

# SENATE BILL 1000

J2, C2, J1

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By: **Senator Peters**

Introduced and read first time: February 5, 2018

Assigned to: Finance

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## A BILL ENTITLED

1 AN ACT concerning

2 **Funeral Directors, Morticians, and Crematory Operators – Disposition of Body**  
3 **by Cremation – Requirement and Liability**

4 FOR the purpose of requiring a certain practitioner to dispose of the body of a decedent by  
5 cremation if the practitioner receives a certain authorizing document; prohibiting a  
6 certain practitioner from requesting or soliciting the consent of certain persons or  
7 considering the objections of certain persons to the cremation of a certain body before  
8 cremating a certain body if the practitioner received a certain document; providing  
9 for the circumstances under which the choice for cremation by a decedent as  
10 expressed in a certain document may be superseded; requiring a certain person to  
11 submit a certain document to a certain practitioner immediately after the person  
12 obtains the document; prohibiting a person from fraudulently or deceptively giving  
13 a certain notice to a certain practitioner if the person has certain knowledge;  
14 providing that a certain practitioner is not liable for cremating the body of a decedent  
15 in accordance with this Act unless the practitioner is in receipt of or has been given  
16 reasonable notice of the existence of a certain document; defining a certain term; and  
17 generally relating to the disposition of bodies by cremation by funeral directors,  
18 morticians, and crematory operators.

19 BY repealing and reenacting, without amendments,  
20 Article – Health – General  
21 Section 5–508 and 5–509(a), (b), and (c)  
22 Annotated Code of Maryland  
23 (2015 Replacement Volume and 2017 Supplement)

24 BY adding to  
25 Article – Health – General  
26 Section 5–509.1  
27 Annotated Code of Maryland  
28 (2015 Replacement Volume and 2017 Supplement)

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,  
2 That the Laws of Maryland read as follows:

3 **Article – Health – General**

4 5–508.

5 (a) In this subtitle the following words have the meanings indicated.

6 (b) “Authorizing agent” means the individual who has legal authority to arrange  
7 for and make decisions regarding the final disposition of a dead human body, including by  
8 cremation.

9 (c) “Cremation” means the disposition of a dead human body by means of  
10 incineration.

11 (d) “Crematory” is a building in which cremations are performed.

12 (e) “Decedent” means a dead human being.

13 (f) “Practitioner” means a person who is licensed by the State as a funeral  
14 director, mortician, or surviving spouse licensee to practice mortuary science.

15 (g) “Pre–need contract” means an agreement prior to the time of death between a  
16 consumer and a practitioner to provide any goods and services regarding the final  
17 disposition of a dead human body.

18 5–509.

19 (a) (1) Any individual who is 18 years of age or older may decide the disposition  
20 of the individual’s own body after that individual’s death without the predeath or  
21 post–death consent of another person by executing a document that expresses the  
22 individual’s wishes regarding disposition of the body or by entering into a pre–need  
23 contract.

24 (2) The person designated on a United States Department of Defense  
25 Record of Emergency Data (DD Form 93), or its successor form, as the person authorized  
26 to direct disposition may arrange for the final disposition of the body of a decedent,  
27 including by cremation under § 5–502 of this subtitle, if the decedent:

28 (i) Died while serving in the United States armed forces; and

29 (ii) Executed the United States Department of Defense Record of  
30 Emergency Data (DD Form 93), or its successor form.

31 (b) In order to be valid, any document executed under subsection (a) of this section  
32 must be written and signed by the individual in the presence of a witness, who, in turn,

1 shall sign the document in the presence of the individual.

2 (c) Unless a person has knowledge that contrary directions have been given by  
3 the decedent, if a decedent has not executed a document under subsection (a) of this section,  
4 the following persons, in the order of priority stated, have the right to arrange for the final  
5 disposition of the body of the decedent, including by cremation under § 5–502 of this  
6 subtitle:

7 (1) The surviving spouse or domestic partner of the decedent;

8 (2) An adult child of the decedent;

9 (3) A parent of the decedent;

10 (4) An adult brother or sister of the decedent;

11 (5) A person acting as a representative of the decedent under a signed  
12 authorization of the decedent;

13 (6) The guardian of the person of the decedent at the time of the decedent's  
14 death, if one has been appointed; or

15 (7) In the absence of any person under items (1) through (6) of this  
16 subsection, any other person willing to assume the responsibility to act as the authorizing  
17 agent for purposes of arranging the final disposition of the decedent's body, including the  
18 personal representative of the decedent's estate, after attesting in writing that a good faith  
19 effort has been made to no avail to contact the individuals under items (1) through (6) of  
20 this subsection.

21 **5–509.1.**

22 (A) IN THIS SECTION, "PRACTITIONER" INCLUDES A REGISTERED  
23 CREMATORY OPERATOR AS DEFINED IN § 5–101 OF THE BUSINESS REGULATION  
24 ARTICLE.

25 (B) A PRACTITIONER SHALL DISPOSE OF THE BODY OF A DECEDENT BY  
26 CREMATION IF THE PRACTITIONER RECEIVES ANY OF THE FOLLOWING  
27 AUTHORIZING DOCUMENTS INDICATING THAT CREMATION IS THE DECEDENT'S  
28 CHOICE FOR THE FINAL DISPOSITION OF THE DECEDENT'S BODY:

29 (1) A DOCUMENT EXECUTED IN ACCORDANCE WITH § 5–509 OF THIS  
30 SUBTITLE;

31 (2) A COPY OF A PRE-NEED CONTRACT EXECUTED BY THE DECEDENT;

32 (3) A COPY OF THE DECEDENT'S EXECUTED WILL;

1           (4) AN EXECUTED ADVANCE DIRECTIVE OF THE DECEDENT; OR

2           (5) CREMATION AUTHORIZATION FORMS EXECUTED BY THE  
3 DECEDENT.

4           (C) EXCEPT AS PROVIDED IN SUBSECTION (D) OF THIS SECTION, A  
5 PRACTITIONER MAY NOT REQUEST OR SOLICIT THE CONSENT OF OR CONSIDER THE  
6 OBJECTIONS TO CREMATION OF ANY PERSON UNDER § 5-509(C) OF THIS SUBTITLE  
7 TO CREMATE THE BODY OF A DECEDENT IF THE PRACTITIONER RECEIVED ANY OF  
8 THE AUTHORIZING DOCUMENTS LISTED UNDER SUBSECTION (B) OF THIS SECTION.

9           (D) (1) THE CHOICE OF CREMATION BY A DECEDENT AS EXPRESSED IN AN  
10 AUTHORIZING DOCUMENT LISTED UNDER SUBSECTION (B) OF THIS SECTION MAY BE  
11 SUPERSEDED ONLY IF A PERSON LISTED UNDER § 5-509(C) OF THIS SUBTITLE  
12 EITHER SUBMITS TO THE PRACTITIONER OR GIVES REASONABLE NOTICE TO THE  
13 PRACTITIONER OF THE EXISTENCE OF A REVOKING DOCUMENT EXECUTED BY THE  
14 DECEDENT AFTER EXECUTION OF THE AUTHORIZING DOCUMENT INITIALLY  
15 RECEIVED BY THE PRACTITIONER THAT:

16                       (I) CLEARLY AND EXPRESSLY REVOKES THE AUTHORIZING  
17 DOCUMENT INITIALLY RECEIVED BY THE PRACTITIONER; OR

18                       (II) EXPRESSES A CHOICE FOR FINAL DISPOSITION OF THE  
19 DECEDENT'S BODY THAT IS CONTRARY TO THE CHOICE OF CREMATION EXPRESSED  
20 IN THE AUTHORIZING DOCUMENT.

21           (2) A PERSON LISTED UNDER § 5-509(C) OF THIS SUBTITLE WHO  
22 GIVES NOTICE TO A PRACTITIONER OF THE EXISTENCE OF A REVOKING DOCUMENT  
23 UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL SUBMIT THE REVOKING  
24 DOCUMENT TO THE PRACTITIONER IMMEDIATELY AFTER THE PERSON OBTAINS THE  
25 REVOKING DOCUMENT.

26           (3) A PERSON LISTED UNDER § 5-509(C) OF THIS SUBTITLE MAY NOT  
27 FRAUDULENTLY OR DECEPTIVELY GIVE NOTICE TO A PRACTITIONER OF THE  
28 EXISTENCE OF A REVOKING DOCUMENT TO PREVENT THE CREMATION OF THE BODY  
29 OF A DECEDENT IF THE PERSON HAS KNOWLEDGE THAT A REVOKING DOCUMENT  
30 DOES NOT EXIST.

31           (E) UNLESS THE PRACTITIONER IS IN RECEIPT OF OR HAS REASONABLE  
32 NOTICE OF THE EXISTENCE OF A REVOKING DOCUMENT UNDER SUBSECTION (D) OF  
33 THIS SUBSECTION, A PRACTITIONER MAY NOT BE HELD LIABLE FOR CIVIL DAMAGES  
34 FOR CREMATING THE BODY OF A DECEDENT IN ACCORDANCE WITH THIS SECTION.

1           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
2   October 1, 2018.