

State of Arizona
House of Representatives
Fiftieth Legislature
First Regular Session
2011

House Engrossed
FILED
KEN BENNETT
SECRETARY OF STATE

CHAPTER 79

HOUSE BILL 2487

AN ACT

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

(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. Burial duties; notification requirements; failure to
5 perform duty; definitions
6 A. Except as provided pursuant to subsection I or J of this section,
7 the duty of burying the body of or providing other funeral and disposition
8 arrangements for a dead person devolves in the following order:
9 1. If the dead person was married, on the surviving spouse unless:
10 (a) The dead person was legally separated from the person's spouse.
11 (b) A petition for divorce or for legal separation from the dead
12 person's spouse was filed before the person's death and remains pending at
13 the time of death.
14 2. The person who is designated as having power of attorney for the
15 decedent in the decedent's most recent durable power of attorney.
16 3. If the dead person was a minor, on the parents.
17 4. On the adult children of the dead person.
18 5. On the dead person's parent.
19 6. On the dead person's adult sibling.
20 7. On the dead person's adult grandchild.
21 8. On the dead person's grandparent.
22 9. On an adult who exhibited special care and concern for the dead
23 person.
24 10. On the person who was acting as the guardian of the person of the
25 dead person at the time of death.
26 11. On any other person who has the authority to dispose of the dead
27 person's body.
28 12. If none of the persons named in paragraphs 1 through 11 of this
29 subsection is financially capable of providing for the burial or other
30 funeral and disposition arrangements, or cannot be located on reasonable
31 inquiry, on any person or fraternal, charitable or religious organization
32 willing to assume responsibility.
33 13. IF THE DEAD PERSON WAS A PRISONER IN THE CUSTODY OF THE STATE
34 DEPARTMENT OF CORRECTIONS AT THE TIME OF DEATH AND NONE OF THE PERSONS NAMED
35 IN PARAGRAPHS 1 THROUGH 11 OF THIS SUBSECTION IS WILLING TO PROVIDE FOR THE
36 BURIAL OR OTHER FUNERAL AND DISPOSITION ARRANGEMENTS, OR CANNOT BE LOCATED ON
37 REASONABLE INQUIRY, ON THE STATE DEPARTMENT OF CORRECTIONS.
38 B. During a person's life, the person's family members that are listed
39 in subsection A of this section may sign a waiver of decision making that
40 waives their rights under this section relating to the disposition of the
41 person's body when the person dies.
42 C. If none of the persons named in subsection A of this section is
43 willing or financially able to bury or provide other funeral and disposition
44 arrangements for a dead person, or if the person cannot be located after
45 reasonable efforts have been made to do so, the county in which death occurs

1 shall bury or place in a permanent care crypt the dead body or cremated
2 remains of a dead body. If the decedent is known to be an honorably
3 discharged veteran or the surviving spouse of an honorably discharged
4 veteran, the county shall notify the veterans' administration or a local
5 veteran's organization, or both, of the death and give that organization the
6 opportunity to provide for the person's burial or for other funeral and
7 disposition arrangements. If the organization is unable to provide for the
8 burial of the veteran or the surviving spouse, the county shall ensure that
9 the decedent is properly interred and that burial is made in a veterans'
10 cemetery or a portion of a cemetery that is designated for the burial of
11 veterans and spouses of veterans.

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

18 E. If the county medical examiner or person performing the duties of
19 the county medical examiner knows that the dead person is a member of a
20 federally recognized Native American tribe located in this state, the county
21 medical examiner or person performing the duties of the county medical
22 examiner must notify the tribe and give the tribe the opportunity to provide
23 for the person's burial or other funeral and disposition arrangements. If an
24 autopsy is required by section 11-597, the county medical examiner or person
25 performing the duties of the county medical examiner, if possible, shall
26 complete the autopsy and return the remains to the federally recognized
27 Native American tribe located in this state within four calendar days after
28 the determined date of death.

29 F. A person on whom the duty prescribed in subsection A of this
30 section is imposed who omits or is unwilling to perform that duty within a
31 reasonable time or is prohibited from performing that duty under subsection I
32 of this section is liable to the person performing the duty in an amount of
33 two times the expenses the person incurred in providing for the burial or
34 other funeral and disposition arrangements. The person who performs this
35 duty may recover this amount in a civil action.

36 G. Notwithstanding the probate requirements of title 14, if a county
37 is required to bury a person pursuant to subsection C of this section, the
38 county may recover the burial costs from the decedent's estate. A financial
39 institution in possession of monies in an account in the decedent's name must
40 reimburse the county for the burial costs on presentation by the county of an
41 affidavit that certifies:

- 42 1. The date of the decedent's death.
- 43 2. That, pursuant to this section, the county performed the decedent's
44 burial.
- 45 3. The total burial costs incurred by the county.

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

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

9 2. For refusing to follow conflicting directions of persons who have
10 the same priority in subsection A of this section.

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

13 I. 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 of this section if the person who is otherwise responsible for
16 performing this duty is charged with the criminal death of the person to whom
17 the duty is owed. The person who performs this duty may recover costs as
18 prescribed in subsection F of this section. If the charges against the
19 person on whom this duty originally fell are subsequently dismissed or are
20 resolved in that person's favor on the merits, the person is responsible for
21 only the actual costs.

22 J. If the decedent died while serving in any branch of the United
23 States armed forces, the United States reserve forces or the national guard,
24 and completed a United States department of defense record of emergency data,
25 DD form 93, or its successor form, the duty to bury the decedent or to
26 provide other funeral and disposition arrangements for the decedent devolves
27 on the person authorized by the decedent pursuant to that form.

28 K. For the purposes of this section, "person" includes a natural
29 person, a corporation, a company, a partnership, a firm, an association, a
30 society, the United States, this state, any territory, state or country, an
31 Arizona federally recognized Native American tribe, any political subdivision
32 of this state or a public or private corporation or partnership or
33 association.

34 L. For the purposes of this article, "burial" includes cremation.

35 Sec. 2. Emergency

36 This act is an emergency measure that is necessary to preserve the
37 public peace, health or safety and is operative immediately as provided by
38 law.

APPROVED BY THE GOVERNOR APRIL 12, 2011.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 13, 2011.

Passed the House March 1, 20 11

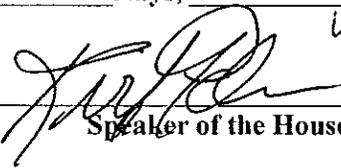
Passed the Senate April 6, 20 11

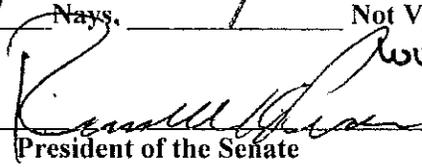
by the following vote: 56 Ayes,

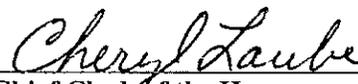
by the following vote: 29 Ayes,

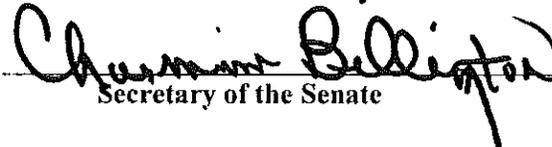
1 Nays, 3 Not Voting
with Emergency

0 Nays, 1 Not Voting
with Emergency


Speaker of the House


President of the Senate


Cheryl Laube
Chief Clerk of the House

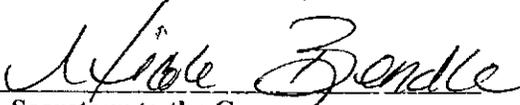

Charmian Bellington
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill received by the Governor this

7 day of April, 20 11

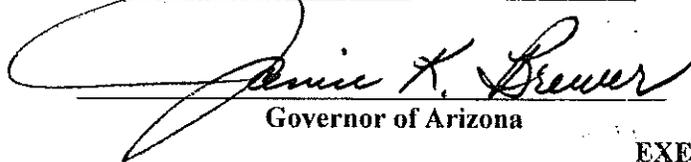
at 10:55 o'clock A. M.


Nicole Bendle
Secretary to the Governor

Approved this 12th day of

April

at 3:30 o'clock P. M.


Janice K. Brewer
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this 13th day of April, 20 11

at 10:58 o'clock a M.


Ken Blumeth
Secretary of State

H.B. 2487