

ARIZONA HB - 36-831

36-831. Burial duties; notification requirements; failure to perform duty; veterans; immunity; definitions

A. Except as provided pursuant to subsection I or J of this section, the duty of burying the body of or providing other funeral and disposition arrangements for a dead person devolves in the following order:

1. If the dead person was married, on the surviving spouse unless:

(a) The dead person was legally separated from the person's spouse.

(b) A petition for divorce or for legal separation from the dead person's spouse was filed before the person's death and remains pending at the time of death.

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

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

4. On the adult children of the dead person.

5. On the dead person's parent.

6. On the dead person's adult sibling.

7. On the dead person's adult grandchild.

8. On the dead person's grandparent.

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

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

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

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

ARIZONA HB - 36-831

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

B. During a person's life, the person's family members that are listed in subsection A of this section may sign a waiver of decision making that waives their rights under this section relating to the disposition of the person's body when the person dies.

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

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

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

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

ARIZONA HB - 36-831

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

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

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

1. For failing to honor the wishes of the decedent or the wishes of a person who has a higher priority in subsection A or C of this section if the person, corporation or agency of government was not aware, after reasonable inquiry, of the contrary wishes.
2. For refusing to follow conflicting directions of persons who have the same priority in subsection A of this section.
3. For following directions of a personal representative that are consistent with the written testamentary instructions of the decedent.

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

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

K. A person that possesses unclaimed cremated remains may release to the United States department of veterans affairs or a veterans' service organization verification information associated with the remains to verify whether the remains are of a veteran or a veteran's dependent eligible to be interred in a veterans' cemetery if the person has possessed the cremated remains for at least one year, a person described in subsection A of this section has not claimed

ARIZONA HB - 36-831

the cremated remains and the person made a reasonable effort to locate a relative of the decedent to claim the remains. If the person receives notice from the United States department of veterans affairs or a veterans' service organization that the unclaimed cremated remains are the remains of a veteran or a veteran's dependent eligible to be interred in a veterans' cemetery, the person may transfer the cremated remains to a veterans' service organization, which must ensure that the cremated remains are interred in a veterans' cemetery or transport the cremated remains to a veterans' cemetery for burial.

L. A person that releases verification information pursuant to subsection K of this section or that transfers cremated remains to a veterans' service organization or a veterans' cemetery pursuant to subsection K of this section is immune from civil liability for damages resulting from the release or transfer. A veterans' service organization that inters cremated remains in or transports cremated remains to a veterans' cemetery pursuant to subsection K of this section is immune from civil liability for damages arising from the interment.

M. For the purposes of this section:

1. "Person" includes a natural person, a corporation, a company, a partnership, a firm, an association, a society, the United States, this state, any territory, state or country, an Arizona federally recognized Native American tribe, any political subdivision of this state or a public or private corporation, a partnership or association or a veterans' service organization.
2. "Verification information" means data required by the United States department of veterans affairs to verify whether a person is a veteran or a veteran's dependent and is eligible for burial in a veterans' cemetery, including a copy of the person's death certificate and the person's name, service number, social security number, date of birth, date of death and place of birth.
3. "Veterans' service organization" means a veterans' organization that is chartered by the United States Congress, that is recognized by the United States department of veterans affairs or that qualifies as a charitable organization that is recognized under either section 501(c)(3) or 501(c)(19) of the internal revenue code and that is organized for the verification and burial of veterans and their dependents.

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