

Department of Legislative Services  
 Maryland General Assembly  
 2025 Session

FISCAL AND POLICY NOTE  
 First Reader

House Bill 1003 (Delegates Simmons and Young)  
 Health and Government Operations

Relocation of Human Remains - Authorization Process

This bill requires that *before* the State’s Attorney for a county may authorize a person to permanently relocate human remains from a burial site, the person seeking to permanently relocate the remains must obtain approval from the Office of Cemetery Oversight (OCO). By January 1, 2026, the Maryland Department of Health (MDH) must, in consultation with OCO, update regulations regarding disinterment and reinterment to carry out the duties of the bill.

Fiscal Summary

**State Effect:** Special fund expenditures for OCO increase by approximately \$58,600 in FY 2026 to hire staff. Future year expenditures reflect annualization and ongoing costs, as discussed below. OCO special fund revenues may increase minimally, beginning in FY 2026, for fines and fee revenues collected, as discussed below. General fund revenues are not likely affected by fines collected in the District Court, as discussed below.

(in dollars)	FY 2026	FY 2027	FY 2028	FY 2029	FY 2030
SF Revenue	-	-	-	-	-
SF Expenditure	\$58,600	\$67,500	\$70,500	\$73,700	\$76,800
Net Effect	(\$58,600)	(\$67,500)	(\$70,500)	(\$73,700)	(\$76,800)

*Note: ( ) = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate increase; (-) = indeterminate decrease*

**Local Effect:** Local revenues may decrease minimally for fines no longer paid to circuit courts, as discussed below. Expenditures are not affected.

**Small Business Effect:** None.

## Analysis

**Bill Summary:** Before filing an application seeking approval from OCO to relocate permanently human remains, the person seeking approval must publish and provide specified notices. Accordingly, the bill removes the published notice requirements in current law that a State's Attorney for a county must require for a person seeking authorization to relocate permanently human remains from a burial site.

The bill instead specifies notice, application, and other requirements for OCO to approve a request to permanently relocate human remains.

### *Notice Requirements to Permanently Relocate Human Remains*

A person requesting authorization to permanently relocate human remains from a burial site must:

- prominently post notice of the request at the burial site in a form approved by OCO;
- publish notice of the proposed relocation in a newspaper of general circulation in the county (and pay for the cost) where the original burial site is located containing specified information; and
- provide notice of the intent to permanently relocate the human remains to potential descendants, in a manner specified by OCO.

### *Office of Cemetery Oversight Application – Authorization to Relocate Human Remains*

No earlier than 30 days after providing notice, a person must submit an application for authorization to relocate human remains on a form developed by OCO. OCO may approve the application if (1) at least 30 days have passed since the applicant provided notice as required under the bill and (2) the applicant pays an application fee set by OCO. All fees collected by OCO must be remitted to the Cemetery Oversight Fund.

For specified unmarked burial sites, the bill requires the person requesting authorization for the removal of human remains from the burial site to prove the precise location and boundaries of the burial site by methods approved by OCO.

### *Informational Meeting about Application*

On written request by any person within 30 days after publication and posting of notices as required under the bill, OCO must require the applicant to hold an informational meeting about the application, which may be canceled if each person who made timely requests withdraws their request before the meeting.

### *Provisions Applicable to Specified Individuals*

The application process is streamlined for certain individuals (a specified family member, an authorized representative, the guardian of the person of the decedent at the time of decedent's death, if one has been appointed, or an adult direct descendant of the decedent). Accordingly, although such an individual must still file an application with OCO and publish notice of the proposed relocation, the individual is not required to post notice at a burial site or provide notice to potential descendants.

Further, if a specified individual (those stated above) requests to reinter human remains for which an application to relocate has been filed, OCO must delay the reinterment process for (and resolve the request within) 90 days. However, OCO may require evidence of the relationship to the decedent before delaying a reinterment.

### *Fines – Cemetery Oversight Fund*

The bill specifies that all fines collected for violations of removing human remains without approval from OCO and authorization by the State's Attorney must be remitted to the Cemetery Oversight Fund.

The bill also makes conforming changes.

### **Current Law:**

#### *Office of Cemetery Oversight*

OCO's primary responsibilities are to register and monitor individuals and businesses engaged in the operation of cemeteries and burial goods businesses in Maryland. This includes individuals and companies that sell funerary monuments and memorials on a retail basis. OCO also regulates and provides registration for crematories and reduction facilities under its jurisdiction in the State.

Responsibilities of OCO include the investigation and mediation of consumer complaints involving registrants and permit holders. To protect Maryland citizens from unfair and unscrupulous practices, OCO determines and enforces the ethical standards related to the operation of cemeteries and those related to the provision of burial goods and services within the State. OCO also regulates and monitors the funds held in perpetual care and preneed trusts by its licensees. OCO's operation is funded by the Cemetery Oversight Fund, which receives fees paid to OCO by registrants and permit holders; no other State money may be used to support the fund.

### *State's Attorney's Authority – Removal of Human Remains from a Burial Site*

Generally, a person may not remove or attempt to remove human remains from a burial site.

A State's Attorney with jurisdiction may authorize in writing the removal of human remains from a burial site (1) to ascertain the cause of death; (2) to determine if the human remains were interred erroneously; (3) for the purpose of reburial; or (4) for medical or scientific examination or study. Also, a State's Attorney may authorize the temporary relocation of human remains from a burial site for good cause.

Before the State's Attorney for a county may authorize a person to relocate permanently human remains from a burial site, the person must publish a notice (and pay the cost), with specified information, in a newspaper of general circulation in the county where the burial site is located. The State's Attorney may authorize the removal of the human remains from the burial site after (1) receiving proof of the required publication and (2) 15 days after the date of publication.

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.

### *Reinterment of Human Remains Permanently Relocated from a Burial Site*

Human remains removed from a burial site must be reinterred in (1) a permanent cemetery that provides perpetual care, or a place with the agreement of a person in interest, as specified, and (2) in the presence of a specified professional.

The location of the final disposition and treatment of human remains removed from a burial site must be entered into the local burial sites inventory or, if no local burial sites inventory exists, into a record or inventory deemed appropriate by the State's Attorney or the Maryland Historical Trust.

### *Reinterment of Human Remains within a Permanent Cemetery – Exception*

Human remains or the remains of a decedent after cremation, as specified, may be removed from a burial site within a permanent cemetery and reinterred in either the same burial site or another burial site within the boundary of the same permanent cemetery, *without* authorization of the State's Attorney or from OCO, if a person meets specified requirements and arranges for reinterment of the remains. More specifically, the person must be, in the following order of priority with respect to the decedent, the surviving spouse or domestic partner, an adult child, a parent, an adult brother or sister, an authorized

representative, or the guardian of the person at the time of the decedent's death, if one has been appointed. Also, the person must, within 30 days after the reinterment, publish a notice (as specified) in a newspaper of general circulation in the county where the permanent cemetery is located and, within 45 days after the reinterment, provide a copy of the notice to OCO. In addition, the location of the reinterment of human remains must be entered into the local burial sites inventory or, if no local burial sites inventory exists, into a record or inventory deemed appropriate by the Maryland Historical Trust.

### *Maryland Department of Health – Disinterment and Reinterment Permit*

A permit for disinterment and reinterment is required before the disinterment of human remains if reinterment is not to be made in the same cemetery. More specifically, under MDH regulations, when human remains are to be removed from a cemetery or other final resting place and transferred to another cemetery or location, a disinterment and reinterment permit must be obtained from the local health department in Baltimore City or the county in which the human remains are located or from MDH. MDH or the local health department may only issue a permit on written authorization from the State's Attorney of the jurisdiction in which the human remains are located or in compliance with a court order. If the human remains are moved to a grave or tomb within the same cemetery for relocation purposes only, a permit is not required.

### *Penalties for Violations*

A person who violates the prohibition against removing human remains without authorization is guilty of a misdemeanor and is subject to imprisonment for up to five years and/or a fine of up to \$10,000. Any fines assessed in District Court are paid to the State general fund; any fines assessed by a circuit court are paid to the local jurisdiction in which the court is located.

**State Expenditures:** OCO indicates that it requires one full-time administrative aide, one full-time investigator, and contractual legal services at an annual cost of \$30,000, for a total cost of \$142,427 in fiscal 2026, to process applications and implement other related requirements under the bill. The Department of Legislative Services (DLS) acknowledges that the bill expands the work of OCO; however, because the bill is expected to apply in a limited number of cases, DLS disagrees with the magnitude of the additional staffing estimated by OCO and advises that the processing of applications and other duties required under the bill can likely be handled with one full-time investigator. To the extent additional staff are required, OCO can request additional resources through the annual budget process.

Therefore, OCO special fund expenditures increase by \$58,637 in fiscal 2026, which accounts for the bill's October 1, 2025 effective date. This estimate reflects the cost of hiring one full-time investigator to obtain the necessary information OCO needs to process

applications under the bill. It includes a salary, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Position	1.0
Salary and Fringe Benefits	\$51,268
Operating Expenses	<u>7,369</u>
<b>Total FY 2026 State Expenditures</b>	<b>\$58,637</b>

Future year expenditures reflect a full salary with annual increases and employee turnover as well as annual increases in ongoing operating expenses.

**State and Local Revenues:** Because the District Court has concurrent jurisdiction with the circuit court for violations (due to penalty provisions of confinement for three years or more and a maximum fine set above the \$2,500 threshold), monetary penalties are collected by the District Court or circuit court, depending on to which court the case is brought, at the discretion of the prosecutor. Even though the fines collected for violations of the statute must otherwise be paid to the District Court or circuit court, the bill specifies that the fines collected must be remitted to the Cemetery Oversight Fund. As noted above, the statute governing the Cemetery Oversight Fund (§ 5-205 of the Business Regulation Article) specifies that no other *State* money may be used to support the fund (emphasis added). Thus, this analysis assumes that only fines collected from any cases brought in the circuit court (rather than the District Court, because the Cemetery Oversight Fund may not receive fines collected by the State to support the fund) by the prosecutor may actually be remitted to the Cemetery Oversight Fund as specified in the bill.

Thus, special fund revenues increase minimally, beginning in fiscal 2026, for application fees collected by OCO, and fines remitted to the Cemetery Oversight Fund. The extent of the fees and fines collected by OCO cannot be reliably estimated, but they are expected to be minimal due to the limited applicability of, and assumed compliance with, the bill's provisions. Correspondingly, local revenues may decrease minimally for circuit courts that would otherwise collect fines imposed in the absence of the bill.

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### **Additional Information**

**Recent Prior Introductions:** Similar legislation has not been introduced within the last three years.

**Designated Cross File:** SB 624 (Senator Lam) - Judicial Proceedings and Finance.

**Information Source(s):** Maryland Department of Health; Maryland Department of Labor; Maryland Department of Planning; Department of Veterans and Military Families; Maryland State Archives; Department of Legislative Services

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