

**GEAUGA COUNTY PROBATE COURT  
JUDGE TIMOTHY J. GRENDALL**

**CHECKLIST – DISINTERMENT**

These instructions are provided as a public service of the Geauga County Probate Court, are intended as a guideline only, and are not legal advice. Depending on the circumstances of each case, additional steps may be required that are not listed below. The clerks are not attorneys and therefore cannot answer legal questions or assist you in completing the forms or deciding which forms apply to your situation. The documents that you file must be typewritten or legibly handwritten, and completed in their entirety. The clerks may refuse for filing illegible or incomplete documents. The Court recommends that you obtain legal advice from your attorney or obtain assistance from the Court's Help Center before preparing and filing any forms. You may make an appointment with the Help Center by calling 440-226-7339. If you decide to proceed without assistance from your attorney or from the Court's Help Center, then you should read R.C. 517.23 and R.C. 517.24

**Background and General Requirements**

1. **Designated Representative**<sup>1</sup> – determine whether the decedent signed a valid Written Declaration of Assignment of Right of Disposition<sup>2</sup> granting a person the right to determine the decedent's disposition and whether that person exercised such right at the time of decedent's death.<sup>3</sup> In that case, such person may apply to the cemetery for disinterment without the need of a court order.
2. **Surviving Spouse**<sup>4</sup> - determine whether the decedent is survived by a spouse, who is age 18 or older, and whether that person is living and capable. In that case, the spouse may apply to the cemetery for disinterment without the need of a court order.
3. **Cause of Death** – determine whether the decedent died of a contagious or infectious disease. If so, the court cannot order a disinterment without a permit issued by the board of health of the general health district or a city health district, which permit must be filed with the Court.<sup>5</sup>
4. **Trustee or Director Information** – determine the name, title, and address of the director or officer of the cemetery where the decedent is currently interred (i.e., the person who must be notified or who will sign Form 25.5 "Waiver of Notice of Application to Disinter Remains").<sup>6</sup>
5. **Next of Kin and Beneficiaries** – determine the name and address of each person who (1) would be entitled to inherit under R.C. Chapter 2105 if the decedent died intestate (without a will), and (2) is named as a beneficiary in decedent's will.<sup>7</sup>
6. **Priority of Applicants.** A person who is named in a Declaration of Assignment of Right of Disposition and who exercised such right as the time of decedent's death, has first priority to

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<sup>1</sup> See R.C. 517.23(A)(1)(a)

<sup>2</sup> See R.C. 2108.72 for the specific requirements for a valid written instrument of assignment.

<sup>3</sup> See R.C. 2108.70 through 2108.73

<sup>4</sup> See R.C. 517.23(A)(1)(b)

<sup>5</sup> See R.C. 517.23(B)

<sup>6</sup> See R.C. 517.24(B)(2)(a)

<sup>7</sup> See R.C. 517.24(B)(2)(a)

apply to the cemetery for disinterment. If no such person has so applied, then a surviving spouse, who is age 18 or older, has second priority to apply to the cemetery for disinterment. If neither such persons apply for disinterment, then any person, who is age 18 or older and who is of sound mind, may file an application with a probate court for a court order for disinterment of the decedent's body in the manner provided below.

## Filing Requirements

- **Form 1.0 Surviving Spouse, Children, Next of Kin, Legatees and Devisees** (be sure to include on page two the names and address of beneficiaries if the decedent died with a will.
- **Form 25.0 Application for Order to Disinter Remains** (The applicant's signature must be notarized.
  - If decedent died of a contagious or infectious disease, then file the permit issued by the appropriate Board of Health.<sup>8</sup>
- **Form 25.1 Judgment Entry Setting Hearing on Application for Disinterment**
- **Identification** - [if applicant is not represented by an attorney - see Geauga Probate Local Rule 78.10] (1) a government-issued photographic identification (e.g. a current driver's license or passport), and (2) evidence of current mailing address (e.g. recent utility bill, bank statement account, property tax bill, voter registration card).
- **Court Cost Deposit** - arrange for payment of court cost deposit. See the "Probate Court Costs" on the Court's website.
- **Waiver and Consent** – if the applicant is able to obtain the signature of all interested persons (see below "Notice of Hearing/Waiver and Consent") on Form 25.5 "Waiver of Notice of Application to Disinter Remains" and if the applicant has given each such person a copy of Form 25.0 "Application for Order to Disinter Remains," then file (i) the signed Form 25.5 "Waiver of Notice of Application to Disinter Remains," (ii) Form 25.3 "Affidavit of Service of Notice of Hearing on Application for Disinterment, and (iii) Form 25.6 "Order to Disinter Remains." The Court may decide the matter without a hearing.

## Additional Notes

- Jurisdiction and Venue. Confirm that the proper venue is Geauga County. The application must be filed in the county where the decedent is buried.<sup>9</sup>
- Notice of Hearing/Waiver and Consent. If the Court sets a hearing date, then:
  - Except to the extent an interested person signed Form 25.5 "Waiver of Notice of Application to Disinter Remains," the applicant must notify all interested persons of the hearing date using Form 25.2 "Notice of Hearing on Application for Disinterment," by certified mail, return receipt requested, at least three weeks before the hearing date. Interested person means:

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<sup>8</sup> See R.C. 517.23(B)

<sup>9</sup> See R.C. 517.24(B)(1)

- the decedent's surviving spouse
  - all other persons required to be identified on page 1 of Form 1.0 (i.e., next-of-kin)
  - all persons required to be identified on page 2 of Form 1.0 (i.e., beneficiaries named in decedent's will)
  - a trustee or director on the cemetery where the decedent is currently interred.
- To the extent possible, the applicant should obtain the signature of all interested persons on Form 25.5 "Waiver of Notice of Application to Disinter Remains." The applicant must deliver to each such person a copy of Form 25.0 "Application for Order to Disinter Remains."
- Before the hearing the applicant must file with the Court
- a copy of Form 25.2 "Notice of Hearing on Application for Disinterment" that was mailed to the interested persons, together with the "green card" that shows delivery of the notice by certified mail.
  - Form 25.5 "Waiver of Notice of Application to Disinter Remains" if obtained.
  - Form 25.3 "Affidavit of Service of Notice of Hearing on Application for Disinterment. The applicant's signature must be notarized.
  - Prepare and file Form 25.6 "Order to Disinter Remains.
- Verification of Reinterment - After the decedent's remains are removed and reburied in accordance with the court order, the applicant must obtain and file with the Court Form 25.4 "Verification of Reinterment."
  - Application to Oppose Disinterment.<sup>10</sup> A person who is an interested party and who is age 18 or older and of sound mind may apply to the probate court for an order to prevent the applicant from having the remains of the decedent disinterred. That person may prepare and file with the Court the Form GCPF 25.8 "Application to Oppose Disinterment."

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<sup>10</sup> R.C. 517.23 (E)