

House Engrossed

State of Arizona
House of Representatives
Forty-sixth Legislature
First Regular Session
2003

CHAPTER 190

HOUSE BILL 2221

AN ACT

AMENDING SECTION 36-831, ARIZONA REVISED STATUTES; RELATING TO BURIAL RESPONSIBILITIES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

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

4 36-831. Duty to bury body of dead person; failure to perform
5 duty

6 A. EXCEPT AS PROVIDED PURSUANT TO SUBSECTION F, the duty of burying
7 the body of or providing other funeral and disposition arrangements for a
8 dead person devolves in the following order:

- 9 1. If the dead person was married, upon ON the surviving spouse.
10 2. If the dead person was a minor, on the parents.
11 3. If the dead person has no surviving spouse, on the adult children
12 of the dead person.

13 4. If none of the persons named in paragraphs 1, 2 and 3 of this
14 subsection are financially capable of providing for the burial or other
15 funeral and disposition arrangements, or cannot be located on reasonable
16 inquiry, on any person or fraternal, charitable or religious organization
17 willing to assume responsibility.

18 B. If none of the persons named in subsection A is willing or
19 financially able to bury or provide other funeral and disposition
20 arrangements for a dead person, the county in which death occurs shall bury
21 or place in a permanent care crypt the dead body or cremated remains of a
22 dead body unless otherwise directed by a person named in subsection A,
23 paragraphs PARAGRAPH 1, 2 or 3, or by the written testamentary instruction
24 of the decedent.

25 C. A person upon ON whom the duty of ~~burial~~ PRESCRIBED IN SUBSECTION
26 A is imposed who omits to perform such THAT duty within a reasonable time OR
27 IS PROHIBITED FROM PERFORMING THAT DUTY UNDER SUBSECTION F is liable to the
28 person performing the duty in ~~his~~ ~~stead~~ in an amount of two times the
29 expenses the person incurred in ~~burying the body, which~~ PROVIDING FOR THE
30 BURIAL OR OTHER FUNERAL AND DISPOSITION ARRANGEMENTS. THE PERSON WHO
31 PERFORMS THIS DUTY MAY RECOVER THIS amount ~~may be recovered~~ in a civil
32 action.

33 D. NOTWITHSTANDING THE PROBATE REQUIREMENTS OF TITLE 14, IF A COUNTY
34 IS REQUIRED TO BURY A PERSON PURSUANT TO SUBSECTION B, THE COUNTY MAY RECOVER
35 THE BURIAL COSTS FROM THE DECEDENT'S ESTATE. A FINANCIAL INSTITUTION IN
36 POSSESSION OF MONIES IN AN ACCOUNT IN THE DECEDENT'S NAME MUST REIMBURSE THE
37 COUNTY FOR THE BURIAL COSTS ON PRESENTATION BY THE COUNTY OF AN AFFIDAVIT
38 THAT CERTIFIES:

- 39 1. THE DATE OF THE DECEDENT'S DEATH.
40 2. THAT PURSUANT TO THIS SECTION, THE COUNTY PERFORMED THE DECEDENT'S
41 BURIAL.
42 3. THE TOTAL BURIAL COSTS INCURRED BY THE COUNTY.

1 D. E. A person, a corporation or an agency of government that
2 provides for the burial or other funeral and disposition arrangements on the
3 instructions of a person described in subsection A is immune from civil
4 liability:

5 1. For failing to honor the wishes of the decedent or the wishes of
6 a person having a higher priority in subsection A or B if the person,
7 corporation or agency of government was not aware, after reasonable inquiry,
8 of the contrary wishes.

9 2. For refusing to follow conflicting directions of persons having the
10 same priority in subsection A.

11 3. For following directions of a personal representative which THAT
12 are consistent with the written testamentary instructions of the decedent.

13 F. THE DUTY TO BURY OR TO PROVIDE OTHER FUNERAL AND DISPOSITION
14 ARRANGEMENTS DEVOLVES TO THE NEXT PERSON IN THE ORDER PRESCRIBED PURSUANT TO
15 SUBSECTION A IF THE PERSON WHO IS OTHERWISE RESPONSIBLE FOR PERFORMING THIS
16 DUTY IS CHARGED WITH THE CRIMINAL DEATH OF THE PERSON TO WHOM THE DUTY IS
17 OWED. THE PERSON WHO PERFORMS THIS DUTY MAY RECOVER COSTS AS PRESCRIBED IN
18 SUBSECTION C. IF THE CHARGES AGAINST THE PERSON ON WHOM THIS DUTY ORIGINALLY
19 FELL ARE SUBSEQUENTLY DISMISSED OR ARE RESOLVED IN THAT PERSON'S FAVOR ON THE
20 MERITS, THE PERSON IS RESPONSIBLE FOR ONLY THE ACTUAL COSTS.

21 G. FOR PURPOSES OF THIS SECTION, "PERSON" INCLUDES A NATURAL PERSON,
22 CORPORATION, COMPANY, PARTNERSHIP, FIRM, ASSOCIATION, SOCIETY, THE UNITED
23 STATES, THIS STATE, OR ANY TERRITORY, STATE OR COUNTRY, OR ANY POLITICAL
24 SUBDIVISION OF THIS STATE, OR A PUBLIC OR PRIVATE CORPORATION, OR PARTNERSHIP
25 OR ASSOCIATION.

APPROVED BY THE GOVERNOR MAY 12, 2003.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 13, 2003.

Passed the House February 17, 2003,

Passed the Senate May 6, 2003,

by the following vote: 59 Ayes,

by the following vote: 30 Ayes,

0 Nays, 1 Not Voting

0 Nays, 0 Not Voting

Jake Flake
Speaker of the House

Ken Blumett
President of the Senate

Norman L. Moore
Chief Clerk of the House

Charmine Billington
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this
7 day of May, 2003,

at 4:26 o'clock P M.

Sandra Ramirez
Secretary to the Governor

Approved this 12 day of

May, 2003,

at 9:15 o'clock A M.

J. N. ...
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State
this 13 day of MAY, 2003,

at 4:03 o'clock P M.

Janice ...
Secretary of State