

Department of Legislative Services
Maryland General Assembly
2015 Session

FISCAL AND POLICY NOTE

Senate Bill 690

(Senator Benson)

Judicial Proceedings

Public Safety - Removal of Dead Bodies - Police Presence

This bill requires a police officer upon the request of a mortuary science practitioner, to remain at a residence where an individual has died until the body is removed by a mortuary science practitioner or medical examiner or for at least 90 minutes, except under specified conditions.

Fiscal Summary

State Effect: None. The bill does not require any changes to the policies or procedures of the Office of the Chief Medical Examiner.

Local Effect: Minimal. Many jurisdictions have similar procedures in place. However, some jurisdictions may need to modify their procedures to ensure that police officers remain at a residence when requested by a mortuary science practitioner.

Small Business Effect: None.

Analysis

Bill Summary: A police officer may leave a residence before the required time period if the officer receives a call that requires the officer to attend to a matter of higher priority than remaining at the residence.

A “mortuary science practitioner” means a person licensed by the State as a funeral director, mortician, or surviving spouse licensee to practice mortuary science. The term includes a person acting at the direction of such a licensee. A “police officer” means a member of a police force of the State or a county or municipality of the State.

Current Law/Background: Typically, when a person dies, a call is made by an attending physician or family member to a licensed funeral establishment or local police station to have the body removed from a residence. A pronouncement of death must be made and a determination must be made as to whether there is a physician who can sign a death certificate or, if the death was suspicious (as discussed below), whether the body must be examined by the chief medical examiner.

In general, an individual 18 years or older may execute a document or enter into a pre-need contract expressing their wishes for disposition of their own body prior to death. However, if an individual does not execute such a document prior to death, the following persons (in the order of priority) have the right to arrange for the final disposition of the body and are liable for the reasonable costs of preparation, care, and disposition of the decedent:

- the surviving spouse or domestic partner;
- an adult child;
- a parent;
- an adult brother or sister;
- a person acting as a representative of the decedent under a signed authorization with the decedent;
- the guardian of the decedent at the time of death, if a guardian has been appointed; or
- in the absence of any person listed above, any other person willing to assume the responsibility to act as the authorizing agent.

If the State is responsible for the final disposition of an individual, a public administrator, medical examiner, coroner, State-appointed guardian, or any other public official charged with arranging the final disposition of the body may serve as the authorizing agent.

Mortuary science practitioners are licensed by the State under the Health Occupations Article. The State Board of Morticians and Funeral Directors protects the public's health and welfare through proper credentialing, examination, licensure, and discipline of licensed morticians and funeral directors, apprentices, surviving spouses, executors, pre-need trustees, corporations (under limited circumstances), and funeral establishments. The board also permits mortuary transport services and registers mortuary transporters. A mortuary transport service must have a board-issued permit, and a transporter must be registered before removing or transporting human remains in Maryland. Additionally, a mortuary transportation service must have required documentation, and may not sign a death certificate. Funeral establishments are exempt from transport service registration requirements. Either a funeral establishment can send its own transportation to pick up and remove a body, or a funeral establishment can call a registered mortuary transportation

service to move the body. Mortuary transportation services may not initiate transport independently.

While the body of a decedent is in the custody of a funeral establishment or crematory, with certain exceptions, the body may not be transported for preparation or storage to a facility that is not within the jurisdiction of the State, licensed by the State Board of Morticians and Funeral Directors, or permitted by the Office of Cemetery Oversight.

Medical Examiner Cases

Under certain circumstances, a medical examiner, employed by the State Postmortem Examiners Commission, must investigate a human death if the death occurs by violence, suicide, casualty, suddenly (if the deceased was in apparent good health or unattended by a physician), or in any suspicious or unusual manner. If a chief medical examiners case occurs, the police or sheriff must immediately notify the medical examiner and State's Attorney in the appropriate county, and the medical examiner or investigator must go and take charge of the body.

Unclaimed Bodies

A police officer who has control of a body must immediately notify the State Anatomy Board in the Department of Health and Mental Hygiene if, after a reasonable search, the public officer has not found a person who will take control of a body for its final disposition. Subject to specified limitations, the board may remove the body to a morgue in Baltimore City. After 72 hours after death, the body is under the exclusive control of the board and may be embalmed. Any relative or friend may claim the body after embalming and, after paying the board for the costs of moving and embalming the body, may receive it.

Control of Body by Health Officer

A designated local health department officer may take control of a body that is being kept in a room where an individual lives and that is in a condition that endangers an individual in the house where the body is kept if (1) at least three individuals living near the house or a physician asks the health officer, in writing, to order final disposition of the body; (2) the health officer issues an order for final disposition, within a time period stated in the order; and (3) final disposition of the body is not made within that time. A person may not obstruct the carrying out of an order of a health officer under provisions relating to disposition of a body. A person who violates this provision is guilty of a misdemeanor and subject to maximum penalties of a fine of \$500 or imprisonment for six months.

Additional Information

Prior Introductions: SB 121 of 2014, a similar bill, received an unfavorable report from the Senate Judicial Proceedings Committee. Its cross file, HB 1264, received an unfavorable report from the House Judiciary Committee.

Cross File: None.

Information Source(s): Baltimore City; City of Salisbury; Kent, Montgomery, Washington, and Worcester counties; Town of Leonardtown; Department of Health and Mental Hygiene; Department of State Police; Department of Legislative Services

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md/lgc

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