

# Legislative Analysis



## FUNERAL AND DISPOSITION DECISIONS

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**House Bill 5117 as introduced**  
**Sponsor: Rep. Rodney Wakeman**  
**Committee: Judiciary**  
**Complete to 11-8-21**

Analysis available at  
<http://www.legislature.mi.gov>

### SUMMARY:

House Bill 5117 would amend the Estates and Protected Individuals Code (EPIC) to provide that the right and power of a person with priority to make funeral arrangements and decide a decedent's final disposition would pass to another, in the order of priority established in statute, if he or she fails to authorize final disposition within seven days. The bill also would provide that a good-faith attempt to locate a person with priority to make those decisions is sufficient if made by a health facility or veteran's facility that provided medical treatment to the decedent immediately before his or her death.

**EPIC** establishes an order of priority for individuals who have the right and power to make decisions about funeral arrangements and the handling, disposition, or disinterment of a decedent's body. (See **Background**, below.) If the individual or individuals with the highest priority cannot be located after a good-faith effort to contact and inform them of the decedent's death, if they decline to exercise their rights and powers, or if they fail to exercise their rights and powers within 48 hours after receiving notification of the decedent's death, those rights and powers pass to the individual or individuals in the same order of priority (e.g., a different sibling or grandparent). If those individuals similarly decline or fail to exercise the rights and powers, the rights and powers pass to the next order of priority.

**The bill** would provide that, if the individual or individuals with the highest priority do exercise their rights and powers but fail to authorize final disposition of the decedent's body within seven days after notification of the decedent's death, the rights and powers may be exercised by the individual or individuals in the same order of priority. If they also fail to authorize final disposition of the body within seven days, those in the next order of priority could exercise their rights and powers to make the decisions as to funeral arrangements and final disposition.

In addition, an attempt to locate a person with the highest priority is sufficient under EPIC if a reasonable attempt is made in good faith by a family member, personal representative, or nominated personal representative of the decedent at the person's last known address, telephone number, or email address. The bill would add that a reasonable attempt made in good faith by a health facility or veteran's facility that provided medical treatment to the decedent during the final illness or immediately before his or her death is also sufficient.

MCL 700.3206

## **BACKGROUND:**

EPIC provides that the following, in the following order of priority, are presumed to have the right and power to make decisions about funeral arrangements and the handling, disposition, or disinterment of a decedent's body, and the right to retrieve and possess the decedent's cremated remains immediately after cremation:

- If the decedent was a service member at the time of death, a person designated to direct the disposition of the service member's remains according to a federal statute or a regulation, policy, directive, or instruction of the United States Department of Defense.
- A funeral representative designated under EPIC.
- The surviving spouse.
- The individual or individuals 18 years of age or older in the following order of priority:
  - The decedent's children.
  - The decedent's grandchildren.
  - The decedent's parents.
  - The decedent's grandparents.
  - The decedent's siblings.
  - A descendant of the decedent's parents who first notifies the funeral establishment in possession of the body of the descendant's decision to exercise his or her rights.

If any of these had the right to dispose of the decedent's body, but declined to exercise his or her right or failed to do so within 48 hours after receiving notification of the decedent's death, the individual does not have the right to make a decision about the disinterment of the decedent's body or possession of the decedent's cremated remains.

## **FISCAL IMPACT:**

The bill would have no fiscal impact on the state or on local units of government.

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