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Judicial Proceedings Committee

Vice Chair, Baltimore County
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THE SENATE OF MARYLAND
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Senate Finance Committee
The Honorable Delores G. Kelley
3 East Miller Senate Building
Annapolis, Maryland 21401-1991

RE: SB 528 – Public Health – Disposition of Remains – Authorizing Agent

Dear Chair Kelley and Members of the Committee:

I am pleased to introduce Senate Bill 528 was brought to me by the Estate and Trust Law Section of the Maryland State Bar Association.

Current law allows a person to designate someone, through the individual's last will and testament or otherwise, to make decisions regarding the disposition of the individual's bodily remains or to leave instructions for such disposition. Current language in the statute is confusing. In particular, there is confusion as to whether direction contained in an advanced medical directive supersedes the right of certain family members to make decisions regarding the disposition of remains.

Funeral directors and morticians desire clean practical rules that may be readily be followed in the brief period after someone's death. Senate Bill 528 clarifies this situation by revising both 5-408.1 and 5-509 of the Health – General Article to provide that a decedent's designation of someone to act as authorizing agent will control; such designee will have first priority to serve as authorizing agent, whether the designation is made under a will, an advanced medical directive (AMD), or any other document that has been properly signed and witnessed. This will allow funeral directors and morticians to rely on the AMD and provide Marylanders with assurance that their designated authorizing agent will have priority to serve. Additionally, this bill will make clear that the authorizing agent is bound by terms of any pre-need contract entered into by the decedent with a funeral home or mortician.

I have with me Ann Coventry who will expand more on this legislation. I ask the committee for a favorable report.