

# HOUSE BILL 218

J2, J1

9lr0930  
CF SB 147

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By: **Delegates Krebs, Cullison, ~~and Pena-Melnyk~~ Pena-Melnyk, and Sample-Hughes**

Introduced and read first time: January 23, 2019

Assigned to: Health and Government Operations

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Committee Report: Favorable with amendments

House action: Adopted

Read second time: February 26, 2019

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Public Health – Disposition of Remains – Forfeiture or Waiver of Right of**  
3 **Disposition**

4 FOR the purpose of requiring a person to forfeit the right of final disposition of the body of  
5 a decedent and that the right pass to the next qualifying person under certain  
6 circumstances; providing that a certain person's right of disposition may be restored  
7 under certain circumstances; authorizing a person to waive the right of final  
8 disposition and requiring the right to pass to the next qualifying person under  
9 certain circumstances; prohibiting funeral directors, morticians, and funeral  
10 establishments from being held civilly liable for acting in reliance on this Act;  
11 providing for the construction of this Act; and generally relating to the right of final  
12 disposition of the body of a decedent.

13 BY repealing and reenacting, without amendments,  
14 Article – Health – General  
15 Section 5–509(c)  
16 Annotated Code of Maryland  
17 (2015 Replacement Volume and 2018 Supplement)

18 BY adding to  
19 Article – Health – General  
20 Section 5–509(g)  
21 Annotated Code of Maryland  
22 (2015 Replacement Volume and 2018 Supplement)

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### EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 BY repealing and reenacting, without amendments,  
2 Article – Health Occupations  
3 Section 7–410(c)  
4 Annotated Code of Maryland  
5 (2014 Replacement Volume and 2018 Supplement)

6 BY adding to  
7 Article – Health Occupations  
8 Section 7–410(g)  
9 Annotated Code of Maryland  
10 (2014 Replacement Volume and 2018 Supplement)

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

13 **Article – Health – General**

14 5–509.

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

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

21 (2) An adult child of the decedent;

22 (3) A parent of the decedent;

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

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

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

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

1 (G) (1) THIS SUBSECTION MAY NOT BE CONSTRUED TO REQUIRE A  
 2 LICENSED MORTICIAN, LICENSED FUNERAL DIRECTOR, OR LICENSED FUNERAL  
 3 ESTABLISHMENT TO MAKE ANY NOTIFICATION REGARDING THE RIGHT OF  
 4 DISPOSITION.

5 (2) A PERSON SHALL FORFEIT THE RIGHT OF FINAL DISPOSITION OF  
 6 THE BODY OF A DECEDENT UNDER SUBSECTION (C) OF THIS SECTION AND THE  
 7 RIGHT SHALL PASS TO THE NEXT QUALIFYING PERSON, IF THE PERSON:

8 (I) DOES NOT EXERCISE THE RIGHT OF DISPOSITION WITHIN ~~3~~  
 9 7 DAYS AFTER NOTIFICATION BY A FUNERAL ESTABLISHMENT OF THE DEATH OF THE  
 10 DECEDENT, OR WITHIN ~~4~~ 10 DAYS AFTER THE DECEDENT'S DEATH, WHICHEVER IS  
 11 EARLIER;

12 ~~(II) IS THE SPOUSE OF THE DECEDENT AND A PETITION TO~~  
 13 ~~DISSOLVE THE MARRIAGE IS PENDING IN A COURT AT THE TIME OF THE DECEDENT'S~~  
 14 ~~DEATH; OR~~

15 ~~(III) (II)~~ (II) SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, IS  
 16 CHARGED WITH FIRST- OR SECOND-DEGREE MURDER OR VOLUNTARY  
 17 MANSLAUGHTER IN CONNECTION WITH THE DECEDENT'S DEATH AND THE CHARGES  
 18 ARE KNOWN TO THE FUNERAL DIRECTOR; OR

19 (III) IS THE SUBJECT OF AN ACTIVE INTERIM, TEMPORARY, OR  
 20 FINAL PROTECTIVE ORDER AND THE DECEDENT WAS A PERSON ELIGIBLE FOR  
 21 RELIEF, AS DEFINED UNDER § 4-501 OF THE FAMILY LAW ARTICLE, UNDER THE  
 22 ORDER AND A COPY OF THE ORDER IS PRESENTED TO THE FUNERAL DIRECTOR.

23 (3) ~~UNLESS FINAL DISPOSITION HAS ALREADY OCCURRED, A~~ A  
 24 PERSON WHOSE RIGHT OF DISPOSITION WAS FORFEITED UNDER PARAGRAPH (2)(III)  
 25 (2)(II) OF THIS SUBSECTION SHALL HAVE THE RIGHT RESTORED, IF:

26 (I) THE CRIMINAL CHARGES ARE DISMISSED; OR

27 (II) THE PERSON IS ACQUITTED OF THE CRIMINAL CHARGES.

28 (4) A PERSON MAY WAIVE THE RIGHT OF FINAL DISPOSITION OF THE  
 29 BODY OF A DECEDENT UNDER SUBSECTION (C) OF THIS SECTION AND THE RIGHT  
 30 SHALL PASS TO THE NEXT QUALIFYING PERSON, IF:

31 (I) THE PERSON WAIVES THE RIGHT OF DISPOSITION IN  
 32 WRITING; AND

1                   **(II) THE WRITING IS SUBMITTED TO THE PRACTITIONER OR**  
2 **FUNERAL ESTABLISHMENT.**

3                   **(5) A PRACTITIONER OR FUNERAL ESTABLISHMENT MAY NOT BE**  
4 **HELD CIVILLY LIABLE FOR ACTING IN RELIANCE ON THIS SUBSECTION.**

5                   **Article – Health Occupations**

6 7–410.

7           (c) Unless a person has knowledge that contrary directions have been given by  
8 the decedent, if a decedent has not executed a document under subsection (a) of this section,  
9 the following persons, in the order of priority stated, have the right to arrange for the final  
10 disposition of the body of the decedent under this section and are liable for the reasonable  
11 costs of preparation, care, and disposition of the decedent:

12           (1) The surviving spouse or domestic partner, as defined in § 1–101 of the  
13 Health – General Article, of the decedent;

14           (2) An adult child of the decedent;

15           (3) A parent of the decedent;

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

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

19           (6) The guardian of the person of the decedent at the time of the decedent’s  
20 death, if a guardian has been appointed; or

21           (7) In the absence of any person under items (1) through (6) of this  
22 subsection, any other person willing to assume the responsibility to act as the authorizing  
23 agent for purposes of arranging the final disposition of the decedent’s body, including the  
24 personal representative of the decedent’s estate, after attesting in writing that a good faith  
25 effort has been made to no avail to contact the persons described in items (1) through (6) of  
26 this subsection.

27           **(G) (1) THIS SUBSECTION MAY NOT BE CONSTRUED TO REQUIRE A**  
28 **LICENSED MORTICIAN, LICENSED FUNERAL DIRECTOR, OR LICENSED FUNERAL**  
29 **ESTABLISHMENT TO MAKE ANY NOTIFICATION REGARDING THE RIGHT OF FINAL**  
30 **DISPOSITION OF THE BODY OF A DECEDENT.**

31           **(2) A PERSON SHALL FORFEIT THE RIGHT OF FINAL DISPOSITION OF**  
32 **THE BODY OF A DECEDENT UNDER SUBSECTION (C) OF THIS SECTION AND THE**  
33 **RIGHT SHALL PASS TO THE NEXT QUALIFYING PERSON, IF THE PERSON:**

1 (I) DOES NOT EXERCISE THE RIGHT OF DISPOSITION WITHIN ~~3~~  
 2 7 DAYS AFTER NOTIFICATION BY A FUNERAL ESTABLISHMENT OF THE DEATH OF THE  
 3 DECEDENT, OR WITHIN ~~4~~ 10 DAYS AFTER THE DECEDENT'S DEATH, WHICHEVER IS  
 4 EARLIER;

5 ~~(II) IS THE SPOUSE OF THE DECEDENT AND A PETITION TO~~  
 6 ~~DISSOLVE THE MARRIAGE IS PENDING IN A COURT AT THE TIME OF THE DECEDENT'S~~  
 7 ~~DEATH; OR~~

8 ~~(III)~~ (II) SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, IS  
 9 CHARGED WITH FIRST- OR SECOND-DEGREE MURDER OR VOLUNTARY  
 10 MANSLAUGHTER IN CONNECTION WITH THE DECEDENT'S DEATH AND THE CHARGES  
 11 ARE KNOWN TO THE FUNERAL DIRECTOR; OR

12 (III) IS THE SUBJECT OF AN ACTIVE INTERIM, TEMPORARY, OR  
 13 FINAL PROTECTIVE ORDER AND THE DECEDENT WAS A PERSON ELIGIBLE FOR  
 14 RELIEF, AS DEFINED UNDER § 4-501 OF THE FAMILY LAW ARTICLE, UNDER THE  
 15 ORDER AND A COPY OF THE ORDER IS PRESENTED TO THE FUNERAL DIRECTOR.

16 (3) ~~UNLESS FINAL DISPOSITION HAS ALREADY OCCURRED, A~~ A  
 17 PERSON WHOSE RIGHT OF DISPOSITION WAS FORFEITED UNDER PARAGRAPH ~~(2)(III)~~  
 18 (2)(II) OF THIS SUBSECTION SHALL HAVE THE RIGHT RESTORED, IF:

19 (I) THE CRIMINAL CHARGES ARE DISMISSED; OR

20 (II) THE PERSON IS ACQUITTED OF THE CRIMINAL CHARGES.

21 (4) A PERSON MAY WAIVE THE RIGHT OF FINAL DISPOSITION OF THE  
 22 BODY OF A DECEDENT UNDER SUBSECTION (C) OF THIS SECTION AND THE RIGHT  
 23 SHALL PASS TO THE NEXT QUALIFYING PERSON, IF:

24 (I) THE PERSON WAIVES THE RIGHT OF DISPOSITION IN  
 25 WRITING; AND

26 (II) THE WRITING IS SUBMITTED TO THE PRACTITIONER OR  
 27 FUNERAL ESTABLISHMENT.

28 (5) A LICENSED MORTICIAN, LICENSED FUNERAL DIRECTOR, OR  
 29 LICENSED FUNERAL ESTABLISHMENT MAY NOT BE HELD CIVILLY LIABLE FOR  
 30 ACTING IN RELIANCE ON THIS SUBSECTION.

31 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
 32 October 1, 2019.

Approved:

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Governor.

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Speaker of the House of Delegates.

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President of the Senate.