

PROPOSED
HOUSE OF REPRESENTATIVES AMENDMENTS TO S.B. 1668
(Reference to Senate engrossed bill)

1 Strike everything after the enacting clause and insert:

2 "Section 1. Section 36-831, Arizona Revised Statutes, is amended to
3 read:

4 36-831. Duty for funeral and disposition arrangements; waiver
5 of decision-making; counties; civil liability;
6 costs; veterans; immunity; definitions

7 A. Except as provided ~~pursuant to~~ IN subsection I or J of this
8 section, the duty of burying the body of or providing other funeral and
9 disposition arrangements for a ~~dead person~~ DECEDENT devolves in the
10 following order:

11 1. If the ~~dead person~~ DECEDENT was married, on the surviving spouse
12 unless:

13 (a) The ~~dead person~~ DECEDENT was legally separated from the
14 ~~person's~~ DECEDENT'S spouse.

15 (b) A petition for divorce or for legal separation from the ~~dead~~
16 ~~person's~~ DECEDENT'S spouse was filed before the person's death and remains
17 pending at the time of death.

18 2. On the person who is designated as having power of attorney for
19 the decedent in the decedent's most recent health care power of attorney
20 pursuant to chapter 32, article 2 of this title if that power of attorney
21 specifically gives that person the authority to make decisions regarding
22 the disposition of the decedent's remains or a durable power of attorney
23 if that power of attorney specifically gives that person the authority to
24 make decisions regarding the disposition of the decedent's remains.

25 3. If the ~~dead person~~ DECEDENT was a minor, on the parents, **UNLESS**
26 **THERE HAS BEEN AN AWARD OF LEGAL DECISION-MAKING OR THERE IS A PARENTING**
27 **PLAN THAT PRESCRIBES WHICH PARENT HAS FINAL AUTHORITY TO MAKE LEGAL**
28 **DECISIONS ON BEHALF OF THE CHILD.**

29 4. On the adult children of the ~~dead person~~ DECEDENT.

30 5. On the ~~dead person's~~ DECEDENT'S parent.

31 6. On the ~~dead person's~~ DECEDENT'S adult sibling.

32 7. On the ~~dead person's~~ DECEDENT'S adult grandchild.

33 8. On the ~~dead person's~~ DECEDENT'S grandparent.

34 9. On an adult who exhibited special care and concern for the ~~dead~~
35 ~~person~~ DECEDENT.

36 10. On the person who was acting as the guardian of the person of
37 the ~~dead person~~ DECEDENT at the time of death.

38 11. On any other person who has the authority to dispose of the
39 ~~dead person's~~ DECEDENT'S body.

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

6 13. If the ~~dead person~~ **DECEDENT** was a prisoner in the custody of
7 the state department of corrections at the time of death and none of the
8 persons named in paragraphs 1 through 11 of this subsection is willing to
9 provide for the burial or other funeral and disposition arrangements or
10 cannot be located on reasonable inquiry, on the state department of
11 corrections.

12 B. During a person's life, the person's family members that are
13 listed in subsection A of this section may sign a waiver of ~~decision~~
14 ~~making~~ **DECISION-MAKING** that waives their rights under this section
15 relating to the disposition of the person's body when the person dies.

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

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

41 E. If the county medical examiner or person performing the duties
42 of the county medical examiner knows that the dead person is a member of a
43 federally recognized Native American tribe located in this state, the
44 county medical examiner or person performing the duties of the county
45 medical examiner must notify the tribe and give the tribe the opportunity
46 to provide for the person's burial or other funeral and disposition
47 arrangements. If an autopsy is required by section 11-597, the county
48 medical examiner or person performing the duties of the county medical
49 examiner, if possible, shall complete the autopsy and return the remains

1 to the federally recognized Native American tribe located in this state
2 within four calendar days after the determined date of death.

3 F. A person on whom the duty prescribed in subsection A of this
4 section is imposed who omits or is unwilling to perform that duty within a
5 reasonable time or is prohibited from performing that duty under
6 subsection I of this section is liable to the person performing the duty
7 in an amount of two times the expenses the person incurred in providing
8 for the burial or other funeral and disposition arrangements. The person
9 who performs this duty may recover this amount in a civil action.

10 G. Notwithstanding the probate requirements of title 14, if a
11 county is required to bury a person pursuant to subsection C of this
12 section, the county may recover the burial costs from the decedent's
13 estate. The county may record a lien on the decedent's estate, and the
14 lien takes priority over a beneficiary deed. A financial institution ~~in~~
15 ~~possession of~~ THAT POSSESSES monies in an account in the decedent's name
16 must reimburse the county for the burial costs on presentation by the
17 county of an affidavit that certifies:

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

19 2. That, pursuant to this section, the county performed the
20 decedent's burial.

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

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

26 1. For failing to honor the wishes of the decedent or the wishes of
27 a person who has a higher priority AS PRESCRIBED in subsection A or C of
28 this section if the person, corporation or agency of government was not
29 aware, after reasonable inquiry, of the contrary wishes.

30 2. For refusing to follow conflicting directions of persons who
31 have the same priority AS PRESCRIBED in subsection A of this section.

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

34 I. The duty to bury or to provide other funeral and disposition
35 arrangements devolves to the next person in the order prescribed ~~pursuant~~
36 ~~to~~ IN subsection A of this section if the person who is otherwise
37 responsible for performing this duty is charged with the criminal death of
38 the person to whom the duty is owed and the funeral director is aware of
39 the charge. The person who performs this duty may recover costs as
40 prescribed in subsection F of this section. If the charges against the
41 person on whom this duty originally fell are subsequently dismissed or are
42 resolved in that person's favor on the merits, the person is responsible
43 for only the actual costs.

1 J. If the decedent died while serving in any branch of the United
2 States armed forces, the United States reserve forces or the national
3 guard, and completed a United States department of defense record of
4 emergency data, DD form 93, or its successor form, the duty to bury the
5 decedent or to provide other funeral and disposition arrangements for the
6 decedent devolves on the person authorized by the decedent pursuant to
7 that form.

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

24 L. A person that releases verification information pursuant to
25 subsection K of this section or that transfers cremated remains to a
26 veterans' service organization or a veterans' cemetery pursuant to
27 subsection K of this section is immune from civil liability for damages
28 resulting from the release or transfer. A veterans' service organization
29 that inters cremated remains in or transports cremated remains to a
30 veterans' cemetery pursuant to subsection K of this section is immune from
31 civil liability for damages arising from the interment.

32 M. For the purposes of this section:

33 1. "Person" includes a natural person, a corporation, a company, a
34 partnership, a firm, an association, a society, the United States, this
35 state, any territory, state or country, an Arizona federally recognized
36 Native American tribe, any political subdivision of this state or a public
37 or private corporation, a partnership or association or a veterans'
38 service organization.

39 2. "Verification information":

40 (a) Means data required by the United States department of veterans
41 affairs to verify whether a person is a veteran or a veteran's dependent
42 and is eligible for burial in a veterans' cemetery. ~~, including~~

43 (b) INCLUDES a copy of the person's death certificate and the
44 person's name, service number, social security number, date of birth, date
45 of death and place of birth.

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

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

8 Amend title to conform

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