



## Ohio Revised Code

### Section 517.23 Disinterment of body buried in cemetery.

Effective: October 24, 2024

Legislation: House Bill 301

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(A) Subject to divisions (B), (D), (E), and (F) of this section, the board of township trustees, the trustees or directors of a cemetery association, or the other officers having control and management of a cemetery or the officer of a municipal corporation who has control and management of a municipal cemetery shall disinter or grant permission to disinter any remains interred in the cemetery in either of the following circumstances:

(1) Within thirty days after an application for disinterment is filed with the cemetery in accordance with division (A) of section 517.24 of the Revised Code and payment of the reasonable costs and expense of disinterment is made by the following applicants:

(a) A designated representative, or successor, to whom the decedent had assigned the right of disposition in a written declaration pursuant to section 2108.70 of the Revised Code and who had exercised such right at the time of the declarant's death;

(b) If no designated representative exercised the right of disposition pursuant to section 2108.70 of the Revised Code, the surviving spouse of the decedent who is eighteen years of age or older.

(2) On order of a probate court issued under division (B) of section 517.24 of the Revised Code and payment by the person who applied for the order under that division of the reasonable costs and expense of disinterment.

(B) No disinterment shall be made pursuant to this section and section 517.24 of the Revised Code if the decedent died of a contagious or infectious disease until a permit has been issued by the board of health of a general health district or of a city health district. This division does not apply to cremated remains.

(C) Upon disinterment of remains under division (A)(1) or (2) of this section, the involved board, trustees, directors, other officers, or officer of the municipal corporation shall deliver or cause to be



delivered the disinterred remains to the applicant under division (A)(1) of this section or, if the disinterment was pursuant to court order issued under division (B) of section 517.24 of the Revised Code, to the person who applied for the order under that division.

(D) The board of township trustees, the trustees or directors of a cemetery association, or the other officers having control and management of a cemetery or the officer of a municipal corporation who has control and management of a municipal cemetery may disinter or grant permission to disinter and, if appropriate, may reinter or grant permission to reinter any remains interred in the cemetery to correct an interment error in the cemetery if the board, trustees, directors, other officers, or officer of the municipal corporation comply with the internal rules of the cemetery pertaining to disinterments and if the board, trustees, directors, other officers, or officer of the municipal corporation provide notice of the disinterment to the person who has been assigned or reassigned the rights of disposition for the deceased person under the provisions of section 2108.70 or 2108.81 of the Revised Code. The board, trustees, directors, other officers, or officer of the municipal corporation may correct an interment error under this division without a court order or an application by a person.

(E)(1) A person who is an interested party and who is eighteen years of age or older and of sound mind may apply to the probate court of the county in which the decedent is interred for an order to prevent the applicant under division (A)(1) of this section from having the remains of the decedent disinterred. An application to prevent the disinterment of the remains of the decedent shall be in writing, subscribed and verified by oath, and include all of the following:

(a) If applicable, a statement that the applicant assumed financial responsibility for the funeral and interment expenses of the decedent;

(b) If division (E)(1)(a) of this section is inapplicable relative to the applicant, a statement that the applicant did not assume financial responsibility for the funeral and interment expenses of the decedent;

(c) A statement that the applicant is eighteen years of age or older and of sound mind;

(d) The relationship of the applicant to the decedent;



(e) A statement of the applicant's reasons to oppose the disinterment of the remains of the decedent.

(2) An applicant for an order to prevent the disinterment of the remains of the decedent under division (E) of this section promptly shall give notice of the filing of the application by certified mail, return receipt requested, to the applicant under division (A)(1) of this section. The notice shall indicate that the applicant has filed an application for an order to prevent the disinterment of the remains of the decedent.

(F)(1) If the repair or replacement of a mausoleum or columbarium necessitates the disinterment of one or more sets of remains, the board, trustees, directors, other officers, or officer of the municipal corporation, shall file a single application with the probate court in the county where the mausoleum or columbarium is situated for a disinterment order that authorizes the disinterment and reinterment of those affected remains in the mausoleum or columbarium. Upon the filing of the application, the probate court shall schedule a hearing.

(2) The board, trustees, directors, other officers, or officer of the municipal corporation promptly shall provide notice to the surviving spouses of the affected decedents and to the persons who have been assigned or reassigned the rights of disposition for the affected remains under the provisions of sections 2108.70 to 2108.90 of the Revised Code. The notice shall state that an application for disinterment has been filed and shall provide the time, date, and location of the hearing. The notice shall be sent by certified mail, return receipt requested, or, if the names or addresses of such persons are unknown and cannot with reasonable diligence be ascertained, the notice shall be made by publication in a newspaper of general circulation in the county where the probate court is located and as otherwise required by the probate court.

(3) Upon conducting the hearing, the court shall issue an order of disinterment if all of the following are satisfied:

(a) The affected remains shall be held in a permanent or temporary structure on cemetery property that allows for access for visitation during the times that the cemetery's other grounds and facilities are open for visitation, shall be properly identified and held in a secure manner without any commingling of cremated remains, and shall not be held for a period exceeding eighteen months unless an extension of time is granted by the probate court for good cause;



- (b) If a mausoleum or columbarium is being replaced, the replacement mausoleum or columbarium shall be built on property that is owned by the cemetery and that is either the same property upon which the original mausoleum or columbarium was located or property that is contiguous thereto;
- (c) The cemetery provided notice as required under division (F)(2) of this section;
- (d) Upon considering all of the following, the court finds there are one or more compelling reasons to issue the requested order of disinterment:
- (i) The cost, feasibility, and timetable for the repairs or replacement;
  - (ii) The current condition of the structure to be repaired or replaced;
  - (iii) The location, design, features, and overall quality of the proposed replacement structure;
  - (iv) The input of the persons receiving notice under division (F)(2) of this section.
- (4) A cemetery is not liable in damages in a civil action if the cemetery changes the specific location of entombment rights or columbarium rights due to the repair or replacement of a mausoleum or columbarium made in accordance with an order issued by the probate court under division (F)(3) of this section.
- (G) As used in this section and in section 517.24 of the Revised Code:
- (1) "Cemetery" and "interment" have the same meanings as in section 1721.21 of the Revised Code.
  - (2) "Disinterment" means the recovery of human remains by exhumation, disentombment, or disinurnment. "Disinterment" does not include the raising and lowering of remains to accommodate two interments within a single grave and does not include the repositioning of an outside burial container that encroaches an adjoining burial space.