

SENATE BILL NO. 2443
with House Amendments

Fifty-seventh
Legislative Assembly
of North Dakota

SENATE BILL NO. 2443

Introduced by

Senators O'Connell, Kroeplin, Schobinger

Representatives Hunskor, S. Kelsh, Kerzman

1 A BILL for an Act to amend and reenact sections 23-06-03 and 43-10.1-02 of the North Dakota
2 Century Code, relating to pre-need funeral service contracts.

3 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

4 **SECTION 1. AMENDMENT.** Section 23-06-03 of the 1999 Supplement to the North
5 Dakota Century Code is amended and reenacted as follows:

6 **23-06-03. Duty of burial.**

7 1. The duty of burying the body of a deceased person devolves upon ~~the following~~
8 ~~persons:~~

9 ~~1. If the deceased was married, upon the surviving husband or wife:~~

10 ~~2. If if the deceased was married or, if the deceased was not married but left kindred,~~
11 ~~upon the person or persons in the same degree, of adult age, nearest of kin to the~~
12 ~~deceased and possessed of sufficient means to defray the necessary expenses.~~

13 ~~3. 2.~~ If the person who has the duty of burial does not bury the body within the time
14 required by this chapter, the person next specified shall bury the body.

15 ~~4. 3.~~ If the deceased is not survived by a person described by subsection 1 ~~or 2~~ and did
16 not leave sufficient means to defray funeral expenses, including the cost of a
17 casket, the county social service board of the county in which the deceased had
18 residence for county general assistance purposes or, if residence cannot be
19 established, ~~then~~ the county social service board of the county in which the death
20 occurs, shall employ some person to arrange for and supervise the burial or
21 cremation. If the deceased was a resident or inmate of a public institution, the
22 county in which the deceased was a resident for county general assistance
23 purposes immediately before entering the institution shall employ a person to
24 arrange for and supervise the burial or cremation. Each board of county

1 commissioners may negotiate with the interested funeral directors or funeral
2 homes regarding cremation expenses and burial expenses; but the total charges
3 for burial services, including transportation of the deceased to the place of burial,
4 the grave box or vault, grave space, and grave opening and closing expenses,
5 may not be less than one thousand five hundred dollars. The county social service
6 board shall pay the charge for funeral expenses as negotiated by the board of
7 county commissioners, less any amount left by the deceased to defray the
8 expenses.

9 4. A person with the duty of burial under this section, or the personal representative
10 of the decedent's estate, if any, shall honor, to the extent reasonable and possible,
11 any pre-need funeral arrangements a deceased articulated and funded in a
12 pre-need funeral service contract.

13 **SECTION 2. AMENDMENT.** Section 43-10.1-02 of the North Dakota Century Code is
14 amended and reenacted as follows:

15 **43-10.1-02. Pre-need funeral service contracts.** ~~No~~ A person may not engage in the
16 sale or execution of a pre-need funeral service contract unless ~~such~~ that person is the
17 operator, agent, employee, or manager of a licensed funeral establishment, ~~a~~ or cemetery
18 association, ~~or an agent or employee of such operator, manager, establishment, or association.~~
19 As part of the sale of a pre-need funeral service contract, the seller shall inform the purchaser
20 of the extent to which the person with the duty of burial under section 23-06-03 might be bound
21 by any pre-need funeral arrangements.