

Department of Legislative Services
Maryland General Assembly
2012 Session

FISCAL AND POLICY NOTE
Revised

House Bill 540

(Delegate Reznik, *et al.*) (By Request - State Board of Morticians and Funeral Directors)

Health and Government Operations

Education, Health, and Environmental Affairs

Handling Human Remains with Dignity Act of 2012

This bill establishes requirements for the proper handling of the body of a decedent by funeral establishments and crematories. Failure to comply with the bill's requirements is grounds for disciplinary action for licensees of the State Board of Morticians and Funeral Directors and permit holders of the Office of Cemetery Oversight.

Fiscal Summary

State Effect: The State Board of Morticians and Funeral Directors and the Office of Cemetery Oversight can enter into written agreements with facilities and otherwise comply with the bill's requirements within existing budgeted resources.

Local Effect: None.

Small Business Effect: Minimal.

Analysis

Bill Summary: A funeral establishment or crematory, on taking custody of the body of a decedent in accordance with all authorizations required by law, must maintain the body in a manner that provides for complete coverage of the body and prevents leakage or spillage except during identification, embalming, or preparation for final disposition; restoration and dressing of a body for final disposition; and viewing during a visitation or funeral service.

If an unembalmed body is to be stored for more than 48 hours before final disposition, it must be refrigerated at a temperature determined by regulation. If a funeral establishment

or crematory cannot secure the body of a decedent or maintain the body with refrigeration due to an unforeseen circumstance, the funeral establishment or crematory must notify either the board or the office as well as the person authorized to arrange for the final disposition of the body. Notification must be made within 24 hours after the occurrence of the unforeseen circumstance and include the name and location of the facility where the body is being transferred, the reason for the transfer, and the method of storage.

The body of a decedent may not be embalmed or artificially preserved without the express permission of the person authorized to arrange for the final disposition of the body or a court order. A funeral establishment or crematory must store the body of a decedent until final disposition at (1) a licensed funeral establishment; (2) a licensed or permitted crematory; or (3) another facility that has passed inspection by the board or the office within the previous two years. A funeral establishment, crematory, or transportation service may not transport or store a body together with animal remains in the same confined space.

While in the custody of a funeral establishment or crematory, a body may not be transferred for preparation or storage to a facility that is not within the jurisdiction of the State, licensed by the board, or permitted by the office unless the facility has (1) entered into a written agreement with the board or the office allowing the State to make unannounced inspections; and (2) the person authorized to arrange for the final disposition of the body has given specified permission for the body to be transported to the facility.

Current Law: The State Board of Morticians and Funeral Directors issues licenses for apprentices, morticians, funeral directors, the surviving spouse of a mortician or funeral director (who continues to operate the funeral establishment in the event of the mortician's or funeral director's death), funeral establishments, and corporations.

The board may deny a license, reprimand any licensee, place any licensee on probation, or suspend or revoke any license if the applicant or licensee violates any State, municipal, or county law, rule, or regulation on the handling, custody, care, or transportation of dead human bodies or the disposal of instruments, materials, and wastes relevant to preparation of a dead human body for final disposition. In addition to (or in lieu of) disciplinary action, the board may impose a penalty of up to \$5,000.

The Office of Cemetery Oversight registers and regulates the cemetery and burial goods industry in the State. The office regulates independent (or freestanding) crematories, while the board regulates crematories associated with licensed funeral establishments. The director of the office may deny, reprimand, suspend, or revoke a registration or permit for a disciplinary violation. In addition to (or in lieu of) disciplinary action, the office may impose a fine of up to \$5,000.

The only specific statutory requirement relating to handling of the body of a decedent is that, before burial or interment, a mortician must affix an identification tag containing specified information about the decedent. After cremation, a licensee must ensure that such a tag is placed in the cremains container. A funeral establishment must have a holding room that is approved by the board at the opening inspection of the establishment, but it is not required to have a refrigeration unit on the premises.

Background: According to the board, many funeral establishments now outsource transportation, storage, and embalming services to central clearinghouses, some of which are located out of state. About one-third of funeral establishments in Maryland are “restricted establishments” that must lease space from a full-service establishment for storage and preparation services. The board notes there is often a lack of transparency to the family of the decedent as to the location of the decedent’s body and who is actually performing the services. The board also has difficulty ensuring that the bodies of decedents are properly handled, particularly when they are transported out of state where the board lacks jurisdiction to inspect or investigate a facility.

In April 2009, *The Washington Post* ran a series of articles detailing grossly improper handling and storage of bodies, many of whom were veterans awaiting burial at Arlington National Cemetery, by National Funeral Home in Falls Church, Virginia. The home serves as a regional clearinghouse that embalms and stores bodies for other area funeral homes, including at least one in Maryland.

Additional Information

Prior Introductions: None.

Cross File: SB 415 (Senator Montgomery, *et al.*) - Education, Health, and Environmental Affairs and Finance.

Information Source(s): Department of Health and Mental Hygiene; Department of Labor, Licensing, and Regulation; Department of Legislative Services

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