

FIRST REGULAR SESSION
[TRULY AGREED TO AND FINALLY PASSED]
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 618
98TH GENERAL ASSEMBLY

1456S.05T

2015

AN ACT

To repeal sections 193.015, 193.145, 194.119, and 214.208, RSMo, and to enact in lieu thereof four new sections relating to human remains.

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

Section A. Sections 193.015, 193.145, 194.119, and 214.208, RSMo, are repealed and
2 four new sections enacted in lieu thereof, to be known as sections 193.015, 193.145, 194.119,
3 and 214.208, 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**
4 **advanced practice registered nurse under chapter 335, and who has been delegated tasks**
5 **outlined in section 193.145 by a physician with whom they have entered into a collaborative**
6 **practice 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**
9 **entered 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 [(2)] (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 [(3)] (5) "Final disposition", the burial, interment, cremation, removal from the state,
14 or other authorized disposition of a dead body or fetus;

15 [(4)] (6) "Institution", any establishment, public or private, which provides inpatient or
16 outpatient medical, surgical, or diagnostic care or treatment or nursing, custodian, or domiciliary
17 care, or to which persons are committed by law;

18 [(5)] (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 or
20 shows any other evidence of life such as beating of the heart, pulsation of the umbilical cord, or
21 definite movement of voluntary muscles, whether or not the umbilical cord has been cut or the
22 placenta is attached;

23 [(6)] (8) "Physician", a person authorized or licensed to practice medicine or osteopathy
24 pursuant to chapter 334;

25 [(7)] (9) **"Physician assistant", a person licensed to practice as a physician**
26 **assistant pursuant to chapter 334, and who has been delegated tasks outlined in section**
27 **193.145 by a physician with whom they have entered into a supervision agreement 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 definite
33 movement of voluntary muscles;

34 [(8)] (11) "State registrar", state registrar of vital statistics of the state of Missouri;

35 [(9)] (12) "System of vital statistics", the registration, collection, preservation,
36 amendment and certification of vital records; the collection of other reports required by sections
37 193.005 to 193.325 and section 194.060; and activities related thereto including the tabulation,
38 analysis and publication of vital statistics;

39 [(10)] (13) "Vital records", certificates or reports of birth, death, marriage, dissolution
40 of marriage and data related thereto;

41 [(11)] (14) "Vital statistics", the data derived from certificates and reports of birth,
42 death, 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 filed
2 with the local registrar, or as otherwise directed by the state registrar, within five days after death
3 and shall be registered if such certificate has been completed and filed pursuant to this sectionAll
4 data providers in the death registration process, including, but not limited to, the state registrar,
5 local registrars, the state medical examiner, county medical examiners, coroners, funeral
6 directors or persons acting as such, embalmers, sheriffs, attending physicians and resident

7 physicians, **physician assistants, assistant physicians, advanced practice registered nurses,**
8 and the chief medical officers of licensed health care facilities, and other public or private
9 institutions providing medical care, treatment, or confinement to persons, shall be required to use
10 and utilize any electronic death registration system required and adopted under subsection 1 of
11 section 193.265 within six months of the system being certified by the director of the department
12 of health and senior services, or the director's designee, to be operational and available to all data
13 providers in the death registration process. However, should the person or entity that certifies
14 the cause of death not be part of, or does not use, the electronic death registration system, the
15 funeral director or person acting as such may enter the required personal data into the electronic
16 death registration system and then complete the filing by presenting the signed cause of death
17 certification to the local registrar, in which case the local registrar shall issue death certificates
18 as set out in subsection 2 of section 193.265. Nothing in this section shall prevent the state
19 registrar from adopting pilot programs or voluntary electronic death registration programs until
20 such time as the system can be certified; however, no such pilot or voluntary electronic death
21 registration program shall prevent the filing of a death certificate with the local registrar or the
22 ability to obtain certified copies of death certificates under subsection 2 of section 193.265 until
23 six months after such certification that the system is operational.

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

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

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

38 (1) The personal data from the next of kin or the best qualified person or source
39 available; [and]

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

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

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

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

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

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

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

94 **10. (1) The department of health and senior services shall notify all physicians,**
95 **physician assistants, assistant physicians, and advanced practice registered nurses licensed**
96 **under chapters 334 and 335 of the requirements regarding the use of the electronic vital**
97 **records system provided for in this section.**

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

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 relating
4 to the custody, control, and disposition of deceased human remains, including the common law
5 right of sepulcher, where not otherwise defined, the term "next-of-kin" means the following
6 persons in the priority listed if such person is eighteen years of age or older, is mentally
7 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 deceased
9 specifically granted the right of sepulcher over his or her body to such attorney in fact;

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

14 (3) The surviving spouse;

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

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

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

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

25 (6) Any surviving sibling of the deceased;

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

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

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

32 3. The next-of-kin of the deceased shall be entitled to control the final disposition of the
33 remains of any dead human being consistent with all applicable laws, including all applicable
34 health codes.

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

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

45 6. If an individual with a superior claim is personally served with written notice from
46 a person with an inferior claim that such person desires to exercise the right of sepulcher and the
47 individual so served does not object within forty-eight hours of receipt, such individual shall be
48 deemed to have waived such right. An individual with a superior right may also waive such
49 right at any time if such waiver is in writing and dated.

50 7. If there is more than one person in a class who are equal in priority and the funeral
51 director has no knowledge of any objection by other members of such class, the funeral director
52 or establishment shall be entitled to rely on and act according to the instructions of the first such
53 person in the class to make arrangements; provided that such person assumes responsibility for
54 the costs of disposition and no other person in such class provides written notice of his or her
55 objection. **If the funeral director has knowledge that there is more than one person in a**
56 **class who are equal in priority and who do not agree on the disposition, the decision of the**
57 **majority of the members of such class shall control the disposition.**

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

214.208. 1. Every person or association which owns any cemetery in which dead human
2 remains are buried or otherwise interred is authorized, at the cemetery owner's expense, to
3 disinter individual remains and reinter or rebury the remains at another location within the
4 cemetery in order to correct an error made in the original burial or interment of the remains.

5 2. Every person or association which owns any cemetery in which dead human remains
6 are buried or otherwise interred is authorized to disinter individual remains and either to reinter
7 or rebury the remains at another location within the cemetery or to deliver the remains to a carrier
8 for transportation out of the cemetery, all pursuant to written instructions signed and
9 acknowledged by **the next-of-kin at the time of death of the deceased person as set out in**
10 **section 194.119. If the next-of-kin at the time of death as set out in section 194.119 is no**
11 **longer living, then** a majority of the following adult members of the deceased person's family
12 who are then known and living: surviving spouse, children, and parents **may authorize the**
13 **disinterment.** If none of the above family members survive the deceased, then the majority of
14 the grandchildren, brothers and sisters of whole and half blood may authorize the disinterment,
15 relocation or delivery of the remains of the deceased. The costs of such disinterment, relocation
16 or delivery shall be paid by the deceased person's family.

17 3. Every person or association which owns any cemetery in which dead human remains
18 are buried or otherwise interred is authorized to disinter individual remains and either to reinter
19 or rebury the remains at another location within the cemetery or to deliver the remains to a carrier
20 for transportation out of the cemetery, all pursuant to a final order issued by the circuit court for

21 the county in which the cemetery is located. The court may issue the order, in the court's
22 discretion and upon such notice and hearing as the court shall deem appropriate, for good cause
23 shown, including without limitation, the best interests of public health or safety, the best interests
24 of the deceased person's family, or the reasonable requirements of the cemetery to facilitate the
25 operation, maintenance, improvement or enlargement of the cemetery. The costs of such
26 disinterment, relocation and delivery, and the related court proceedings, shall be paid by the
27 persons so ordered by the court.

28 4. The cemetery owner, **cemetery operator, funeral director, funeral establishment,**
29 **or any other person or entity involved in the process** shall not be liable to the deceased
30 person's family or to any third party for a disinterment, relocation or delivery of deceased human
31 remains made pursuant to this section.

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