

OFFICE OF LEGISLATIVE RESEARCH
PUBLIC ACT SUMMARY



PA 18-153—sSB 467

Judiciary Committee

**AN ACT CONCERNING THE CUSTODY AND CONTROL OF A
DECEDENT'S BODY**

SUMMARY: This act prohibits a person with disposition rights after a decedent's death from cancelling or substantially revising the funeral service contract's disposition directions and funeral pre-arrangements unless (1) the financial resources set aside to fund the contract are insufficient to implement these provisions and (2) the probate court approved the cancellation or revision.

Additionally, the act establishes requirements for funeral directors and embalmers when there is a dispute regarding the final disposition of a decedent's remains. Among other things, it:

1. generally allows funeral directors or embalmers to preserve and shelter a decedent's remains while parties are disputing;
2. specifies that they are not responsible for contacting or locating the decedent's relatives or next of kin;
3. authorizes them to carry out the disposition instructions of individuals they reasonably believe hold final disposition rights;
4. generally allows them, when more than one person has equal disposition rights, to act on the instructions of the first person to make arrangements;
5. allows them to add to the final disposition costs, legal fees for petitioning the court, or the cost of preserving remains during a dispute; and
6. grants them immunity against liability under certain conditions.

The act also makes technical and conforming changes.

EFFECTIVE DATE: July 1, 2018

DISPUTES ON THE FINAL DISPOSITION OF A BODY

Preserving Remains During a Dispute

The act allows funeral directors or embalmers to embalm or refrigerate and shelter a decedent's remains if they retain the remains for final disposition while parties are disputing. They may do this only to preserve the body while waiting for a final probate court decision and may add the associated cost to the final disposition costs.

If there is a dispute, the act grants funeral directors or embalmers immunity from liability for refusing to (1) accept the remains, (2) inter or otherwise dispose of the remains, or (3) complete final disposition arrangements until they receive a probate court order or other written agreement signed by the parties in the dispute.

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Court Petitions

Under the act, funeral directors or embalmers who petition the probate court on the custody, control, or disposition of a decedent's body may add the associated legal fees and court costs to the final disposition costs.

The act specifies that it does not require or impose a duty upon funeral directors or embalmers to initiate such a petition, and they are not criminally or civilly liable for choosing not to do so.

Documents Directing Final Disposition

Under the act, an individual who signs a funeral service agreement, cremation authorization form, or other authorization directing the final disposition of a decedent's body is deemed to warrant the truthfulness of any facts in these documents, including the decedent's identity and the individual's authority to order the final disposition of the decedent's remains.

The act authorizes funeral directors or embalmers to rely on these authorization documents and carry out the instructions of the individuals who they reasonably believe hold final disposition rights.

Objections to Funeral and Final Disposition Arrangements

Under the act, funeral directors or embalmers are not responsible for contacting or independently investigating the existence of the decedent's relatives or next-of-kin. If more than one person has equal disposition rights, directors and embalmers may rely and act on the instructions of the first person to make funeral and final disposition arrangements. But, they may do this only if (1) no other person with final disposition rights submits written notice objecting to these arrangements or (2) they do not know of any such objection.

Additionally, the act grants immunity from criminal liability to funeral directors or embalmers who dispose of a decedent's remains in good faith in accordance with the instructions of a person claiming to have final disposition rights. In any civil action brought against a funeral director or embalmer for negligence relating to such disposition, he or she is presumed to have acted reasonably.