

FIRST REGULAR SESSION

# SENATE BILL NO. 282

100TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR BROWN.

Read 1st time January 22, 2019, and ordered printed.

ADRIANE D. CROUSE, Secretary.

1541S.011

## AN ACT

To repeal sections 193.145, 193.265, and 194.119, RSMo, and to enact in lieu thereof three new sections relating to the disposition of human remains.

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

Section A. Sections 193.145, 193.265, and 194.119, RSMo, are repealed  
2 and three new sections enacted in lieu thereof, to be known as sections 193.145,  
3 193.265, and 194.119, to read as follows:

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 physicians,  
9 advanced practice registered nurses, and the chief medical officers of licensed  
10 health care facilities, and other public or private institutions providing medical  
11 care, treatment, or confinement to persons, shall be required to use and utilize  
12 any electronic death registration system required and adopted under subsection  
13 1 of section 193.265 within six months of the system being certified by the  
14 director of the department of health and senior services, or the director's  
15 designee, to be operational and available to all data providers in the death  
16 registration process. However, should the person or entity that certifies the cause  
17 of death not be part of, or does not use, the electronic death registration system,  
18 the funeral director or person acting as such may enter the required personal

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

19 data into the electronic death registration system and then complete the filing by  
20 presenting the signed cause of death certification to the local registrar, in which  
21 case the local registrar shall issue death certificates as set out in subsection 2 of  
22 section 193.265. [Nothing in this section shall prevent the state registrar from  
23 adopting pilot programs or voluntary electronic death registration programs until  
24 such time as the system can be certified; however, no such pilot or voluntary  
25 electronic death registration program shall prevent the filing of a death certificate  
26 with the local registrar or the ability to obtain certified copies of death  
27 certificates under subsection 2 of section 193.265 until six months after such  
28 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 the  
45 electronic death registration system:

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

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

51             (3) Any other information or data that may be required to be placed on a  
52 death certificate or entered into the electronic death certificate system including,  
53 but not limited to, the name and license 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 care for  
59 the illness or condition which resulted in death. In the absence of the physician,  
60 physician assistant, assistant physician, advanced practice registered nurse or  
61 with the physician's, physician assistant's, assistant physician's, or advanced  
62 practice registered nurse's approval the certificate may be completed and attested  
63 to its accuracy either by signature or an approved electronic process by the  
64 physician's associate physician, the chief medical officer of the institution in  
65 which death occurred, or the physician who performed an autopsy upon the  
66 decedent, provided such individual has access to the medical history of the case,  
67 views the deceased at or after death and death is due to natural causes. The  
68 person authorized to complete the medical certification may, in writing, designate  
69 any other person to enter the medical certification information **and attestation**  
70 into the electronic death registration system if the person authorized to complete  
71 the medical certificate has physically or by electronic process signed a statement  
72 stating the cause of death. Any persons completing the medical certification or  
73 entering data **and attestation** into the electronic death registration system shall  
74 be immune from civil liability for such certification **and attestation** completion,  
75 data entry, or determination of the cause of death, absent gross negligence or  
76 willful misconduct. The state registrar may approve alternate methods of  
77 obtaining and processing the medical certification and filing the death  
78 certificate. The Social Security number of any individual who has died shall be  
79 placed in the records relating to the death and recorded on the death certificate.

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

91 certificate of death either by signature or an approved electronic process within  
92 thirty-six hours.

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

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

106           9. When a death is presumed to have occurred within this state but the  
107 body cannot be located, a death certificate may be prepared by the state registrar  
108 upon receipt of an order of a court of competent jurisdiction which shall include  
109 the finding of facts required to complete the death certificate. Such a death  
110 certificate shall be marked "Presumptive", show on its face the date of  
111 registration, and identify the court and the date of decree.

112           10. ~~[(1)]~~ The department of health and senior services shall notify all  
113 physicians, physician assistants, assistant physicians, and advanced practice  
114 registered nurses licensed under chapters 334 and 335 of the requirements  
115 regarding the use of the electronic vital records system provided for in this  
116 section.

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

193.265. 1. For the issuance of a certification or copy of a death record,  
2 the applicant shall pay a fee of thirteen dollars for the first certification or copy  
3 and a fee of ten dollars for each additional copy ordered at that time. For the

4 issuance of a certification or copy of a birth, marriage, divorce, or fetal death  
5 record, the applicant shall pay a fee of fifteen dollars. No fee shall be required  
6 or collected for a certification of birth, death, or marriage if the request for  
7 certification is made by the children's division, the division of youth services, a  
8 guardian ad litem, or a juvenile officer on behalf of a child or person under  
9 twenty-one years of age who has come under the jurisdiction of the juvenile court  
10 under section 211.031. All fees shall be deposited to the state department of  
11 revenue. Beginning August 28, 2004, for each vital records fee collected, the  
12 director of revenue shall credit four dollars to the general revenue fund, five  
13 dollars to the children's trust fund, one dollar shall be credited to the endowed  
14 care cemetery audit fund, and three dollars for the first copy of death records and  
15 five dollars for birth, marriage, divorce, and fetal death records shall be credited  
16 to the Missouri public services health fund established in section 192.900. Money  
17 in the endowed care cemetery audit fund shall be available by appropriation to  
18 the division of professional registration to pay its expenses in administering  
19 sections 214.270 to 214.410. All interest earned on money deposited in the  
20 endowed care cemetery audit fund shall be credited to the endowed care cemetery  
21 fund. Notwithstanding the provisions of section 33.080 to the contrary, money  
22 placed in the endowed care cemetery audit fund shall not be transferred and  
23 placed to the credit of general revenue until the amount in the fund at the end  
24 of the biennium exceeds three times the amount of the appropriation from the  
25 endowed care cemetery audit fund for the preceding fiscal year. The money  
26 deposited in the public health services fund under this section shall be deposited  
27 in a separate account in the fund, and moneys in such account, upon  
28 appropriation, shall be used to automate and improve the state vital records  
29 system, and develop and maintain an electronic birth and death registration  
30 system. For any search of the files and records, when no record is found, the  
31 state shall be entitled to a fee equal to the amount for a certification of a vital  
32 record for a five-year search to be paid by the applicant. For the processing of  
33 each legitimation, adoption, court order or recording after the registrant's twelfth  
34 birthday, the state shall be entitled to a fee equal to the amount for a certification  
35 of a vital record. Except whenever a certified copy or copies of a vital record is  
36 required to perfect any claim of any person on relief, or any dependent of any  
37 person who was on relief for any claim upon the government of the state or  
38 United States, the state registrar shall, upon request, furnish a certified copy or  
39 so many certified copies as are necessary, without any fee or compensation

40 therefor.

41           2. For the issuance of a certification of a death record by the local  
42 registrar, the applicant shall pay a fee of thirteen dollars for the first certification  
43 or copy and a fee of ten dollars for each additional copy ordered at that time. For  
44 the issuance of a certification or copy of a birth, marriage, divorce, or fetal death  
45 record, the applicant shall pay a fee of fifteen dollars; except that, in any county  
46 with a charter form of government and with more than six hundred thousand but  
47 fewer than seven hundred thousand inhabitants, a donation of one dollar may be  
48 collected by the local registrar over and above any fees required by law when a  
49 certification or copy of any marriage license or birth certificate is provided, with  
50 such donations collected to be forwarded monthly by the local registrar to the  
51 county treasurer of such county and the donations so forwarded to be deposited  
52 by the county treasurer into the housing resource commission fund to assist  
53 homeless families and provide financial assistance to organizations addressing  
54 homelessness in such county. The local registrar shall include a check-off box on  
55 the application form for such copies. All fees, other than the donations collected  
56 in any county with a charter form of government and with more than six hundred  
57 thousand but fewer than seven hundred thousand inhabitants for marriage  
58 licenses and birth certificates, shall be deposited to the official city or county  
59 health agency. A certified copy of a death record by the local registrar can only  
60 be issued within twenty-four hours of receipt of the record by the local  
61 registrar. Computer-generated certifications of death records may be issued by  
62 the local registrar after twenty-four hours of receipt of the records. **In the event**  
63 **that it is determined by the state registrar that any required**  
64 **information from any data provider was missing or incomplete on**  
65 **records or documentation that were filed with or submitted to the local**  
66 **registrar and then sent to the state registrar, the state registrar shall**  
67 **return the records or documentation to the local registrar so that the**  
68 **data provider, funeral director, or person in charge of the final**  
69 **disposition, can provide the missing or incomplete**  
70 **information. Nothing in this subsection removes any requirement in**  
71 **any statute or regulation as to when an affidavit or court order is**  
72 **necessary to amend a death certificate that has been issued.** The fees  
73 paid to the official county health agency shall be retained by the local agency for  
74 local public health purposes.

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, **unless an action for the dissolution of the**  
19 **marriage has been filed and is pending in a court of competent**  
20 **jurisdiction;**

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

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

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

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

34         (6) Any surviving sibling of the deceased;

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

37         (8) Any person or friend who assumes financial responsibility for the

38 disposition of the deceased's remains if no next-of-kin assumes such  
39 responsibility;

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

43 3. The next-of-kin of the deceased shall be entitled to control the final  
44 disposition of the remains of any dead human being consistent with all applicable  
45 laws, including all applicable health codes. **The next-of-kin may delegate the**  
46 **control of the final disposition of the remains of any dead human being**  
47 **to an agent through either a specific or general grant of power in**  
48 **accordance with section 404.710 if, at the time of delegation, the next-**  
49 **of-kin was eighteen years of age or older and mentally competent and**  
50 **the principal or agent is taking financial responsibility for the**  
51 **disposition.**

52 4. A funeral director or establishment is entitled to rely on and act  
53 according to the lawful instructions of any person claiming to be the next-of-kin  
54 of the deceased; provided however, in any civil cause of action against a funeral  
55 director or establishment licensed pursuant to this chapter for actions taken  
56 regarding the funeral arrangements for a deceased person in the director's or  
57 establishment's care, the relative fault, if any, of such funeral director or  
58 establishment may be reduced if such actions are taken in reliance upon a  
59 person's claim to be the deceased person's next-of-kin.

60 5. Any person who desires to exercise the right of sepulcher and who has  
61 knowledge of an individual or individuals with a superior right to control  
62 disposition shall notify such individual or individuals prior to making final  
63 arrangements.

64 6. If an individual with a superior claim is [personally served with written  
65 notice from] **notified in person or by written notice with delivery**  
66 **confirmation to such person's last known address by** a person with an  
67 inferior claim that such person desires to exercise the right of sepulcher and the  
68 individual so served does not object within forty-eight hours of [receipt] **such**  
69 **notice**, such individual shall be deemed to have waived such right. An  
70 individual with a superior right may also waive such right at any time if such  
71 waiver is in writing and dated.

72 7. If there is more than one person in a class who are equal in priority  
73 and the funeral director has no knowledge of any objection by other members of

74 such class, the funeral director or establishment shall be entitled to rely on and  
75 act according to the instructions of the first such person in the class to make  
76 arrangements; provided that such person assumes responsibility for the costs of  
77 disposition and no other person in such class provides written notice of his or her  
78 objection. If the funeral director has knowledge that there is more than one  
79 person in a class who are equal in priority and who do not agree on the  
80 disposition, the decision of the majority of the members of such class shall control  
81 the disposition.

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

✓

Bill

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