

FIRST REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
SENATE SUBSTITUTE FOR
SENATE BILL NO. 116
102ND GENERAL ASSEMBLY

1133H.03C

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal sections 193.145, 193.175, 193.265, 194.010, 194.020, 194.060, 194.070, 194.080, 194.090, 194.100, 194.105, 194.110, and 194.119, RSMo, and to enact in lieu thereof six new sections relating to the disposition of the dead.

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

Section A. Sections 193.145, 193.175, 193.265, 194.010, 194.020, 194.060, 194.070,
2 194.080, 194.090, 194.100, 194.105, 194.110, and 194.119, RSMo, are repealed and six new
3 sections enacted in lieu thereof, to be known as sections 193.145, 193.175, 193.265, 194.010,
4 194.105, and 194.119, to read as follows:

193.145. 1. A certificate of death for each death which occurs in this state shall be
2 filed with the local registrar, or as otherwise directed by the state registrar, within five days
3 after death and shall be registered if such certificate has been completed and filed pursuant to
4 this section. All data providers in the death registration process, including, but not limited to,
5 the state registrar, local registrars, the state medical examiner, county medical examiners,
6 coroners, funeral directors or persons acting as such, embalmers, sheriffs, attending
7 physicians and resident physicians, physician assistants, assistant physicians, advanced
8 practice registered nurses, and the chief medical officers of licensed health care facilities, and
9 other public or private institutions providing medical care, treatment, or confinement to
10 persons, shall be required to use and utilize any electronic death registration system required
11 and adopted under subsection 1 of section 193.265 within six months of the system being
12 certified by the director of the department of health and senior services, or the director's
13 designee, to be operational and available to all data providers in the death registration process.
14 ~~[However, should the person or entity that certifies the cause of death not be part of, or does~~

EXPLANATION — Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

15 ~~not use, the electronic death registration system, the funeral director or person acting as such~~
16 ~~may enter the required personal data into the electronic death registration system and then~~
17 ~~complete the filing by presenting the signed cause of death certification to the local registrar,~~
18 ~~in which case the local registrar shall issue death certificates as set out in subsection 2 of~~
19 ~~section 193.265. Nothing in this section shall prevent the state registrar from adopting pilot~~
20 ~~programs or voluntary electronic death registration programs until such time as the system~~
21 ~~can be certified; however, no such pilot or voluntary electronic death registration program~~
22 ~~shall prevent the filing of a death certificate with the local registrar or the ability to obtain~~
23 ~~certified copies of death certificates under subsection 2 of section 193.265 until six months~~
24 ~~after such certification that the system is operational.]~~

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

29 3. When death occurs in a moving conveyance in the United States and the body is
30 first removed from the conveyance in this state, the death shall be registered in this state and
31 the place where the body is first removed shall be considered the place of death. When a
32 death occurs on a moving conveyance while in international waters or air space or in a foreign
33 country or its air space and the body is first removed from the conveyance in this state, the
34 death shall be registered in this state but the certificate shall show the actual place of death if
35 such place may be determined.

36 4. The funeral director or person in charge of final disposition of the dead body shall
37 file the certificate of death. The funeral director or person in charge of the final disposition of
38 the dead body shall obtain or verify and enter into the electronic death registration system:

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

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

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

46 5. The medical certification shall be completed, attested to its accuracy either by
47 signature or an electronic process approved by the department, and returned to the funeral
48 director or person in charge of final disposition within seventy-two hours after death by the
49 physician, physician assistant, assistant physician, or advanced practice registered nurse in
50 charge of the patient's care for the illness or condition which resulted in death. In the absence
51 of the physician, physician assistant, assistant physician, **or** advanced practice registered

52 nurse or with the physician's, physician assistant's, assistant physician's, or advanced practice
53 registered nurse's approval the certificate may be completed and attested to its accuracy either
54 by signature or an approved electronic process by the physician's associate physician, the
55 chief medical officer of the institution in which death occurred, or the physician who
56 performed an autopsy upon the decedent, provided such individual has access to the medical
57 history of the case, views the deceased at or after death and death is due to natural causes.
58 The person authorized to complete the medical certification may, in writing, designate any
59 other person to enter the medical certification information into the electronic death
60 registration system if the person authorized to complete the medical certificate has physically
61 or by electronic process signed a statement stating the cause of death. Any persons
62 completing the medical certification or entering data into the electronic death registration
63 system shall be immune from civil liability for such certification completion, data entry, or
64 determination of the cause of death, absent gross negligence or willful misconduct. The state
65 registrar may approve alternate methods of obtaining and processing the medical certification
66 and filing the death certificate. The Social Security number of any individual who has died
67 shall be placed in the records relating to the death and recorded on the death certificate.

68 6. When death occurs from natural causes more than thirty-six hours after the
69 decedent was last treated by a physician, physician assistant, assistant physician, **or** advanced
70 practice registered nurse, the case shall be referred to the county medical examiner or coroner
71 or physician or local registrar for investigation to determine and certify the cause of death. If
72 the death is determined to be of a natural cause, the medical examiner or coroner or local
73 registrar shall refer the certificate of death to the attending physician, physician assistant,
74 assistant physician, **or** advanced practice registered nurse for such certification. If the
75 attending physician, physician assistant, assistant physician, **or** advanced practice registered
76 nurse refuses or is otherwise unavailable, the medical examiner or coroner or local registrar
77 shall attest to the accuracy of the certificate of death either by signature or an approved
78 electronic process within thirty-six hours.

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

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

88 coroner, attending physician, physician assistant, assistant physician, advanced practice
89 registered nurse, or local registrar.

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

95 10. (1) The department of health and senior services shall notify all physicians,
96 physician assistants, assistant physicians, and advanced practice registered nurses licensed
97 under chapters 334 and 335 of the requirements regarding the use of the electronic vital
98 records system provided for in this section.

99 (2) On or before August 30, 2015, the department of health and senior services,
100 division of community and public health shall create a working group comprised of
101 representation from the Missouri electronic vital records system users and recipients of death
102 certificates used for professional purposes to evaluate the Missouri electronic vital records
103 system, develop recommendations to improve the efficiency and usability of the system, and
104 to report such findings and recommendations to the general assembly no later than January 1,
105 2016.

106 11. Notwithstanding any provision of law to the contrary, if a coroner or deputy
107 coroner is not current with or is without the approved training under chapter 58, the
108 department of health and senior services shall prohibit such coroner from attesting to the
109 accuracy of a certificate of death. No person elected or appointed to the office of coroner can
110 assume such elected office until the training, as established by the coroner standards and
111 training commission under the provisions of section 58.035, has been completed and a
112 certificate of completion has been issued. In the event a coroner cannot fulfill his or her
113 duties or is no longer qualified to attest to the accuracy of a death certificate, the sheriff of the
114 county shall appoint a medical professional to attest death certificates until such time as the
115 coroner can resume his or her duties or another coroner is appointed or elected to the office.

193.175. ~~[1. The funeral director or person acting as such in charge of final
2 disposition of a dead body shall file a completed notification of death with the local registrar
3 where the death occurred. Such notification of death shall be on a form or in a format
4 prescribed and furnished by the state registrar and shall be filed or postmarked prior to the
5 date of final disposition of the body. Such notification of death shall authorize final
6 disposition except as otherwise stated in this section or in section 193.145. If the body is to
7 be cremated, a completed death certificate shall be filed with the local registrar prior to
8 cremation and shall authorize cremation except as stated in section 193.145.~~

9 2-] The funeral director or person in charge of final disposition of a dead body shall,
10 prior to the interment of such dead body, affix on the ankle or wrist of the deceased and/or in a
11 capsule **or other container** placed in the casket or, if the dead body is cremated, on the inside
12 of the vessel containing the remains, a tag encased in durable and long-lasting material
13 containing the name of the deceased, the date of birth, date of death and Social Security
14 number of the deceased.

193.265. 1. For the issuance of a certification or copy of a death record, the applicant
2 shall pay a fee of fourteen dollars for the first certification or copy and a fee of eleven dollars
3 for each additional copy ordered at that time. For the issuance of a certification or copy of a
4 birth, marriage, divorce, or fetal death record, the applicant shall pay a fee of fifteen dollars.
5 No fee shall be required or collected for a certification of birth, death, or marriage if the
6 request for certification is made by the children's division, the division of youth services, a
7 guardian ad litem, or a juvenile officer on behalf of a child or person under twenty-one years
8 of age who has come under the jurisdiction of the juvenile court under section 211.031. All
9 fees collected under this subsection shall be deposited to the state department of revenue.
10 Beginning August 28, 2004, for each vital records fee collected, the director of revenue shall
11 credit four dollars to the general revenue fund, five dollars to the children's trust fund, one
12 dollar shall be credited to the endowed care cemetery audit fund, one dollar for each
13 certification or copy of death records to the Missouri state coroners' training fund established
14 in section 58.208, and three dollars for the first copy of death records and five dollars for
15 birth, marriage, divorce, and fetal death records shall be credited to the Missouri public health
16 services fund established in section 192.900. Money in the endowed care cemetery audit fund
17 shall be available by appropriation to the division of professional registration to pay its
18 expenses in administering sections 214.270 to 214.410. All interest earned on money
19 deposited in the endowed care cemetery audit fund shall be credited to the endowed care
20 cemetery fund. Notwithstanding the provisions of section 33.080 to the contrary, money
21 placed in the endowed care cemetery audit fund shall not be transferred and placed to the
22 credit of general revenue until the amount in the fund at the end of the biennium exceeds three
23 times the amount of the appropriation from the endowed care cemetery audit fund for the
24 preceding fiscal year. The money deposited in the public health services fund under this
25 section shall be deposited in a separate account in the fund, and moneys in such account, upon
26 appropriation, shall be used to automate and improve the state vital records system, and
27 develop and maintain an electronic birth and death registration system. For any search of the
28 files and records, when no record is found, the state shall be entitled to a fee equal to the
29 amount for a certification of a vital record for a five-year search to be paid by the applicant.
30 For the processing of each legitimation, adoption, court order or recording after the
31 registrant's twelfth birthday, the state shall be entitled to a fee equal to the amount for a

32 certification of a vital record. Except whenever a certified copy or copies of a vital record is
33 required to perfect any claim of any person on relief, or any dependent of any person who was
34 on relief for any claim upon the government of the state or United States, the state registrar
35 shall, upon request, furnish a certified copy or so many certified copies as are necessary,
36 without any fee or compensation therefor.

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

44 3. For the issuance of a certification or copy of a birth, marriage, divorce, or fetal
45 death record, the applicant shall pay a fee of fifteen dollars; except that, in any county with a
46 charter form of government and with more than six hundred thousand but fewer than seven
47 hundred thousand inhabitants, a donation of one dollar may be collected by the local registrar
48 over and above any fees required by law when a certification or copy of any marriage license
49 or birth certificate is provided, with such donations collected to be forwarded monthly by the
50 local registrar to the county treasurer of such county and the donations so forwarded to be
51 deposited by the county treasurer into the housing resource commission fund to assist
52 homeless families and provide financial assistance to organizations addressing homelessness
53 in such county. The local registrar shall include a check-off box on the application form for
54 such copies. All fees collected under this subsection, other than the donations collected in
55 any county with a charter form of government and with more than six hundred thousand but
56 fewer than seven hundred thousand inhabitants for marriage licenses and birth certificates,
57 shall be deposited to the official city or county health agency.

58 4. A certified copy of a death record by the local registrar can only be issued [~~within~~
59 ~~twenty four hours of receipt of the record by the local registrar. Computer generated~~
60 ~~certifications of death records may be issued by the local registrar after twenty four hours of~~
61 ~~receipt of the records]~~ **after acceptance and registration with the state registrar.** The fees
62 paid to the official county health agency shall be retained by the local agency for local public
63 health purposes.

64 5. No fee under this section shall be required or collected from a parent or guardian of
65 a homeless child or homeless youth, as defined in subsection 1 of section 167.020, or an
66 unaccompanied youth, as defined in 42 U.S.C. Section 11434a(6), for the issuance of a
67 certification, or copy of such certification, of birth of such child or youth. An unaccompanied
68 youth shall be eligible to receive a certification or copy of his or her own birth record without

69 the consent or signature of his or her parent or guardian; provided, that only one certificate
70 under this provision shall be provided without cost to the unaccompanied or homeless youth.
71 For the issuance of any additional certificates, the statutory fee shall be paid.

194.010. ~~[A disinterred human body, dead of a disease or any cause, will be treated as
2 infectious and dangerous to the public health, and shall not be offered to or accepted by any
3 common carrier for transportation unless it is encased in an airtight metal or metal lined
4 burial case, coffin, casket or box that is closed and hermetically sealed]~~ **The department of
5 health and senior services shall issue regulations setting forth health and safety
6 requirements for transporting dead human bodies that are placed on common carriers
7 in the state of Missouri.**

194.105. In addition to any records filed pursuant to chapter 193, any person or owner
2 or operator of any cemetery which removes any body which has been properly buried or
3 interred for transportation to a location outside the original cemetery shall, prior to such
4 disinterment, file notice with the county coroner or county medical examiner ~~[-and also notify
5 by certified mail, the closest living relative known to the cemetery operator, of the body being
6 moved. Such notice shall provide the name and address of the person moving the body, the
7 name of the person whose body is to be moved, and the location to which the body is to be
8 moved. Transportation of the body shall be in accordance with the provisions of sections
9 194.010 to 194.110, and in accordance with any other applicable law or regulation].~~

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

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

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

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

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

17 (4) Any surviving child of the deceased. If a surviving child is less than eighteen
18 years of age and has a legal or natural guardian, such child shall not be disqualified on the

19 basis of the child's age and such child's legal or natural guardian, if any, shall be entitled to
20 serve in the place of the child unless such child's legal or natural guardian was subject to an
21 action in dissolution from the deceased. In such event the person or persons who may serve
22 as next-of-kin shall serve in the order provided in subdivisions (5) to (9) of this subsection;

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

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

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

27 (6) Any surviving sibling of the deceased;

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

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

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

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

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

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

51 6. If an individual with a superior claim is ~~[personally served with written notice~~
52 ~~from]~~ **notified in person or by written notice with delivery confirmation to such person's**
53 **last known address by** a person with an inferior claim that such person desires to exercise
54 the right of sepulcher and the individual so served does not object within forty-eight hours of
55 ~~[receipt]~~ **such notice**, such individual shall be deemed to have waived such right. An

56 individual with a superior right may also waive such right at any time if such waiver is in
57 writing and dated.

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

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

2 ~~[194.020. When hermetic sealing is required herein, the burial case,
3 coffin, casket or box used must be of metal, or of other material with metal
4 lining, and must be so constructed that when closed and fastened the same
shall be airtight.]~~

2 ~~[194.060. No dead human body shall be offered to or accepted by any
3 common carrier for transportation unless it is in a burial case, coffin or casket
4 that is securely closed, and the burial case, coffin, or casket containing the
5 body is in a wooden, metal or metal lined box that is securely closed, and on
6 the top of the box must appear the name of the deceased, the destination, the
7 time and place of death, the cause of death, the name of the attending
8 physician or coroner, and the name of the person who prepared the body for
shipment.]~~

2 ~~[194.070. The body of any person having died of Asiatic cholera
3 (cholerae), typhus or ship fever, yellow fever, or bubonic plague, shall not be
4 offered to or accepted by any common carrier for transportation unless it shall
5 have been prepared for shipment in accordance with section 194.080, and
6 under the supervision of an officer of the department of health and senior
7 services, or supervision of a member of the state board of embalmers and
funeral directors.]~~

2 ~~[194.080. The body of any person having died of diphtheria
3 (membranous croup), scarlet fever (scarlatina or scarlet rash), glanders,
4 anthrax, leprosy or smallpox shall not be offered to or accepted by any
5 common carrier for transportation unless: (1) It shall have been thoroughly
6 embalmed by arterial and cavity injection with a disinfecting fluid, the orifices
7 disinfected and packed with cotton, and the whole exterior of the body washed
8 with a disinfecting fluid; or (2) unless it shall have been completely wrapped
9 in a sheet that is saturated with a solution of bichloride of mercury, in the
proportion of one ounce of bichloride of mercury to one gallon of water, and~~

10 ~~encased in an airtight metal or metal-lined burial case, coffin, casket or box~~
11 ~~that is closed and hermetically sealed.]~~

~~[194.090. The body of any person having died of tuberculosis,
2 puerperal fever, typhoid fever, erysipelas, measles, or other dangerous or
3 communicable diseases other than those specified in sections 194.070 and
4 194.080, shall not be offered to or accepted by any common carrier for
5 transportation, unless such body shall have been thoroughly embalmed by
6 arterial and cavity injection with a disinfecting fluid, as specified in section
7 194.080; or, if such body is not so embalmed, it must be encased in an airtight
8 metal or metal-lined burial case, coffin, casket or box that is closed and
9 hermetically sealed. The body of any person having died of a disease that is
10 contagious, infectious or communicable must not be accompanied by clothing
11 or articles that have been exposed to the infection of such disease.]~~

~~[194.100. The body of any person having died of a cause or disease
2 that is not contagious, infectious or communicable, and from which no
3 offensive odor emits, may be offered to and accepted by any common carrier
4 for transportation; provided, the destination can be reached within twenty-four
5 hours from the time of death of such person, but if the destination cannot be
6 reached within twenty-four hours from the time of such death, then the body
7 must be thoroughly embalmed by arterial and cavity injection with a
8 disinfecting fluid, or encased in an airtight metal or metal-lined burial case,
9 coffin, casket or box that is closed and hermetically sealed.]~~

~~[194.110. Any person, firm, company or corporation, or agent thereof,
2 who shall fail, refuse or neglect to comply with any of the provisions of
3 sections 194.010 to 194.110, or any part of such provisions, shall be deemed
4 guilty of a misdemeanor, and, upon conviction thereof, shall be fined in the
5 sum of not less than twenty-five dollars nor more than five hundred dollars, or
6 by imprisonment in the county jail for not less than thirty days nor more than
7 sixty days, or by both such fine and imprisonment.]~~

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