

State of Arizona  
House of Representatives  
Forty-eighth Legislature  
First Regular Session  
2007

## **HB 2599**

Introduced by  
Representatives Garcia M, Bradley, Hershberger: Alvarez, Cajero Bedford,  
Campbell CL, Lopez, Lujan, McGuire, Miranda B, Rios P, Schapira

AN ACT

AMENDING SECTIONS 36-327 AND 36-831, ARIZONA REVISED STATUTES; RELATING TO  
HUMAN REMAINS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 36-327, Arizona Revised Statutes, is amended to  
3 read:

4 36-327. Disinterment-reinterment permit

5 A. Except as otherwise provided by law, a disinterment-reinterment  
6 permit is required before a person disinters human remains. The state  
7 registrar shall provide a permit to disinter human remains either by a court  
8 order issued in this state or by the written consent of the decedent's family  
9 member who has the highest priority. The priority is as follows:

10 1. Spouse of the decedent at the time of death.

11 2. All adult offspring **IF AT THE TIME OF DEATH EITHER:**

12 (a) **THE DECEDENT HAD NO SURVIVING SPOUSE.**

13 (b) **THE DECEDENT WAS LEGALLY SEPARATED FROM THE DECEDENT'S SPOUSE.**

14 (c) **A PETITION FOR DIVORCE OR FOR LEGAL SEPARATION FROM THE DECEDENT'S**  
15 **SPOUSE WAS PENDING.**

16 3. Parents.

17 4. All adult siblings.

18 5. Any other family member of legal age.

19 B. A disinterment-reinterment permit is not required if disinterment  
20 and reinterment ~~occurs~~ **OCCUR** in the same cemetery for ordinary relocation or  
21 for reasons of internal management of the cemetery.

22 Sec. 2. Section 36-831, Arizona Revised Statutes, is amended to read:

23 36-831. Burial duties; notification requirements; failure to  
24 perform duty; definitions

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

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

29 2. If the dead person was a minor, on the parents.

30 3. ~~If the dead person has no surviving spouse,~~ On the adult children  
31 of the dead person **IF EITHER:**

32 (a) **THE DEAD PERSON HAD NO SURVIVING SPOUSE.**

33 (b) **THE DEAD PERSON WAS LEGALLY SEPARATED FROM THE DEAD PERSON'S**  
34 **SPOUSE.**

35 (c) **A PETITION FOR DIVORCE OR FOR LEGAL SEPARATION FROM THE DEAD**  
36 **PERSON'S SPOUSE WAS PENDING AT THE TIME OF DEATH.**

37 4. If none of the persons named in paragraphs 1, 2 and 3 of this  
38 subsection are financially capable of providing for the burial or other  
39 funeral and disposition arrangements, or cannot be located on reasonable  
40 inquiry, on any person or fraternal, charitable or religious organization  
41 willing to assume responsibility.

42 B. If none of the persons named in subsection A of this section is  
43 willing or financially able to bury or provide other funeral and disposition  
44 arrangements for a dead person, or if the person cannot be located after  
45 reasonable efforts have been made to do so, the county in which death occurs

1 shall bury or place in a permanent care crypt the dead body or cremated  
2 remains of a dead body. If the decedent is known to be an honorably  
3 discharged veteran or the surviving spouse of an honorably discharged  
4 veteran, the county shall notify the veterans' administration or a local  
5 veteran's organization, or both, of the death and give that organization the  
6 opportunity to provide for the person's burial or for other funeral and  
7 disposition arrangements. If the organization is unable to provide for the  
8 burial of the veteran or the surviving spouse, the county shall ensure that  
9 the decedent is properly interred and that burial is made in a veterans'  
10 cemetery or a portion of a cemetery that is designated for the burial of  
11 veterans and spouses of veterans.

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

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

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

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

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

- 44 1. For failing to honor the wishes of the decedent or the wishes of a  
45 person having a higher priority in subsection A or B of this section if the

1 person, corporation or agency of government was not aware, after reasonable  
2 inquiry, of the contrary wishes.

3 2. For refusing to follow conflicting directions of persons having the  
4 same priority in subsection A of this section.

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

7 G. The duty to bury or to provide other funeral and disposition  
8 arrangements devolves to the next person in the order prescribed pursuant to  
9 subsection A of this section if the person who is otherwise responsible for  
10 performing this duty is charged with the criminal death of the person to whom  
11 the duty is owed. The person who performs this duty may recover costs as  
12 prescribed in subsection D of this section. If the charges against the  
13 person on whom this duty originally fell are subsequently dismissed or are  
14 resolved in that person's favor on the merits, the person is responsible for  
15 only the actual costs.

16 H. For the purposes of this section, "person" includes a natural  
17 person, a corporation, a company, a partnership, a firm, an association, a  
18 society, the United States, this state, any territory, state or country, an  
19 Arizona federally recognized Native American tribe, any political subdivision  
20 of this state or a public or private corporation or partnership or  
21 association.

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