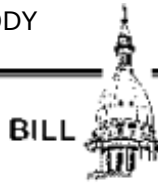




Senate Fiscal Agency  
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BILL ANALYSIS

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Senate Bill 1244 (as enrolled)  
Sponsor: Senator Alan L. Cropsey  
Senate Committee: Judiciary  
House Committee: Judiciary

**PUBLIC ACT 343 of 2004**

Date Completed: 1-27-05

**RATIONALE**

Funeral directors and cemetery operators reportedly have been unsure of their authority and responsibility in disposing of the remains of a person who dies without a will, heirs, or sufficient assets to pay for funeral services or burial or cremation. Under the Public Health Code and Executive Reorganization Order (ERO) 1997-4, in the absence of any known relative of the deceased or a special administrator of the deceased's estate appointed by the probate court, unclaimed bodies become available to the Director of the Department of Community Health for allocation to hospital and educational institutions for use in medical instruction and health sciences education. Apparently, however, these institutions no longer need unclaimed bodies. In addition, probate judges evidently were unclear about their authority to direct the disposition of the remains because the Estates and Protected Individuals Code (EPIC) did not address this situation.

Under the Code, the court may appoint a special personal representative when necessary to preserve an estate or provide for its proper administration. It was suggested that EPIC also authorize the court to appoint a special personal representative to supervise disposition in the type of case described above.

**CONTENT**

The bill amended the Estates and Protected Individuals Code to allow a court, on its own motion or on petition by an interested person, to appoint a special personal representative to supervise the disposition of the body of a decedent who died intestate (i.e., without a will), without heirs, and with

insufficient assets to pay for a funeral or burial. The duties of a special personal representative appointed under the bill must be specified in the appointment order and may include any of the following:

- Making arrangements with a funeral home.
- Securing a burial plot, if needed.
- Obtaining veteran's or pauper's funding where appropriate.
- Determining the disposition of the body by burial or cremation.

The court may appoint the county public administrator, if he or she is willing to serve.

Under EPIC, an appointed special representative generally is required to post a bond. The court may waive the bond requirement, however, for a special personal representative appointed under the bill.

The bill took effect on September 29, 2004.

(A personal representative typically is a person responsible for administering the estate of a decedent. The Code states that "personal representative" includes, but is not limited to, an executor, administrator, successor personal representative, and special personal representative, and any other person who performs substantially the same function under the law governing that person's status.

"Interested person" includes, but is not limited to, an heir, devisee, child, spouse, creditor, and beneficiary, and any other person who has a property right in or claim against an estate; a person who has priority for appointment as personal representative; and a fiduciary representing an interested

person. The Code states that identification of an interested person may vary from time to time and must be determined according to the particular purposes of, and matter involved in, a proceeding, and by the Supreme Court rules.)

MCL 700.3614

## **ARGUMENTS**

*(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)*

### **Supporting Argument**

The bill addressed a confusing situation in which no one had clear authority to dispose of the remains of a person who died without a will, heirs, or sufficient assets to pay for a funeral or burial. By authorizing the court to appoint a special personal representative to oversee the disposition of the remains, the bill provides a solution to this predicament.

Legislative Analyst: Patrick Affholter

## **FISCAL IMPACT**

The bill will have no fiscal impact on State or local government.

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.