

FIRST REGULAR SESSION

[PERFECTED]

# HOUSE BILL NO. 557

102ND GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE HOUX.

1151H.01P

DANA RADEMAN MILLER, Chief Clerk

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## AN ACT

To repeal sections 193.015, 193.145, 193.175, 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 deceased persons.

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

Section A. Sections 193.015, 193.145, 193.175, 194.010, 194.020, 194.060, 194.070, 2 194.080, 194.090, 194.100, 194.105, 194.110, and 194.119, RSMo, are repealed and six new 3 sections enacted in lieu thereof, to be known as sections 193.015, 193.145, 193.175, 194.010, 4 194.105, and 194.119, to read as follows:

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

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

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

10 (3) "Dead body", a human body or such parts of such human body from the condition 11 of which it reasonably may be concluded that death recently occurred;

12 (4) "Department", the department of health and senior services;

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.

13 (5) "Final disposition", the burial, interment, cremation, removal from the state, or  
14 other authorized disposition of a dead body or fetus;

15 (6) "Institution", any establishment, public or private, which provides inpatient or  
16 outpatient medical, surgical, or diagnostic care or treatment or nursing, custodian, or  
17 domiciliary care, or to which persons are committed by law;

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

23 (8) "Physician", a person authorized or licensed to practice medicine or osteopathy  
24 pursuant to chapter 334;

25 (9) "Physician assistant", a person licensed to practice as a physician assistant  
26 pursuant to chapter 334, and who has been delegated tasks outlined in section 193.145 by a  
27 physician with whom they have entered into a collaborative practice arrangement under  
28 chapter 334;

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

34 (11) "State registrar", state registrar of vital statistics of the state of Missouri;

35 (12) "System of vital statistics", the registration, collection, preservation, amendment  
36 and certification of vital records; the collection of other reports required by sections 193.005  
37 to 193.325 [~~and section 194.060~~]; and activities related thereto including the tabulation,  
38 analysis and publication of vital statistics;

39 (13) "Vital records", certificates or reports of birth, death, marriage, dissolution of  
40 marriage and data related thereto;

41 (14) "Vital statistics", the data derived from certificates and reports of birth, death,  
42 spontaneous fetal death, marriage, dissolution of marriage and related reports.

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  
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, advanced practice registered nurse  
52 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 disposition of a dead body shall file a completed notification of death with the local registrar where the death occurred. Such notification of death shall be on a form or in a format prescribed and furnished by the state registrar and shall be filed or postmarked prior to the date of final disposition of the body. Such notification of death shall authorize final disposition except as otherwise stated in this section or in section 193.145. If the body is to be cremated, a completed death certificate shall be filed with the local registrar prior to cremation and shall authorize cremation except as stated in section 193.145.~~

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

194.010. ~~[A disinterred human body, dead of a disease or any cause, will be treated as infectious and dangerous to the public health, and shall not be offered to or accepted by any common carrier for transportation unless it is encased in an airtight metal or metal-lined burial case, coffin, casket or box that is closed and hermetically sealed]~~ **1. The department of health and senior services may issue regulations setting forth health and safety requirements for transporting dead human bodies that are placed on common carriers in the state of Missouri. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2023, shall be invalid and void.**

**2. Any transporting of dead human bodies on aircraft shall comply with the Transportation Security Administration's rules and regulations.**

**3. Prior to transporting a dead human body, the attending medical examiner, coroner, attending physician, physician assistant, assistant physician, or an advanced practice registered nurse shall affix on the ankle or wrist of the deceased a tag encased in durable and long-lasting material containing the name of the deceased, the date of birth, date of death, and Social Security number of the deceased.**

194.105. In addition to any records filed pursuant to chapter 193, any person or owner 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 is 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]~~ **receiving such notice**, such individual shall be deemed to have waived such right.  
56 An 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~~  
8 ~~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~~  
10 ~~proportion of one ounce of bichloride of mercury to one gallon of water, and~~  
11 ~~encased in an airtight metal or metal-lined burial case, coffin, casket or box~~  
~~that is closed and hermetically sealed.]~~

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

2 ~~[194.100. The body of any person having died of a cause or disease~~  
~~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.]~~

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

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