



Ohio Revised Code

Section 517.23 Disinterment of body buried in cemetery.

Effective: October 20, 1999

Legislation: House Bill 18 - 123rd General Assembly

(A) Subject to divisions (B), (D), and (E) 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 buried in the cemetery in either of the following circumstances:

(1) If the surviving spouse of the decedent is eighteen years of age or older, within thirty days after the filing of an application of the surviving spouse made in accordance with division (A) of section 517.24 of the Revised Code and payment by the applicant of the reasonable costs and expense of disinterment;

(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.

(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 surviving spouse 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 buried 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 decedent's last known next of kin. 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 buried for an order to prevent the decedent's surviving spouse 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 burial 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 burial 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 decedent's surviving spouse. 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) 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, disinterment, or disinterment. "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.