



Ohio Legislative Service Commission

Bill Analysis

Amber Hardesty

Sub. S.B. 147

128th General Assembly
(As Passed by the Senate)

Sens. Hughes, Faber, Fedor, Goodman, Grendell, R. Miller, Wilson, Carey, Wagoner, Stewart, Buehrer, Cates, Gibbs, Jones, D. Miller, Morano, Patton, Schaffer, Schiavoni, Smith, Turner, Harris, Strahorn

BILL SUMMARY

- Gives the right of disposition to the United States Secretary of Veterans Affairs regarding abandoned or unclaimed cremated remains of persons who are entitled to be buried in a national cemetery.

CONTENT AND OPERATION

Disposition of unclaimed cremated remains

(R.C. 2108.81, 4717.22, and 4717.23, not in the bill; R.C. 4717.27)

Continuing law establishes an order of priority for the right of disposition of a deceased body or remains when a person has not executed a written declaration that remains in force or when each person to whom the right of disposition has been assigned or reassigned pursuant to a written declaration is disqualified from exercising the right. Generally in such cases, the right of disposition is assigned to the following persons, if they are mentally competent adults who can be located with reasonable effort, in the following order of priority:

- (1) The deceased person's surviving spouse;
- (2) The sole surviving child of the deceased person or, if there is more than one surviving child, all of the surviving children, collectively;
- (3) The deceased person's surviving parent or parents;

(4) The deceased person's surviving sibling, whether of the whole or of the half blood or, if there is more than one sibling of the whole or of the half blood, all of the surviving siblings, collectively;

(5) The deceased person's surviving grandparent or grandparents;

(6) The deceased person's surviving grandchild, or if there is more than one surviving grandchild, all of the surviving grandchildren, collectively;

(7) The lineal descendants of the deceased person's grandparents;

(8) The person who was the deceased person's guardian at the time of the deceased person's death, if a guardian had been appointed;

(9) Any other person willing to assume the right of disposition, including the personal representative of the deceased person's estate or the licensed funeral director with custody of the deceased person's body, after attesting in writing that a good faith effort has been made to locate the persons in (1) to (8) above;

(10) If the deceased person was an indigent person or other person the final disposition of whose body is the financial and statutory responsibility of the state or a political subdivision of Ohio, the public officer or employee responsible for arranging the final disposition of the remains of the deceased person.

Also under continuing law, the person who has the right of disposition as determined above can serve as an authorizing agent for cremation. The cremation cannot occur until the crematory facility has received a completed cremation authorization form. The authorizing agent who executed the cremation authorization form is ultimately responsible for the final disposition of the cremated remains.

Under current law, if the cremation authorization form does not contain instructions for the final disposition of the cremated remains, if no arrangements are made within 60 days after the completion of the cremation, and if the cremated remains have not been picked up by the person designated on the authorization form to receive them or, in the absence of a designated person, by the authorizing agent, the operator of the crematory facility or the funeral home holding the unclaimed cremated remains can dispose of the cremated remains in a grave, crypt, or niche at any time after the end of that 60-day period.

Additionally, if the cremation authorization form specifies the manner of the final disposition of the cremated remains, or if within 60 days after the completion of the cremation the authorizing agent makes arrangements for the final disposition, and if either the arrangements have not been carried out within that 60-day period because of

the inaction of a party other than the operator of the crematory facility or the funeral home holding the unclaimed cremated remains, or the authorizing agent fails to pick up the cremated remains within that 60-day period, the operator of the crematory facility or the funeral home holding the unclaimed cremated remains can dispose of the cremated remains in a grave, crypt, or niche at any time after the end of that period.

Under the bill, if cremated remains of a decedent who was 18 years or older at the time of death are unclaimed as described above, the operator of the crematory facility or the funeral home holding the cremated remains must, before disposing of the unclaimed cremated remains, notify the Secretary of the United States Department of Veterans Affairs of the name of, and other identifying information related to, the decedent. If, within 60 days of the notification, the Secretary notifies the crematory facility or funeral home that the decedent was a veteran who is eligible for burial in a national cemetery under the control of the National Cemetery Administration and that the Secretary agrees to provide for the cost of the transportation and burial of the unclaimed cremated remains in a national cemetery, the crematory facility or funeral home must follow the directions of the Secretary and arrange for the burial of the unclaimed remains in the national cemetery at the Secretary's expense. If the Secretary does not assume the right to direct the burial of the unclaimed remains within 60 days of the notification by the crematory facility or funeral home, the crematory facility or funeral home can carry out the disposition of the unclaimed remains as described above.

HISTORY

ACTION	DATE
Introduced	06-16-09
Reported, S. State & Local Gov't & Veterans Affairs	10-15-09
Passed Senate (33-0)	10-27-09

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