

State of Arizona
Senate
Fifty-fourth Legislature
First Regular Session
2019

CHAPTER 193
SENATE BILL 1084

AN ACT

AMENDING SECTIONS 14-3971 AND 36-831, ARIZONA REVISED STATUTES; RELATING
TO DECEDENT EXPENSES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 14-3971, Arizona Revised Statutes, is amended to
3 read:

4 14-3971. Collection of personal property by affidavit;
5 ownership of vehicles; affidavit of succession to
6 real property

7 A. At any time after the death of a decedent, any employer owing
8 wages, salary or other compensation for personal services of the decedent
9 shall pay to the surviving spouse of the decedent the amount owing, not in
10 excess of ~~five thousand dollars~~ \$5,000, on being presented an affidavit
11 made by or on behalf of the spouse stating that the affiant is the
12 surviving spouse of the decedent, or is authorized to act on behalf of the
13 spouse, and that no application or petition for the appointment of a
14 personal representative is pending or has been granted in this state or,
15 if granted, the personal representative has been discharged or more than
16 one year has elapsed since a closing statement has been filed.

17 B. Thirty days after the death of a decedent, any person indebted
18 to the decedent or having possession of tangible personal property or an
19 instrument evidencing a debt, obligation, stock or chose in action
20 belonging to the decedent shall make payment of the indebtedness or
21 deliver the tangible personal property or an instrument evidencing a debt,
22 obligation, stock or chose in action to a person claiming to be the
23 successor of the decedent upon being presented an affidavit made by or on
24 behalf of the successor and stating that all of the following are true:

- 25 1. Thirty days have elapsed since the death of the decedent.
- 26 2. Either:

27 (a) An application or petition for the appointment of a personal
28 representative is not pending and a personal representative has not been
29 appointed in any jurisdiction and the value of all personal property in
30 the decedent's estate, wherever located, less liens and encumbrances, does
31 not exceed ~~seventy-five thousand dollars~~ \$75,000 as valued as of the date
32 of death.

33 (b) The personal representative has been discharged or more than
34 one year has elapsed since a closing statement has been filed and the
35 value of all personal property in the decedent's estate, wherever located,
36 less liens and encumbrances, does not exceed ~~seventy-five thousand dollars~~
37 \$75,000 as valued as of the date of the affidavit.

38 3. The claiming successor is entitled to payment or delivery of the
39 property.

40 4. THE FUNERAL EXPENSES AND EXPENSES OF THE LAST ILLNESS OF THE
41 DECEDENT HAVE BEEN PAID.

42 C. A transfer agent of any security shall change the registered
43 ownership on the books of a corporation from the decedent to the successor
44 or successors on presentation of an affidavit pursuant to subsection B of
45 this section.

1 D. The motor vehicle division shall transfer title of a motor
2 vehicle from the decedent to the successor or successors on presentation
3 of an affidavit as provided in subsection B of this section and on payment
4 of the necessary fees.

5 E. No sooner than six months after the death of a decedent, a
6 person or persons claiming as successor or successors to the decedent's
7 interest in real property, including any debt secured by a lien on real
8 property, may file in the court in the county in which the decedent was
9 domiciled at the time of death, or if the decedent was not domiciled in
10 this state then in any county in which real property of the decedent is
11 located, an affidavit describing the real property and the interest of the
12 decedent in that property and stating that all of the following are true
13 and material and acknowledging that any false statement in the affidavit
14 may subject the person or persons to penalties relating to perjury and
15 subornation of perjury:

16 1. Either:

17 (a) An application or petition for the appointment of a personal
18 representative is not pending and a personal representative has not been
19 appointed in any jurisdiction and the value of all real property in the
20 decedent's estate located in this state, less liens and encumbrances
21 against the real property, does not exceed ~~one hundred thousand dollars~~
22 \$100,000 as valued at the date of death. The value of the decedent's
23 interest in that real property shall be determined from the full cash
24 value of the property as shown on the assessment rolls for the year in
25 which the decedent died, except that in the case of a debt secured by a
26 lien on real property the value shall be determined by the unpaid
27 principal balance due on the debt as of the date of death.

28 (b) The personal representative has been discharged or more than
29 one year has elapsed since a closing statement has been filed and the
30 value of all real property in the decedent's estate, wherever located,
31 less liens and encumbrances, does not exceed ~~one hundred thousand dollars~~
32 \$100,000 as valued as of the date of the affidavit. The value of the
33 decedent's interest in that real property is determined from the full cash
34 value of the property as shown on the assessment rolls for the year in
35 which the affidavit is given, except that if a debt is secured by a lien
36 on real property, the value is determined by the unpaid principal balance
37 due on the debt as of the date of the affidavit.

38 2. Six months have elapsed since the death of the decedent as shown
39 in a certified copy of the decedent's death certificate attached to the
40 affidavit.

41 3. Funeral expenses, expenses of THE last illness and all unsecured
42 debts of the decedent have been paid.

1 4. The person or persons signing the affidavit are entitled to the
2 real property by reason of the allowance in lieu of homestead, exempt
3 property or family allowance, by intestate succession as the sole heir or
4 heirs, or by devise under a valid last will of the decedent, the original
5 of which or, in the case of an electronic will, a certified paper original
6 of which, is attached to the affidavit or has been probated.

7 5. No other person has a right to the interest of the decedent in
8 the described property.

9 6. No federal estate tax is due on the decedent's estate.

10 F. The normal filing fee shall be charged for the filing of an
11 affidavit under subsection E of this section unless waived by the court as
12 provided by section 12-301 or 12-302. On receipt of the affidavit and
13 after determining that the affidavit is complete, the registrar shall
14 issue a certified copy of the affidavit without attachments, and the copy
15 shall be recorded in the office of the recorder in the county where the
16 real property is located.

17 G. This section does not limit the rights of heirs and devisees
18 under section 14-3901.

19 Sec. 2. Section 36-831, Arizona Revised Statutes, is amended to
20 read:

21 36-831. Burial duties; notification requirements; failure to
22 perform duty; veterans; immunity; definitions

23 A. Except as provided pursuant to subsection I or J of this
24 section, the duty of burying the body of or providing other funeral and
25 disposition arrangements for a dead person devolves in the following
26 order:

27 1. If the dead person was married, on the surviving spouse unless:

28 (a) The dead person was legally separated from the person's spouse.

29 (b) A petition for divorce or for legal separation from the dead
30 person's spouse was filed before the person's death and remains pending at
31 the time of death.

32 2. On the person who is designated as having power of attorney for
33 the decedent in the decedent's most recent health care power of attorney
34 pursuant to chapter 32, article 2 of this title if that power of attorney
35 specifically gives that person the authority to make decisions regarding
36 the disposition of the decedent's remains or a durable power of attorney
37 if that power of attorney specifically gives that person the authority to
38 make decisions regarding the disposition of the decedent's remains.

39 3. If the dead person was a minor, on the parents.

40 4. On the adult children of the dead person.

41 5. On the dead person's parent.

42 6. On the dead person's adult sibling.

43 7. On the dead person's adult grandchild.

44 8. On the dead person's grandparent.

1 9. On an adult who exhibited special care and concern for the dead
2 person.

3 10. On the person who was acting as the guardian of the person of
4 the dead person at the time of death.

5 11. On any other person who has the authority to dispose of the
6 dead person's body.

7 12. If none of the persons named in paragraphs 1 through 11 of this
8 subsection is financially capable of providing for the burial or other
9 funeral and disposition arrangements, or cannot be located on reasonable
10 inquiry, on any person or fraternal, charitable or religious organization
11 willing to assume responsibility.

12 13. If the dead person was a prisoner in the custody of the state
13 department of corrections at the time of death and none of the persons
14 named in paragraphs 1 through 11 of this subsection is willing to provide
15 for the burial or other funeral and disposition arrangements, or cannot be
16 located on reasonable inquiry, on the state department of corrections.

17 B. During a person's life, the person's family members that are
18 listed in subsection A of this section may sign a waiver of decision
19 making that waives their rights under this section relating to the
20 disposition of the person's body when the person dies.

21 C. If none of the persons named in subsection A of this section is
22 willing or financially able to bury or provide other funeral and
23 disposition arrangements for a dead person, or if the person cannot be
24 located after reasonable efforts have been made to do so, the county in
25 which death occurs shall bury or place in a permanent care crypt the dead
26 body or cremated remains of a dead body. The county officer who is
27 responsible for determining financial eligibility or abandonment may
28 conduct an investigation for that purpose. If the decedent is known to be
29 an honorably discharged veteran or the surviving spouse of an honorably
30 discharged veteran, the county shall notify the United States department
31 of veterans affairs or a local veteran's organization, or both, of the
32 death and give the department or that organization the opportunity to
33 provide for the person's burial or for other funeral and disposition
34 arrangements. If the department or organization is unable to provide for
35 the burial of the veteran or the surviving spouse, the county shall ensure
36 that the decedent is properly interred and that burial is made in a
37 veterans' cemetery or a portion of a cemetery that is designated for the
38 burial of veterans and spouses of veterans.

39 D. If there is more than one member of a category listed in
40 subsection A, paragraph 3, 4, 5, 6, 7, 8 or 9 of this section entitled to
41 serve as the authorizing agent, final arrangements may be made by any
42 member of that category unless that member knows of any objection by
43 another member of the category. If an objection is known, final
44 arrangements shall be made by a majority of the members of the category
45 who are reasonably available.

1 E. If the county medical examiner or person performing the duties
2 of the county medical examiner knows that the dead person is a member of a
3 federally recognized Native American tribe located in this state, the
4 county medical examiner or person performing the duties of the county
5 medical examiner must notify the tribe and give the tribe the opportunity
6 to provide for the person's burial or other funeral and disposition
7 arrangements. If an autopsy is required by section 11-597, the county
8 medical examiner or person performing the duties of the county medical
9 examiner, if possible, shall complete the autopsy and return the remains
10 to the federally recognized Native American tribe located in this state
11 within four calendar days after the determined date of death.

12 F. A person on whom the duty prescribed in subsection A of this
13 section is imposed who omits or is unwilling to perform that duty within a
14 reasonable time or is prohibited from performing that duty under
15 subsection I of this section is liable to the person performing the duty
16 in an amount of two times the expenses the person incurred in providing
17 for the burial or other funeral and disposition arrangements. The person
18 who performs this duty may recover this amount in a civil action.

19 G. Notwithstanding the probate requirements of title 14, if a
20 county is required to bury a person pursuant to subsection C of this
21 section, the county may recover the burial costs from the decedent's
22 estate. **THE COUNTY MAY RECORD A LIEN ON THE DECEDENT'S ESTATE AND THE**
23 **LIEN TAKES PRIORITY OVER A BENEFICIARY DEED.** A financial institution in
24 possession of monies in an account in the decedent's name must reimburse
25 the county for the burial costs on presentation by the county of an
26 affidavit that certifies:

27 1. The date of the decedent's death.

28 2. That, pursuant to this section, the county performed the
29 decedent's burial.

30 3. The total burial costs incurred by the county.

31 H. A person, a corporation or an agency of government that provides
32 for the burial or other funeral and disposition arrangements on the
33 instructions of a person described in subsection A of this section is
34 immune from civil liability:

35 1. For failing to honor the wishes of the decedent or the wishes of
36 a person who has a higher priority in subsection A or C of this section if
37 the person, corporation or agency of government was not aware, after
38 reasonable inquiry, of the contrary wishes.

39 2. For refusing to follow conflicting directions of persons who
40 have the same priority in subsection A of this section.

41 3. For following directions of a personal representative that are
42 consistent with the written testamentary instructions of the decedent.

43 I. The duty to bury or to provide other funeral and disposition
44 arrangements devolves to the next person in the order prescribed pursuant
45 to subsection A of this section if the person who is otherwise responsible

1 for performing this duty is charged with the criminal death of the person
2 to whom the duty is owed and the funeral director is aware of the charge.
3 The person who performs this duty may recover costs as prescribed in
4 subsection F of this section. If the charges against the person on whom
5 this duty originally fell are subsequently dismissed or are resolved in
6 that person's favor on the merits, the person is responsible for only the
7 actual costs.

8 J. If the decedent died while serving in any branch of the United
9 States armed forces, the United States reserve forces or the national
10 guard, and completed a United States department of defense record of
11 emergency data, DD form 93, or its successor form, the duty to bury the
12 decedent or to provide other funeral and disposition arrangements for the
13 decedent devolves on the person authorized by the decedent pursuant to
14 that form.

15 K. A person that possesses unclaimed cremated remains may release
16 to the United States department of veterans affairs or a veterans' service
17 organization verification information associated with the remains to
18 verify whether the remains are of a veteran or a veteran's dependent
19 eligible to be interred in a veterans' cemetery if the person has
20 possessed the cremated remains for at least one year, a person described
21 in subsection A of this section has not claimed the cremated remains and
22 the person made a reasonable effort to locate a relative of the decedent
23 to claim the remains. If the person receives notice from the United
24 States department of veterans affairs or a veterans' service organization
25 that the unclaimed cremated remains are the remains of a veteran or a
26 veteran's dependent eligible to be interred in a veterans' cemetery, the
27 person may transfer the cremated remains to a veterans' service
28 organization, which must ensure that the cremated remains are interred in
29 a veterans' cemetery or transport the cremated remains to a veterans'
30 cemetery for burial.

31 L. A person that releases verification information pursuant to
32 subsection K of this section or that transfers cremated remains to a
33 veterans' service organization or a veterans' cemetery pursuant to
34 subsection K of this section is immune from civil liability for damages
35 resulting from the release or transfer. A veterans' service organization
36 that inters cremated remains in or transports cremated remains to a
37 veterans' cemetery pursuant to subsection K of this section is immune from
38 civil liability for damages arising from the interment.

39 M. For the purposes of this section:

40 1. "Person" includes a natural person, a corporation, a company, a
41 partnership, a firm, an association, a society, the United States, this
42 state, any territory, state or country, an Arizona federally recognized
43 Native American tribe, any political subdivision of this state or a public
44 or private corporation, a partnership or association or a veterans'
45 service organization.

1 2. "Verification information" means data required by the United
2 States department of veterans affairs to verify whether a person is a
3 veteran or a veteran's dependent and is eligible for burial in a veterans'
4 cemetery, including a copy of the person's death certificate and the
5 person's name, service number, social security number, date of birth, date
6 of death and place of birth.

7 3. "Veterans' service organization" means a veterans' organization
8 that is chartered by the United States Congress, that is recognized by the
9 United States department of veterans affairs or that qualifies as a
10 charitable organization that is recognized under either section 501(c)(3)
11 or 501(c)(19) of the internal revenue code and that is organized for the
12 verification and burial of veterans and their dependents.

13 N. For the purposes of this article, "burial" includes cremation.

APPROVED BY THE GOVERNOR MAY 8, 2019.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 8, 2019.