

SENATE JUDICIARY COMMITTEE
Senator Thomas Umberg, Chair
2025-2026 Regular Session

AB 2542 (Patterson)
Version: June 9, 2026
Hearing Date: June 23, 2026
Fiscal: Yes
Urgency: No
AWM

SUBJECT

Human remains: disposition

DIGEST

This bill prohibits the right to control the disposition of the remains of a deceased person, as specified, when the deceased person did not specifically provide for the right of control in advance, from passing to a person whom the funeral director or cemetery authority knows was either (1) subject to a restraining order for domestic violence against the deceased, or (2) a parent of the deceased, and specified legal documentation establishes that vesting the right of control to that person would have been contrary to the decedent's best interests.

EXECUTIVE SUMMARY

If a person did not specify their wishes for the disposition of their remains after their death, the person who assumes the right to control the disposition of remains is determined by statute. The relevant statute sets forth the order of precedence in which the right to control the decedent's remains is granted, beginning with the decedent's power of attorney, then their surviving spouse, if any, and then down through a specified list of family members. Current law provides that, if the person who would otherwise be granted the right of disposition has been charged with, or convicted of, the murder or manslaughter of the decedent, they are skipped over and the right goes to the next person in the order of precedence.

This bill adds additional circumstances in which the right of control over the disposition of a decedent's remains must be revoked from the person who would otherwise take statutory precedence. Under the bill, a person loses their right of control when the funeral director or cemetery authority knows that the person either: (1) was subject to a restraining order for domestic violence against the deceased at the time of the decedent's death; or (2) is the parent of the deceased, and there is evidence that vesting the right of control in that person would have been contrary to the decedent's best

interests. Evidence satisfies (2) if it is in the form of a court order, court finding, or other court documentation, or a will, agreement, or other legally determinative document. The bill provides that a funeral director or cemetery authority cannot be civilly or criminally liable, or suffer disciplinary action, as a result of a determination under this bill. The author has agreed to amend the bill so that prong (2) applies to any person in the statutory order of precedence, not just a parent.

This bill is sponsored by the author and is supported by California Baptist Capitol Ministry, the California District Attorneys Association, and the California Funeral Directors' Association. The Committee has not received timely opposition to this bill.

PROPOSED CHANGES TO THE LAW

Existing law:

- 1) Provides that, when a decedent, prior to death, directed, in writing, for the disposition of their remains, the location and conditions of interment, and/or for the arrangements for funeral goods and services to be provided, those instructions must be followed to the extent the decedent provided for the cost of the directed disposition. (Health & Saf. Code, §§ 7011 & 7100.1.)
- 2) Provides that, when a decedent did not provide for the disposition of their remains, the right to control the disposition of the remains, the location and conditions of interment, and for the arrangements for funeral goods and services to be provided (collectively, the "right of control") devolves upon the following persons in the order listed:
 - a) An agent under a power of attorney for health care who has the right and duty of disposition under the Probate Code, as specified.
 - b) The decedent's competent surviving spouse.
 - c) The decedent's competent surviving adult child; if there is more than one surviving competent adult child, then to a majority of the competent adult children, as specified.
 - d) The decedent's surviving parent or parents; if one surviving competent parent is absent, the remaining competent parent shall be vested with the rights if, after reasonable efforts to locate the absent parent, they have been unable to do so.
 - e) The decedent's surviving competent adult sibling or, if there is more than one surviving competent adult sibling, to the majority of the competent adult siblings, as specified.
 - f) The surviving competent adult persons respectively in the next degrees of kinship or, if there is more than one such competent adult person at the same degree of kinship, to a majority of those persons, as specified.
 - g) A conservator of the person appointed pursuant to the Probate Code, when the decedent has sufficient assets.

- h) A conservator of the estate appointed pursuant to the Probate Code, when the decedent has sufficient assets.
 - i) The public administrator, when the decedent has sufficient assets. (Health & Saf. Code, § 7100(a).)
- 3) Provides that, if a person to whom the right of control has vested pursuant to 2) has been charged with first- or second-degree murder of voluntary manslaughter in connection with the decedent's death and those charges are known to the funeral director or cemetery authority, the right of control is relinquished and passed on to the next of kin in the order established in 2).
 - a) If the charges against the person are dropped, or if the person is acquitted of the charges, the right of control is returned to that person.
 - b) For purposes of the right to control, a person who has been charged with first- or second-degree murder or voluntary manslaughter in connection with the decedent's death, when the funeral director or cemetery authority knows about the charges, shall be treated as if they did not exist, unless and until the charges are dropped or the person is acquitted. (Health & Saf. Code, § 7100(b).)
- 4) Provides that the funeral director or cemetery authority has absolute authority to control the disposition of the remains and to recover usual and customary charges for the disposition when (1) no person in 2) is known or can be found after a reasonable inquiry, and (2) the public administrator fails to assume responsibility for disposition of the remains within seven days after receiving written notice of the facts. (Health & Saf. Code, § 7100(c).)
- 5) Provides that a funeral director or cemetery authority shall not be liable to any person or persons for carrying out the instructions of the decedent or the person entitled to control the disposition. (Health & Saf. Code, § 7100(f).)

This bill:

- 1) Establishes Marissa's Law.
- 2) Provides that, if the funeral director or cemetery authority knows that the person with right to control the disposition of remains, pursuant to the statutory order of authority, meets either of the following conditions, the right of control is relinquished and passed onto the next of kin in the statutory order:
 - a) The person with right of control was subject to a restraining order for domestic violence against the deceased at the time of the decedent's death.
 - b) The person with right of control is a parent of the deceased and either of the following evidences that vesting the right to control that person would have been contrary to the decedent's best wishes:
 - i. A court order, court finding, or other court documentation.

- ii. A will, agreement, or other legally determinative document.
- 3) Provides funeral director or cemetery authority shall not:
 - a) Be held criminally or civilly liable for a determination made pursuant to 2).
 - b) Be subject to disciplinary action for a determination made pursuant to 2).
- 4) Makes nonsubstantive technical and conforming changes.

COMMENTS

1. Author's comment

According to the author:

The death of a loved one is always a difficult time. To help during this difficult time, current law establishes a clear standard for who may access the remains of a deceased person. However, this process can create additional hardship for families because it does not distinguish between parents who should have access to the remains of their child and those who should not due to abuse, neglect, or abandonment.

AB 2542 creates a clarifying exemption that prevents individuals who do not have their best interests in mind from obtaining access to the child's remains. The bill is narrowly tailored to ensure parents who care for their children are exempt from its provisions, balancing parental rights while protecting families from needless trauma.

2. Background on who is given the right to determine the disposition of human remains

Under California law, a person has the right to decide for themselves how they want their remains to be disposed of after they pass away.¹ When a person leaves written directions regarding the disposition of their remains and funeral goods and services to be provided, those instructions must be followed, to the greatest extent possible.²

Not everyone leaves such instructions, however; one study suggests that only about 3 in 10 U.S. adults has a will or advance health care directive.³ Additionally, in the tragic circumstance of the death of a child or teen, it is extremely unlikely that they would have left any such instructions.

¹ Health & Saf. Code, § 7100.1.

² *Ibid.* The statute contains exceptions for if the instructions were unclear or the decedent did not provide, or secure, funds for the costs of the directed disposition. (*Ibid.*)

³ Lin & Horowitz, *Experiences with estate planning and discussing end-of-life preferences* (Nov. 6, 2025) Pew Research Center, <https://www.pewresearch.org/social-trends/2025/11/06/experiences-with-estate-planning-and-discussing-end-of-life-preferences/> (link current as of June 18, 2026).

In the event that someone dies without leaving instructions for the disposition of their remains, California law provides that the right to control the disposition of a person's remains, including the location and conditions of internment and arrangements for funeral goods and services, will go to one of the following, in order of precedence:

1. An agent under power of attorney for health care who has the right of disposition, as specified.
2. The competent surviving spouse.
3. The sole surviving competent adult child of the decedent, or, if there is more than one, the majority of the surviving competent adult children.
4. The surviving competent parent or parents of the decedent.
5. The sole surviving competent adult sibling of the decedent, or, if there is more than one, the majority of the surviving competent adult siblings.
6. The surviving competent adult person or persons respectively in the next degree of kinship, or, if there is more than one, the majority of those persons.
7. A conservator of the person, when the decedent has sufficient assets.
8. A conservator of the estate, when the decedent has sufficient assets.
9. The public administrator, when the decedent has sufficient assets.⁴

If the funeral director or cemetery authority is unable to locate a person listed in items 1-8, or no such person exists, and the public administrator fails to assume responsibility for disposition of the remains within seven days of being given notice, the funeral director or cemetery authority is granted the authority to control the disposition of the remains.⁵

In the event that the person to whom right of control would normally vest in the order of precedence has been charged with first- or second-degree murder or voluntary manslaughter in connection with the decedent's death, and the funeral director or cemetery authority knows of those charges, the right of control skips over the person so charged to the next person or persons in order.⁶ If the charges are dropped, or the person is acquitted of the charges, the right of control is returned to the person.⁷ There are no other statutory provisions permitting a person in the order of precedence to be skipped over.

3. This bill establishes exceptions to the order of precedence for the disposition of remains when there is specified evidence relating to the decedent's relationship with their family member

Consistent with existing law prohibiting someone charged with, or convicted of, causing the death of a person from controlling the disposition their remains, this bill provides that a person relinquishes their right to control a decedent's remains if the

⁴ *Id.*, § 7100(a).

⁵ *Id.*, § 7100(c)

⁶ *Id.*, § 7100(b).

⁷ *Ibid.*

funeral director or cemetery authority knows that either of the following conditions exists:

- The person with right of control was subject to a restraining order for domestic violence against the decedent at the time of the decedent's death.
- The person with right of control is a parent of the deceased and evidence—in the form of a court order, finding, or determination, or a will, agreement, or other legal document—establishes that vesting the right of control to that person would have been contrary to the decedent's best interests.

The author has agreed to amend the second prong so that it applies to all persons in the statutory order of priority, not just a parent.

To the extent the second prong requires a judgment call to be made about the decedent's best interests, the bill vests the discretion to make that determination with the funeral director or cemetery authority. To ensure the bill does not expose funeral directors or cemetery authorities to liability for exercising their discretion in this matter, the bill provides that a funeral director or cemetery shall not be subject to civil or criminal liability, or licensure disciplinary action.

This bill arises from a tragic incident in the author's district. Marissa, the namesake of the bill, and her son Josiah were murdered in 2025. The statutory order of precedence granted Josiah's biological father—who had no relationship with Josiah, and against whom Marissa had a domestic violence restraining order—the right to determine the disposition of Josiah's remains. At first, Josiah's father refused to allow Josiah to be buried with Marissa, consistent with the wishes of Marissa's family. He ultimately acquiesced, but the difficulty Marissa's family encountered in the process inspired the changes in this bill.

As Josiah's story demonstrates, the disposition of a loved one's remains can be an emotional, fraught experience, which can become traumatic if the decedent's family members are not all on the same page. To the extent this bill requires a funeral director or cemetery authority to make a discretionary determination on the basis of information provided, presumably, by a decedent's family member, this bill may heighten disputes rather than resolve them. In the event there is a debate over the significance of court orders or other legal documents—i.e., whether they actually establish that a person should lose their disposition rights—family members might not be willing to abide by the funeral director or cemetery authority's decision. As noted above, the bill insulates the funeral director or cemetery authority from legal liability or licensure consequences, but family members could bring actions for injunctive or declaratory relief in the superior court to overturn the decision.

To be sure, the circumstances contemplated by this bill are rare. Before this bill will apply, there must be a deceased person who passed away without providing directions for the disposition of their remains; a dispute between persons in the order of

precedence over how to dispose of the deceased person's remains (most likely a fight among or between the deceased's family members and/or spouse); and some sort of court order or legal documentation sufficient to convince the funeral director or cemetery authority that the person who would otherwise hold the right to control should be passed over. In straightforward cases – such as when there is a domestic violence prevention order, or there is a court finding that leaves no reasonable doubt as to the best interests of the decedent – this bill should help prevent the right of control from passing to a person who does not have the best interests of the decedent at heart. In closer cases, however, the bill may invite litigation. As set forth below, the Funeral Directors are in support of this bill, and believe this bill will ultimately be a net positive for the families of deceased persons.

4. Arguments in support

According to the California Funeral Directors' Association:

Current law grants control of a deceased person's remains to that person's health care power of attorney, then moves to next of kin if an agent has not been appointed. Our Association sponsored the legislation that put in place "a line of consanguinity that determines who is in control of the remains." A person's right of control could be revoked if they are charged with certain crimes in connection to the decedent's death.

AB 2542 rectifies this issue by granting a funeral director or cemetery authority the power to release a deceased person's remains to the next qualified person when they know that the person with the right of control was subject to a restraining order for domestic violence against the deceased or qualified documents show that giving that person control would have been contrary to the decedent's best interests.

With this added responsibility, the bill offers the funeral industry critical protections by shielding funeral directors and cemetery authorities from civil or criminal liability, and from license discipline, for any determination they make under these provisions. This allows funeral directors to make the right choices without the fear of repercussions.

SUPPORT

California Baptist Capitol Ministry
California District Attorneys Association
California Funeral Directors' Association

OPPOSITION

None received

RELATED LEGISLATION

Pending legislation: AB 2331 (Nguyen, 2026) requires a court to grant an application for the removal of the remains of a deceased person from a plot in a cemetery without the consent of specified surviving family members if the application establishes good cause for the removal. AB 2331 is pending on the Senate Floor.

Prior legislation: None known.

PRIOR VOTES

Assembly Floor (Ayes 74, Noes 0)
Assembly Appropriations Committee (Ayes 13, Noes 0)
Assembly Judiciary Committee (Ayes 12, Noes 0)
