

SENATE BILL NO. 1070

101ST GENERAL ASSEMBLY

INTRODUCED BY SENATOR BROWN.

3504S.01I

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2 194.119, RSMo, are repealed and four new sections enacted in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
2 which occurs in this state shall be filed with the local
3 registrar, or as otherwise directed by the state registrar,
4 within five days after death and shall be registered if such
5 certificate has been completed and filed pursuant to this
6 section. All data providers in the death registration
7 process, including, but not limited to, the state registrar,
8 local registrars, the state medical examiner, county medical
9 examiners, coroners, funeral directors or persons acting as
10 such, embalmers, sheriffs, attending physicians and resident
11 physicians, physician assistants, assistant physicians,
12 advanced practice registered nurses, and the chief medical
13 officers of licensed health care facilities, and other
14 public or private institutions providing medical care,
15 treatment, or confinement to persons, shall be required to
16 use and utilize any electronic death registration system
17 required and adopted under subsection 1 of section 193.265
18 within six months of the system being certified by the
19 director of the department of health and senior services, or
20 the director's designee, to be operational and available to
21 all data providers in the death registration process.
22 However, should the person or entity that certifies the
23 cause of death not be part of, or does not use, the
24 electronic death registration system, the funeral director
25 or person acting as such may enter the required personal
26 data into the electronic death registration system and then
27 complete the filing by presenting the signed cause of death
28 certification to the local registrar, in which case the
29 local registrar shall issue death certificates as set out in
30 [subsection 2 of] section 193.265. [Nothing in this
31 section shall prevent the state registrar from adopting
32 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

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

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

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

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

155 10. [(1)] The department of health and senior
156 services shall notify all physicians, physician assistants,
157 assistant physicians, and advanced practice registered
158 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

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

58 2. For the issuance of a certification of a death
59 record by the local registrar, the applicant shall pay a fee
60 of fourteen dollars for the first certification or copy and
61 a fee of eleven dollars for each additional copy ordered at
62 that time. For each fee collected under this subsection,
63 one dollar shall be deposited to the state department of
64 revenue and the remainder shall be deposited to the official
65 city or county health agency. The director of revenue shall
66 credit all fees deposited to the state department of revenue
67 under this subsection to the Missouri state coroners'
68 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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