

1 AN ACT concerning health.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the
5 Disposition of Remains of the Indigent Act.

6 Section 5. Purpose. The General Assembly recognizes:

7 (1) that each individual in the State regardless of his
8 or her economic situation is entitled to a dignified
9 disposition of his or her remains;

10 (2) that it is a matter of public concern and interest
11 that the preparation, care, and final disposition of a
12 deceased human body be attended to with appropriate
13 observance and understanding;

14 (3) that it is a matter of public concern and interest
15 that there is a due regard and respect for the reverent
16 care of the human body, for those bereaved, and the overall
17 spiritual dignity of every person;

18 (4) that the provision of cadavers and other human
19 materials is a much-needed service for the advancement of
20 medical, mortuary, and other sciences;

21 (5) that there is a critical shortage of cadavers
22 necessary for the advancement of medical, mortuary, and
23 other sciences;

1 (6) that the State has, in the past, paid for the
2 burial and funeral of indigent individuals;

3 (7) that payment for such services is not now
4 consistent with the needs or demands of the current State
5 budget;

6 (8) that the State has had a long-standing policy that
7 government officials who have custody of a body of any
8 deceased person shall transfer such custody to any State
9 medical college, school, or other institution of higher
10 science education or school of mortuary science for
11 advancement of medical, anatomical, biological, or
12 mortuary science; and

13 (9) that current law provides that any county coroner
14 may donate bodies not claimed by family members or friends.

15 Section 7. Definitions. As used in this Act:

16 "Department" means the Department of Public Health.

17 "Qualified medical science institution" means an
18 institution of medical, mortuary, or other sciences meeting the
19 requirements of Section 25 of this Act.

20 "State facility" means any facility, hospital,
21 institution, morgue, or other place for bodies of deceased
22 persons owned or operated by the State of Illinois, other than
23 a qualified medical science institution.

24 Section 10. Indigent funeral and burial.

1 (a) If private funds are not available to pay funeral and
2 burial costs and a request is made for those costs to an
3 official of State or local government by an appropriate family
4 member, executor, or agent empowered to direct the disposition
5 of the decedent's remains, the official shall inform the
6 appropriate family member, executor, or agent empowered to
7 direct the disposition of the decedent's remains of the option
8 to donate the remains for use in the advancement of medical
9 science subject to any written directive of a will or other
10 written instrument identified in Section 65 of the Crematory
11 Regulation Act or in subsection (a) of Section 40 of the
12 Disposition of Remains Act.

13 (b) The appropriate family member, executor, or agent
14 empowered to direct the disposition of the decedent's remains
15 is responsible for authorizing the use of such remains in
16 accordance with the process of the specific qualified medical
17 science institution.

18 (c) If funds are not otherwise available for burial or the
19 cadaver has not been claimed by a family member or other
20 responsible person, the coroner with custody may donate the
21 cadaver for medical science purposes pursuant to Section 3-3034
22 of the Counties Code.

23 Section 15. Donation of unclaimed cadavers in the custody
24 of the State.

25 (a) The director of any State facility in custody of a

1 cadaver shall make reasonable efforts to contact a family
2 member or other person responsible for the disposition of the
3 remains for the purpose of claiming the remains.

4 (b) If a family member or other person responsible for the
5 disposition of the remains requests the remains, the person
6 must remove or make arrangements to remove the remains within
7 72 hours of notice from the facility.

8 (c) If, after making reasonable efforts to contact a family
9 member or other person responsible for the disposition of the
10 remains, the cadaver is unclaimed or if a person claiming the
11 remains has failed to remove or make arrangements to remove the
12 cadaver within 72 hours of notice from the facility, the State
13 facility director shall contribute the cadaver to a qualified
14 medical science institution for use in the advancement of
15 medical science as designated by the Department under Section
16 30 of this Act unless it is necessary to preserve the body for
17 law enforcement purposes or the decedent has left written
18 instructions that he or she does not wish to be cremated or
19 donated for medical science.

20 (d) The State facility director shall as soon as is
21 practicable after the end of the 72-hour notice period:

22 (1) verify, if known, or make good faith efforts to
23 discover, if not known, identifying information regarding
24 the decedent, including ethnicity, religious affiliation,
25 and former associations;

26 (2) after such verification or discovery, provide to

1 the Department all information in its possession relating
2 to the decedent;

3 (3) preserve all information submitted to the
4 Department along with information on how the State facility
5 obtained or attempted to obtain information regarding the
6 decedent, including persons contacted, time of contact,
7 name of contact, and documents reviewed.

8 (e) If a cadaver is contributed to a qualified medical
9 science institution under this Section, the State facility
10 director shall provide to the institution the name, address,
11 e-mail address, and telephone number of the family member or
12 other responsible party, if known.

13 (f) A qualified medical science institution receiving a
14 cadaver pursuant to this Section is responsible for all costs
15 related to the contribution, including transportation of the
16 remains.

17 Section 20. Institution of medical, mortuary, or other
18 sciences.

19 (a) A qualified medical science institution receiving a
20 cadaver pursuant to Section 15 of this Act shall:

21 (1) hold the cadaver at its facility for 30 days after
22 receipt from the State facility; and

23 (2) ensure during the 30-day period that the cadaver is
24 not used for any purpose other than for embalming.

25 (b) After use of the remains, the qualified medical science

1 institution shall cremate them pursuant to Section 19 of the
2 Crematory Regulation Act and deliver them to the appropriate
3 family member, executor, or agent empowered to direct the
4 disposition of the decedent's cremated human remains. If no
5 such person is available or if such person is unwilling to
6 accept the remains, the qualified medical science institution
7 shall inter the cremated human remains at a cemetery licensed
8 under the Cemetery Oversight Act. Upon such interment, the
9 institution shall notify the family member, executor, or agent
10 empowered to direct the disposition of the decedent's remains,
11 if known, by mail of the location of the remains. The
12 institution shall maintain at all times a registry of such
13 interred cremated human remains.

14 (c) A qualified medical science institution is considered
15 an authorizing agent under the Crematory Regulation Act only
16 for the purpose of ordering the cremation and delivering or
17 interring the remains following cremation as provided in this
18 Section.

19 (d) If at any time an appropriate family member, executor,
20 or agent empowered to direct the disposition of the decedent's
21 remains makes a written request concerning disposition or
22 return of the remains, the qualified medical science
23 institution shall, at its own expense, return the remains
24 within a reasonable time.

25 (e) A qualified medical science institution receiving a
26 cadaver under Section 15 of this Act may not transfer a

1 decedent's remains in a manner not authorized by this Act.

2 Section 25. Registry of contributed cadavers and
3 institutions of medical, mortuary, or other sciences.

4 (a) An institution of medical, mortuary, or other sciences
5 is eligible to receive a contributed cadaver under Section 15
6 of this Act if it meets the qualifications determined to be
7 appropriate by the Department by rule and registers with the
8 Department. Under no circumstances is the harvesting and sale
9 of body parts allowed, including after any medical, mortuary,
10 or other sciences research has concluded. Qualified medical
11 science institutions, at a minimum, must be either:

12 (1) a medical college or school, or other institution
13 of higher science education or school of mortuary science,
14 public or private;

15 (2) a hospital; or

16 (3) a not-for-profit corporation under Section
17 501(c)(3) of the Internal Revenue Code registered under the
18 Charitable Trust Act.

19 (b) The Department shall maintain a registry of:

20 (1) cadavers that have been contributed to qualified
21 medical science institutions of Section 15; and

22 (2) institutions qualifying as institutions of
23 medical, mortuary, or other sciences eligible to receive
24 donations under this Act.

25 The Department shall update the registry with any new

1 information within 24 hours of receiving the information.

2 (c) Each qualified medical science institution shall
3 submit its request for cadavers in State custody. The
4 Department shall designate the next institution to receive a
5 cadaver when requested by a State facility.

6 (d) If the number of cadavers is insufficient for the use
7 of the relevant institutions, the Department shall determine
8 which institution shall receive them, taking into account the
9 relative proportion of the numbers of students at each
10 institution.

11 Section 30. Rules. The Department may adopt rules as
12 necessary to implement this Act.

13 Section 35. Repealer. This Act is repealed on December 31,
14 2022.

15 Section 90. The Crematory Regulation Act is amended by
16 changing Section 5 as follows:

17 (410 ILCS 18/5)

18 (Section scheduled to be repealed on January 1, 2021)

19 Sec. 5. Definitions. As used in this Act:

20 "Address of record" means the designated address recorded
21 by the Comptroller in the applicant's or licensee's application
22 file or license file. It is the duty of the applicant or

1 licensee to inform the Comptroller of any change of address
2 within 14 days, and such changes must be made either through
3 the Comptroller's website or by contacting the Comptroller. The
4 address of record shall be the permanent street address of the
5 crematory.

6 "Alternative container" means a receptacle, other than a
7 casket, in which human remains are transported to the crematory
8 and placed in the cremation chamber for cremation. An
9 alternative container shall be (i) composed of readily
10 combustible or consumable materials suitable for cremation,
11 (ii) able to be closed in order to provide a complete covering
12 for the human remains, (iii) resistant to leakage or spillage,
13 (iv) rigid enough for handling with ease, and (v) able to
14 provide protection for the health, safety, and personal
15 integrity of crematory personnel.

16 "Authorizing agent" means a person legally entitled to
17 order the cremation and final disposition of specific human
18 remains. "Authorizing agent" includes an institution of
19 medical, mortuary, or other sciences as provided in Section 20
20 of the Disposition of Remains of the Indigent Act.

21 "Body parts" means limbs or other portions of the anatomy
22 that are removed from a person or human remains for medical
23 purposes during treatment, surgery, biopsy, autopsy, or
24 medical research; or human bodies or any portion of bodies that
25 have been donated to science for medical research purposes.

26 "Burial transit permit" means a permit for disposition of a

1 dead human body as required by Illinois law.

2 "Casket" means a rigid container that is designed for the
3 encasement of human remains, is usually constructed of wood,
4 metal, or like material and ornamented and lined with fabric,
5 and may or may not be combustible.

6 "Comptroller" means the Comptroller of the State of
7 Illinois.

8 "Cremated remains" means all human remains recovered after
9 the completion of the cremation, which may possibly include the
10 residue of any foreign matter including casket material,
11 bridgework, or eyeglasses, that was cremated with the human
12 remains.

13 "Cremation" means the technical process, using heat and
14 flame, or alkaline hydrolysis that reduces human remains to
15 bone fragments. The reduction takes place through heat and
16 evaporation or through hydrolysis. Cremation shall include the
17 processing, and may include the pulverization, of the bone
18 fragments.

19 "Cremation chamber" means the enclosed space within which
20 the cremation takes place.

21 "Cremation interment container" means a rigid outer
22 container that, subject to a cemetery's rules and regulations,
23 is composed of concrete, steel, fiberglass, or some similar
24 material in which an urn is placed prior to being interred in
25 the ground, and which is designed to withstand prolonged
26 exposure to the elements and to support the earth above the

1 urn.

2 "Cremation room" means the room in which the cremation
3 chamber is located.

4 "Crematory" means the building or portion of a building
5 that houses the cremation room and the holding facility.

6 "Crematory authority" means the legal entity which is
7 licensed by the Comptroller to operate a crematory and to
8 perform cremations.

9 "Final disposition" means the burial, cremation, or other
10 disposition of a dead human body or parts of a dead human body.

11 "Funeral director" means a person known by the title of
12 "funeral director", "funeral director and embalmer", or other
13 similar words or titles, licensed by the State to practice
14 funeral directing or funeral directing and embalming.

15 "Funeral establishment" means a building or separate
16 portion of a building having a specific street address and
17 location and devoted to activities relating to the shelter,
18 care, custody, and preparation of a deceased human body and may
19 contain facilities for funeral or wake services.

20 "Holding facility" means an area that (i) is designated for
21 the retention of human remains prior to cremation, (ii)
22 complies with all applicable public health law, (iii) preserves
23 the health and safety of the crematory authority personnel, and
24 (iv) is secure from access by anyone other than authorized
25 persons. A holding facility may be located in a cremation room.

26 "Human remains" means the body of a deceased person,

1 including any form of body prosthesis that has been permanently
2 attached or implanted in the body.

3 "Licensee" means an entity licensed under this Act. An
4 entity that holds itself as a licensee or that is accused of
5 unlicensed practice is considered a licensee for purposes of
6 enforcement, investigation, hearings, and the Illinois
7 Administrative Procedure Act.

8 "Niche" means a compartment or cubicle for the
9 memorialization and permanent placement of an urn containing
10 cremated remains.

11 "Person" means any person, partnership, association,
12 corporation, limited liability company, or other entity, and in
13 the case of any such business organization, its officers,
14 partners, members, or shareholders possessing 25% or more of
15 ownership of the entity.

16 "Processing" means the reduction of identifiable bone
17 fragments after the completion of the cremation process to
18 unidentifiable bone fragments by manual or mechanical means.

19 "Pulverization" means the reduction of identifiable bone
20 fragments after the completion of the cremation process to
21 granulated particles by manual or mechanical means.

22 "Scattering area" means an area which may be designated by
23 a cemetery and located on dedicated cemetery property where
24 cremated remains, which have been removed from their container,
25 can be mixed with, or placed on top of, the soil or ground
26 cover.

1 "Temporary container" means a receptacle for cremated
2 remains, usually composed of cardboard, plastic or similar
3 material, that can be closed in a manner that prevents the
4 leakage or spillage of the cremated remains or the entrance of
5 foreign material, and is a single container of sufficient size
6 to hold the cremated remains until an urn is acquired or the
7 cremated remains are scattered.

8 "Urn" means a receptacle designed to encase the cremated
9 remains.

10 (Source: P.A. 96-863, eff. 3-1-12; 97-679, eff. 2-6-12.)

11 Section 95. The Disposition of Remains Act is amended by
12 changing Section 5 as follows:

13 (755 ILCS 65/5)

14 Sec. 5. Right to control disposition; priority. Unless a
15 decedent has left directions in writing for the disposition or
16 designated an agent to direct the disposition of the decedent's
17 remains as provided in Section 65 of the Crematory Regulation
18 Act or in subsection (a) of Section 40 of this Act, the
19 following persons, in the priority listed, have the right to
20 control the disposition, including cremation, of the
21 decedent's remains and are liable for the reasonable costs of
22 the disposition:

23 (1) the person designated in a written instrument that
24 satisfies the provisions of Sections 10 and 15 of this Act;

1 (2) any person serving as executor or legal
2 representative of the decedent's estate and acting
3 according to the decedent's written instructions contained
4 in the decedent's will;

5 (3) the individual who was the spouse of the decedent
6 at the time of the decedent's death;

7 (4) the sole surviving competent adult child of the
8 decedent, or if there is more than one surviving competent
9 adult child of the decedent, the majority of the surviving
10 competent adult children; however, less than one-half of
11 the surviving adult children shall be vested with the
12 rights and duties of this Section if they have used
13 reasonable efforts to notify all other surviving competent
14 adult children of their instructions and are not aware of
15 any opposition to those instructions on the part of more
16 than one-half of all surviving competent adult children;

17 (5) the surviving competent parents of the decedent; if
18 one of the surviving competent parents is absent, the
19 remaining competent parent shall be vested with the rights
20 and duties of this Act after reasonable efforts have been
21 unsuccessful in locating the absent surviving competent
22 parent;

23 (6) the surviving competent adult person or persons
24 respectively in the next degrees of kindred or, if there is
25 more than one surviving competent adult person of the same
26 degree of kindred, the majority of those persons; less than

1 the majority of surviving competent adult persons of the
2 same degree of kindred shall be vested with the rights and
3 duties of this Act if those persons have used reasonable
4 efforts to notify all other surviving competent adult
5 persons of the same degree of kindred of their instructions
6 and are not aware of any opposition to those instructions
7 on the part of one-half or more of all surviving competent
8 adult persons of the same degree of kindred;

9 (6.5) any recognized religious, civic, community, or
10 fraternal organization willing to assume legal and
11 financial responsibility;

12 (7) in the case of indigents or any other individuals
13 whose final disposition is the responsibility of the State
14 or any of its instrumentalities, a public administrator,
15 medical examiner, coroner, State appointed guardian, or
16 any other public official charged with arranging the final
17 disposition of the decedent;

18 (8) in the case of individuals who have donated their
19 bodies to science, or whose death occurred in a nursing
20 home or other private institution, ~~who have executed~~
21 ~~cremation authorization forms under Section 65 of the~~
22 ~~Crematory Regulation Act~~ and the institution is charged
23 with making arrangements for the final disposition of the
24 decedent, a representative of the institution; or

25 (9) any other person or organization that is willing to
26 assume legal and financial responsibility.

1 As used in Section, "adult" means any individual who has
2 reached his or her eighteenth birthday.

3 Notwithstanding provisions to the contrary, in the case of
4 decedents who die while serving as members of the United States
5 Armed Forces, the Illinois National Guard, or the United States
6 Reserve Forces, as defined in Section 1481 of Title 10 of the
7 United States Code, and who have executed the required U.S.
8 Department of Defense Record of Emergency Data Form (DD Form
9 93), or successor form, the person designated in such form to
10 direct disposition of the decedent's remains shall have the
11 right to control the disposition, including cremation, of the
12 decedent's remains.

13 (Source: P.A. 97-333, eff. 8-12-11; 98-463, eff. 8-16-13.)