

**Representative Gilbert Keith-Agaran, House Judiciary Committee
February 25, 2011**

**Testimony of
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HB 49 DISPOSITION OF BODY; ARMED FORCES SERVICE MEMBERS

The Department of Defense State Liaison Office operates under the direction of the Under Secretary of Defense for Personnel and Readiness, and the Deputy Assistant Secretary for Military Community and Family Policy. Our mission is to be a resource to state policymakers as they work to address quality of life issues of military families.

Testimony

Chair Keith-Agaran and members of the House Judiciary Committee, on behalf of the Deputy Assistant Secretary of Defense, I would like to thank you for the opportunity to submit testimony today on HB 49, a bill relating to disposition of human remains.

Our request is simply to recognize in state statute the approach that Service members under Title 10 USC Section 1482 are required by federal law to follow in designating a person to direct the disposition of their remains (what we call a PADD). The DD Form 93 is an essential part of their military record, also designating their beneficiaries for Service members' Group Life Insurance. Service members are

required to update it annually and before any deployment. Our request will ensure that the DD Form 93 is consulted and viewed as the legally sufficient document for designating a PADD.

Forty-eight percent of Service members are less than 25 years old. Since they are required to designate a PADD on the DD Form 93, it is highly unlikely they will research to see whether they also need to follow a different state requirement for designating an agent in the event of their untimely death. The proposed amendment to state law on disposition removes confusion for the family

Let me illustrate our issue by sharing a case with you that shows what can happen when there is a lack of clarity in which rule to follow in designating a PADD:

A deceased Soldier who was married but estranged from his wife, elected his mother as the PADD on DD Form 93. The mother wanted to cremate the Soldier; however, the funeral home refused to cremate the remains without the wife's consent (based on the rules of the state). The spouse was reluctant to sign the consent for cremation and only after a military attorney intervened, did the wife eventually consent.

Eventually the wishes of the Service member to have his mother direct disposition were honored; however, this situation, and the unnecessary delay it

caused, could have been avoided if the state statute in question had referred to the DD Form 93.

This bill will also enable coroners to confidently refer to a single document to approach the Service member's choice for directing the disposition of his or her remains. This will avoid the possibility of giving the body to a person not listed on DD Form 93 against the Service member's wishes and a person who may be ineligible to receive DoD funds for burial.

In addition, having DD Form 93 in statute will make estate planners aware of its important use by the federal government. If they were to help a Service member create a durable power of attorney or a will, they could align both the DD Form 93 and their paperwork so that there are no conflicts, thus better serving their client. If a Service member wanted to update their DD Form 93 based on the advice of their attorney, they could do that on the spot on the attorney's computer.

Thank you for the time and consideration of this matter. Please do not hesitate to contact me if you have any questions.

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STATE OF HAWAII
DEPARTMENT OF DEFENSE

TESTIMONY ON HOUSE BILL 49
A BILL FOR AN ACT RELATING TO ARMED FORCES SERVICE MEMBERS

PRESENTATION TO THE
HOUSE COMMITTEE ON JUDICIARY

BY

MAJOR GENERAL DARRYLL D. M. WONG
INTERIM ADJUTANT GENERAL
February 25, 2011

Chair Keith-Agaran, Vice Chair Rhoads, and Members of the Committee:

I am Major General Darryll D. M. Wong, Interim State Adjutant General. I am testifying on House Bill 49.

We support House Bill 49. This measure allows the disposition of military service member's remains directed by the person authorized as indicated on the United States Department of Defense Record of Emergency Data executed by the service member.

Thank you for the opportunity to provide this written testimony.