

FIRST REGULAR SESSION

# SENATE BILL NO. 116

102ND GENERAL ASSEMBLY

INTRODUCED BY SENATOR BROWN (16).

1133S.01H

KRISTINA MARTIN, Secretary

## AN ACT

To repeal sections 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 five 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, 194.010, 194.020,  
2 194.060, 194.070, 194.080, 194.090, 194.100, 194.105, 194.110,  
3 and 194.119, RSMo, are repealed and five new sections enacted  
4 in lieu thereof, to be known as sections 193.145, 193.175,  
5 194.010, 194.105, and 194.119, to read as follows:

193.145. 1. A certificate of death for each death  
2 which occurs in this state shall be filed with the local  
3 registrar, or as otherwise directed by the state registrar,  
4 within five days after death and shall be registered if such  
5 certificate has been completed and filed pursuant to this  
6 section. All data providers in the death registration  
7 process, including, but not limited to, the state registrar,  
8 local registrars, the state medical examiner, county medical  
9 examiners, coroners, funeral directors or persons acting as  
10 such, embalmers, sheriffs, attending physicians and resident  
11 physicians, physician assistants, assistant physicians,  
12 advanced practice registered nurses, and the chief medical  
13 officers of licensed health care facilities, and other  
14 public or private institutions providing medical care,  
15 treatment, or confinement to persons, shall be required to

**EXPLANATION-Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

16 use and utilize any electronic death registration system  
17 required and adopted under subsection 1 of section 193.265  
18 within six months of the system being certified by the  
19 director of the department of health and senior services, or  
20 the director's designee, to be operational and available to  
21 all data providers in the death registration process.  
22 However, should the person or entity that certifies the  
23 cause of death not be part of, or does not use, the  
24 electronic death registration system, the funeral director  
25 or person acting as such may enter the required personal  
26 data into the electronic death registration system and then  
27 complete the filing by presenting the signed cause of death  
28 certification to the local registrar, in which case the  
29 local registrar shall issue death certificates as set out in  
30 subsection 2 of section 193.265. Nothing in this section  
31 shall prevent the state registrar from adopting pilot  
32 programs or voluntary electronic death registration programs  
33 until such time as the system can be certified; however, no  
34 such pilot or voluntary electronic death registration  
35 program shall prevent the filing of a death certificate with  
36 the local registrar or the ability to obtain certified  
37 copies of death certificates under subsection 2 of section  
38 193.265 until six months after such certification that the  
39 system is operational.

40       2. If the place of death is unknown but the dead body  
41 is found in this state, the certificate of death shall be  
42 completed and filed pursuant to the provisions of this  
43 section. The place where the body is found shall be shown  
44 as the place of death. The date of death shall be the date  
45 on which the remains were found.

46       3. When death occurs in a moving conveyance in the  
47 United States and the body is first removed from the

48 conveyance in this state, the death shall be registered in  
49 this state and the place where the body is first removed  
50 shall be considered the place of death. When a death occurs  
51 on a moving conveyance while in international waters or air  
52 space or in a foreign country or its air space and the body  
53 is first removed from the conveyance in this state, the  
54 death shall be registered in this state but the certificate  
55 shall show the actual place of death if such place may be  
56 determined.

57 4. The funeral director or person in charge of final  
58 disposition of the dead body shall file the certificate of  
59 death. The funeral director or person in charge of the  
60 final disposition of the dead body shall obtain or verify  
61 and enter into the electronic death registration system:

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

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

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

71 5. The medical certification shall be completed,  
72 attested to its accuracy either by signature or an  
73 electronic process approved by the department, and returned  
74 to the funeral director or person in charge of final  
75 disposition within seventy-two hours after death by the  
76 physician, physician assistant, assistant physician, or  
77 advanced practice registered nurse in charge of the  
78 patient's care for the illness or condition which resulted  
79 in death. In the absence of the physician, physician

80 assistant, assistant physician, advanced practice registered  
81 nurse or with the physician's, physician assistant's,  
82 assistant physician's, or advanced practice registered  
83 nurse's approval the certificate may be completed and  
84 attested to its accuracy either by signature or an approved  
85 electronic process by the physician's associate physician,  
86 the chief medical officer of the institution in which death  
87 occurred, or the physician who performed an autopsy upon the  
88 decedent, provided such individual has access to the medical  
89 history of the case, views the deceased at or after death  
90 and death is due to natural causes. The person authorized  
91 to complete the medical certification may, in writing,  
92 designate any other person to enter the medical  
93 certification information into the electronic death  
94 registration system if the person authorized to complete the  
95 medical certificate has physically or by electronic process  
96 signed a statement stating the cause of death. Any persons  
97 completing the medical certification or entering data into  
98 the electronic death registration system shall be immune  
99 from civil liability for such certification completion, data  
100 entry, or determination of the cause of death, absent gross  
101 negligence or willful misconduct. The state registrar may  
102 approve alternate methods of obtaining and processing the  
103 medical certification and filing the death certificate. The  
104 Social Security number of any individual who has died shall  
105 be placed in the records relating to the death and recorded  
106 on the death certificate.

107         6. When death occurs from natural causes more than  
108 thirty-six hours after the decedent was last treated by a  
109 physician, physician assistant, assistant physician,  
110 advanced practice registered nurse, the case shall be  
111 referred to the county medical examiner or coroner or

112 physician or local registrar for investigation to determine  
113 and certify the cause of death. If the death is determined  
114 to be of a natural cause, the medical examiner or coroner or  
115 local registrar shall refer the certificate of death to the  
116 attending physician, physician assistant, assistant  
117 physician, advanced practice registered nurse for such  
118 certification. If the attending physician, physician  
119 assistant, assistant physician, advanced practice registered  
120 nurse refuses or is otherwise unavailable, the medical  
121 examiner or coroner or local registrar shall attest to the  
122 accuracy of the certificate of death either by signature or  
123 an approved electronic process within thirty-six hours.

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

130 8. If the cause of death cannot be determined within  
131 seventy-two hours after death, the attending medical  
132 examiner, coroner, attending physician, physician assistant,  
133 assistant physician, advanced practice registered nurse, or  
134 local registrar shall give the funeral director, or person  
135 in charge of final disposition of the dead body, notice of  
136 the reason for the delay, and final disposition of the body  
137 shall not be made until authorized by the medical examiner,  
138 coroner, attending physician, physician assistant, assistant  
139 physician, advanced practice registered nurse, or local  
140 registrar. **The medical certification shall be completed by**  
141 **indicating such certification is pending investigation.**  
142 **Upon conclusion of such delays or investigations, the**  
143 **medical certification on the death certificate shall be**

144 **amended to include such findings, as applicable, pursuant to**  
145 **section 193.215.**

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

154 10. (1) The department of health and senior services  
155 shall notify all physicians, physician assistants, assistant  
156 physicians, and advanced practice registered nurses licensed  
157 under chapters 334 and 335 of the requirements regarding the  
158 use of the electronic vital records system provided for in  
159 this section.

160 (2) On or before August 30, 2015, the department of  
161 health and senior services, division of community and public  
162 health shall create a working group comprised of  
163 representation from the Missouri electronic vital records  
164 system users and recipients of death certificates used for  
165 professional purposes to evaluate the Missouri electronic  
166 vital records system, develop recommendations to improve the  
167 efficiency and usability of the system, and to report such  
168 findings and recommendations to the general assembly no  
169 later than January 1, 2016.

170 11. Notwithstanding any provision of law to the  
171 contrary, if a coroner or deputy coroner is not current with  
172 or is without the approved training under chapter 58, the  
173 department of health and senior services shall prohibit such  
174 coroner from attesting to the accuracy of a certificate of  
175 death. No person elected or appointed to the office of

176 coroner can assume such elected office until the training,  
177 as established by the coroner standards and training  
178 commission under the provisions of section 58.035, has been  
179 completed and a certificate of completion has been issued.  
180 In the event a coroner cannot fulfill his or her duties or  
181 is no longer qualified to attest to the accuracy of a death  
182 certificate, the sheriff of the county shall appoint a  
183 medical professional to attest death certificates until such  
184 time as the coroner can resume his or her duties or another  
185 coroner is appointed or elected to the office.

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

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

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

194.105. In addition to any records filed pursuant to  
2 chapter 193, any person or owner or operator of any cemetery  
3 which removes any body which has been properly buried or  
4 interred for transportation to a location outside the  
5 original cemetery shall, prior to such disinterment, file  
6 notice with the county coroner or county medical examiner [  
7 and also notify by certified mail, the closest living  
8 relative known to the cemetery operator, of the body being  
9 moved. Such notice shall provide the name and address of  
10 the person moving the body, the name of the person whose  
11 body is to be moved, and the location to which the body is  
12 to be moved. Transportation of the body shall be in  
13 accordance with the provisions of sections 194.010 to  
14 194.110, and in accordance with any other applicable law or  
15 regulation].

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

2. For purposes of this chapter and chapters 193, 333,  
6 and 436, and in all cases relating to the custody, control,  
7 and disposition of deceased human remains, including the



8 common law right of sepulcher, where not otherwise defined,  
9 the term "next-of-kin" means the following persons in the  
10 priority listed if such person is eighteen years of age or  
11 older, is mentally competent, and is willing to assume  
12 responsibility for the costs of disposition:

13 (1) An attorney in fact designated in a durable power  
14 of attorney wherein the deceased specifically granted the  
15 right of sepulcher over his or her body to such attorney in  
16 fact;

17 (2) For a decedent who was on active duty in the  
18 United States military at the time of death, the person  
19 designated by such decedent in the written instrument known  
20 as the United States Department of Defense Form 93, Record  
21 of Emergency Data, in accordance with [P.L. 109-163, Section  
22 564,] 10 U.S.C. Section 1482;

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

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

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

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

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

43           (6) Any surviving sibling of the deceased;

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

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

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

53           3. The next-of-kin of the deceased shall be entitled  
54 to control the final disposition of the remains of any dead  
55 human being consistent with all applicable laws, including  
56 all applicable health codes. **The next-of-kin may delegate**  
57 **the control of the final disposition of the remains of any**  
58 **dead human being to an agent through either a specific or**  
59 **general grant of power in accordance with section 404.710**  
60 **if, at the time of delegation, the next-of-kin was eighteen**  
61 **years of age or older and mentally competent and the**  
62 **principal or agent is taking financial responsibility for**  
63 **the disposition.**

64           4. A funeral director or establishment is entitled to  
65 rely on and act according to the lawful instructions of any  
66 person claiming to be the next-of-kin of the deceased;  
67 provided however, in any civil cause of action against a  
68 funeral director or establishment licensed pursuant to this  
69 chapter for actions taken regarding the funeral arrangements  
70 for a deceased person in the director's or establishment's

71 care, the relative fault, if any, of such funeral director  
72 or establishment may be reduced if such actions are taken in  
73 reliance upon a person's claim to be the deceased person's  
74 next-of-kin.

75 5. Any person who desires to exercise the right of  
76 sepulcher and who has knowledge of an individual or  
77 individuals with a superior right to control disposition  
78 shall notify such individual or individuals prior to making  
79 final arrangements.

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

90 7. If there is more than one person in a class who are  
91 equal in priority and the funeral director has no knowledge  
92 of any objection by other members of such class, the funeral  
93 director or establishment shall be entitled to rely on and  
94 act according to the instructions of the first such person  
95 in the class to make arrangements; provided that such person  
96 assumes responsibility for the costs of disposition and no  
97 other person in such class provides written notice of his or  
98 her objection. If the funeral director has knowledge that  
99 there is more than one person in a class who are equal in  
100 priority and who do not agree on the disposition, the  
101 decision of the majority of the members of such class shall  
102 control the disposition.

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

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

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

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

2           [194.080. The body of any person having  
3 died of diphtheria (membranous croup), scarlet  
4 fever (scarlatina or scarlet rash), glanders,  
5 anthrax, leprosy or smallpox shall not be  
6 offered to or accepted by any common carrier for  
7 transportation unless: (1) It shall have been  
8 thoroughly embalmed by arterial and cavity  
9 injection with a disinfecting fluid, the  
10 orifices disinfected and packed with cotton, and  
11 the whole exterior of the body washed with a  
12 disinfecting fluid; or (2) unless it shall have  
13 been completely wrapped in a sheet that is  
14 saturated with a solution of bichloride of  
15 mercury, in the proportion of one ounce of  
16 bichloride of mercury to one gallon of water,  
17 and encased in an airtight metal or metal-lined  
18 burial case, coffin, casket or box that is  
closed and hermetically sealed.]

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

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

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

✓