

House Engrossed

FILED
KEN BENNETT
SECRETARY OF STATE

State of Arizona
House of Representatives
Fifty-first Legislature
Second Regular Session
2014

CHAPTER 92

HOUSE BILL 2332

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; veterans; immunity; 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. On the person who is designated as having power of attorney for the
15 decedent in the decedent's most recent health care power of attorney pursuant
16 to chapter 32, article 2 of this title if that power of attorney specifically
17 gives that person the authority to make decisions regarding the disposition
18 of the decedent's remains or a durable power of attorney if that power of
19 attorney specifically gives that person the authority to make decisions
20 regarding the disposition of the decedent's remains.

21 3. If the dead person was a minor, on the parents.

22 4. On the adult children of the dead person.

23 5. On the dead person's parent.

24 6. On the dead person's adult sibling.

25 7. On the dead person's adult grandchild.

26 8. On the dead person's grandparent.

27 9. On an adult who exhibited special care and concern for the dead
28 person.

29 10. On the person who was acting as the guardian of the person of the
30 dead person at the time of death.

31 11. On any other person who has the authority to dispose of the dead
32 person's body.

33 12. If none of the persons named in paragraphs 1 through 11 of this
34 subsection is financially capable of providing for the burial or other
35 funeral and disposition arrangements, or cannot be located on reasonable
36 inquiry, on any person or fraternal, charitable or religious organization
37 willing to assume responsibility.

38 13. If the dead person was a prisoner in the custody of the state
39 department of corrections at the time of death and none of the persons named
40 in paragraphs 1 through 11 of this subsection is willing to provide for the
41 burial or other funeral and disposition arrangements, or cannot be located on
42 reasonable inquiry, on the state department of corrections.

43 B. During a person's life, the person's family members that are listed
44 in subsection A of this section may sign a waiver of decision making that

1 waives their rights under this section relating to the disposition of the
2 person's body when the person dies.

3 C. If none of the persons named in subsection A of this section is
4 willing or financially able to bury or provide other funeral and disposition
5 arrangements for a dead person, or if the person cannot be located after
6 reasonable efforts have been made to do so, the county in which death occurs
7 shall bury or place in a permanent care crypt the dead body or cremated
8 remains of a dead body. The county officer who is responsible for
9 determining financial eligibility or abandonment may conduct an investigation
10 for that purpose. If the decedent is known to be an honorably discharged
11 veteran or the surviving spouse of an honorably discharged veteran, the
12 county shall notify the United States department of veterans affairs or a
13 local veteran's organization, or both, of the death and give the department
14 or that organization the opportunity to provide for the person's burial or
15 for other funeral and disposition arrangements. If the department or
16 organization is unable to provide for the burial of the veteran or the
17 surviving spouse, the county shall ensure that the decedent is properly
18 interred and that burial is made in a veterans' cemetery or a portion of a
19 cemetery that is designated for the burial of veterans and spouses of
20 veterans.

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

27 E. If the county medical examiner or person performing the duties of
28 the county medical examiner knows that the dead person is a member of a
29 federally recognized Native American tribe located in this state, the county
30 medical examiner or person performing the duties of the county medical
31 examiner must notify the tribe and give the tribe the opportunity to provide
32 for the person's burial or other funeral and disposition arrangements. If an
33 autopsy is required by section 11-597, the county medical examiner or person
34 performing the duties of the county medical examiner, if possible, shall
35 complete the autopsy and return the remains to the federally recognized
36 Native American tribe located in this state within four calendar days after
37 the determined date of death.

38 F. A person on whom the duty prescribed in subsection A of this
39 section is imposed who omits or is unwilling to perform that duty within a
40 reasonable time or is prohibited from performing that duty under subsection I
41 of this section is liable to the person performing the duty in an amount of
42 two times the expenses the person incurred in providing for the burial or
43 other funeral and disposition arrangements. The person who performs this
44 duty may recover this amount in a civil action.

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

- 7 1. The date of the decedent's death.
- 8 2. That, pursuant to this section, the county performed the decedent's
9 burial.
- 10 3. The total burial costs incurred by the county.

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

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

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

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

23 I. The duty to bury or to provide other funeral and disposition
24 arrangements devolves to the next person in the order prescribed pursuant to
25 subsection A of this section if the person who is otherwise responsible for
26 performing this duty is charged with the criminal death of the person to whom
27 the duty is owed and the funeral director is aware of the charge. The person
28 who performs this duty may recover costs as prescribed in subsection F of
29 this section. If the charges against the person on whom this duty originally
30 fell are subsequently dismissed or are resolved in that person's favor on the
31 merits, the person is responsible for only the actual costs.

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

38 K. A PERSON THAT POSSESSES UNCLAIMED CREMATED REMAINS MAY RELEASE TO
39 THE UNITED STATES DEPARTMENT OF VETERANS AFFAIRS OR A VETERANS' SERVICE
40 ORGANIZATION VERIFICATION INFORMATION ASSOCIATED WITH THE REMAINS TO VERIFY
41 WHETHER THE REMAINS ARE OF A VETERAN OR A VETERAN'S DEPENDENT ELIGIBLE TO BE
42 INTERRED IN A VETERANS' CEMETERY IF THE PERSON HAS POSSESSED THE CREMATED
43 REMAINS FOR AT LEAST ONE YEAR, A PERSON DESCRIBED IN SUBSECTION A OF THIS
44 SECTION HAS NOT CLAIMED THE CREMATED REMAINS AND THE PERSON MADE A REASONABLE
45 EFFORT TO LOCATE A RELATIVE OF THE DECEDENT TO CLAIM THE REMAINS. IF THE

1 PERSON RECEIVES NOTICE FROM THE UNITED STATES DEPARTMENT OF VETERANS AFFAIRS
2 OR A VETERANS' SERVICE ORGANIZATION THAT THE UNCLAIMED CREMATED REMAINS ARE
3 THE REMAINS OF A VETERAN OR A VETERAN'S DEPENDENT ELIGIBLE TO BE INTERRED IN
4 A VETERANS' CEMETERY, THE PERSON MAY TRANSFER THE CREMATED REMAINS TO A
5 VETERANS' SERVICE ORGANIZATION, WHICH MUST ENSURE THAT THE CREMATED REMAINS
6 ARE INTERRED IN A VETERANS' CEMETERY OR TRANSPORT THE CREMATED REMAINS TO A
7 VETERANS' CEMETERY FOR BURIAL.

8 L. A PERSON THAT RELEASES VERIFICATION INFORMATION PURSUANT TO
9 SUBSECTION K OF THIS SECTION OR THAT TRANSFERS CREMATED REMAINS TO A
10 VETERANS' SERVICE ORGANIZATION OR A VETERANS' CEMETERY PURSUANT TO SUBSECTION
11 K OF THIS SECTION IS IMMUNE FROM CIVIL LIABILITY FOR DAMAGES RESULTING FROM
12 THE RELEASE OR TRANSFER. A VETERANS' SERVICE ORGANIZATION THAT INTERS
13 CREMATED REMAINS IN OR TRANSPORTS CREMATED REMAINS TO A VETERANS' CEMETERY
14 PURSUANT TO SUBSECTION K OF THIS SECTION IS IMMUNE FROM CIVIL LIABILITY FOR
15 DAMAGES ARISING FROM THE INTERMENT.

16 ~~K.~~ M. For the purposes of this section: —

17 1. "Person" includes a natural person, a corporation, a company, a
18 partnership, a firm, an association, a society, the United States, this
19 state, any territory, state or country, an Arizona federally recognized
20 Native American tribe, any political subdivision of this state or a public or
21 private corporation, ~~or~~ A partnership or association OR A VETERANS' SERVICE
22 ORGANIZATION.

23 2. "VERIFICATION INFORMATION" MEANS DATA REQUIRED BY THE UNITED STATES
24 DEPARTMENT OF VETERANS AFFAIRS TO VERIFY WHETHER A PERSON IS A VETERAN OR A
25 VETERAN'S DEPENDENT AND IS ELIGIBLE FOR BURIAL IN A VETERANS' CEMETERY,
26 INCLUDING A COPY OF THE PERSON'S DEATH CERTIFICATE AND THE PERSON'S NAME,
27 SERVICE NUMBER, SOCIAL SECURITY NUMBER, DATE OF BIRTH, DATE OF DEATH AND
28 PLACE OF BIRTH.

29 3. "VETERANS' SERVICE ORGANIZATION" MEANS A VETERANS' ORGANIZATION
30 THAT IS CHARTERED BY THE UNITED STATES CONGRESS, THAT IS RECOGNIZED BY THE
31 UNITED STATES DEPARTMENT OF VETERANS AFFAIRS OR THAT QUALIFIES AS A
32 CHARITABLE ORGANIZATION THAT IS RECOGNIZED UNDER EITHER SECTION 501(c)(3) OR
33 501(c)(19) OF THE INTERNAL REVENUE CODE AND THAT IS ORGANIZED FOR THE
34 VERIFICATION AND BURIAL OF VETERANS AND THEIR DEPENDENTS.

35 ~~L.~~ N. For the purposes of this article, "burial" includes cremation.

APPROVED BY THE GOVERNOR APRIL 17, 2014.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 18, 2014.

Passed the House March 4, 2014

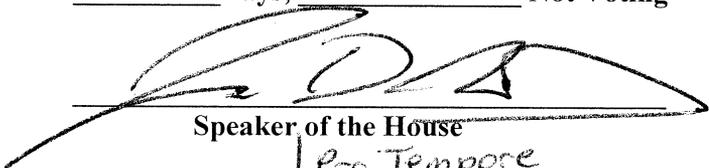
Passed the Senate April 15, 2014

by the following vote: 54 Ayes,

by the following vote: 29 Ayes,

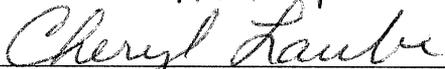
1 Nays, 5 Not Voting

1 Nays, 0 Not Voting



Speaker of the House

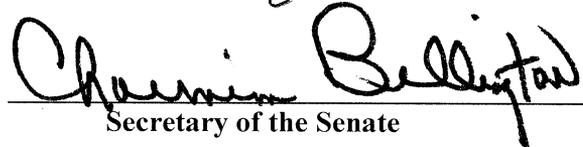
Pro Tempore



Chief Clerk of the House



President of the Senate



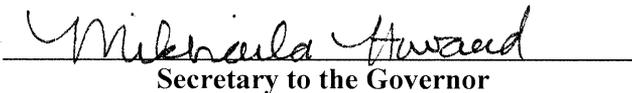
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill received by the Governor this

16 day of April, 2014

at 11:50 o'clock A M.


Secretary to the Governor

Approved this 17th day of

April

at 11:32 o'clock A M.


Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this 19th day of April, 2014

at 8:10 o'clock A M.


Secretary of State

H.B. 2332