

HOUSE BILL No. 1085

DIGEST OF INTRODUCED BILL

Citations Affected: IC 23-14-41.

Synopsis: Family burial plots. Allows for termination of the status of a burial plot as a family burial plot. Provides that family members terminating the status of a family burial plot may transfer the right of interment, entombment, or inurnment in the burial plot to individuals through sale, gift, or other method.

Effective: July 1, 2005.

Thomas

January 6, 2005, read first time and referred to Committee on Public Policy and Veterans Affairs.

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First Regular Session 114th General Assembly (2005)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2004 Regular Session of the General Assembly.

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HOUSE BILL No. 1085



A BILL FOR AN ACT to amend the Indiana Code concerning business and other associations.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 23-14-41-3 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. Upon the death of
3 the record owner of the burial rights in a burial plot, the burial plot
4 shall be held as the family burial plot of the deceased owner, if:

- 5 (1) the remains of the record owner have been interred, entombed,
6 inurned, or disposed of;
- 7 (2) the record owner did not dispose of the burial rights by a
8 specific devise in the owner's last will and testament or by a
9 written designation or transfer of ownership recorded with the
10 cemetery under IC 23-14-42; and
- 11 (3) there is at least one (1) interment, entombment, or inurnment
12 in the burial plot.

13 **However, the status of the burial plot as a family burial plot may**
14 **be terminated as provided in section 7 of this chapter.**

15 SECTION 2. IC 23-14-41-5 IS AMENDED TO READ AS
16 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. (a) A:

- 17 (1) surviving spouse; or



1 (2) parent, child, or heir;
2 of the deceased record owner of a family burial plot who has a right of
3 interment, entombment, or inurnment in the plot may waive that right
4 in favor of another relative or spouse of the deceased record owner
5 through a written instrument that is recorded with the cemetery.

6 **(b) An individual in whose favor a right of interment,**
7 **entombment, or inurnment is waived under subsection (a) may**
8 **waive the right of interment, entombment, or inurnment in the**
9 **family burial plot in favor of another relative of the deceased**
10 **record owner through a written instrument that is recorded with**
11 **the cemetery.**

12 ~~(b)~~ (c) After a written waiver is recorded under subsection (a) ~~the~~
13 ~~body of or (b),~~ the individual in whose favor the waiver is made:

14 **(1) has the right of interment, entombment, or inurnment in**
15 **the family burial plot; and**

16 **(2) may be interred, entombed, or inurned in the family burial**
17 **plot.**

18 SECTION 3. IC 23-14-41-6 IS AMENDED TO READ AS
19 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6. **(a)** An affidavit that
20 sets forth:

21 **(1) the fact of the death of the record owner of the burial rights in**
22 **a family burial plot; and**

23 **(2) the name of the individual or individuals who are entitled to**
24 **use the family burial plot in accordance with this chapter;**

25 is complete authority to the cemetery to permit the use of the
26 unoccupied portions of the family burial plot by the individual or
27 individuals who are shown by the affidavit to be entitled to use the
28 family burial plot.

29 **(b) An affidavit described in subsection (a) is voided by the**
30 **termination of the status of a burial plot as a family burial plot**
31 **under section 7 of this chapter.**

32 SECTION 4. IC 23-14-41-7 IS ADDED TO THE INDIANA CODE
33 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
34 1, 2005]: Sec. 7. **(a) The status of a burial plot as a family burial**
35 **plot may be terminated as provided in this section.**

36 **(b) The status of a burial plot as a family burial plot is**
37 **terminated when:**

38 **(1) every individual who has a right of interment,**
39 **entombment, or inurnment in the family burial plot, or the**
40 **individual's legal representative, executes and records with**
41 **the cemetery an affidavit that meets the requirements of**
42 **subsection (c); and**

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1 (2) the cemetery owner records, for each grave space, crypt,
 2 or niche in the burial plot, the name of the individual to whom
 3 the right of interment, entombment, or inurnment is
 4 transferred, as specified in the affidavit recorded under
 5 subdivision (1).
 6 (c) An affidavit described in subsection (b) must meet the
 7 following requirements:
 8 (1) The affidavit documents the intent of an individual
 9 referred to in subsection (b)(1) to:
 10 (A) terminate the status of the burial plot as a family
 11 burial plot;
 12 (B) transfer all the individual's rights of interment,
 13 entombment, or inurnment in the burial plot to another
 14 individual through sale, gift, or other method; and
 15 (C) disclaim any future right of interment, entombment, or
 16 inurnment in the burial plot after the transfer under clause
 17 (B).
 18 (2) The affidavit specifies, for every grave space, crypt, or
 19 niche in the burial plot, the individual to whom the right of
 20 interment, entombment, or inurnment is transferred under
 21 subdivision (1)(C).
 22 (3) The affidavit complies with the rules of the cemetery
 23 owner.
 24 (d) If more than one (1) affidavit is executed under this section,
 25 all affidavits must specify the same individuals to whom the rights
 26 of interment, entombment, or inurnment in the grave spaces,
 27 crypts, or niches of the burial plot are transferred.
 28 (e) After an affidavit has been:
 29 (1) executed under this section by each individual having a
 30 right of interment, entombment, or inurnment in the family
 31 burial plot, or the individual's legal representative; and
 32 (2) recorded with the cemetery;
 33 an individual specified in the affidavit under subsection (c)(2) has
 34 the right of interment, entombment, or inurnment in the burial
 35 plot.

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