

OHIO FUNERAL DIRECTORS ASSOCIATION
SENATE BILL 224 – REVISIONS TO OHIO’S FUNERAL LAWS
PROPONENT TESTIMONY

BEFORE THE OHIO CIVIL JUSTICE COMMITTEE

May 3, 2022

Introduction. Chairman Hillyer, Vice Chair Grendell, Ranking Member Galonski and members of the Committee: I am T. Scott Gilligan, the General Counsel for the Ohio Funeral Directors Association (OFDA). OFDA welcomes this opportunity to express its strong support to SB 224, a bill that would make several changes to Ohio’s funeral laws that will assist consumers and funeral homes in the arrangement and funding of funeral services.

OFDA is a statewide association of approximately 1,000 funeral homes and 2,500 funeral professionals throughout the State of Ohio. The Association is a strong proponent of consumer protection laws in the funeral market. OFDA has drafted and/or supported comprehensive preneed funeral legislation that protects the hundreds of millions of dollars consumers have pre-paid to Ohio funeral homes. In fact, the National Funeral Directors Association has given Ohio’s preneed funeral statutes its highest rating for consumer protection laws.

We have provided with the testimony a concise summary of SB 224 as it passed the Senate. As you can see, the bill would make 18 changes to various laws impacting funeral services. Some of these modifications are being sought by the State Board of Embalmers and Funeral Directors (State Board), which is jointly supporting this bill with OFDA. The bill also includes a provision on unclaimed funds being sought by the Department of Commerce. Rather than addressing each one of these 18 changes, some of which are minor, I thought it would be more helpful to the Committee to highlight the major modifications to current law in this bill.

Preneed Law Changes. In Ohio, when a consumer prepays for funeral expenses, Ohio’s preneed law requires that all or most of the prepaid funds be placed into trust or insurance until the death occurs. Four and one-half years ago, OFDA and the State Board jointly supported the

addition of major consumer protection features to the preneed law which established a preneed recovery guaranty fund and required all consumer preneed payments to go directly to the trustee or insurance company rather than being run through funeral home accounts.

Shortly after those protections had been put into place, we realized tweaks were needed to assist consumers and funeral homes. For example, if a consumer mistakenly sends a check to a funeral home to prepay for a funeral, which commonly occurs, the funeral home must now rip up the check and have the consumer rewrite a second check. SB 224 would allow the funeral home to simply endorse the check over to the trustee or insurance company, thereby saving time and unnecessary paperwork for the consumer. Similarly, if there are excess funds from a prepaid funeral that the decedent earmarked for funeral expenses for surviving family members, SB 224 will clarify the law to allow the trustee or insurance company to pay those funds directly to the funeral home.

SB 224 would also allow the current \$10 preneed recovery fee collected with the sale of all preneed contracts to be made directly to the funeral home rather than having to be routed through trustees or insurance companies. This will reduce paperwork for insurance companies, financial institutions and funeral homes. As I mentioned previously, the bill also includes provisions that the Department of Commerce advocated for that would require funeral homes to confirm that preneed contract holders who reach ages 95 are still alive. If they are not and their funeral services have already been paid for, the preneed contract funds would be paid to their estate or to their relatives. If there was no estate and surviving relatives cannot be located, then the funds would be turned over to the Department of Commerce as unclaimed funds.

SB 224 would require the confirmation that a contract beneficiary is living to occur once they reach age 95 and then again when they reach 105. Because thousands of Ohioans reach age 95 each year, OFDA will be seeking to amend SB 224 to eliminate the confirmation check at age 95, but retain the confirmation requirement for age 105. This will save administrative expenses and reduce the risk that an elderly contract holder's preneed funds are mistakenly turned over to the Department of Commerce.

Crematory Law Updates. SB 224 will also eliminate several unnecessary requirements and administrative headaches for cremation consumers, funeral homes and crematories. If a person wishes to assign his or her right to authorize a cremation to another person, they must

now execute a written assignment form before a notary public. SB 224 will eliminate the outdated requirement of acknowledgement before a notary public, but will require the signature to be witnessed. In addition, SB 224 will require a crematory to retain receipts for only 10 years instead of holding them permanently.

Another needed change pertains to the law requiring identification tags to be placed with cremated remains. SB 224 would exempt very small containers, like cremation jewelry and small keepsakes, from having to contain identification tags. The bill would also require funeral homes that are permanently closing to report to the State Board any sets of unclaimed cremated remains that are stored at the funeral home and how disposition of those unclaimed cremated remains will be handled.

Right of Disposition. Ohio has a very good law allowing families and funeral homes to determine which family members hold the right to arrange the funeral and disposition of a decedent. But sometimes, family members who hold that right ignore it or use it to throw a monkey wrench into arrangements. SB 224 will remedy that by requiring a person who holds the right to make arrangements within three days of the death or forfeit the right. This definitive deadline will assist funeral homes in knowing when they can make alternative arrangements with family members who are willing to go through the time and effort to arrange the funeral and disposition.

Another problem funeral directors run into concerns family members who want a certain funeral or disposition, but are not willing to pay for it. SB 224 would make clear that in order for a person to exercise the right to make arrangements, they must be willing to pay for the funeral and disposition they choose to arrange.

Miscellaneous Modifications. SB 224 also addresses several needed improvements to Ohio's death care statutes. If passed, SB 224 will permit funeral directors to file for a fetal death certificate for grieving parents whose infant did not reach 20 weeks gestation. Currently, the law allows only the parents to file for this certificate, adding an unnecessary burden during their time of grief.

SB 224 will also allow funeral home escort vehicles and hearses to display rotating or oscillating purple lights during a funeral procession in addition to the traditional amber lights.

Purple lights are now used in many states to designate a funeral procession. This change will bring Ohio into alignment with other states.

A final change that would be made by SB 224 will discourage out-of-state internet scammers from selling funeral and cremation services to Ohio families without a license. The internet has spawned several rogue companies that misrepresent themselves on their websites as locally-owned, licensed establishments providing funeral and cremation services. In fact, they are unlicensed sellers operating from out-of-state call centers. These fly-by-night operators have caused a litany of consumer abuses. But, because they operate from out-of-state locations, Ohio has no way to hold them accountable or enjoin their unlicensed activities. However, to limit their ability to operate in Ohio, SB 224 will prohibit Ohio licensed funeral directors and crematory operators from knowingly contracting with these out-of-state scammers to provide funeral and cremation services.

The bill was approved by the Senate by a vote of 29 to 1 on March 16, 2022. The lone opposition vote was cast because the bill increased the reactivation fee for a lapsed license from \$140 to \$200. What was not clear in the analysis of the bill was that the \$60 increase in the reactivation fee was made because the license renewal fee was already \$200. It was necessary to make the two fees the same so there was not a monetary incentive to allow a license to lapse.

For the reasons stated above, OFDA and its funeral home and funeral director members strongly support the enactment of SB 224. This bill will help not only assist funeral home personnel throughout Ohio, but also ease the burdens on grieving families who rely on the services of OFDA members every day in Ohio. I will be happy to answer any questions.

Respectfully submitted,

OHIO FUNERAL DIRECTORS ASSOCIATION

By: _____
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