy shall be allowed only upon order of a court of competent authority.

SEC. 9. ***Persons entitled to receive a copy of the autopsy report***.--The autopsy report shall be prepared in quadruplicate duly signed by the attending government pathologist or medico-legal officer. It shall be made available immediately after the autopsy to the legal next-of-kin or nearest surviving relative attending the dead person and the investigator assigned to the case. A file copy shall be retained by the officer who conducted the autopsy. The original autopsy report copy must be transmitted to the local civil registry of the place or jurisdiction where the victim expired not later than one month after the conduct of the autopsy. If the manner of death remains unknown, this shall be indicated in the report subject to changes after the attending medical examiner shall have been able to identify the same.

SEC. 10. ***Time to receive an autopsy report***.--All autopsy reports should be completed in 4-6 weeks. More time may be allowed if the determination of cause or manner of death is dependent upon toxicology results, other tests or additional police investigation.

SEC. 11. ***Authorized persons in the autopsy room***.--Only the attending pathologist or medico-legal officer, including their staff and additional personnel under their control or supervision, and police investigator/s assigned on the case shall be allowed in the autopsy room.

Other agents from the same police unit or other law enforcement agencies may be allowed only after their submission of an official request with an accompanying endorsement of their superiors for such purpose to the attending pathologist or medico-legal officer but which shall be concurred to by the latter.

Other exceptional circumstances that will also warrant the inclusion of such additional agents for the aforementioned purpose may also be added in the implementing rules and guidelines of this law.

A private physician, upon the request of the relatives of the victim may be allowed in the premises where the autopsy is conducted. The former may participate in the autopsy only upon the concurrence of the attending government pathologist or medico-legal officer.

The employees or agents of funeral parlors are barred from entering the room where the autopsy is being conducted except after all the necessary examinations have been concluded.

SEC. 12. ***Tampering of evidence***.--It shall be unlawful for any person who, without any written order or approval from the attending government pathologist or medico-legal officer, touches, removes or disturbs the body of the person who died in a violent, unusual, suspicious and/or questionable circumstances. The cadaver shall only be released after a release permit is issued by the attending pathologist or medico-legal staff.

SEC. 13. ***Unlawful embalming, cremation and burial***.--It shall be unlawful for any person to embalm, cremate or bury the body of a person who died in a manner as provided in the preceding sections prior to the conduct of autopsy by competent authorities. Embalming shall only be allowed when the prevailing circumstances such as the stage of decomposition of the body, security risks, remoteness of the place or non-availability of transport services prevent the immediate or timely transmittal of dead body to the proper authorities for the conduct of the autopsy.

SEC. 14. ***Unlawful Issuance of Death Certificate***.--It shall be unlawful for any person to issue a death certificate of a person who died in a violent, suspicious, questionable, unusual and/or unnatural circumstances without complying with the required autopsy.

SEC. 15. ***Penal provisions***.--Any person who violates any provision of this Act except Section 6 hereof or one who, in any manner, aids or assists in the commission of the same or one who employs force, intimidation, threat or fraud for the said purpose shall be punished by *prision correcional* and a fine not exceeding Thirty Thousand Pesos (P 30,000.00); *Provided* that if the person violating any provision of this Act is a private medical practitioner or any professional, he/she shall also be suspended from practicing his/her profession for a period of not less than one year.

Any government pathologist or medico-legal officer who directly commits the unlawful acts defined in this Act or is guilty of gross negligence of duty or connives with or permits the commission of any of the said unlawful acts or any government officer or employee acting in conspiracy with them, in addition to the penalty prescribed in the preceding paragraph, shall be dismissed from the service with prejudice to his reinstatement and with disqualification from voting or being voted for in any election and from appointment to any public office.

SEC. 16. ***Appropriations***.--The amount necessary to carry out the provisions of this Act shall be charged against the current year's appropriations of the National Bureau of Investigation (NBI), the Philippine National Police (PNP) and other government entities concerned, and thereafter included in the General Appropriations Act.

SEC. 17. ***Implementing Rules and Regulations***.--The Secretaries of the Department of Interior and Local Government (DILG), Department of Justice (DOJ) and Department of Health (DOH) shall, upon the recommendation of an interagency committee herein created, composed of the Philippine National Police Crime Laboratory, the Medico-Legal Division of the National Bureau of Investigation, the Bureau of Research and Laboratory of the Department of Health and the Chief Forensic Pathologist of the Department of Pathology, College of Medicine of the University of the Philippines jointly issue the necessary rules and regulations for the effective implementation of the provisions of this Act.

SEC. 18. ***Separability Clause***.--If any provision of this Act is subsequently declared invalid or unconstitutional, the provisions thereof not affected by such declaration shall remain in force and effect.

SEC. 19. ***Repealing Clause***.--All laws, decrees, executive orders, rules and regulations or parts thereof inconsistent with the provisions of this Act are hereby repealed or modified accordingly.

SEC. 24. ***Effectivity***. This Act shall take effect fifteen (15) days after its publication in the Official Gazette or in two (2) newspapers of general circulation.

Approved,