

Department of Legislative Services  
Maryland General Assembly  
2016 Session

FISCAL AND POLICY NOTE  
First Reader

House Bill 1152 (Delegate Miele, *et al.*)  
Health and Government Operations

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Public Health - Final Disposition of Unclaimed Bodies - Authorizing Agent  
(Nancy's Law)

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This bill establishes that a relative or friend of a decedent is deemed the authorizing agent for purposes of arranging for the final disposition of the decedent's unclaimed body if (1) the decedent has not executed a document or pre-need contract specifying the disposition of their body prior to death and (2) the relative or friend claims the body from the State Anatomy Board 72 hours or more after the decedent's death.

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Fiscal Summary

**State Effect:** None. The bill's changes have no material fiscal or operational impact on the State Anatomy Board.

**Local Effect:** None.

**Small Business Effect:** None.

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Analysis

**Current Law/Background:** In general, an individual age 18 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 of 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 – after attesting in writing that a good faith effort has been made to no avail to contact the other individuals who have higher priority.

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.

After 72 hours after death, the body is under the exclusive control of the State Anatomy 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. The board may waive its costs upon a showing of hardship by the relative or friend.

Although any relative or friend may claim a body from the board, current law only establishes that such an individual may be deemed an authorizing agent (thereby having legal authority to arrange for and make decisions regarding the final disposition of the deceased) if no other specified relative or representative with higher priority has been able to be found. Otherwise, the relative or friend must petition the court to obtain authority to be an authorizing agent and can only do so under specified circumstances.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Judiciary (Administrative Office of the Courts), Department of Health and Mental Hygiene, Department of Legislative Services

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min/ljm

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