



H.B. 342

126th General Assembly
(As Introduced)

Reps. Skindell, Key, Koziura, Reidelbach, Perry, Combs, Carano, Miller, Sykes, Yuko, Sayre, D. Stewart, Strahorn, Barrett, DeGeeter

BILL SUMMARY

- Authorizes an adult who is of sound mind to execute a declaration governing the manner of disposal, after death, of the adult's body or any body part that becomes separated from the body before death or assigning the right to direct the manner of disposal of the adult's body or body parts.
- Establishes the duty of certain relatives of a deceased adult or other persons, in order of priority, to dispose of the body of the deceased adult in the absence of the adult's instructions regarding such disposal.
- Penalizes the knowing failure of a person to follow a valid declaration executed pursuant to the bill.

CONTENT AND OPERATION

Declaration governing disposal of one's body after death

The bill allows an adult (an individual 18 years of age or older) who is of sound mind to execute either a written declaration governing the manner of disposal, after death, of the adult's body or any body part that becomes separated from the body before death or a written declaration assigning to a person or group of persons named in the declaration the right to direct the manner of disposal, after death, of the adult's body or any body part that becomes separated from the body before death. The declaration must be signed by the adult in the presence of a notary public or two witnesses. If the adult is unable to sign the declaration, he or she may direct that it be signed on his or her behalf in the presence of a notary public or two witnesses who have no affiliation with the adult. Whether the declaration is signed by the adult or at the direction of the adult as described in the

preceding two sentences, the notary public or witnesses must sign the document in the adult's presence. (R.C. 2108.40.)

An adult may revoke a declaration by destroying, canceling, or mutilating the document and all executed copies of it (R.C. 2108.44).

Priority of declaration

The bill provides that a declaration executed in accordance with the bill has priority over all other documents, except two, that an adult may have executed containing instructions regarding the disposal, after death, of the adult's body or any body parts that become separated before death. The exceptions are a properly executed will (pursuant to R.C. 2107.03, not in the bill) that contains such instructions and a properly executed antemortem cremation authorization form (pursuant to R.C. 4717.21, not in the bill). If an adult has executed a will or an antemortem cremation authorization form in accordance with the Revised Code, a person who disposes of the adult's body or body parts that became separated before the adult's death must follow the law governing the will or form. (R.C. 2108.41.)

Duty to dispose of a body in the absence of instructions

The bill lists the persons who, if competent and available at the time of a deceased adult's death, have the duty to inter, cremate, or otherwise dispose of, in a lawful manner, the body of a deceased adult who did not execute a declaration regarding disposal of the adult's body under the bill, an antemortem cremation authorization form, or a will that contains instructions regarding the disposal of the adult's body. In order of priority, they are (R.C. 2108.42(A)):

- (1) The spouse of the deceased adult;
- (2) An adult child of the deceased adult or, if the deceased adult is survived by more than one adult child, the majority of the surviving adult children;
- (3) Either parent of the deceased adult;
- (4) An adult sibling of the deceased adult or, if the deceased adult is survived by more than one sibling, the majority of the surviving siblings;
- (5) A grandparent of the deceased adult;
- (6) A guardian of the adult at the time of the deceased adult's death;
- (7) Any other person authorized or under obligation to dispose of the body of the deceased person.

Under the bill, if a deceased adult had executed an anatomical gift by will or another document or means described in R.C. 2108.04, the persons listed above must follow the instructions associated with the anatomical gift before interring, cremating, or otherwise disposing of the remainder of the deceased adult's body (R.C. 2108.42(B)).

Relinquishment of the duty to dispose of a body

The bill provides that a person who has a duty to inter, cremate, or otherwise dispose of the body of a deceased adult under the bill, either pursuant to a declaration executed by the adult or, in the absence of instructions, pursuant to the provisions described in "**Duty to dispose of a body in the absence of instructions,**" above, relinquishes that duty if the person has been charged with aggravated murder, murder, or voluntary manslaughter in relation to the death of the deceased adult. The duty then passes to others in the following order of priority (R.C. 2108.43):

- (1) The order listed in a properly executed will that contains instructions regarding the disposal of the adult's body after death;
- (2) The order listed in a written declaration executed pursuant to the bill;
- (3) The order listed in the bill in case the decedent left no instructions (see "**Duty to dispose of a body in the absence of instructions,**" above).

Failure to follow a declaration

The bill prohibits a person from knowingly failing to follow a declaration executed by an adult under the bill's provisions. The prohibition does not apply if the adult, pursuant to the Revised Code, executed a will containing instructions regarding the manner of disposal of the adult's body after death or an antemortem cremation authorization form. A violation of the prohibition is a misdemeanor of the first degree. (R.C. 2108.45.)

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	09-15-05	p. 1635

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