



**CABINET FOR HEALTH AND FAMILY SERVICES  
DEPARTMENT FOR AGING AND INDEPENDENT LIVING**

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DEPARTMENT FOR AGING AND INDEPENDENT LIVING  
SUMMARY OF SUPPORT FOR BR 423

The Department of Aging and Independent Living's (DAIL) Division of Guardianship Services, has seen an increase in recent years in the number of individuals under guardianship who have no family willing or able to come forward to consent to burial or cremation. These individuals have often been abandoned by family upon or before death with no one to claim the body or make arrangements. In several cases, bodies remained in storage for months before a court order was obtained for a full burial or cremation. Under current law, the Division of Guardianship Services is not permitted to consent to burial or cremation for individuals who die under guardianship.

The barrier to a dignified burial or cremation is not always an absence of family. Sometimes it is the result of insufficient funds for anything other than cremation. Many Kentucky counties have indigent burial funds; however, in some counties there are no such funds available. The only option in such cases is for a funeral home or coroner to obtain a court order for cremation and attempt to locate sufficient funding.

As a result, DAIL identified the need for guardians and conservators to act, as a last resort, to grant permission for burial or cremation, based on the deceased's known preferences prior to death and funds available.

The following are examples of some of the tragic cases the department has witnessed in past years:

- Ellis L. died under guardianship at the age of 75. He had a policy for cremation, but his family did not want to honor it. The family insisted on a full funeral, but refused to come forward to pay for it. This resulted in a delay in cremation of seven days.
- Charles A. died under guardianship at the age of 73. No family could be located to consent to burial or cremation. The coroner was very upset that the Division of Guardianship Services could not consent to arrangements, as the funeral home had no cold storage facility. It took approximately one week for the funeral home to obtain a court order for arrangements.
- John L. died under guardianship at the age of 75. His family was difficult to locate and once they were located, they stated they had no funds for burial. Mr. L. had no policy for burial. Burial was delayed for almost seven months while efforts were made to find family and funds and to obtain a court order for burial.
- Travis P. died under guardianship at age 53. He had a small policy for either burial or cremation. Initially the family could not be located, but once they were they would not consent to either burial or cremation. Eventually, the coroner obtained a court order for an indigent burial; however, the delay in burial was almost five months.
- Boyce W. died under guardianship at age 82. Neither of his surviving daughters would come forward to consent to arrangements. The funeral home eventually obtained a court order for cremation, but this caused a delay of six weeks.

DAIL supports BR 432 based on the public need for individuals under guardianship to have dignity at death with an authorized burial or cremation, consistent with their preferences expressed prior to death and their available funds, if family is unable or unwilling to act.