

# HOUSE BILL 1152

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By: **Delegates Miele, Glass, Hill, McKay, Metzgar, Moon, Shoemaker, and Vogt**  
Introduced and read first time: February 11, 2016  
Assigned to: Health and Government Operations

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## A BILL ENTITLED

1 AN ACT concerning

2 **Public Health – Final Disposition of Unclaimed Bodies – Authorizing Agent**  
3 **(Nancy’s Law)**

4 FOR the purpose of providing that a relative or friend of a decedent is deemed, under  
5 certain circumstances, to be the authorizing agent for purposes of arranging for the  
6 final disposition of the decedent’s unclaimed body; making conforming changes; and  
7 generally relating to the final disposition of unclaimed bodies.

8 BY repealing and reenacting, without amendments,

9 Article – Health – General

10 Section 5–401(a) and (b), 5–406(c), and 5–508(a) through (c) and (e)

11 Annotated Code of Maryland

12 (2015 Replacement Volume)

13 BY repealing and reenacting, with amendments,

14 Article – Health – General

15 Section 5–509, 5–510(a)(1), and 5–511(c) and (d)

16 Annotated Code of Maryland

17 (2015 Replacement Volume)

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

20 **Article – Health – General**

21 5–401.

22 (a) In this subtitle the following words have the meanings indicated.

23 (b) “Board” means the State Anatomy Board.

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 5-406.

2 (c) (1) On expiration of 72 hours after death, the body shall be under the  
3 exclusive control of the Board and may be embalmed.

4 (2) If the body is embalmed, it shall be embalmed in a proper manner by  
5 an individual whom the Board designates.

6 (3) Any relative or friend of the deceased may claim the body and, on  
7 payment to the Board of its cost of moving and embalming the body, shall receive it.

8 (4) The Board may waive its costs under this section upon a showing of  
9 hardship by the relative or friend.

10 5-508.

11 (a) In this subtitle the following words have the meanings indicated.

12 (b) "Authorizing agent" means the individual who has legal authority to arrange  
13 for and make decisions regarding the final disposition of a dead human body, including by  
14 cremation.

15 (c) "Cremation" means the disposition of a dead human body by means of  
16 incineration.

17 (e) "Decedent" means a dead human being.

18 5-509.

19 (a) (1) Any individual who is 18 years of age or older may decide the disposition  
20 of the individual's own body after that individual's death without the predeath or  
21 post-death consent of another person by executing a document that expresses the  
22 individual's wishes regarding disposition of the body or by entering into a pre-need  
23 contract.

24 (2) The person designated on a United States Department of Defense  
25 Record of Emergency Data (DD Form 93), or its successor form, as the person authorized  
26 to direct disposition may arrange for the final disposition of the body of a decedent,  
27 including by cremation under § 5-502 of this subtitle, if the decedent:

28 (i) Died while serving in the United States armed forces; and

29 (ii) Executed the United States Department of Defense Record of  
30 Emergency Data (DD Form 93), or its successor form.

1 (b) In order to be valid, any document executed under subsection (a) of this section  
2 must be written and signed by the individual in the presence of a witness, who, in turn,  
3 shall sign the document in the presence of the individual.

4 (c) **(1) [Unless] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS**  
5 **SUBSECTION, UNLESS** a person has knowledge that contrary directions have been given  
6 by the decedent, if a decedent has not executed a document under subsection (a) of this  
7 section, the following persons, in the order of priority stated, have the right to arrange for  
8 the final disposition of the body of the decedent, including by cremation under § 5–502 of  
9 this subtitle:

10 **[(1)] (I)** The surviving spouse or domestic partner of the decedent;

11 **[(2)] (II)** An adult child of the decedent;

12 **[(3)] (III)** A parent of the decedent;

13 **[(4)] (IV)** An adult brother or sister of the decedent;

14 **[(5)] (V)** A person acting as a representative of the decedent under a  
15 signed authorization of the decedent;

16 **[(6)] (VI)** The guardian of the person of the decedent at the time of the  
17 decedent's death, if one has been appointed; or

18 **[(7)] (VII)** In the absence of any person under items **[(1) through (6)] (I)**  
19 **THROUGH (VI)** of this **[subsection] PARAGRAPH**, any other person willing to assume the  
20 responsibility to act as the authorizing agent for purposes of arranging the final disposition  
21 of the decedent's body, including the personal representative of the decedent's estate, after  
22 attesting in writing that a good faith effort has been made to no avail to contact the  
23 individuals under items **[(1) through (6)] (I) THROUGH (VI)** of this **[subsection]**  
24 **PARAGRAPH**.

25 **(2) A RELATIVE OR FRIEND OF A DECEDENT IS DEEMED TO BE THE**  
26 **AUTHORIZING AGENT FOR PURPOSES OF ARRANGING FOR THE FINAL DISPOSITION**  
27 **OF THE DECEDENT'S UNCLAIMED BODY IF:**

28 **(I) THE DECEDENT HAS NOT EXECUTED A DOCUMENT UNDER**  
29 **SUBSECTION (A) OF THIS SECTION; AND**

30 **(II) THE RELATIVE OR FRIEND CLAIMS THE BODY UNDER §**  
31 **5–406(C)(3) OF THIS TITLE AFTER THE EXPIRATION OF 72 HOURS AFTER THE**  
32 **DECEDENT'S DEATH.**

1 (d) (1) Subject to paragraph (2) of this subsection, if a decedent has more than  
2 one survivor under subsection [(c)(1) through (4)] **(C)(1)(I) THROUGH (IV)** of this section,  
3 any adult child, parent, or adult brother or sister of the decedent who confirms in writing  
4 to a practitioner that all of the other members of the same class have been notified may  
5 serve as the authorizing agent for purposes of § 5–502 of this subtitle unless the practitioner  
6 receives a written objection to the cremation from another member of that class within 24  
7 hours.

8 (2) If a decedent has more than one survivor under subsection [(c)(1)  
9 through (4)] **(C)(1)(I) THROUGH (IV)** of this section, the majority of a class may serve as  
10 the authorizing agent.

11 (e) In the case of an individual whose final disposition is the responsibility of the  
12 State or any of its instrumentalities, a public administrator, medical examiner, coroner,  
13 State–appointed guardian, or any other public official charged with arranging the final  
14 disposition of the decedent may serve as the authorizing agent for purposes of § 5–502 of  
15 this subtitle.

16 (f) In the case of an individual who has donated the individual’s body to medical  
17 science or whose death occurred in a nursing home or other private institution, a  
18 representative of the institution to which the body was donated or in which the decedent  
19 died shall authorize cremation for purposes of § 5–502 of this subtitle if the decedent  
20 executed cremating authorization forms and the institution is charged with making  
21 arrangements for the final disposition of the body.

22 5–510.

23 (a) (1) If the majority of individuals under [§ 5–509(c)] **§ 5–509(C)(1)** of this  
24 subtitle cannot agree on the arrangements, any individual specified in [§ 5–509(c)] **§**  
25 **5–509(C)(1)** of this subtitle or the practitioner who has custody of the body, or both, may  
26 file a petition in the circuit court for the county in which the decedent was domiciled at the  
27 time of death or the county in which the body is located requesting the court to decide the  
28 final disposition of the body.

29 5–511.

30 (c) An individual may file a petition with the appropriate court to obtain the  
31 authority to be authorizing agent:

32 (1) If the individual alleges that permitting one or more of the individuals  
33 with priority under [§ 5–509(c)] **§ 5–509(C)(1)** of this subtitle to authorize arrangements  
34 for the final disposition of the body of a decedent may cause substantial injustice; or

35 (2) If, considering all the circumstances, an individual other than an  
36 individual with priority under [§ 5–509(c)] **§ 5–509(C)(1)** of this subtitle had a closer  
37 personal affinity to the decedent and should be allowed to make the arrangements.

1 (d) Pending the outcome of a petition filed under this section, a practitioner shall  
2 suspend any arrangements with the individuals under [§ 5-509(c)] **§ 5-509(C)(1)** of this  
3 subtitle.

4 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
5 October 1, 2016.