

**LEGISLATIVE SERVICES AGENCY  
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**FISCAL IMPACT STATEMENT**

**LS 7786**

**BILL NUMBER:** SB 562

**NOTE PREPARED:** Feb 26, 2007

**BILL AMENDED:** Feb 20, 2007

**SUBJECT:** Authorization procedures for disinterment.

**FIRST AUTHOR:** Sen. Mishler

**FIRST SPONSOR:**

**BILL STATUS:** 2<sup>nd</sup> Reading - 1<sup>st</sup> House

**FUNDS AFFECTED:**  **GENERAL**  
 **DEDICATED**  
 **FEDERAL**

**IMPACT:** State

**Summary of Legislation:** (Amended) This bill provides that the remains of a deceased human being shall not be removed from a cemetery without written consent from one of the following classes of individuals, in order of priority: (1) The spouse at the time of the deceased's death. (2) A surviving adult child of the deceased. (3) A surviving parent of the deceased. (4) An individual in the next degree of kinship to the deceased under state laws governing intestate succession. (Current law requires the written consent of the deceased's: (1) spouse; or (2) in the case of a deceased minor child, parents.)

It specifies that if more than one individual in the same class survives the deceased, the requirement for written consent is satisfied if: (1) any individual in the class consents to the proposed removal; and (2) the State Department of Health (Department) does not receive an objection to the removal from any other individual in the class.

The bill makes conforming changes to provisions allowing: (1) the required consent to be waived under certain circumstances; (2) a coal company to remove human remains from property owned or leased by the coal company; and (3) the removal of human remains from a cemetery plot for the purpose of autopsy or reinterment, reentombment, or reinurnment in another cemetery.

It eliminates provisions requiring the Department to take certain actions before authorizing the removal of human remains.

It also provides that a: (1) licensed funeral director; or (2) cemetery owner; is not liable in an action brought by a person because of the removal of a deceased's remains unless the licensed funeral director or the cemetery owner had actual notice that a representation made in a required written consent was untrue.

The bill specifies the order of need for a family burial plot and allows the living parents and children to terminate the status of a family burial plot.

It allows a cemetery to terminate the rights and interests of the owner of the burial space if the burial space has: (1) remained unused for a period of at least 50 years from the date of sale or last recorded designation or transfer; and (2) not had improvements on the burial space.

**Effective Date:** July 1, 2007.

**Explanation of State Expenditures:** *Administrative Costs:* The bill could reduce the administrative work required of the Indiana State Department of Health (ISDH) to authorize the disinterment of human remains. Provisions that would be eliminated include obtaining written evidence of the legal ownership of the property, sending written notice to the Department of Natural Resources, Division of Historic Preservation and Archeology, and obtaining written evidence that the removal has been published in a newspaper at least five days before the removal. The cost savings from these changes are expected to be minimal.

**Explanation of State Revenues:** *Criminal Penalty:* The bill also creates a Class B misdemeanor for knowingly terminating an owner's rights and interests in a burial space without providing the required notice. If additional court cases occur and fines are collected, revenue to both the Common School Fund and the state General Fund would increase. The maximum fine for a Class B misdemeanor is \$1,000. Criminal fines are deposited in the Common School Fund.

If the case is filed in a circuit, superior, or county court, 70% of the \$120 court fee that is assessed and collected when a guilty verdict is entered would be deposited in the state General Fund. If the case is filed in a city or town court, 55% of the fee would be deposited in the state General Fund. In addition, some or all of the judicial salaries fee (\$15), the public defense administration fee (\$3), the court administration fee (\$2), the judicial insurance adjustment fee (\$1), and the DNA sample processing fee (\$1) are deposited into the state General Fund.

**Explanation of Local Expenditures:** *Criminal Penalty:* A Class B misdemeanor is punishable by up to 180 days in jail. The average daily cost to incarcerate a prisoner in a county jail is approximately \$44.

**Explanation of Local Revenues:** *Criminal Penalty:* If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from the following sources: The county general fund would receive 27% of the \$120 court fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund. In addition, several additional fees may be collected at the discretion of the judge and depending upon the particular type of criminal case.

**State Agencies Affected:** Indiana State Department of Health, Department of Natural Resources.

**Local Agencies Affected:** Trial courts, local law enforcement agencies.

**Information Sources:**

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