

**Department of Legislative Services**  
Maryland General Assembly  
2018 Session

**FISCAL AND POLICY NOTE**  
**First Reader**

Senate Bill 1000

(Senator Peters)

Finance

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**Funeral Directors, Morticians, and Crematory Operators - Disposition of Body  
by Cremation - Requirement and Liability**

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This bill requires a licensed mortician, licensed funeral director, licensed surviving spouse, or a registered crematory operator (practitioner) to dispose of the body of a decedent by cremation upon receipt of specified documents that indicate cremation is the decedent's choice for final disposition. Further, the practitioner is generally prohibited from requesting or soliciting consent of or considering objections to cremation from specified family members or representatives of the decedent if the practitioner has received specified authorizing documents. The bill also establishes procedures for producing documents that revoke a prior indication of a decedent's preference for cremation.

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**Fiscal Summary**

**State Effect:** None. The bill does not directly affect governmental operations or finances.

**Local Effect:** None.

**Small Business Effect:** Minimal.

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**Analysis**

**Bill Summary:** A practitioner must dispose of a decedent's body by cremation upon receipt of any of the following authorizing documents indicating that cremation is the decedent's choice of final disposition: (1) specified documents indicating the decedent's wishes or a U.S. Department of Defense Record of Emergency Data form or its successor form; (2) a copy of a pre-need contract executed by the decedent; (3) a copy of the decedent's executed will; (4) an executed advance directive of the decedent; or

(5) cremation authorization forms executed by the decedent. Unless the practitioner has knowledge or receipt of a document revoking one of these authorizing documents, as discussed below, the practitioner may not be held liable for civil damages for cremating the body of a decedent in accordance with the bill's provisions.

A decedent's choice of cremation as expressed in one of the authorizing documents listed above may only be superseded if a specified close relative or representative of the decedent gives reasonable notice to the practitioner of the existence of a revoking document executed by the decedent *after* execution of the initial authorizing document received by the practitioner. The revoking document must (1) clearly and expressly revoke the initial authorizing document; or (2) express a choice for final disposition of the decedent's body that is contrary to the choice of cremation expressed in the initial authorizing document. The person must submit the revoking document to the practitioner immediately after obtaining it. A person may not fraudulently or deceptively give notice to a practitioner of a revoking document if the document does not exist.

Unless the practitioner has knowledge of or is in receipt of a document revoking one of the authorizing documents, the practitioner may not be held liable for civil damages for cremating the body of a decedent in accordance with the bill's provisions.

**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. Additionally, the person designated on a U.S Department of Defense Record of Emergency Data form (or its successor form) as the person authorized to direct disposition may arrange for the final disposition of the body of a decedent, including by cremation, under specified circumstances. To be valid, any of these documents 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 an authorizing 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 or domestic partner; (2) the decedent's adult child; (3) the decedent's parent; (4) the decedent's adult sibling; (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.

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## Additional Information

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Judiciary (Administrative Office of the Courts); Maryland Department of Health; Department of Labor, Licensing, and Regulation; Department of Legislative Services

**Fiscal Note History:** First Reader - March 12, 2018  
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