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BILL ANALYSIS

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Senate Bill 508 (as enrolled)
Senate Bill 511 (as enrolled)
Sponsor: Senator Alan Sanborn (S.B. 508)
Senator Jud Gilbert, II (S.B. 511)
Senate Committee: Judiciary
House Committee: Criminal Justice

PUBLIC ACT 268 of 2003

PUBLIC ACT 267 of 2003

Date Completed: 4-30-04

CONTENT

Senate Bills 508 and 511 amended the Code of Criminal Procedure and the Michigan Penal Code, respectively, to prohibit and establish criminal penalties for failure or refusal to supervise properly the "final disposition of a dead human body" or to dispose properly of a dead human body, after agreeing to provide those services; and to establish sentencing guidelines for a felony violation. Senate Bill 508 was tie-barred to Senate Bill 511. The bills took effect on April 1, 2004.

Under Senate Bill 511, "final disposition of a dead human body" means cremation, burial, entombment, or other method of final disposition of a dead human body allowable under law.

Senate Bill 508

The bill amended the Code of Criminal Procedure to include in the sentencing guidelines improper disposal of a dead human body after more than 180 days. The offense is a Class D felony against the public order, with a statutory maximum sentence of 10 years' imprisonment.

Senate Bill 511

The bill amended the Penal Code to prohibit a person from doing either of the following:

-- Failing or refusing to supervise properly the final disposition of a dead human

body, after agreeing to provide funeral director services.

-- Failing or refusing to dispose properly of the dead human body, after agreeing to provide for the final disposition of a dead human body.

If the violation occurs more than 60 days but not more than 180 days after the date the person takes possession of the dead human body, it is a misdemeanor punishable by up to 90 days' imprisonment, a maximum fine of \$10,000, or both. If the violation occurs more than 180 days after the person takes possession of the dead human body, it is a felony punishable by up to 10 years' imprisonment, a maximum fine of \$50,000, or both.

It is not a violation of the bill if the failure or refusal is due to one or more of the following factors:

- Delays due to seasonal factors relating to the method of final disposition of the body.
- Delays due to the availability of services required to complete final disposition of the body.
- The directives of the person having lawful authority over final disposition to postpone that disposition pending funeral services, the presence of certain family members, or other activities.
- Delays due to the inability to obtain the necessary authorizations regarding the method of final disposition of the body or due to the inability to locate individuals

- essential to making a decision regarding the final disposition.
- Delays due to an autopsy, investigation of the cause of death, the gathering of evidence, or other activity or procedure required by a governmental or law enforcement agency.
- Delays pursuant to a court order issued upon petition and showing of good cause for a delay in the final disposition of the body.

The bill specifies that it does not prohibit a person from being charged with, convicted of, or punished for any other violation of law committed by that person while violating the bill.

MCL 777.16i (S.B. 508)
750.160c (S.B. 511)

BACKGROUND

In February 2002, hundreds of decomposing human bodies were discovered on and near the grounds of the Tri-State Crematory in Georgia. The crematory's proprietor apparently had not cremated bodies delivered for that purpose in the months or years leading up to the discovery of the bodies. The deceaseds' survivors reportedly had been given urns that contained wood chips or cement mix. Georgia law evidently did not include penalties for improper disposal of human remains that were considered adequate for such an offense, and the crematory's operator was charged instead with theft by deception for allegedly taking payment for cremations not performed.

In Michigan, privately owned cemeteries are regulated by the State under the Cemetery Regulation Act, but cemeteries owned and operated by churches or local governments do not fall under that regulation. In addition, there typically are no routine State inspections of cemetery facilities. Instead, the regulatory function is a complaint-driven system. While a violation of the Cemetery Regulation Act is a misdemeanor punishable by up to 90 days' imprisonment and/or a maximum \$100 fine, Michigan law apparently did not contain specific criminal penalties for the improper disposition of a human body.

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The bills will have an indeterminate fiscal impact on State and local government. There are no data to indicate how many offenders will be convicted of the new offense. Local units of government will incur the cost of misdemeanor probation and the cost of incarceration in a local facility, both of which vary by county. The felony offense is a Class D felony with a recommended minimum sentence range from 0-6 months to 43-76 months. The State will incur the costs of felony probation at an average annual cost of \$1,800, as well as the cost of incarceration in a State facility at an average annual cost of \$28,000. For each offender convicted, sentenced to prison, and given the longest allowable minimum sentence of 80 months, it will cost the State \$180,000.

Fiscal Analyst: Bethany Wicksall

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.