

Department of Legislative Services
 Maryland General Assembly
 2025 Session

FISCAL AND POLICY NOTE
 Third Reader - Revised

House Bill 1555

(Delegate Bhandari, *et al.*)

Health and Government Operations

Finance

**Funeral Establishments, Crematories, and Reduction Facilities - Oversight
 (Ensuring Dignity and Accountability in Crematory and Funeral Home
 Operations Act)**

This emergency bill requires the Office of Cemetery Oversight (OCO) and the State Board of Morticians and Funeral Directors to each (1) conduct at least two unannounced inspections annually of each facility they regulate that has been reprimanded or is under probation and (2) establish and maintain a public online database with disciplinary action and inspection information. The bill establishes penalties, including a civil penalty of up to \$25,000, for violation of specified statutory requirements. The bill also (1) alters provisions regarding the board president, removal of board members, board quorum, and board complaint, prosecution, and other disciplinary processes; (2) removes the authorization of the board to employ staff and instead authorizes the Secretary of Health to employ staff for the board; and (3) repeals the prohibition on other State money being used to support the State Board of Morticians and Funeral Directors Fund. The bill also makes conforming changes. **The bill’s provisions related to employment of board staff and the board fund terminate September 30, 2028.**

Fiscal Summary

State Effect: In FY 2026, OCO special fund expenditures increase by \$5,000 only to update its website, while board special fund expenditures increase by an indeterminate amount for the online database. Board special fund expenditures may increase by an additional indeterminate amount for staff/salaries beginning as early as FY 2025, through FY 2029. Board special fund revenues (and general fund expenditures) may increase beginning as early as FY 2025, through FY 2029, as discussed below.

Local Effect: Minimal increase in revenues due to the bill’s penalty provisions for those cases heard in the circuit courts. Expenditures are not affected.

Small Business Effect: Potential meaningful.

Analysis

Bill Summary:

Inspections

Each year, a trained staff member of OCO who is qualified to do inspections must conduct at least two unannounced inspections of each registered crematory and registered reduction facility that has been reprimanded within the immediately preceding five years to ensure compliance with statutory requirements. Likewise, a trained staff member of the board who is qualified to do inspections must conduct at least two unannounced inspections annually of each licensed funeral establishment that is under probation to ensure compliance with statutory requirements.

Public Online Database

OCO and the board must each establish and maintain a publicly accessible, online database that includes information about each disciplinary action taken by OCO or the board and inspection of a crematory or reduction facility, or funeral establishment (as appropriate).

Penalties

If OCO or the board finds that a person has violated statutory requirements with gross negligence, improperly handled human remains, or repeatedly violated specified statutory requirements, the person is subject to a civil penalty of up to \$25,000, permanent revocation of licensure, and referral for criminal prosecution.

State Board of Morticians and Funeral Directors

Board Membership: The Governor must designate one member of the board to serve as president. The Governor may remove an appointed member for (1) refusing or being unable to perform board duties in an efficient, responsible, and professional manner; (2) misusing the member's position to obtain financial gain or seek personal advantage for the member or others; (3) being found guilty or otherwise sanctioned in a final adjudication or determination by any lawful authority for any violation of law substantially related to any practice governed by the board; or (4) any just and reasonable cause.

Quorum: A majority of members then serving on the board is a quorum to do business, and a majority vote of the quorum present at a meeting is required for binding action of the board to be taken.

Complaints and Immediate Investigations: On receipt of a complaint, board staff must present the complaint to the board for review. If the executive director determines that a complaint alleges facts that, if true, would pose an imminent threat to human safety, the executive director may direct the immediate investigation of the complaint. An open complaint must be presented to the board for review at the next scheduled board meeting.

Disciplinary Actions – Funeral Establishment License: The bill clarifies that the board may take disciplinary action against the holder of a funeral establishment license if, with the knowledge or at the direction of the funeral establishment, an employee fails to comply with (1) the requirement to maintain an unembalmed body of a decedent for more than 48 hours before final disposition with refrigeration *or* (2) the prohibition on embalming or artificially preserving the body of a decedent without the express permission of the person authorized to arrange for final disposition or a court order. (Under current law, disciplinary action may only be taken if an employee fails to comply with *both* of these provisions.)

Cases Referred for Prosecution: If the board refers a case to the Office of the Attorney General for prosecution, a liaison must be assigned to assist the prosecutor with the preparation of the charges. The executive director may direct the liaison to prepare charges if the executive director determines that (1) a complaint that has been referred for prosecution alleges facts that, if true, would pose an imminent threat to human safety or (2) other exigent circumstances exist.

Appeal from an Order of Suspension or Revocation: The bill removes the requirement that, if a person notes an appeal from an order of suspension or revocation by the board, the order is stayed.

Employment of Board Members: The Secretary of Health may employ a staff for the board in accordance with the State budget and designate one of the staff as an executive director. The Secretary may also set the compensation of an employee of the board in a position that (1) is unique to the board; (2) requires specific skills or experience to perform the duties of the position; and (3) does not require the employee to perform functions that are comparable to functions performed in other units of the Executive Branch of State government. The Secretary of Budget and Management, in consultation with the Secretary of Health, must determine the positions for which the Secretary may set compensation.

Current Law: In Maryland, deathcare is regulated either by OCO within the Maryland Department of Labor or the board within the Maryland Department of Health, based on ownership of the deathcare facility. Specifically, OCO and the board each regulate facilities in which their registrants/permit holders or licensees hold majority ownership.

In conjunction with each other, OCO and the board must establish a process for regulating crematories that provides for (1) registration of crematory operators or issuance of permits

for operating crematories and renewal; (2) applications, including certification of ownership and identification of individuals who will perform cremation; (3) registration or permit fees; (4) inspections and oversight; (5) grounds for discipline and penalties; and (6) complaints and hearings. OCO and the board must also adopt identical regulations, as specified, to ensure public health and safety.

Office of Cemetery Oversight

OCO, among other duties, regulates and provides registration for crematories and reduction facilities under its jurisdiction – generally those with 50% or more ownership by a licensee of the office. 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 administrative costs are paid from the Cemetery Oversight Fund, which receives fees paid by licensees and registrants.

Investigations and Inspections: On receipt of a written complaint, or at the discretion of the director of OCO, the director or designee may conduct an investigation and an inspection of the records and site of a registered cemeterian, registered crematory operator, registered reduction operator, registered seller, permit holder, or any other person subject to the registration or permit provisions of OCO.

Penalties: If the director of OCO finds that a person has committed a prohibited act or violated a specified regulation, the director may refer the matter to the Attorney General for civil enforcement or the appropriate State's Attorney for criminal prosecution. The Attorney General may sue for and a court may grant injunctive or other equitable relief and/or imposition of a civil penalty of up to \$5,000.

Adverse Actions: The director of OCO may deny a registration or permit to an applicant, reprimand a person subject to registration or permit requirements, or suspend or revoke a registration or permit if an applicant, registrant, or permit holder, or an agent, employee, officer, director, or partner of the applicant, registrant, or permit holder, among other actions:

- violates specified statutory requirements or regulations;
- violates the code of ethics adopted by the director;
- fails to provide reasonable and adequate supervision of the operation of the cemetery, crematory, or reduction facility or the provision of burial goods by agents, employees, officers, directors, or partners affiliated with a cemetery, crematory, reduction facility, or burial goods business;

- refuses to allow a required inspection; or
- fails to comply with an order of the director.

Penalties: If a person is charged with a violation that could result in suspension or revocation of a registration or permit, the director may seek an immediate restraining order to prohibit the person from engaging in the operation of any cemetery, crematory, reduction facility, or burial goods business. Instead of, or in addition to, reprimanding a person, or suspending or revoking a registration or permit, the director may impose a civil penalty of up to \$5,000 for each violation or \$500 for each day a violation continues past the time set for correction. To determine the amount of the penalty, the director must consider the seriousness of the violation, the harm caused by the violation, the good faith efforts of the person, and any history of violations by the person.

State Board of Morticians and Funeral Directors

The primary purpose of the board is the protection of the public's health and welfare through proper credentialing; examination; licensure; and discipline of morticians, funeral directors, corporations, crematory operators, reduction facility operators, apprentices, surviving spouses, mortuary transport services, transporters, courtesy card holders, and holders of an executor license in Maryland. The board also licenses, permits, and inspects funeral establishments and specified crematories for compliance with all applicable federal, State, and local laws and takes disciplinary action against such establishments where warranted. The board has jurisdiction over crematories and reduction facilities that are majority-owned by its licensees.

Board Membership: The board consists of 11 members. The Governor must appoint each member with the advice of the Secretary of Health, with the advice and consent of the Senate. From among its members, the board must elect a president, a first vice president, and a second vice president. A majority of the full authorized membership of the board is a quorum to do business.

The Governor may remove an appointed member (1) for incompetence or misconduct or (2) who, because of events that occur after the member's appointment or reappointment to the board, causes the board to be in violation of specified prohibitions. Upon the recommendation of the Secretary of Health, the Governor may remove an appointed member whom the Secretary finds to have been absent from two successive board meetings without adequate reason.

Board Staff: The board may employ inspectors and other staff in accordance with the budget of the board.

State Board of Morticians and Funeral Directors Fund: The fund must be used to cover the actual documented direct and indirect costs of fulfilling the statutory and regulatory duties of the board. The fund is a continuing, nonlapsing special fund. Any unspent portions of the fund may not be transferred or revert to the general fund but must remain in the fund to be used for specified purposes. No other State money may be used to support the fund.

Inspections: The board may conduct unannounced inspections of funeral establishments that may take place at any time without notice (1) in response to valid information provided to the board resulting in a complaint being opened concerning the preparation or body storage areas of a licensed funeral establishment, but only if the board has provided a copy of the complaint to the establishment, or (2) of a funeral establishment that the board has placed on probationary status. The board must provide the results of an unannounced inspection to the holder of the funeral establishment license or the supervising mortician within 24 hours after completion of the inspection.

Prohibited Acts: In addition to any other sanction authorized for a violation, the board may issue a public cease-and-desist order and/or impose a civil fine of up to \$5,000 per offense.

Adverse Actions: The board may deny a license (except a funeral establishment license) to any applicant, reprimand any licensee, place any licensee on probation, or suspend or revoke any license if the applicant or licensee, among other things:

- 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;
- violates any rule or regulation adopted by the board;
- commits an act of unprofessional conduct in the practice of mortuary science; or
- fails to allow or comply with an inspection.

For a funeral establishment license, the board may deny a license to an applicant, reprimand the holder of a license, place the holder of a license on probation, or suspend or revoke a license if, with the knowledge or at the direction of the funeral establishment, (1) an unlicensed individual practices mortuary science or funeral direction for or within the funeral establishment or (2) an employee of the funeral establishment fails to comply with specified requirements.

An action against a licensee may be brought by the board, the Attorney General, or a State's Attorney. If, after the board brings an action against a licensee, the board finds grounds to place a licensee on probation or suspend or revoke a license, the board may impose a penalty of up to \$5,000 instead of or in addition to suspending or revoking the license.

State Fiscal Effect: Under the bill, OCO and the board must (1) conduct at least two unannounced inspections of each facility they regulate that has been reprimanded or that is under probation and (2) establish and maintain a public online database with disciplinary action and inspection information.

Inspections: OCO currently employs one inspector, and the director may also conduct inspections. OCO regulations require crematories to be inspected on at least a biennial basis as well as in the course of an investigation or during the change of ownership of the crematory. For OCO, the bill may necessitate more frequent inspections of crematories that have been reprimanded, but only of – at most – five crematories. Accordingly, OCO advises that the current inspector and director can complete the additional required inspections with existing budgeted resources.

The board currently employs one inspector/investigator who conducts inspections of funeral homes once every two years and, as needed, during complaint investigations. Although there are 277 funeral establishments and 36 crematories under the board's purview, this analysis assumes there is likely a small number of funeral establishments and crematories under probation in any given year. Therefore, the board can likely complete two additional inspections of facilities under probation each year using existing budgeted resources. To the extent that an additional inspector/investigator is needed to complete the required inspections, special fund expenditures increase by approximately \$123,568 (including the purchase of one vehicle) the first full fiscal year the position is required.

Public Online Database: Under the bill, OCO and the board must each establish and maintain a publicly accessible, online database that includes information about each disciplinary action taken and inspection of a crematory or reduction facility, or funeral establishment (as appropriate).

The board currently publishes [public disciplinary orders](#) (final disciplinary actions taken against licensees) on its website. However, the website does not include information about inspections. The board advises that its existing licensee directories likely cannot be updated to meet the bill's requirements regarding inspections; however, the board is unable to reliably estimate the cost of establishing and maintaining such a database. Therefore, board special fund expenditures increase by an indeterminate amount in fiscal 2026 to establish and maintain a public online database with inspection information.

OCO advises that it must redesign its website to include information about disciplinary action and inspections at an estimated cost of \$5,000 in fiscal 2026.

Provisions Affecting Only the State Board of Morticians and Funeral Directors

Board Employment: Upon enactment of the bill (fiscal 2025) through September 30, 2028 (fiscal 2029), the bill removes the authorization of the board to employ inspectors and other staff in accordance with the board's budget, and instead authorizes the Secretary of Health to employ a staff for the board in accordance with the State budget.

To the extent the Secretary employs additional board staff under the bill or increases the compensation of any board staff, board special fund expenditures increase by an indeterminate amount beginning as early as fiscal 2025, through fiscal 2029.

Board Fund: Upon enactment of the bill (fiscal 2025) through September 30, 2028 (fiscal 2029), the bill repeals the prohibition on other State money being used to support the State Board of Morticians and Funeral Directors Fund. To the extent additional funding is provided from other State sources, board special fund revenues may increase by an indeterminate amount beginning as early as fiscal 2025, through fiscal 2029. To the extent State general funds are distributed to the fund, general fund expenditures increase correspondingly.

Small Business Effect: Small business funeral establishments, crematories, and reduction facilities that have been reprimanded or that are under probation must comply with at least two annual inspections. Facilities in violation of specified statutory requirements are subject to additional civil penalties, permanent revocation of licensure, or referral for criminal prosecution.

Additional Information

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

Designated Cross File: None.

Information Source(s): Judiciary (Administrative Office of the Courts); Maryland State's Attorneys' Association; Maryland Department of Health; Maryland Department of Labor; Department of Legislative Services

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