

FIRST REGULAR SESSION

# HOUSE BILL NO. 994

101ST GENERAL ASSEMBLY

---

INTRODUCED BY REPRESENTATIVE SASSMANN.

1896H.011

DANA RADEMAN MILLER, Chief Clerk

---

## AN ACT

To repeal sections 193.145, 193.265, and 194.119, RSMo, and to enact in lieu thereof three 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Section A. Sections 193.145, 193.265, and 194.119, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 193.145, 193.265, and 194.119, to read as follows:

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

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.

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;

40         (2) The medical certification **and attestation** from the person responsible for such  
41 certification **and attestation** if 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 certificate  
43 or entered into the electronic death certificate system including, but not limited to, the name and  
44 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, or advanced practice registered nurse in charge  
49 of the patient's care for the illness or condition which resulted in death. In the absence of the  
50 physician, physician assistant, assistant physician, advanced practice registered nurse or with the  
51 physician's, physician assistant's, assistant physician's, or advanced practice registered nurse's  
52 approval the certificate may be completed and attested to its accuracy either by signature or an

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

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

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

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

93           10. ~~[(1)]~~ The department of health and senior services shall notify all physicians,  
94 physician assistants, assistant physicians, and advanced practice registered nurses licensed under  
95 chapters 334 and 335 of the requirements regarding the use of the electronic vital records system  
96 provided for in this section.

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

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

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 for  
3 each additional copy ordered at that time. For the issuance of a certification or copy of a birth,  
4 marriage, divorce, or fetal death record, the applicant shall pay a fee of fifteen dollars. No fee  
5 shall be required or collected for a certification of birth, death, or marriage if the request for  
6 certification is made by the children's division, the division of youth services, a guardian ad  
7 litem, or a juvenile officer on behalf of a child or person under twenty-one years of age who has  
8 come under the jurisdiction of the juvenile court under section 211.031. All fees collected under  
9 this subsection shall be deposited to the state department of revenue. Beginning August 28,  
10 2004, for each vital records fee collected, the director of revenue shall credit four dollars to the  
11 general revenue fund, five dollars to the children's trust fund, one dollar shall be credited to the

12 endowed care cemetery audit fund, one dollar for each certification or copy of death records to  
13 the Missouri state coroners' training fund established in section 58.208, and three dollars for the  
14 first copy of death records and five dollars for birth, marriage, divorce, and fetal death records  
15 shall be credited to the Missouri public health services fund established in section 192.900.  
16 Money in the endowed care cemetery audit fund shall be available by appropriation to the  
17 division of professional registration to pay its expenses in administering sections 214.270 to  
18 214.410. All interest earned on money deposited in the endowed care cemetery audit fund shall  
19 be credited to the endowed care cemetery fund. Notwithstanding the provisions of section  
20 33.080 to the contrary, money placed in the endowed care cemetery audit fund shall not be  
21 transferred and placed to the credit of general revenue until the amount in the fund at the end of  
22 the biennium exceeds three times the amount of the appropriation from the endowed care  
23 cemetery audit fund for the preceding fiscal year. The money deposited in the public health  
24 services fund under this section shall be deposited in a separate account in the fund, and moneys  
25 in such account, upon appropriation, shall be used to automate and improve the state vital  
26 records system, and develop and maintain an electronic birth and death registration system. For  
27 any search of the files and records, when no record is found, the state shall be entitled to a fee  
28 equal to the amount for a certification of a vital record for a five-year search to be paid by the  
29 applicant. For the processing of each legitimation, adoption, court order or recording after the  
30 registrant's twelfth birthday, the state shall be entitled to a fee equal to the amount for a  
31 certification of a vital record. Except whenever a certified copy or copies of a vital record is  
32 required to perfect any claim of any person on relief, or any dependent of any person who was  
33 on relief for any claim upon the government of the state or United States, the state registrar shall,  
34 upon request, furnish a certified copy or so many certified copies as are necessary, without any  
35 fee or compensation therefor.

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

43         3. For the issuance of a certification or copy of a birth, marriage, divorce, or fetal death  
44 record, the applicant shall pay a fee of fifteen dollars; except that, in any county with a charter  
45 form of government and with more than six hundred thousand but fewer than seven hundred  
46 thousand inhabitants, a donation of one dollar may be collected by the local registrar over and  
47 above any fees required by law when a certification or copy of any marriage license or birth

48 certificate is provided, with such donations collected to be forwarded monthly by the local  
49 registrar to the county treasurer of such county and the donations so forwarded to be deposited  
50 by the county treasurer into the housing resource commission fund to assist homeless families  
51 and provide financial assistance to organizations addressing homelessness in such county. The  
52 local registrar shall include a check-off box on the application form for such copies. All fees  
53 collected under this subsection, other than the donations collected in any county with a charter  
54 form of government and with more than six hundred thousand but fewer than seven hundred  
55 thousand inhabitants for marriage licenses and birth certificates, shall be deposited to the official  
56 city or county health agency.

57 4. A certified copy of a death record by the local registrar can only be issued within  
58 twenty-four hours of receipt of the record by the local registrar. Computer-generated  
59 certifications of death records may be issued by the local registrar after twenty-four hours of  
60 receipt of the records. **In the event that it is determined by the state registrar that any**  
61 **required information from any data provider was missing or incomplete on records or**  
62 **documentation that were filed with or submitted to the local registrar and then sent to the**  
63 **state registrar, the state registrar shall return the records or documentation to the local**  
64 **registrar so that the data provider, funeral director, or person in charge of the final**  
65 **disposition, can provide the missing or incomplete information. Nothing in this subsection**  
66 **removes any requirement in any statute or regulation as to when an affidavit or court**  
67 **order is necessary to amend a death certificate that has been issued.** The fees paid to the  
68 official county health agency shall be retained by the local agency for local public health  
69 purposes.

70 5. No fee under this section shall be required or collected from a parent or guardian of  
71 a homeless child or homeless youth, as defined in subsection 1 of section 167.020, or an  
72 unaccompanied youth, as defined in 42 U.S.C. Section 11434a(6), for the issuance of a  
73 certification, or copy of such certification, of birth of such child or youth. An unaccompanied  
74 youth shall be eligible to receive a certification or copy of his or her own birth record without  
75 the consent or signature of his or her parent or guardian; provided, that only one certificate under  
76 this provision shall be provided without cost to the unaccompanied or homeless youth. For the  
77 issuance of any additional certificates, the statutory fee shall be paid.

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, **unless an action for the dissolution of the marriage has**  
15 **been filed and is pending in a court of competent jurisdiction;**

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

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

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

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

26 (6) Any surviving sibling of the deceased;

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

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

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

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

40 4. A funeral director or establishment is entitled to rely on and act according to the  
41 lawful instructions of any person claiming to be the next-of-kin of the deceased; provided

42 however, in any civil cause of action against a funeral director or establishment licensed pursuant  
43 to this chapter for actions taken regarding the funeral arrangements for a deceased person in the  
44 director's or establishment's care, the relative fault, if any, of such funeral director or  
45 establishment may be reduced if such actions are taken in reliance upon a person's claim to be  
46 the deceased person's next-of-kin.

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

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

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

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

✓