

HOUSE BILL 218

J2, J1

9lr0930
CF SB 147

By: **Delegates Krebs, Cullison, and Pena-Melnyk**

Introduced and read first time: January 23, 2019

Assigned to: Health and Government Operations

A BILL ENTITLED

1 AN ACT concerning

2 **Public Health – Disposition of Remains – Forfeiture or Waiver of Right of**
3 **Disposition**

4 FOR the purpose of requiring a person to forfeit the right of final disposition of the body of
5 a decedent and that the right pass to the next qualifying person under certain
6 circumstances; providing that a certain person's right of disposition may be restored
7 under certain circumstances; authorizing a person to waive the right of final
8 disposition and requiring the right to pass to the next qualifying person under
9 certain circumstances; prohibiting funeral directors, morticians, and funeral
10 establishments from being held civilly liable for acting in reliance on this Act;
11 providing for the construction of this Act; and generally relating to the right of final
12 disposition of the body of a decedent.

13 BY repealing and reenacting, without amendments,
14 Article – Health – General
15 Section 5–509(c)
16 Annotated Code of Maryland
17 (2015 Replacement Volume and 2018 Supplement)

18 BY adding to
19 Article – Health – General
20 Section 5–509(g)
21 Annotated Code of Maryland
22 (2015 Replacement Volume and 2018 Supplement)

23 BY repealing and reenacting, without amendments,
24 Article – Health Occupations
25 Section 7–410(c)
26 Annotated Code of Maryland
27 (2014 Replacement Volume and 2018 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 BY adding to
2 Article – Health Occupations
3 Section 7–410(g)
4 Annotated Code of Maryland
5 (2014 Replacement Volume and 2018 Supplement)

6 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
7 That the Laws of Maryland read as follows:

8 **Article – Health – General**

9 5–509.

10 (c) Unless a person has knowledge that contrary directions have been given by
11 the decedent, if a decedent has not executed a document under subsection (a) of this section,
12 the following persons, in the order of priority stated, have the right to arrange for the final
13 disposition of the body of the decedent, including by cremation under § 5–502 of this
14 subtitle:

15 (1) The surviving spouse or domestic partner of the decedent;

16 (2) An adult child of the decedent;

17 (3) A parent of the decedent;

18 (4) An adult brother or sister of the decedent;

19 (5) A person acting as a representative of the decedent under a signed
20 authorization of the decedent;

21 (6) The guardian of the person of the decedent at the time of the decedent's
22 death, if one has been appointed; or

23 (7) In the absence of any person under items (1) through (6) of this
24 subsection, any other person willing to assume the responsibility to act as the authorizing
25 agent for purposes of arranging the final disposition of the decedent's body, including the
26 personal representative of the decedent's estate, after attesting in writing that a good faith
27 effort has been made to no avail to contact the individuals under items (1) through (6) of
28 this subsection.

29 **(G) (1) THIS SUBSECTION MAY NOT BE CONSTRUED TO REQUIRE A**
30 **LICENSED MORTICIAN, LICENSED FUNERAL DIRECTOR, OR LICENSED FUNERAL**
31 **ESTABLISHMENT TO MAKE ANY NOTIFICATION REGARDING THE RIGHT OF**
32 **DISPOSITION.**

1 **(2) A PERSON SHALL FORFEIT THE RIGHT OF FINAL DISPOSITION OF**
2 **THE BODY OF A DECEDENT UNDER SUBSECTION (C) OF THIS SECTION AND THE**
3 **RIGHT SHALL PASS TO THE NEXT QUALIFYING PERSON, IF THE PERSON:**

4 **(I) DOES NOT EXERCISE THE RIGHT OF DISPOSITION WITHIN 3**
5 **DAYS AFTER NOTIFICATION BY A FUNERAL ESTABLISHMENT OF THE DEATH OF THE**
6 **DECEDENT, OR WITHIN 4 DAYS AFTER THE DECEDENT’S DEATH, WHICHEVER IS**
7 **EARLIER;**

8 **(II) IS THE SPOUSE OF THE DECEDENT AND A PETITION TO**
9 **DISSOLVE THE MARRIAGE IS PENDING IN A COURT AT THE TIME OF THE DECEDENT’S**
10 **DEATH; OR**

11 **(III) SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, IS**
12 **CHARGED WITH FIRST- OR SECOND-DEGREE MURDER OR VOLUNTARY**
13 **MANSLAUGHTER IN CONNECTION WITH THE DECEDENT’S DEATH AND THE CHARGES**
14 **ARE KNOWN TO THE FUNERAL DIRECTOR.**

15 **(3) UNLESS FINAL DISPOSITION HAS ALREADY OCCURRED, A PERSON**
16 **WHOSE RIGHT OF DISPOSITION WAS FORFEITED UNDER PARAGRAPH (2)(III) OF THIS**
17 **SUBSECTION SHALL HAVE THE RIGHT RESTORED, IF:**

18 **(I) THE CRIMINAL CHARGES ARE DISMISSED; OR**

19 **(II) THE PERSON IS ACQUITTED OF THE CRIMINAL CHARGES.**

20 **(4) A PERSON MAY WAIVE THE RIGHT OF FINAL DISPOSITION OF THE**
21 **BODY OF A DECEDENT UNDER SUBSECTION (C) OF THIS SECTION AND THE RIGHT**
22 **SHALL PASS TO THE NEXT QUALIFYING PERSON, IF:**

23 **(I) THE PERSON WAIVES THE RIGHT OF DISPOSITION IN**
24 **WRITING; AND**

25 **(II) THE WRITING IS SUBMITTED TO THE PRACTITIONER OR**
26 **FUNERAL ESTABLISHMENT.**

27 **(5) A PRACTITIONER OR FUNERAL ESTABLISHMENT MAY NOT BE**
28 **HELD CIVILLY LIABLE FOR ACTING IN RELIANCE ON THIS SUBSECTION.**

29 **Article – Health Occupations**

1 (c) Unless a person has knowledge that contrary directions have been given by
2 the decedent, if a decedent has not executed a document under subsection (a) of this section,
3 the following persons, in the order of priority stated, have the right to arrange for the final
4 disposition of the body of the decedent under this section and are liable for the reasonable
5 costs of preparation, care, and disposition of the decedent:

6 (1) The surviving spouse or domestic partner, as defined in § 1–101 of the
7 Health – General Article, of the decedent;

8 (2) An adult child of the decedent;

9 (3) A parent of the decedent;

10 (4) An adult brother or sister of the decedent;

11 (5) A person acting as a representative of the decedent under a signed
12 authorization of the decedent;

13 (6) The guardian of the person of the decedent at the time of the decedent's
14 death, if a guardian has been appointed; or

15 (7) In the absence of any person under items (1) through (6) of this
16 subsection, any other person willing to assume the responsibility to act as the authorizing
17 agent for purposes of arranging the final disposition of the decedent's body, including the
18 personal representative of the decedent's estate, after attesting in writing that a good faith
19 effort has been made to no avail to contact the persons described in items (1) through (6) of
20 this subsection.

21 **(G) (1) THIS SUBSECTION MAY NOT BE CONSTRUED TO REQUIRE A**
22 **LICENSED MORTICIAN, LICENSED FUNERAL DIRECTOR, OR LICENSED FUNERAL**
23 **ESTABLISHMENT TO MAKE ANY NOTIFICATION REGARDING THE RIGHT OF FINAL**
24 **DISPOSITION OF THE BODY OF A DECEDENT.**

25 **(2) A PERSON SHALL FORFEIT THE RIGHT OF FINAL DISPOSITION OF**
26 **THE BODY OF A DECEDENT UNDER SUBSECTION (C) OF THIS SECTION AND THE**
27 **RIGHT SHALL PASS TO THE NEXT QUALIFYING PERSON, IF THE PERSON:**

28 **(I) DOES NOT EXERCISE THE RIGHT OF DISPOSITION WITHIN 3**
29 **DAYS AFTER NOTIFICATION BY A FUNERAL ESTABLISHMENT OF THE DEATH OF THE**
30 **DECEDENT, OR WITHIN 4 DAYS AFTER THE DECEDENT'S DEATH, WHICHEVER IS**
31 **EARLIER;**

32 **(II) IS THE SPOUSE OF THE DECEDENT AND A PETITION TO**
33 **DISSOLVE THE MARRIAGE IS PENDING IN A COURT AT THE TIME OF THE DECEDENT'S**
34 **DEATH; OR**

1 (III) SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, IS
2 CHARGED WITH FIRST- OR SECOND-DEGREE MURDER OR VOLUNTARY
3 MANSLAUGHTER IN CONNECTION WITH THE DECEDENT'S DEATH AND THE CHARGES
4 ARE KNOWN TO THE FUNERAL DIRECTOR.

5 (3) UNLESS FINAL DISPOSITION HAS ALREADY OCCURRED, A PERSON
6 WHOSE RIGHT OF DISPOSITION WAS FORFEITED UNDER PARAGRAPH (2)(III) OF THIS
7 SUBSECTION SHALL HAVE THE RIGHT RESTORED, IF:

8 (I) THE CRIMINAL CHARGES ARE DISMISSED; OR

9 (II) THE PERSON IS ACQUITTED OF THE CRIMINAL CHARGES.

10 (4) A PERSON MAY WAIVE THE RIGHT OF FINAL DISPOSITION OF THE
11 BODY OF A DECEDENT UNDER SUBSECTION (C) OF THIS SECTION AND THE RIGHT
12 SHALL PASS TO THE NEXT QUALIFYING PERSON, IF:

13 (I) THE PERSON WAIVES THE RIGHT OF DISPOSITION IN
14 WRITING; AND

15 (II) THE WRITING IS SUBMITTED TO THE PRACTITIONER OR
16 FUNERAL ESTABLISHMENT.

17 (5) A LICENSED MORTICIAN, LICENSED FUNERAL DIRECTOR, OR
18 LICENSED FUNERAL ESTABLISHMENT MAY NOT BE HELD CIVILLY LIABLE FOR
19 ACTING IN RELIANCE ON THIS SUBSECTION.

20 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
21 October 1, 2019.