

Department of Legislative Services
Maryland General Assembly
2005 Session

FISCAL AND POLICY NOTE

Senate Bill 962 (Senator Astle)
Education, Health, and Environmental Affairs

Death - Final Disposition of Body

This bill authorizes a person named in a document to carry out a decedent's wishes regarding the final disposition of the body to have the first right of priority to make the arrangements.

Fiscal Summary

State Effect: None. The change would not directly affect governmental finances.

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary: The right to arrange for the final disposition of the body of the decedent is relinquished if: (1) a person who would otherwise have the right to arrange for the final disposition of the decedent's body has been charged with first or second degree murder or voluntary manslaughter in connection with the decedent's death; and (2) those charges are known to the funeral director or cemetery authority. If this right is relinquished, the right to arrange for the final disposition of the decedent's body is determined by the order of priority in statute.

The following persons are not liable for executing a written directive of a decedent or a directive of a person representing that the person has the right to arrange for the final disposition of the decedent's body: a cemetery organization; a business operating a

crematory or columbarium, or both; a funeral director or an embalmer; or a funeral establishment.

If the persons, in descending order of priority, who have the right to arrange for the final disposition of the decedent's body cannot agree on the right to arrange for the final disposition of the decedent's body, any specified individual may file a petition in a court of competent jurisdiction requesting that the court decide the right to arrange for the final disposition of the decedent's body.

In the event of a disagreement on the right to arrange for the final disposition of the decedent's body, a cemetery organization or funeral establishment is not liable for refusing to accept the body or to inter or otherwise dispose of the decedent's body until the cemetery organization or funeral establishment receives a court order or other written agreement signed by the parties in the disagreement that decides the right to arrange for the final disposition of the decedent's body.

Current Law: Any individual age 18 or older may decide the disposition of the individual's own body after the individual's death without the predeath or post-death consent of another person by executing a document that expresses the individual's wishes regarding disposition of the body or by entering into a pre-need contract. To be valid, the document must be written and signed by the individual in the presence of a witness, who, in turn, must sign the document in the individual's presence.

Unless a person has knowledge that contrary directions have been given by the decedent, if a decedent has not executed a document, the following persons, in the order of priority, have the right to arrange for the final disposition of the decedent's body, including cremation: (1) the decedent's surviving spouse; (2) the decedent's adult child; (3) the decedent's parent; (4) the decedent's adult brother or sister; (5) a person acting as the decedent's representative under a signed authorization of the decedent; (6) the decedent's guardian at the time of the decedent's death, if one has been appointed; or (7) in the absence of any of the individuals listed above, any other person willing to assume the responsibility to act as the authorizing agent to arrange the final disposition of the decedent's body.

Additional Information

Prior Introductions: None.

Cross File: HB 1378 (Delegate Benson) – Rules and Executive Nominations.

Information Source(s): Department of Health and Mental Hygiene, Department of Legislative Services

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