

SENATE RULES COMMITTEE

Office of Senate Floor Analyses

(916) 651-4171

AB 2542

THIRD READING

Bill No: AB 2542
Author: Patterson (R)
Amended: 6/25/26 in Senate
Vote: 21

SENATE JUDICIARY COMMITTEE: 13-0, 6/23/26

AYES: Umberg, Niello, Allen, Ashby, Caballero, Durazo, Laird, Reyes, Stern,
Valladares, Wahab, Weber Pierson, Wiener

ASSEMBLY FLOOR: 74-0, 4/23/26 (Consent) - See last page for vote

SUBJECT: Human remains: disposition

SOURCE: Author

DIGEST: This bill prohibits the right to control the disposition of the remains of a deceased person, when the deceased person did not specifically provide for the right of control in advance, from passing to a person in the statutory order of precedence when the funeral director or cemetery authority knows either (1) that the person was subject to a restraining order for domestic violence against the decedent, or (2) specified legal documentation establishes that granting the right of control to that person would have been contrary to the decedent's best interests.

ANALYSIS:

Existing law:

- 1) Provides that, when a decedent, prior to death, directed, in writing, for the disposition of their remains, the location and conditions of interment, and/or for the arrangements for funeral goods and services to be provided, those instructions must be followed to the extent the decedent provided for the cost of the directed disposition. (Health & Safety (Saf.) Code, §§ 7011 & 7100.1.)

- 2) Provides that, when a decedent did not provide for the disposition of their remains, the right to control the disposition of the remains, the location and conditions of interment, and for the arrangements for funeral goods and services to be provided (collectively, the “right of control”) devolves upon the following persons in the order listed:
- a) An agent under a power of attorney for health care who has the right and duty of disposition under the Probate Code, as specified.
 - b) The decedent’s competent surviving spouse.
 - c) The decedent’s competent surviving adult child; if there is more than one surviving competent adult child, then to a majority of the competent adult children, as specified.
 - d) The decedent’s surviving parent or parents; if one surviving competent parent is absent, the remaining competent parent shall be vested with the rights if, after reasonable efforts to locate the absent parent, they have been unable to do so.
 - e) The decedent’s surviving competent adult sibling or, if there is more than one surviving competent adult sibling, to the majority of the competent adult siblings, as specified.
 - f) The surviving competent adult persons respectively in the next degrees of kinship or, if there is more than one such competent adult person at the same degree of kinship, to a majority of those persons, as specified.
 - g) A conservator of the person appointed pursuant to the Probate Code, when the decedent has sufficient assets.
 - h) A conservator of the estate appointed pursuant to the Probate Code, when the decedent has sufficient assets.
 - i) The public administrator, when the decedent has sufficient assets. (Health & Saf. Code, § 7100(a).)
- 3) Provides that, if a person to whom the right of control has vested pursuant to 2) has been charged with first- or second-degree murder of voluntary manslaughter in connection with the decedent’s death and those charges are known to the funeral director or cemetery authority, the right of control is relinquished and passed on to the next of kin in the order established in 2).

- a) If the charges against the person are dropped, or if the person is acquitted of the charges, the right of control is returned to that person.
 - b) For purposes of the right to control, a person who has been charged with first- or second-degree murder or voluntary manslaughter in connection with the decedent's death, when the funeral director or cemetery authority knows about the charges, shall be treated as if they did not exist, unless and until the charges are dropped or the person is acquitted. (Health & Saf. Code, § 7100(b).)
- 4) Provides that the funeral director or cemetery authority has absolute authority to control the disposition of the remains and to recover usual and customary charges for the disposition when (1) no person in 2) is known or can be found after a reasonable inquiry, and (2) the public administrator fails to assume responsibility for disposition of the remains within seven days after receiving written notice of the facts. (Health & Saf. Code, § 7100(c).)
- 5) Provides that a funeral director or cemetery authority shall not be liable to any person or persons for carrying out the instructions of the decedent or the person entitled to control the disposition. (Health & Saf. Code, § 7100(f).)

This bill:

- 1) Establishes Marissa's Law.
- 2) Provides that, if the funeral director or cemetery authority knows that either of the following conditions are met with respect to the person with the statutory right to control the disposition of remains, the right of control is relinquished and passed onto the next of kin in the statutory order:
 - a) The person with right of control was subject to a restraining order for domestic violence against the deceased at the time of the decedent's death.
 - b) Either of the following evidences that vesting the right to control that the person with right of control would have been contrary to the decedent's best wishes:
 - i. A court order, court finding, or other court documentation.
 - ii. A will, agreement, or other legally determinative document.
- 3) Provides funeral director or cemetery authority shall not:
 - a) Be held criminally or civilly liable for a determination made pursuant to 2).

- b) Be subject to disciplinary action for a determination made pursuant to 2).
- 4) Makes nonsubstantive technical and conforming changes.

Comments

If a person did not specify their wishes for the disposition of their remains after their death, the person who assumes the right to control the disposition of remains is determined by statute. The relevant statute sets forth the order of precedence in which the right to control the decedent's remains is granted, beginning with the decedent's power of attorney, then their surviving spouse, if any, and then down through a specified list of family members. Current law provides that, if the person who would otherwise be granted the right of disposition has been charged with, or convicted of, the murder or manslaughter of the decedent, they are skipped over and the right goes to the next person in the order of precedence.

This bill adds additional circumstances in which the right of control over the disposition of a decedent's remains must be revoked from the person who would otherwise take statutory precedence. Under this bill, a person loses their right of control when the funeral director or cemetery authority knows either: (1) that the person with right of control was subject to a restraining order for domestic violence against the deceased at the time of the decedent's death; or (2) that evidence indicates that vesting the right of control in that person would have been contrary to the decedent's best interests. Evidence satisfies (2) if it is in the form of a court order, court finding, or other court documentation, or a will, agreement, or other legally determinative document. The bill provides that a funeral director or cemetery authority cannot be civilly or criminally liable, or suffer disciplinary action, as a result of a determination under this bill.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: No

The Senate Appropriations Committee passed this bill pursuant to Senate Rule 28.8.

SUPPORT: (Verified 8/3/26)

California Baptist Capitol Ministry
California District Attorneys Association
California Funeral Directors' Association

OPPOSITION: (Verified 8/3/26)

None received

ARGUMENTS IN SUPPORT: According to the California Funeral Directors' Association:

Current law grants control of a deceased person's remains to that person's health care power of attorney, then moves to next of kin if an agent has not been appointed. Our Association sponsored the legislation that put in place "a line of consanguinity that determines who is in control of the remains." A person's right of control could be revoked if they are charged with certain crimes in connection to the decedent's death.

AB 2542 rectifies this issue by granting a funeral director or cemetery authority the power to release a deceased person's remains to the next qualified person when they know that the person with the right of control was subject to a restraining order for domestic violence against the deceased or qualified documents show that giving that person control would have been contrary to the decedent's best interests.

With this added responsibility, the bill offers the funeral industry critical protections by shielding funeral directors and cemetery authorities from civil or criminal liability, and from license discipline, for any determination they make under these provisions. This allows funeral directors to make the right choices without the fear of repercussions.

ASSEMBLY FLOOR: 74-0, 4/23/26

AYES: Aguiar-Curry, Ahrens, Alanis, Alvarez, Arambula, Ávila Farías, Bains, Bauer-Kahan, Bennett, Berman, Boerner, Bonta, Bryan, Calderon, Caloza, Carrillo, Castillo, Chen, Connolly, Davies, DeMaio, Dixon, Elhawary, Ellis, Flora, Fong, Gabriel, Gallagher, Garcia, Gipson, Jeff Gonzalez, Mark González, Haney, Harabedian, Hart, Hoover, Irwin, Jackson, Johnson, Kalra, Krell, Lackey, Lee, Lowenthal, Macedo, McKinnor, Muratsuchi, Nguyen, Ortega, Pacheco, Papan, Patel, Patterson, Pellerin, Petrie-Norris, Quirk-Silva, Ramos, Ransom, Michelle Rodriguez, Rogers, Blanca Rubio, Sanchez, Schiavo, Schultz, Solache, Stefani, Ta, Tangipa, Valencia, Wallis, Ward, Wilson, Zbur, Rivas
NO VOTE RECORDED: Addis, Hadwick, Celeste Rodriguez, Sharp-Collins, Soria, Wicks

Prepared by: Allison Whitt Meredith / JUD. / (916) 651-4113
8/6/26 11:47:17

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