

SENATE JUDICIARY COMMITTEE
Senator Thomas Umberg, Chair
2025-2026 Regular Session

AB 2331 (Nguyen)
Version: March 16, 2026
Hearing Date: June 16, 2026
Fiscal: No
Urgency: No
AWM

SUBJECT

Cemeteries: removal of remains

DIGEST

This bill requires a superior court to grant an application for the removal of human remains, when the required consent from a family member cannot be obtained, if the application for permission establishes good cause for the removal.

EXECUTIVE SUMMARY

Current law provides that the remains of a deceased person may not, in most circumstances, be removed from a cemetery plot without either (1) consent of the cemetery authority and a qualified family member, or (2) an order from the superior court granting permission for the removal.

This bill requires a superior court to grant an application for the removal of human remains, when the required consent from a family member cannot be obtained, if the application for permission establishes good cause for the removal.

This bill is sponsored by the author. The Committee has not received timely opposition to this bill.

PROPOSED CHANGES TO THE LAW

Existing law:

- 1) Defines the following relevant terms:
 - a) "Human remains" or "remains" means the body of a deceased person, regardless of its stage of decomposition, and includes cremated, reduced, or hydrolyzed human remains. (Health & Saf. Code, § 7001.)
 - b) "Cemetery" means a burial park, a mausoleum, a crematory and columbarium, or a place where six or more human bodies are buried. (Health & Saf. Code, § 7003.)
 - c) "Cemetery authority" is the entity or person owning or controlling cemetery lands or property. (Health & Saf. Code, § 7018.)
 - d) "Lot," "plot," or "interment plot" means space in a cemetery used or intended to be used for the interment of human remains. (Health & Saf. Code, § 7022.)
- 2) Provides that the remains of a deceased person may be removed from a plot in a cemetery with the consent of the cemetery authority and the consent of one of the following, in the order named:
 - a) The surviving spouse.
 - b) The surviving children.
 - c) The surviving parents.
 - d) The surviving brothers or sisters. (Health & Saf. Code, § 7525.)
- 3) Provides that, if the required consent cannot be obtained under 2), permission by the superior court of the county where the cemetery is situated may be granted in lieu of consent. (Health & Saf. Code, § 7526.)
- 4) Requires notice of an application for permission under 3) to be given, at least 10 days prior thereto if by personal service, or at least 15 days prior thereto if by mail, to the cemetery authority and to the persons not consenting, and to every other person or association on whom service of notice may be required by the court. (Health & Saf. Code, § 7527.)
- 5) Provides that the requirement for consent or a court order does not apply in the following circumstances:
 - a) When the remains will be moved from one plot to another in the same cemetery, or the removal of remains is from a plot for which the purchase price is past due and unpaid, and the remains will be moved to another suitable place within the same cemetery.
 - b) When the disinterment is ordered by the court or coroner. (Health & Saf. Code, § 7528.)

This bill requires a court to grant an application to move remains from a plot in a cemetery, when consent cannot be obtained, upon a showing of good cause.

COMMENTS

1. Author's comment

AB 2331 is about making sure families are treated fairly and consistently when they have to go to court to move a loved one's remains. Current law does not clearly define what standard courts should apply in these situations, which can lead to different outcomes in similar cases and leaves families navigating an uncertain process during an already difficult time. Sometimes families lose contact with a loved one, and when that person passes, it can be difficult to bring them back to be buried with family. This bill addresses that gap by establishing a clear standard, ensuring that when good cause is shown, the court should grant the application.

2. Background on the requirements for the removal of human remains from a cemetery plot

Once a dead person's remains have been interred — e.g., in a burial plot or columbarium — the remains cannot be removed except in narrow circumstances.¹ Relevant to this bill is the process permitting a person to be removed from a plot in a cemetery with consent or a court order.

In the event a person (such as a family member) wishes to have a deceased person's remains removed from a cemetery plot and moved to a different cemetery, they must first attempt to obtain the consent of two parties: the cemetery authority where the person is interred, and the deceased person's family member.² The statute establishes an order of family members who may provide consent: the surviving spouse; the surviving children; the surviving parents; and the surviving brothers and sisters.³ If the person who wishes to disinter the remains is the family member with consent priority, they do not need to obtain consent from an additional family member, and the only issue is whether the cemetery consents.

If the requisite cemetery and family consent cannot be obtained — because the cemetery does not consent, because a family member does not consent, or because no qualified family member can be located — the person wishing to disinter the remains can apply to

¹ See generally Health & Saf. Code, div. 7, pt. 2, §§ 7500 et seq.

² *Id.*, § 7525.

³ *Ibid.* Although the statute is not entirely clear, the intent appears to be that, if a person higher up on the list refuses to grant consent to the removal, a person lower on the list cannot override those wishes — for example, if a son wants to remove his deceased father's remains, but the widow of the deceased refuses, the son's consent does not satisfy the statutory requirement.

the superior court of the county in which the cemetery is located for permission to disinter the remains.⁴ The applicant must serve the cemetery authority and any qualified family members who declined to consent with notice of the application; the court may also order the applicant to serve notice on other parties whom the court believes should be notified of the proceeding.⁵

The statutes provide no guidance on how a court should consider an application to remove remains.⁶ The handful of Court of Appeal cases have considered the issue since the statutes' enactment in 1939⁷ have determined that each application "must be decided on its own merits based on the particular circumstances involved," subject to the "well-established presumption against removing the remains of a dead person, i.e., against disturbing the repose of the dead." ⁸ The court's decision is an equitable one, giving the court broad discretion to determine whether the equities favor disinterment.⁹ "[P]rimary importance is given to the wishes of the deceased," but the court may also consider the interests of the public, the wishes of any family members or others with a relationship to the deceased, the religious beliefs of the decedent, if any, and the amount of time that has passed since the interment.¹⁰

3. This bill states that a court shall grant an application for the removal of human remains from a cemetery plot if there is good cause to do so

In order to provide additional guidance to the courts when considering an application for permission to remove a body from a cemetery plot, this bill specifies that a court must grant an application for permission if the application establishes good cause for the removal. According to the author, the goal of the bill is not to require a court to grant an application as a matter of course where there are conflicting interests at stake, such as where the cemetery objects to the disinterment; but instead to establish that, if there is good cause for removal and the cemetery does not object, the court should not unilaterally overrule the applicant's showing of good cause.

The Committee has not received timely opposition to this bill.

⁴ *Id.*, § 7526.

⁵ *Id.*, § 7527.

⁶ *Id.*, §§ 7525-7528.

⁷ Ch. 60, Stats. 1939.

⁸ *Maffei v. Woodlawn Memorial Park* (2005) 130 Cal.Ct.App.4th 119, 125.

⁹ *Estate of Jimenez* (1997) 56 Cal.App.4th 733, 739.

¹⁰ *Ibid.* (internal quotation marks omitted).

SUPPORT

None received

OPPOSITION

None received

RELATED LEGISLATION

Pending legislation: AB 2542 (Patterson, 2026) modifies the right of control of the disposition of human remains to prohibit a relative otherwise entitled to take control from doing so if the deceased person had a restraining order against the relative for domestic violence at the time of death, or if the person with the right of control is the parent of the deceased and granting disposition rights would be contrary to the best interest of the decedent, as defined. AB 2542 is pending before this Committee.

Prior legislation: None known.

PRIOR VOTES

Assembly Floor (Ayes 68, Noes 0)
Assembly Judiciary Committee (Ayes 12, Noes 0)
