

FIRST REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 618
98TH GENERAL ASSEMBLY

Reported from the Committee on Financial and Governmental Organizations and Elections, April 30, 2015, with recommendation that the Senate Committee Substitute do pass.

1456S.05C

ADRIANE D. CROUSE, Secretary.

AN ACT

To repeal sections 193.015, 193.145, 194.119, and 214.208, RSMo, and to enact in lieu thereof four new sections relating to human remains.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 193.015, 193.145, 194.119, and 214.208, RSMo, are
2 repealed and four new sections enacted in lieu thereof, to be known as sections
3 193.015, 193.145, 194.119, and 214.208, to read as follows:

193.015. As used in sections 193.005 to 193.325, unless the context clearly
2 indicates otherwise, the following terms shall mean:

3 (1) **"Advanced practice registered nurse", a person licensed to**
4 **practice as an advanced practice registered nurse under chapter 335,**
5 **and who has been delegated tasks outlined in section 193.145 by a**
6 **physician with whom they have entered into a collaborative practice**
7 **arrangement under chapter 334;**

8 (2) **"Assistant physician", as such term is defined in section**
9 **334.036, and who has been delegated tasks outlined in section 193.145**
10 **by a physician with whom they have entered into a collaborative**
11 **practice arrangement under chapter 334;**

12 (3) **"Dead body", a human body or such parts of such human body from**
13 **the condition of which it reasonably may be concluded that death recently**
14 **occurred;**

15 [(2)] (4) **"Department", the department of health and senior services;**

16 [(3)] (5) **"Final disposition", the burial, interment, cremation, removal**

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

17 from the state, or other authorized disposition of a dead body or fetus;

18 [(4)] (6) "Institution", any establishment, public or private, which
19 provides inpatient or outpatient medical, surgical, or diagnostic care or treatment
20 or nursing, custodian, or domiciliary care, or to which persons are committed by
21 law;

22 [(5)] (7) "Live birth", the complete expulsion or extraction from its
23 mother of a child, irrespective of the duration of pregnancy, which after such
24 expulsion or extraction, breathes or shows any other evidence of life such as
25 beating of the heart, pulsation of the umbilical cord, or definite movement of
26 voluntary muscles, whether or not the umbilical cord has been cut or the placenta
27 is attached;

28 [(6)] (8) "Physician", a person authorized or licensed to practice medicine
29 or osteopathy pursuant to chapter 334;

30 [(7)] (9) **"Physician assistant", a person licensed to practice as a**
31 **physician assistant pursuant to chapter 334, and who has been**
32 **delegated tasks outlined in section 193.145 by a physician with whom**
33 **they have entered into a supervision agreement under chapter 334;**

34 (10) "Spontaneous fetal death", a noninduced death prior to the complete
35 expulsion or extraction from its mother of a fetus, irrespective of the duration of
36 pregnancy; the death is indicated by the fact that after such expulsion or
37 extraction the fetus does not breathe or show any other evidence of life such as
38 beating of the heart, pulsation of the umbilical cord, or definite movement of
39 voluntary muscles;

40 [(8)] (11) "State registrar", state registrar of vital statistics of the state
41 of Missouri;

42 [(9)] (12) "System of vital statistics", the registration, collection,
43 preservation, amendment and certification of vital records; the collection of other
44 reports required by sections 193.005 to 193.325 and section 194.060; and
45 activities related thereto including the tabulation, analysis and publication of
46 vital statistics;

47 [(10)] (13) "Vital records", certificates or reports of birth, death,
48 marriage, dissolution of marriage and data related thereto;

49 [(11)] (14) "Vital statistics", the data derived from certificates and
50 reports of birth, death, spontaneous fetal death, marriage, dissolution of marriage
51 and related reports.

193.145. 1. A certificate of death for each death which occurs in this state

2 shall be filed with the local registrar, or as otherwise directed by the state
3 registrar, within five days after death and shall be registered if such certificate
4 has been completed and filed pursuant to this section. All data providers in the
5 death registration process, including, but not limited to, the state registrar, local
6 registrars, the state medical examiner, county medical examiners, coroners,
7 funeral directors or persons acting as such, embalmers, sheriffs, attending
8 physicians and resident physicians, **physician assistants, assistant**
9 **physicians, advanced practice registered nurses**, and the chief medical
10 officers of licensed health care facilities, and other public or private institutions
11 providing medical care, treatment, or confinement to persons, shall be required
12 to use and utilize any electronic death registration system required and adopted
13 under subsection 1 of section 193.265 within six months of the system being
14 certified by the director of the department of health and senior services, or the
15 director's designee, to be operational and available to all data providers in the
16 death registration process. However, should the person or entity that certifies the
17 cause of death not be part of, or does not use, the electronic death registration
18 system, the funeral director or person acting as such may enter the required
19 personal data into the electronic death registration system and then complete the
20 filing by presenting the signed cause of death certification to the local registrar,
21 in which case the local registrar shall issue death certificates as set out in
22 subsection 2 of section 193.265. Nothing in this section shall prevent the state
23 registrar from adopting pilot programs or voluntary electronic death registration
24 programs until such time as the system can be certified; however, no such pilot
25 or voluntary electronic death registration program shall prevent the filing of a
26 death certificate with the local registrar or the ability to obtain certified copies
27 of death certificates under subsection 2 of section 193.265 until six months after
28 such certification that the system is operational.

29 2. If the place of death is unknown but the dead body is found in this
30 state, the certificate of death shall be completed and filed pursuant to the
31 provisions of this section. The place where the body is found shall be shown as
32 the place of death. The date of death shall be the date on which the remains
33 were found.

34 3. When death occurs in a moving conveyance in the United States and
35 the body is first removed from the conveyance in this state, the death shall be
36 registered in this state and the place where the body is first removed shall be
37 considered the place of death. When a death occurs on a moving conveyance

38 while in international waters or air space or in a foreign country or its air space
39 and the body is first removed from the conveyance in this state, the death shall
40 be registered in this state but the certificate shall show the actual place of death
41 if such place may be determined.

42 4. The funeral director or person in charge of final disposition of the dead
43 body shall file the certificate of death. The funeral director or person in charge
44 of the final disposition of the dead body shall obtain or verify **and enter into**
45 **the electronic death registration system:**

46 (1) The personal data from the next of kin or the best qualified person or
47 source available; [and]

48 (2) The medical certification from the person responsible for such
49 certification **if designated to do so under subsection 5 of this section; and**

50 (3) **Any other information or data that may be required to be**
51 **placed on a death certificate or entered into the electronic death**
52 **certificate system including, but not limited to, the name and license**
53 **number of the embalmer.**

54 5. The medical certification shall be completed, attested to its accuracy
55 either by signature or an electronic process approved by the department, and
56 returned to the funeral director or person in charge of final disposition within
57 seventy-two hours after death by the physician, **physician assistant, assistant**
58 **physician, advanced practice registered nurse** in charge of the patient's
59 care for the illness or condition which resulted in death. In the absence of the
60 physician, **physician assistant, assistant physician, advanced practice**
61 **registered nurse** or with the physician's, **physician assistant's, assistant**
62 **physician's, or advanced practice registered nurse's** approval the
63 certificate may be completed and attested to its accuracy either by signature or
64 an approved electronic process by the physician's associate physician, the chief
65 medical officer of the institution in which death occurred, or the physician who
66 performed an autopsy upon the decedent, provided such individual has access to
67 the medical history of the case, views the deceased at or after death and death is
68 due to natural causes. **The person authorized to complete the medical**
69 **certification may, in writing, designate any other person to enter the**
70 **medical certification information into the electronic death registration**
71 **system if the person authorized to complete the medical certificate has**
72 **physically or by electronic process signed a statement stating the cause**
73 **of death. Any persons completing the medical certification or entering**

74 **data into the electronic death registration system shall be immune from**
75 **civil liability for such certification completion, data entry, or**
76 **determination of the cause of death, absent gross negligence or willful**
77 **misconduct.** The state registrar may approve alternate methods of obtaining
78 and processing the medical certification and filing the death certificate. The
79 Social Security number of any individual who has died shall be placed in the
80 records relating to the death and recorded on the death certificate.

81 6. When death occurs from natural causes more than thirty-six hours after
82 the decedent was last treated by a physician, **physician assistant, assistant**
83 **physician, advanced practice registered nurse**, the case shall be referred
84 to the county medical examiner or coroner or physician or local registrar for
85 investigation to determine and certify the cause of death. If the death is
86 determined to be of a natural cause, the medical examiner or coroner or local
87 registrar shall refer the certificate of death to the attending physician, **physician**
88 **assistant, assistant physician, advanced practice registered nurse** for
89 such [physician's] certification. If the attending physician, **physician assistant,**
90 **assistant physician, advanced practice registered nurse** refuses or is
91 otherwise unavailable, the medical examiner or coroner or local registrar shall
92 attest to the accuracy of the certificate of death either by signature or an
93 approved electronic process within thirty-six hours.

94 7. If the circumstances suggest that the death was caused by other than
95 natural causes, the medical examiner or coroner shall determine the cause of
96 death and shall complete and attest to the accuracy either by signature or an
97 approved electronic process the medical certification within seventy-two hours
98 after taking charge of the case.

99 8. If the cause of death cannot be determined within seventy-two hours
100 after death, the attending medical examiner [or], coroner [or], attending
101 physician, **physician assistant, assistant physician, advanced practice**
102 **registered nurse**, or local registrar shall give the funeral director, or person in
103 charge of final disposition of the dead body, notice of the reason for the delay, and
104 final disposition of the body shall not be made until authorized by the medical
105 examiner [or], coroner, attending physician, **physician assistant, assistant**
106 **physician, advanced practice registered nurse**, or local registrar.

107 9. When a death is presumed to have occurred within this state but the
108 body cannot be located, a death certificate may be prepared by the state registrar
109 upon receipt of an order of a court of competent jurisdiction which shall include

110 the finding of facts required to complete the death certificate. Such a death
111 certificate shall be marked "Presumptive", show on its face the date of
112 registration, and identify the court and the date of decree.

113 **10. (1) The department of health and senior services shall notify**
114 **all physicians, physician assistants, assistant physicians, and advanced**
115 **practice registered nurses licensed under chapters 334 and 335 of the**
116 **requirements regarding the use of the electronic vital records system**
117 **provided for in this section.**

118 **(2) On or before August 30, 2015, the department of health and**
119 **senior services, division of community and public health shall create**
120 **a working group comprised of representation from the Missouri**
121 **electronic vital records system users and recipients of death**
122 **certificates used for professional purposes to evaluate the Missouri**
123 **electronic vital records system, develop recommendations to improve**
124 **the efficiency and usability of the system, and to report such findings**
125 **and recommendations to the general assembly no later than January 1,**
126 **2016.**

194.119. 1. As used in this section, the term "right of sepulcher" means
2 the right to choose and control the burial, cremation, or other final disposition of
3 a dead human body.

4 2. For purposes of this chapter and chapters 193, 333, and 436, and in all
5 cases relating to the custody, control, and disposition of deceased human remains,
6 including the common law right of sepulcher, where not otherwise defined, the
7 term "next-of-kin" means the following persons in the priority listed if such
8 person is eighteen years of age or older, is mentally competent, and is willing to
9 assume responsibility for the costs of disposition:

10 (1) An attorney in fact designated in a durable power of attorney wherein
11 the deceased specifically granted the right of sepulcher over his or her body to
12 such attorney in fact;

13 (2) For a decedent who was on active duty in the United States military
14 at the time of death, the person designated by such decedent in the written
15 instrument known as the United States Department of Defense Form 93, Record
16 of Emergency Data, in accordance with P.L. 109-163, Section 564, 10 U.S.C.
17 Section 1482;

18 (3) The surviving spouse;

19 (4) Any surviving child of the deceased. If a surviving child is less than

20 eighteen years of age and has a legal or natural guardian, such child shall not be
21 disqualified on the basis of the child's age and such child's legal or natural
22 guardian, if any, shall be entitled to serve in the place of the child unless such
23 child's legal or natural guardian was subject to an action in dissolution from the
24 deceased. In such event the person or persons who may serve as next-of-kin shall
25 serve in the order provided in subdivisions (5) to (9) of this subsection;

26 (5) (a) Any surviving parent of the deceased; or

27 (b) If the deceased is a minor, a surviving parent who has custody of the
28 minor; or

29 (c) If the deceased is a minor and the deceased's parents have joint
30 custody, the parent whose residence is the minor child's residence for purposes
31 of mailing and education;

32 (6) Any surviving sibling of the deceased;

33 (7) The next nearest surviving relative of the deceased by consanguinity
34 or affinity;

35 (8) Any person or friend who assumes financial responsibility for the
36 disposition of the deceased's remains if no next-of-kin assumes such
37 responsibility;

38 (9) The county coroner or medical examiner; provided however that such
39 assumption of responsibility shall not make the coroner, medical examiner, the
40 county, or the state financially responsible for the cost of disposition.

41 3. The next-of-kin of the deceased shall be entitled to control the final
42 disposition of the remains of any dead human being consistent with all applicable
43 laws, including all applicable health codes.

44 4. A funeral director or establishment is entitled to rely on and act
45 according to the lawful instructions of any person claiming to be the next-of-kin
46 of the deceased; provided however, in any civil cause of action against a funeral
47 director or establishment licensed pursuant to this chapter for actions taken
48 regarding the funeral arrangements for a deceased person in the director's or
49 establishment's care, the relative fault, if any, of such funeral director or
50 establishment may be reduced if such actions are taken in reliance upon a
51 person's claim to be the deceased person's next-of-kin.

52 5. Any person who desires to exercise the right of sepulcher and who has
53 knowledge of an individual or individuals with a superior right to control
54 disposition shall notify such individual or individuals prior to making final
55 arrangements.

56 6. If an individual with a superior claim is personally served with written
57 notice from a person with an inferior claim that such person desires to exercise
58 the right of sepulcher and the individual so served does not object within
59 forty-eight hours of receipt, such individual shall be deemed to have waived such
60 right. An individual with a superior right may also waive such right at any time
61 if such waiver is in writing and dated.

62 7. If there is more than one person in a class who are equal in priority
63 and the funeral director has no knowledge of any objection by other members of
64 such class, the funeral director or establishment shall be entitled to rely on and
65 act according to the instructions of the first such person in the class to make
66 arrangements; provided that such person assumes responsibility for the costs of
67 disposition and no other person in such class provides written notice of his or her
68 objection. **If the funeral director has knowledge that there is more than**
69 **one person in a class who are equal in priority and who do not agree**
70 **on the disposition, the decision of the majority of the members of such**
71 **class shall control the disposition.**

72 8. **For purposes of conducting a majority vote under subsection**
73 **7 of this section, the funeral director shall allow voting by proxy using**
74 **a written authorization or instrument.**

214.208. 1. Every person or association which owns any cemetery in
2 which dead human remains are buried or otherwise interred is authorized, at the
3 cemetery owner's expense, to disinter individual remains and reinter or rebury
4 the remains at another location within the cemetery in order to correct an error
5 made in the original burial or interment of the remains.

6 2. Every person or association which owns any cemetery in which dead
7 human remains are buried or otherwise interred is authorized to disinter
8 individual remains and either to reinter or rebury the remains at another location
9 within the cemetery or to deliver the remains to a carrier for transportation out
10 of the cemetery, all pursuant to written instructions signed and acknowledged by
11 **the next-of-kin at the time of death of the deceased person as set out in**
12 **section 194.119. If the next-of-kin at the time of death as set out in**
13 **section 194.119 is no longer living, then** a majority of the following adult
14 members of the deceased person's family who are then known and living:
15 surviving spouse, children, and parents **may authorize the disinterment.** If
16 none of the above family members survive the deceased, then the majority of the
17 grandchildren, brothers and sisters of whole and half blood may authorize the

18 disinterment, relocation or delivery of the remains of the deceased. The costs of
19 such disinterment, relocation or delivery shall be paid by the deceased person's
20 family.

21 3. Every person or association which owns any cemetery in which dead
22 human remains are buried or otherwise interred is authorized to disinter
23 individual remains and either to reinter or rebury the remains at another location
24 within the cemetery or to deliver the remains to a carrier for transportation out
25 of the cemetery, all pursuant to a final order issued by the circuit court for the
26 county in which the cemetery is located. The court may issue the order, in the
27 court's discretion and upon such notice and hearing as the court shall deem
28 appropriate, for good cause shown, including without limitation, the best interests
29 of public health or safety, the best interests of the deceased person's family, or
30 the reasonable requirements of the cemetery to facilitate the operation,
31 maintenance, improvement or enlargement of the cemetery. The costs of such
32 disinterment, relocation and delivery, and the related court proceedings, shall be
33 paid by the persons so ordered by the court.

34 4. The cemetery owner, **cemetery operator, funeral director, funeral**
35 **establishment, or any other person or entity involved in the process**
36 shall not be liable to the deceased person's family or to any third party for a
37 disinterment, relocation or delivery of deceased human remains made pursuant
38 to this section.

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