

to the penalties under § 5-409 of this subtitle, to which a public officer is subject if the officer fails to notify the Board under subsection (a)(1) of this section. The Commission to Revise the Annotated Code notes, for consideration by the General Assembly, that the State Anatomy Board believes the provisions of subsection (a)(2) of this section should be mandatory since, if no person assumes responsibility for final disposition, notification of the Board presents the only alternative for disposition.

Throughout this section, the word "control" is substituted for "charge and control" and "possession", for conformity.

In subsection (a)(1) of this section, the clause "if, after a reasonable search, the public officer has not found a person who will take control of the body for its final disposition" is substituted for the ambiguous standard "required to be buried at public expense or at the expense of any institution supported by the State ...". The former standard was obsolete on its enactment by Ch. 669, Acts of 1949, since, with creation of the State Anatomy Board, these burials ceased. Further, the former standard suggested, inaccurately, the individual could not be buried with public money. See 36 Op. Att'y Gen. 99 (1951), which states that former Article 43, § 159 applied only to use of public money to bury a body under the control of a public agency and does not include burial allowances.

The revision is based on provisions of the public local laws of Baltimore City and Baltimore County, which served as the basis for the Statewide law. As enacted by Ch. 163, Acts of 1882, a Baltimore City or Baltimore County officer with control of a body "required to be buried at the public expense" was required to give the body to a physician on request. The laws excluded a body of an individual who, during the illness that resulted in death, asked to be buried, a body claimed by "kindred to the deceased", and the body of "a stranger or traveler, who died suddenly..."

Ch. 166, Acts of 1890, amended these public local laws to include bodies to be buried by an institution supported by Baltimore County or Baltimore City, to provide for disposition with "the anatomy board", to allow a friend to claim the body, and to provide criminal penalties as to