

Department of Legislative Services  
Maryland General Assembly  
2015 Session

FISCAL AND POLICY NOTE  
Revised

Senate Bill 433

(Senator Peters, *et al.*)

Finance and Education, Health, and  
Environmental Affairs

Health and Government Operations

---

Funeral Establishments and Crematories - Unclaimed Cremains of Veterans -  
Disposition

---

This bill establishes a process for identifying whether unclaimed cremains are those of a veteran or an eligible dependent for the purpose of disposition of the cremains, including exemption from civil liability for specified persons acting in good faith.

---

Fiscal Summary

**State Effect:** General, special, and federal fund expenditures by the Department of Veterans Affairs (MDVA) increase beginning in FY 2016 for costs associated with the disposition of cremains. These costs are estimated to be allocated 40% general funds, 20% special funds, and 40% federal funds, but the total amount cannot be reliably estimated at this time. Federal fund revenues increase only to the extent that the dispositions are of veteran cremains, but the amount cannot be reliably estimated at this time.

**Local Effect:** None.

**Small Business Effect:** Meaningful for funeral homes and crematories.

---

Analysis

**Bill Summary:** “Eligible dependent” means a veteran’s spouse, unmarried child younger than age 21, or a veteran’s unmarried adult child who before the age of 21 became permanently incapable of self-support because of physical or mental disability.

“Identifying information” means data required by a veterans service organization to verify the eligibility of a veteran or an eligible dependent for burial in a national or State veterans cemetery, including name, service number, Social Security number, date of birth, date of death, place of birth, and copy of the death certificate.

“Veterans service organization” means an association or other entity organized for the benefit of veterans that has been recognized by the U.S. Department of Veterans Affairs or chartered by the U.S. Congress and any employee or representative of the association or entity.

If a licensed funeral establishment or a crematory is in possession of cremated human remains that have been unclaimed for 90 days or more, the licensed funeral establishment or a crematory must provide identifying information of the unclaimed cremains to a veterans service organization in order for the veterans service organization to determine if the unclaimed cremains are those of a veteran or an eligible dependent. This requirement applies to all unclaimed cremains.

Within 45 days of receipt of the information, a veterans service organization must notify the licensed funeral establishment or crematory whether the cremains are those of a veteran or eligible dependent and, if so, whether the veteran or eligible dependent is eligible for burial in a veterans cemetery. If the unclaimed cremains are those of a veteran or an eligible dependent, the licensed funeral establishment or permit holder may transfer the cremains to a veterans service organization for the purpose of disposition of the cremains.

A licensed funeral establishment or holder of a permit to engage in the business of operating a crematory who acts in good faith is not civilly liable for transferring the unclaimed cremated remains of a veteran or an eligible dependent of a veteran to a veterans service organization for purposes of disposition. A veterans service organization that acts in good faith is not civilly liable for receiving the unclaimed cremated remains of a veteran or an eligible dependent of a veteran for purposes of disposition.

**Current Law:** In general, a person may not cremate a body until it has been identified by (1) the next of kin; (2) a person who is authorized to arrange for final disposition of the body; or (3) a medical examiner. A licensee or permit holder must maintain a complete file of a cremation that includes the signature of the next of kin, person identifying the body or person responsible for disposition, time of death, and the date and time of cremation.

The State Anatomy Board administers the State’s body donor program and has jurisdiction over all unclaimed dead bodies in the State. All bodies unclaimed after 72 hours go to the anatomy board. “Body” is defined as a dead human body. No reference in statute is made specifically including or excluding cremains.

**Background:** The regulation of crematories in the State is shared between the Office of Cemetery Oversight in the Department of Labor, Licensing, and Regulation and the State Board of Morticians and Funeral Directors in the Department of Health and Mental Hygiene. A crematory is regulated either by the office or the board based on the crematory's ownership. The office and the board regulate facilities in which their registrants, permit holders, or licensees hold the majority of ownership. Independent or free-standing crematories are subject to the jurisdiction of the office.

Thousands of cremations are performed in Maryland each year. The State Anatomy Board advises that there are approximately 1,000 unclaimed cremains in the possession of funeral homes or crematories in the State (the majority are in funeral homes). The percentage of the cremains that are veterans or eligible dependents is unknown at this time. MDVA advises that it performs approximately 3,200 interments and inurnments each year.

The Missing in America Project is a nonprofit organization founded in 2007 to locate, identify, and inter the unclaimed cremains of American veterans. The organization works with volunteer service and veterans organizations, local funeral homes, state funeral commissions/boards, state and national veterans agencies, and state and national veterans cemetery administrations. The organization has visited approximately 1,700 funeral homes and found 10,589 unclaimed cremains, of which 2,514 were veterans. Most (2,298) have since been interred.

**State Fiscal Effect:** As noted above, the State Anatomy Board advises (and MDVA also agrees) that there are approximately 1,000 unclaimed cremains in the possession of funeral homes or crematories in the State. The bill requires each licensed funeral establishment and holder of a permit to operate a crematory to provide identifying information to a veterans service organization of cremains that have been unclaimed for 90 days or more. As the total number of unclaimed cremains has built up over many years, it is likely that nearly the entirety of unclaimed cremains are affected by this requirement. Therefore, beginning on the bill's effective date, a large amount of identifying information is likely sent to a veterans service organization. Following this initial period, the volume of notifications is anticipated to decrease to a level reflective of ongoing notification by funeral homes and crematories.

The Veterans Cemetery Program at MDVA operates and maintains five veterans' cemeteries to provide interment for eligible Maryland veterans and their dependents. Through the program, MDVA assists individuals in establishing burial eligibility, provides burial services, and performs perpetual care of the burial areas and surrounding grounds, buildings, and roads. On an ongoing basis, MDVA believes the bill may result in a slight increase (1% to 2%) in the total number of interments and inurnments performed by the agency each year.

For disposition of veteran cremains, MDVA advises that it receives a federal reimbursement of \$750, which covers approximately half of the cost. For disposition of cremains of eligible dependents, MDVA charges \$400 (typically to the family of the deceased), and there is no federal reimbursement. Therefore, federal fund revenues increase only to the extent that the inurnments are of veteran cremains. As the bill affects only unclaimed cremains, it is likely that MDVA does not receive compensation for inurnment of eligible dependents. The amounts cannot reliably be estimated at this time. *For illustrative purposes only*, assuming 10% of the current unclaimed cremains are those of veterans, federal fund revenues increase by \$75,000 in fiscal 2016.

The Department of Legislative Services notes that, ultimately, the bill accelerates the revenues and expenditures associated with the disposition of veteran cremains. As the bill does not change eligibility requirements, the unclaimed veteran and eligible dependent cremains in funeral homes and crematories have been and remain entitled to disposition in a military cemetery.

**Small Business Effect:** Funeral homes and crematories are generally small businesses and are affected by the bill's requirement to forward information on unclaimed cremains to a veterans service organization. Initially, this may be an extensive administrative task, depending on the number of unclaimed cremains at each establishment. These businesses also benefit from the bill to the extent that it reduces the number of unclaimed cremains retained on their premises.

---

### Additional Information

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Department of Veterans Affairs; Department of Health and Mental Hygiene; Judiciary (Administrative Office of the Courts); Department of Labor, Licensing, and Regulation; Missing in America Project; Department of Legislative Services

**Fiscal Note History:** First Reader - March 4, 2015  
mar/mcr Revised - Senate Third Reader/Clarification - March 30, 2015  
Revised - Enrolled Bill - May 11, 2015

---

Analysis by: Stephen M. Ross

Direct Inquiries to:  
(410) 946-5510  
(301) 970-5510