



**House  
Legislative  
Analysis  
Section**

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**CRIMES: FAILURE TO PROPERLY  
DISPOSE OF HUMAN BODY**

**Senate Bill 508 (Substitute H-1)  
Sponsor: Sen. Alan Sanborn**

**Senate Bill 511 (Substitute H-1)  
Sponsor: Sen. Jud Gilbert, II**

**First Analysis (12-16-03)**

**House Committee: Criminal Justice  
Senate Committee: Judiciary**

***THE APPARENT PROBLEM:***

In February of 2002, the nation was stunned upon the discovery of approximately 300 bodies in the buildings and woods surrounding a Georgia crematory. Family members had been given urns filled with burned wood chips or cement mix instead of the cremains of their loved ones. In addition to the health and environmental issues created by the actions of the crematory operator, his actions caused great emotional distress to surviving relatives and friends. Yet, the county prosecutor found that his state's laws were woefully inadequate to properly punish the operator. The crematory operator was eventually charged with several counts of fraud by deception.

Some believe that Michigan's laws are also inadequate to appropriately prosecute a person if the same or a similar event should happen here. In Michigan, crematories are included in the definition of a cemetery and must form a corporation. Act 58 of 1915, which provides for the incorporation of cremation companies, does not contain penalties for the improper disposal of dead human bodies. The cemetery act, Act 251 of 1968, does allow a cemetery's permit or registration to be revoked and does make a violation of the act a misdemeanor punishable by 90 days in jail or a \$100 fine for a first offense, but it does not specifically speak to the improper disposal of a dead body. And, the cemetery act does not apply to a cemetery owned and operated by a municipality, church, or religious institution. The penal code does, however, make it a ten-year felony to unlawfully dig up a body or mutilate, deface, remove, or carry away a dead body – whether that dead body was in a person's charge for burial or otherwise.

Nonetheless, many feel that the law should specifically speak to the actions of funeral directors and cemetery or crematory operators who fail to do their duties in regards to properly disposing of the bodies of the deceased. Legislation is being offered to specifically criminalize the failure on the part of funeral directors to properly supervise the final disposition of a body and the failure of cemetery or crematory operators to improperly dispose of a dead body.

***THE CONTENT OF THE BILLS:***

The bills would create a new crime category related to the failure to properly supervise the final disposition of a dead body or the proper disposal of a dead body on the part of funeral directors and operators of cemeteries or crematories and place the felony penalty in the corresponding sentencing guidelines portion of law. The bills would take effect April 1, 2004. Specifically, the bills would do the following:

Senate Bill 511 would create a new crime category in the Michigan Penal Code (MCL 160c) to make it a crime, after agreeing to provide the services of a funeral director, to fail or refuse to properly supervise the final disposition of a dead body. It would also be a crime, after agreeing to provide for the final disposition of a dead human body, to fail or refuse to properly dispose of that dead human body. "Final disposition of a dead body" would mean cremation, burial, entombment, or other method of final disposition of a dead human body allowable under law (and would therefore apply to owners and operators of cemeteries and crematories). The bill's provisions would not prohibit a person from being

**Senate Bills 508 and 511 (12-16-03)**

charged with, convicted of, or punished for any other violation of law that was committed by that person while violating the bill's provisions.

A violation that occurred more than 60 days but not more than 180 days after the date the person took possession of the dead human body would result in a misdemeanor punishable by imprisonment for not more than 90 days, a fine of not more than \$10,000, or both.

If the failure or refusal to properly supervise the final disposition or the failure or refusal to properly dispose of the dead human body occurred more than 180 days after the date the person took possession of the body, he or she would be guilty of a felony punishable by imprisonment for not more than 10 years, a fine of not more than \$50,000, or both.

Exceptions. If the failure or refusal was due to one of the following, it would not constitute a violation:

- Delays due to seasonal factors relating to the method of final disposition of the dead human body.
- Delays due to the availability of services required to complete the final disposition.
- The directives of the person having lawful authority over the final disposition of the body 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 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 an order issued by a court of competent jurisdiction upon petition and showing of good cause for a delay in the final disposition.

Senate Bill 508 would amend the Code of Criminal Procedure (MCL 777.16i) to specify that improper disposal of a dead human body after more than 180 days would be a Class D felony against the public order punishable by a maximum term of imprisonment of 10 years. The bill is tie-barred to Senate Bill 511.

### ***HOUSE COMMITTEE ACTION:***

The committee substitute for Senate Bill 511 created a misdemeanor offense, eliminated the reference to "reasonable time", and created exceptions to a violation. The bill also delayed the effective date by several months. The substitute adopted for Senate Bill 508 specifies that the felony penalty is for improper disposal after more than 180 days and delays the effective date.

### ***FISCAL IMPLICATIONS:***

The House Fiscal Agency reports that the bills would have an indeterminate fiscal impact on the state and on local units of government, depending on how they affected the numbers of misdemeanor and felony convictions, sentences for those offenders, and collection of penal fines. Jail sentences and misdemeanor probation supervision are the responsibility of local units of government, while felony probation supervision and prison incarceration are costs borne by the state. Changes in penal fine collections would affect local libraries, which are the constitutionally designated recipients of penal fine revenues. (HFA floor analysis dated 12-15-03)

### ***ARGUMENTS:***

#### ***For:***

Last year, the decomposed and mummified remains of hundreds of dead people were found in barns, vaults, and woods surrounding a Georgia crematory. The operator claimed that the equipment had broken and that he lacked the resources to repair it in a timely manner, yet news reports quoted some health officials as saying that some of the corpses looked as though they had been there for one or more decades.

The death of a loved one is traumatic enough without fearing an incident like this. Therefore, some feel that Michigan's laws need to be updated to discourage any lack on the part of a funeral director or cemetery and crematory operator that could lead to such an occurrence, and also to provide for appropriate penalties. People trust funeral directors and cemetery and crematory operators to do right by them in a time of great emotional distress. Even though current law provides for license or registration sanctions, cemeteries operated by local governments or religious entities are exempt from regulation. Moreover, anyone guilty of violating the public trust in such a way needs to face criminal penalties, too. Senate Bill 511 would provide both a stiff fine and/or the possibility of jail or prison for any funeral

director who didn't follow through and properly supervise the final disposition of a dead body, or a cemetery or crematory operator who did not properly bury or cremate a body or properly deposit or inurn the remains in a columbarium. In fairness, the bill also contains several exceptions for delays caused by circumstances outside of the control of the funeral director or cemetery operator.

***POSITIONS:***

A representative of the Michigan Funeral Directors Association indicated support for the bills. (12-10-03)

A representative of the Michigan Cemetery Association indicated support for the bills. (12-10-03)

Analyst: S. Stutzky

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.