

FIRST REGULAR SESSION

# SENATE BILL NO. 291

101ST GENERAL ASSEMBLY

INTRODUCED BY SENATOR BROWN.

0306S.02I

ADRIANE D. CROUSE, Secretary

## AN ACT

To repeal sections 193.065, 193.145, 193.265, and 194.119, RSMo, and to enact in lieu thereof four new sections relating to disposition of human remains.

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

Section A. Sections 193.065, 193.145, 193.265, and  
2 194.119, RSMo, are repealed and four new sections enacted in  
3 lieu thereof, to be known as sections 193.065, 193.145, 193.265,  
4 and 194.119, to read as follows:

193.065. The state registrar may appoint local  
2 registrars, each of whom shall be a person employed by an  
3 official county or city health agency except as otherwise  
4 herein provided. Each local registrar shall be authorized  
5 under the provisions of section 193.255 and [subsection 2  
6 of] section 193.265 to issue certifications of death  
7 records. A local registrar, with the approval of the state  
8 registrar, may appoint deputies to carry out some or all of  
9 the responsibilities of the local registrar as provided in  
10 sections 193.005 to 193.325 or the regulations promulgated  
11 pursuant thereto. The local registrars shall immediately  
12 report to the state registrar violations of sections 193.005  
13 to 193.325 or the regulations promulgated pursuant thereto.  
14 In any city not within a county, the state registrar shall  
15 appoint the recorder of deeds for such city as the local  
16 registrar.

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

193.145. 1. A certificate of death for each death which occurs in this state shall be filed with the local registrar, or as otherwise directed by the state registrar, within five days after death and shall be registered if such certificate has been completed and filed pursuant to this section. All data providers in the death registration process, including, but not limited to, the state registrar, local registrars, the state medical examiner, county medical examiners, coroners, funeral directors or persons acting as such, embalmers, sheriffs, attending physicians and resident physicians, physician assistants, assistant physicians, advanced practice registered nurses, and the chief medical officers of licensed health care facilities, and other public or private institutions providing medical care, treatment, or confinement to persons, shall be required to use and utilize any electronic death registration system required and adopted under subsection 1 of section 193.265 within six months of the system being certified by the director of the department of health and senior services, or the director's designee, to be operational and available to all data providers in the death registration process. However, should the person or entity that certifies the cause of death not be part of, or does not use, the electronic death registration system, the funeral director or person acting as such may enter the required personal data into the electronic death registration system and then complete the filing by presenting the signed cause of death certification to the local registrar, in which case the local registrar shall issue death certificates as set out in [subsection 2 of] section 193.265. [Nothing in this section shall prevent the state registrar from adopting pilot programs or voluntary electronic death registration

33 programs until such time as the system can be certified;  
34 however, no such pilot or voluntary electronic death  
35 registration program shall prevent the filing of a death  
36 certificate with the local registrar or the ability to  
37 obtain certified copies of death certificates under  
38 subsection 2 of section 193.265 until six months after such  
39 certification that the system is operational.】

40       2. If the place of death is unknown but the dead body  
41 is found in this state, the certificate of death shall be  
42 completed and filed pursuant to the provisions of this  
43 section. The place where the body is found shall be shown  
44 as the place of death. The date of death shall be the date  
45 on which the remains were found.

46       3. When death occurs in a moving conveyance in the  
47 United States and the body is first removed from the  
48 conveyance in this state, the death shall be registered in  
49 this state and the place where the body is first removed  
50 shall be considered the place of death. When a death occurs  
51 on a moving conveyance while in international waters or air  
52 space or in a foreign country or its air space and the body  
53 is first removed from the conveyance in this state, the  
54 death shall be registered in this state but the certificate  
55 shall show the actual place of death if such place may be  
56 determined.

57       4. The funeral director or person in charge of final  
58 disposition of the dead body shall file the certificate of  
59 death. The funeral director or person in charge of the  
60 final disposition of the dead body shall obtain or verify  
61 and enter into the electronic death registration system:

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

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

67           (3) Any other information or data that may be required  
68 to be placed on a death certificate or entered into the  
69 electronic death certificate system including, but not  
70 limited to, the name and license number of the embalmer. **If**  
71 **the death certificate is filed by a funeral director**  
72 **licensed pursuant to chapter 333, there shall be no**  
73 **requirement that the embalmer sign or certify the death**  
74 **certificate.**

75           5. The medical certification shall be completed,  
76 attested to its accuracy either by signature or an  
77 electronic process approved by the department, and returned  
78 to the funeral director or person in charge of final  
79 disposition within seventy-two hours after death by the  
80 physician, physician assistant, assistant physician, or  
81 advanced practice registered nurse in charge of the  
82 patient's care for the illness or condition which resulted  
83 in death. In the absence of the physician, physician  
84 assistant, assistant physician, advanced practice registered  
85 nurse or with the physician's, physician assistant's,  
86 assistant physician's, or advanced practice registered  
87 nurse's approval the certificate may be completed and  
88 attested to its accuracy either by signature or an approved  
89 electronic process by the physician's associate physician,  
90 the chief medical officer of the institution in which death  
91 occurred, or the physician who performed an autopsy upon the  
92 decedent, provided such individual has access to the medical  
93 history of the case, views the deceased at or after death  
94 and death is due to natural causes. The person authorized  
95 to complete the medical certification may, in writing,

96 designate any other person to enter the medical  
97 certification information **and attestation** into the  
98 electronic death registration system if the person  
99 authorized to complete the medical certificate has  
100 physically or by electronic process signed a statement  
101 stating the cause of death. Any persons completing the  
102 medical certification or entering data **and attestation** into  
103 the electronic death registration system shall be immune  
104 from civil liability for such certification **and attestation**  
105 completion, data entry, or determination of the cause of  
106 death, absent gross negligence or willful misconduct. The  
107 state registrar may approve alternate methods of obtaining  
108 and processing the medical certification and filing the  
109 death certificate. The Social Security number of any  
110 individual who has died shall be placed in the records  
111 relating to the death and recorded on the death certificate.

112       6. When death occurs from natural causes more than  
113 thirty-six hours after the decedent was last treated by a  
114 physician, physician assistant, assistant physician, **or**  
115 advanced practice registered nurse, the case shall be  
116 referred to the county medical examiner or coroner or  
117 physician or local registrar for investigation to determine  
118 and certify the cause of death. If the death is determined  
119 to be of a natural cause, the medical examiner or coroner or  
120 local registrar shall refer the certificate of death to the  
121 attending physician, physician assistant, assistant  
122 physician, **or** advanced practice registered nurse for such  
123 certification. If the attending physician, physician  
124 assistant, assistant physician, **or** advanced practice  
125 registered nurse refuses or is otherwise unavailable, the  
126 medical examiner or coroner or local registrar shall attest  
127 to the accuracy of the certificate of death either by

signature or an approved electronic process within thirty-six hours.

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

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

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

10. [(1)] The department of health and senior services shall notify all physicians, physician assistants, assistant physicians, and advanced practice registered nurses licensed under chapters 334 and 335 of the

159 requirements regarding the use of the electronic vital  
160 records system provided for in this section.

161       [(2) On or before August 30, 2015, the department of  
162 health and senior services, division of community and public  
163 health shall create a working group comprised of  
164 representation from the Missouri electronic vital records  
165 system users and recipients of death certificates used for  
166 professional purposes to evaluate the Missouri electronic  
167 vital records system, develop recommendations to improve the  
168 efficiency and usability of the system, and to report such  
169 findings and recommendations to the general assembly no  
170 later than January 1, 2016.]

171       11. Notwithstanding any provision of law to the  
172 contrary, if a coroner or deputy coroner is not current with  
173 or is without the approved training under chapter 58, the  
174 department of health and senior services shall prohibit such  
175 coroner from attesting to the accuracy of a certificate of  
176 death. No person elected or appointed to the office of  
177 coroner can assume such elected office until the training,  
178 as established by the coroner standards and training  
179 commission under the provisions of section 58.035, has been  
180 completed and a certificate of completion has been issued.  
181 In the event a coroner cannot fulfill his or her duties or  
182 is no longer qualified to attest to the accuracy of a death  
183 certificate, the sheriff of the county shall appoint a  
184 medical professional to attest death certificates until such  
185 time as the coroner can resume his or her duties or another  
186 coroner is appointed or elected to the office.

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

5 that time. For the issuance of a certification or copy of a  
6 birth, marriage, divorce, or fetal death record, the  
7 applicant shall pay a fee of fifteen dollars. No fee shall  
8 be required or collected for a certification of birth,  
9 death, or marriage if the request for certification is made  
10 by the children's division, the division of youth services,  
11 a guardian ad litem, or a juvenile officer on behalf of a  
12 child or person under twenty-one years of age who has come  
13 under the jurisdiction of the juvenile court under section  
14 211.031. All fees collected under this subsection shall be  
15 deposited to the state department of revenue. Beginning  
16 August 28, 2004, for each vital records fee collected, the  
17 director of revenue shall credit four dollars to the general  
18 revenue fund, five dollars to the children's trust fund, one  
19 dollar shall be credited to the endowed care cemetery audit  
20 fund, one dollar for each certification or copy of death  
21 records to the Missouri state coroners' training fund  
22 established in section 58.208, and three dollars for the  
23 first copy of death records and five dollars for birth,  
24 marriage, divorce, and fetal death records shall be credited  
25 to the Missouri public health services fund established in  
26 section 192.900. Money in the endowed care cemetery audit  
27 fund shall be available by appropriation to the division of  
28 professional registration to pay its expenses in  
29 administering sections 214.270 to 214.410. All interest  
30 earned on money deposited in the endowed care cemetery audit  
31 fund shall be credited to the endowed care cemetery fund.  
32 Notwithstanding the provisions of section 33.080 to the  
33 contrary, money placed in the endowed care cemetery audit  
34 fund shall not be transferred and placed to the credit of  
35 general revenue until the amount in the fund at the end of  
36 the biennium exceeds three times the amount of the



appropriation from the endowed care cemetery audit fund for the preceding fiscal year. The money deposited in the public health services fund under this section shall be deposited in a separate account in the fund, and moneys in such account, upon appropriation, shall be used to automate and improve the state vital records system, and develop and maintain an electronic birth and death registration system. For any search of the files and records, when no record is found, the state shall be entitled to a fee equal to the amount for a certification of a vital record for a five-year search to be paid by the applicant. For the processing of each legitimation, adoption, court order or recording after the registrant's twelfth birthday, the state shall be entitled to a fee equal to the amount for a certification of a vital record. Except whenever a certified copy or copies of a vital record is required to perfect any claim of any person on relief, or any dependent of any person who was on relief for any claim upon the government of the state or United States, the state registrar shall, upon request, furnish a certified copy or so many certified copies as are necessary, without any fee or compensation therefor.

2. For the issuance of a certification of a death record by the local registrar, the applicant shall pay a fee of fourteen dollars for the first certification or copy and a fee of eleven dollars for each additional copy ordered at that time. For each fee collected under this subsection, one dollar shall be deposited to the state department of revenue and the remainder shall be deposited to the official city or county health agency. The director of revenue shall credit all fees deposited to the state department of revenue under this subsection to the Missouri state coroners' training fund established in section 58.208.

69           3. For the issuance of a certification or copy of a  
70 birth, marriage, divorce, or fetal death record, the  
71 applicant shall pay a fee of fifteen dollars; except that,  
72 in any county with a charter form of government and with  
73 more than six hundred thousand but fewer than seven hundred  
74 thousand inhabitants, a donation of one dollar may be  
75 collected by the local registrar over and above any fees  
76 required by law when a certification or copy of any marriage  
77 license or birth certificate is provided, with such  
78 donations collected to be forwarded monthly by the local  
79 registrar to the county treasurer of such county and the  
80 donations so forwarded to be deposited by the county  
81 treasurer into the housing resource commission fund to  
82 assist homeless families and provide financial assistance to  
83 organizations addressing homelessness in such county. The  
84 local registrar shall include a check-off box on the  
85 application form for such copies. All fees collected under  
86 this subsection, other than the donations collected in any  
87 county with a charter form of government and with more than  
88 six hundred thousand but fewer than seven hundred thousand  
89 inhabitants for marriage licenses and birth certificates,  
90 shall be deposited to the official city or county health  
91 agency.

92           4. A certified copy of a death record by the local  
93 registrar can only be issued within twenty-four hours of  
94 receipt of the record by the local registrar. Computer-  
95 generated certifications of death records may be issued by  
96 the local registrar after twenty-four hours of receipt of  
97 the records. **In the event that it is determined by the**  
98 **state registrar that any required information from any data**  
99 **provider was missing or incomplete on records or**  
100 **documentation that were filed with or submitted to the local**

101 registrar and then sent to the state registrar, the state  
102 registrar shall return the records or documentation to the  
103 local registrar so that the data provider, funeral director,  
104 or person in charge of the final disposition can provide the  
105 missing or incomplete information. Nothing in this  
106 subsection removes any requirement in any statute or  
107 regulation as to when an affidavit or court order is  
108 necessary to amend a death certificate that has been issued.

109 5. The fees paid to the official county health agency  
110 shall be retained by the local agency for local public  
111 health purposes.

112 [5.] 6. No fee under this section shall be required or  
113 collected from a parent or guardian of a homeless child or  
114 homeless youth, as defined in subsection 1 of section  
115 167.020, or an unaccompanied youth, as defined in 42 U.S.C.  
116 Section 11434a(6), for the issuance of a certification, or  
117 copy of such certification, of birth of such child or  
118 youth. An unaccompanied youth shall be eligible to receive  
119 a certification or copy of his or her own birth record  
120 without the consent or signature of his or her parent or  
121 guardian; provided, that only one certificate under this  
122 provision shall be provided without cost to the  
123 unaccompanied or homeless youth. For the issuance of any  
124 additional certificates, the statutory fee shall be paid.

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

5 2. For purposes of this chapter and chapters 193, 333,  
6 and 436, and in all cases relating to the custody, control,  
7 and disposition of deceased human remains, including the  
8 common law right of sepulcher, where not otherwise defined,

9 the term "next-of-kin" means the following persons in the  
10 priority listed if such person is eighteen years of age or  
11 older, is mentally competent, and is willing to assume  
12 responsibility for the costs of disposition:

13 (1) An attorney in fact designated in a durable power  
14 of attorney wherein the deceased specifically granted the  
15 right of sepulcher over his or her body to such attorney in  
16 fact;

17 (2) For a decedent who was on active duty in the  
18 United States military at the time of death, the person  
19 designated by such decedent in the written instrument known  
20 as the United States Department of Defense Form 93, Record  
21 of Emergency Data, in accordance with [P.L. 109-163, Section  
22 564,] 10 U.S.C. Section 1482;

23 (3) The surviving spouse, **unless an action for the**  
24 **dissolution of the marriage has been filed and is pending in**  
25 **a court of competent jurisdiction;**

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

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

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

39 (c) If the deceased is a minor and the deceased's  
40 parents have joint custody, the parent whose residence is

41 the minor child's residence for purposes of mailing and  
42 education;

43 (6) Any surviving sibling of the deceased;

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

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

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

53 3. The next-of-kin of the deceased shall be entitled  
54 to control the final disposition of the remains of any dead  
55 human being consistent with all applicable laws, including  
56 all applicable health codes. **The next-of-kin may delegate  
57 the control of the final disposition of the remains of any  
58 dead human being to an agent through either a specific or  
59 general grant of power in accordance with section 404.710  
60 if, at the time of delegation, the next-of-kin was eighteen  
61 years of age or older and mentally competent and the  
62 principal or agent is taking financial responsibility for  
63 the disposition.**

64 4. A funeral director or establishment is entitled to  
65 rely on and act according to the lawful instructions of any  
66 person claiming to be the next-of-kin of the deceased;  
67 provided however, in any civil cause of action against a  
68 funeral director or establishment licensed pursuant to this  
69 chapter for actions taken regarding the funeral arrangements  
70 for a deceased person in the director's or establishment's  
71 care, the relative fault, if any, of such funeral director  
72 or establishment may be reduced if such actions are taken in

73 reliance upon a person's claim to be the deceased person's  
74 next-of-kin.

75         5. Any person who desires to exercise the right of  
76 sepulcher and who has knowledge of an individual or  
77 individuals with a superior right to control disposition  
78 shall notify such individual or individuals prior to making  
79 final arrangements.

80         6. If an individual with a superior claim is  
81 [personally served with written notice from] **notified in**  
82 **person or by written notice with delivery confirmation to**  
83 **such person's last known address by** a person with an  
84 inferior claim that such person desires to exercise the  
85 right of sepulcher and the individual so served does not  
86 object within forty-eight hours of [receipt] **such notice,**  
87 such individual shall be deemed to have waived such right.  
88 An individual with a superior right may also waive such  
89 right at any time if such waiver is in writing and dated.

90         7. If there is more than one person in a class who are  
91 equal in priority and the funeral director has no knowledge  
92 of any objection by other members of such class, the funeral  
93 director or establishment shall be entitled to rely on and  
94 act according to the instructions of the first such person  
95 in the class to make arrangements; provided that such person  
96 assumes responsibility for the costs of disposition and no  
97 other person in such class provides written notice of his or  
98 her objection. If the funeral director has knowledge that  
99 there is more than one person in a class who are equal in  
100 priority and who do not agree on the disposition, the  
101 decision of the majority of the members of such class shall  
102 control the disposition.

103         8. For purposes of conducting a majority vote under  
104 subsection 7 of this section, the funeral director shall

105 allow voting by proxy using a written authorization or  
106 instrument.

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