

Department of Legislative Services
Maryland General Assembly
2009 Session

FISCAL AND POLICY NOTE
Revised

House Bill 482
Judiciary

(Delegate Rosenberg)

Judicial Proceedings

Criminal Law - Removing Human Remains from Burial Site - Exceptions

This bill allows specified family members or designated representatives to arrange for the removal of human or cremated remains from a burial site within a cemetery and reinterment in the same burial site or another burial site within the boundary of the same cemetery. In order of priority, these individuals may authorize the removal of remains: the surviving spouse or domestic partner, an adult child, a parent, an adult sibling, a representative acting under signed authorization of the decedent, or an acting guardian at the time of death. A reinterment under the bill may be done without the authorization of the State's Attorney.

Fiscal Summary

State Effect: The bill does not materially affect State operations or finances.

Local Effect: The bill does not materially affect local operations or finances.

Small Business Effect: Potential minimal.

Analysis

Bill Summary: A person who arranges for reinterment must, within 30 days, publish a notice of this action in a newspaper of general circulation in the county where the cemetery is located. The notice must include specified information related to the reinterment. Within 45 days, a person who arranges the reinterment must provide a copy of the notice to the Office of Cemetery Oversight. The location of the remains must be entered into the inventory of the local burial sites or, if no inventory exists, into a record or inventory deemed appropriate by the Maryland Historical Trust.

Current Law: A person may not remove or attempt to remove human remains from a burial site unless a State's Attorney with jurisdiction has authorized the action to ascertain the cause of death; to determine if the human remains were interred erroneously; for the purpose of reburial; or for medical or scientific examination or study.

A person wanting to permanently relocate human remains is required to post notice in a local newspaper. The notice must include a statement indicating the reason for the relocation; that authorization by the State's Attorney is being sought; the location of the burial site; and all pertinent information concerning the burial site including, if known, the names of the persons whose remains are interred in the burial site. A State's Attorney may authorize the temporary relocation of human remains from a burial site for good cause.

For a known, but not necessarily documented, unmarked burial site, the person requesting authorization for the removal of human remains must prove by archaeological excavation or other acceptable method the precise location and boundary of the burial site. Removed burial remains must be reinterred in a permanent cemetery, unless otherwise instructed by a relative, domestic partner, or other affiliated person.

The reinternment location of the remains must be entered into the inventory of local burial sites, or if none exists, into a record or inventory deemed appropriate by the State Historical Trust. A permit from the Department of Health and Mental Hygiene is required in order to remove any human remains from a cemetery to an outside location.

A person who violates the prohibition against removing human remains is guilty of a misdemeanor and is subject to imprisonment for up to five years and/or a fine of up to \$10,000.

Small Business Effect: Regardless of size, cemeteries have greater flexibility in dealing with relocation and removal of human remains.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Maryland Department of Planning; Department of Health and Mental Hygiene; Judiciary (Administrative Office of the Courts); Department of Labor, Licensing, and Regulation; State's Attorneys' Association; Secretary of State; Department of Legislative Services

Fiscal Note History: First Reader - February 14, 2009
mam/mcr Revised - House Third Reader - March 30, 2009

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