



WILLS

Matter

BUT MOM WANTED TO BE BURIED UNDER THE OLD PONDEROSA PINE

We all have different ideas about how we might wish our remains to be dealt with after we die. But did you know that there are laws that govern this?

In B.C. the Cremation, Interment and Funeral Services Act regulates who gets to make the choice and what choices can be made about a person's remains after they die.

One must follow these rules or you could be guilty of an Offence, and slapped with a stiff fine or even imprisonment! Generally speaking, if you are having your loved one buried at a recognized cemetery or cremated through a recognized crematorium, you are on solid legal footing. However, before you do something out of the ordinary or unusual, you should talk to an experienced Wills lawyer who can give some legal advice.

Also, the law deals with who makes the ultimate decision about funeral arrangements. Under the Cremation, Interment and Funeral Services Act, the first person who has authority to deal with a person's remains is the Executor under the Will. However, if a person dies without a Will, then the law sets out a priority list of family members who have the authority to deal with the person's remains. As a last resort, if no family members are available or willing, the law may appoint more distant relatives, government officials or friends.

If there is a dispute about who should properly have authority to make decisions about a deceased person's remains, an application can be made to the Court and a Judge will decide.

For example, if Mom died without a Will and Dad had already passed away, then Mom's eldest child would have the authority to make decisions about her remains. But if Mom was estranged from the eldest child, and had not seen that child in 20 years, the next oldest child might want to ask the Court to give her the authority to make the funeral arrangements for Mom.

If a dispute does arise over funeral arrangements and what to do with the remains of your loved one you can speak with an experienced Estate Litigation lawyer who can help you with these legal issues.

Finally, all of the above are examples of what may happen if you don't have a valid Will. With a properly drafted Will you can avoid awkward situations by directly addressing these issues. If you do not yet have a Will or would like to make changes to your existing Will, you should speak with an experienced Wills lawyer who can advise you on these issues.

Contact *Fulton & Company's Wills & Estates Team*

if you have any questions regarding wills or estate matters.

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