

# SB3092



## 102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

SB3092

Introduced 1/11/2022, by Sen. Ram Villivalam

### SYNOPSIS AS INTRODUCED:

410 ILCS 18/10  
410 ILCS 18/20  
410 ILCS 18/25  
410 ILCS 18/35  
410 ILCS 18/55

Amends the Crematory Regulation Act. Provides that various signatures may be in either paper or electronic format.

LRB102 23319 CPF 32485 b

A BILL FOR

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 5. The Crematory Regulation Act is amended by  
5 changing Sections 10, 20, 25, 35, and 55 as follows:

6 (410 ILCS 18/10)

7 (Section scheduled to be repealed on January 1, 2024)

8 Sec. 10. Establishment of crematory and licensing of  
9 crematory authority.

10 (a) Any person doing business in this State, or any  
11 cemetery, funeral establishment, corporation, partnership,  
12 joint venture, voluntary organization or any other entity, may  
13 erect, maintain, and operate a crematory in this State and  
14 provide the necessary appliances and facilities for the  
15 cremation of human remains in accordance with this Act.

16 (b) A crematory shall be subject to all local, State, and  
17 federal health and environmental protection requirements and  
18 shall obtain all necessary licenses and permits from the  
19 Department of Financial and Professional Regulation, the  
20 Department of Public Health, the federal Department of Health  
21 and Human Services, and the Illinois and federal Environmental  
22 Protection Agencies, or such other appropriate local, State,  
23 or federal agencies.

1 (c) A crematory may be constructed on or adjacent to any  
2 cemetery, on or adjacent to any funeral establishment, or at  
3 any other location consistent with local zoning regulations.

4 (d) An application for licensure as a crematory authority  
5 shall be in writing on forms furnished by the Comptroller.  
6 Applications shall be accompanied by a fee of \$50 and shall  
7 contain all of the following:

8 (1) The full name and address, both residence and  
9 business, of the applicant if the applicant is an  
10 individual; the full name and address of every member if  
11 the applicant is a partnership; the full name and address  
12 of every member of the board of directors if the applicant  
13 is an association; and the name and address of every  
14 officer, director, and shareholder holding more than 25%  
15 of the corporate stock if the applicant is a corporation.

16 (2) The address and location of the crematory.

17 (3) A description of the type of structure and  
18 equipment to be used in the operation of the crematory,  
19 including the operating permit number issued to the  
20 cremation device by the Illinois Environmental Protection  
21 Agency.

22 (4) Any further information that the Comptroller  
23 reasonably may require.

24 (e) Each crematory authority shall file an annual report  
25 with the Comptroller, accompanied with a \$25 fee, providing  
26 (i) an affidavit signed, in either paper or electronic format,

1 by the owner of the crematory authority that at the time of the  
2 report the cremation device was in proper operating condition,  
3 (ii) the total number of all cremations performed at the  
4 crematory during the past year, (iii) attestation by the  
5 licensee that all applicable permits and certifications are  
6 valid, (iv) either (A) any changes required in the information  
7 provided under subsection (d) or (B) an indication that no  
8 changes have occurred, and (v) any other information that the  
9 Comptroller may require. The annual report shall be filed by a  
10 crematory authority on or before March 15 of each calendar  
11 year. If the fiscal year of a crematory authority is other than  
12 on a calendar year basis, then the crematory authority shall  
13 file the report required by this Section within 75 days after  
14 the end of its fiscal year. If a crematory authority fails to  
15 submit an annual report to the Comptroller within the time  
16 specified in this Section, the Comptroller shall impose upon  
17 the crematory authority a penalty of \$5 for each and every day  
18 the crematory authority remains delinquent in submitting the  
19 annual report. The Comptroller may abate all or part of the \$5  
20 daily penalty for good cause shown.

21 (f) All records required to be maintained under this Act,  
22 including but not limited to those relating to the license and  
23 annual report of the crematory authority required to be filed  
24 under this Section, shall be subject to inspection by the  
25 Comptroller upon reasonable notice.

26 (g) The Comptroller may inspect crematory records at the

1 crematory authority's place of business to review the  
2 licensee's compliance with this Act. The inspection must  
3 include verification that:

4 (1) the crematory authority has complied with  
5 record-keeping requirements of this Act;

6 (2) a crematory device operator's certification of  
7 training is conspicuously displayed at the crematory;

8 (3) the cremation device has a current operating  
9 permit issued by the Illinois Environmental Protection  
10 Agency and the permit is conspicuously displayed in the  
11 crematory;

12 (4) the crematory authority is in compliance with  
13 local zoning requirements;

14 (5) the crematory authority license issued by the  
15 Comptroller is conspicuously displayed at the crematory;  
16 and

17 (6) other details as determined by rule.

18 (h) The Comptroller shall issue licenses under this Act to  
19 the crematories that are registered with the Comptroller as of  
20 on March 1, 2012 without requiring the previously registered  
21 crematories to complete license applications.

22 (Source: P.A. 97-679, eff. 2-6-12; 97-813, eff. 7-13-12;  
23 98-463, eff. 8-16-13.)

24 (410 ILCS 18/20)

25 (Section scheduled to be repealed on January 1, 2024)

1           Sec. 20. Authorization to cremate.

2           (a) A crematory authority shall not cremate human remains  
3 until it has received all of the following:

4           (1) A cremation authorization form signed, in either  
5 paper or electronic format, by an authorizing agent. The  
6 cremation authorization form shall be provided by the  
7 crematory authority and shall contain, at a minimum, the  
8 following information:

9           (A) The identity of the human remains and the time  
10 and date of death.

11           (B) The name of the funeral director and funeral  
12 establishment, if applicable, that obtained the  
13 cremation authorization.

14           (C) Notification as to whether the death occurred  
15 from a disease declared by the Department of Health to  
16 be infectious, contagious, communicable, or dangerous  
17 to the public health.

18           (D) The name of the authorizing agent and the  
19 relationship between the authorizing agent and the  
20 decedent.

21           (E) A representation that the authorizing agent  
22 does in fact have the right to authorize the cremation  
23 of the decedent, and that the authorizing agent is not  
24 aware of any living person who has a superior priority  
25 right to that of the authorizing agent, as set forth in  
26 Section 15. In the event there is another living

1 person who has a superior priority right to that of the  
2 authorizing agent, the form shall contain a  
3 representation that the authorizing agent has made all  
4 reasonable efforts to contact that person, has been  
5 unable to do so, and has no reason to believe that the  
6 person would object to the cremation of the decedent.

7 (F) Authorization for the crematory authority to  
8 cremate the human remains.

9 (G) A representation that the human remains do not  
10 contain a pacemaker or any other material or implant  
11 that may be potentially hazardous or cause damage to  
12 the cremation chamber or the person performing the  
13 cremation.

14 (H) The name of the person authorized to receive  
15 the cremated remains from the crematory authority.

16 (I) The manner in which final disposition of the  
17 cremated remains is to take place, if known. If the  
18 cremation authorization form does not specify final  
19 disposition in a grave, crypt, niche, or scattering  
20 area, then the form may indicate that the cremated  
21 remains will be held by the crematory authority for 30  
22 days before they are released, unless they are picked  
23 up from the crematory authority prior to that time, in  
24 person, by the authorizing agent. At the end of the 30  
25 days the crematory authority may return the cremated  
26 remains to the authorizing agent if no final

1 disposition arrangements are made; or at the end of 60  
2 days the crematory authority may dispose of the  
3 cremated remains in accordance with subsection (d) of  
4 Section 40.

5 (J) A listing of any items of value to be delivered  
6 to the crematory authority along with the human  
7 remains, and instructions as to how the items should  
8 be handled.

9 (K) A specific statement as to whether the  
10 authorizing agent has made arrangements for any type  
11 of viewing of the decedent before cremation, or for a  
12 service with the decedent present before cremation in  
13 connection with the cremation, and if so, the date and  
14 time of the viewing or service and whether the  
15 crematory authority is authorized to proceed with the  
16 cremation upon receipt of the human remains.

17 (L) The signature, in either paper or electronic  
18 format, of the authorizing agent, attesting to the  
19 accuracy of all representations contained on the  
20 cremation authorization form, except as set forth in  
21 paragraph (M) of this subsection.

22 (M) If a cremation authorization form is being  
23 executed on a pre-need basis, the cremation  
24 authorization form shall contain the disclosure  
25 required by subsection (b) of Section 140.

26 (N) The cremation authorization form, other than



1 pre-need cremation forms, shall also be signed, in  
2 either paper or electronic format, by a funeral  
3 director or other representative of the funeral  
4 establishment that obtained the cremation  
5 authorization. That individual shall merely execute  
6 the cremation authorization form as a witness and  
7 shall not be responsible for any of the  
8 representations made by the authorizing agent, unless  
9 the individual has actual knowledge to the contrary.  
10 The information requested by items (A), (B), (C) and  
11 (G) of this subsection, however, shall be considered  
12 to be representations of the authorizing agent. In  
13 addition, the funeral director or funeral  
14 establishment shall warrant to the crematory that the  
15 human remains delivered to the crematory authority are  
16 the human remains identified on the cremation  
17 authorization form.

18 (2) A completed and executed burial transit permit  
19 indicating that the human remains are to be cremated.

20 (3) Any other documentation required by this State.

21 (b) If an authorizing agent is not available to execute a  
22 cremation authorization form in person, that person may  
23 delegate that authority to another person in writing, or by  
24 sending the crematory authority a facsimile transmission that  
25 contains the name, address, and relationship of the sender to  
26 the decedent and the name and address of the individual to whom

1 authority is delegated. Upon receipt of the written document,  
2 or facsimile transmission, telegram, or other electronic  
3 telecommunications transmission which specifies the individual  
4 to whom authority has been delegated, the crematory authority  
5 shall allow this individual to serve as the authorizing agent  
6 and to execute the cremation authorization form. The crematory  
7 authority shall be entitled to rely upon the cremation  
8 authorization form without liability.

9 (c) An authorizing agent who signs, in either paper or  
10 electronic format, a cremation authorization form shall be  
11 deemed to warrant the truthfulness of any facts set forth on  
12 the cremation authorization form, including that person's  
13 authority to order the cremation; except for the information  
14 required by items (C) and (G) of paragraph (1) of subsection  
15 (a) of this Section, unless the authorizing agent has actual  
16 knowledge to the contrary. An authorizing agent signing, in  
17 either paper or electronic format, a cremation authorization  
18 form shall be personally and individually liable for all  
19 damages occasioned by and resulting from authorizing the  
20 cremation.

21 (d) A crematory authority shall have authority to cremate  
22 human remains upon the receipt of a cremation authorization  
23 form signed, in either paper or electronic format, by an  
24 authorizing agent. There shall be no liability for a crematory  
25 authority that cremates human remains according to an  
26 authorization, or that releases or disposes of the cremated

1 remains according to an authorization, except for a crematory  
2 authority's gross negligence, provided that the crematory  
3 authority performs its functions in compliance with this Act.

4 (e) After an authorizing agent has executed a cremation  
5 authorization form, the authorizing agent may revoke the  
6 authorization and instruct the crematory authority to cancel  
7 the cremation and to release or deliver the human remains to  
8 another crematory authority or funeral establishment. The  
9 instructions shall be provided to the crematory authority in  
10 writing. A crematory authority shall honor any instructions  
11 given to it by an authorizing agent under this Section if it  
12 receives the instructions prior to beginning the cremation of  
13 the human remains.

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

15 (410 ILCS 18/25)

16 (Section scheduled to be repealed on January 1, 2024)

17 Sec. 25. Recordkeeping.

18 (a) The crematory authority shall furnish to the person  
19 who delivers human remains to the crematory authority a  
20 receipt signed, in either paper or electronic format, at the  
21 time of delivery by both the crematory authority and the  
22 person who delivers the human remains, showing the date and  
23 time of the delivery, the type of casket or alternative  
24 container that was delivered, the name of the person from whom  
25 the human remains were received and the name of the funeral

1 establishment or other entity with whom the person is  
2 affiliated, the name of the person who received the human  
3 remains on behalf of the crematory authority, and the name of  
4 the decedent. The crematory shall retain a copy of this  
5 receipt in its permanent records.

6 (b) Upon its release of cremated remains, the crematory  
7 authority shall furnish to the person who receives the  
8 cremated remains from the crematory authority a receipt  
9 signed, in either paper or electronic format, by both the  
10 crematory authority and the person who receives the cremated  
11 remains, showing the date and time of the release, the name of  
12 the person to whom the cremated remains were released and the  
13 name of the funeral establishment, cemetery, or other entity  
14 with whom the person is affiliated, the name of the person who  
15 released the cremated remains on behalf of the crematory  
16 authority, and the name of the decedent. The crematory shall  
17 retain a copy of this receipt in its permanent records.

18 (c) A crematory authority shall maintain at its place of  
19 business a permanent record of each cremation that took place  
20 at its facility which shall contain the name of the decedent,  
21 the date of the cremation, and the final disposition of the  
22 cremated remains.

23 (d) The crematory authority shall maintain a record of all  
24 cremated remains disposed of by the crematory authority in  
25 accordance with subsection (d) of Section 40.

26 (e) Upon completion of the cremation, the crematory

1 authority shall file the burial transit permit as required by  
2 the Illinois Vital Records Act and rules adopted under that  
3 Act and the Illinois Counties Code, and transmit a photocopy  
4 of the burial transit permit along with the cremated remains  
5 to whoever receives the cremated remains from the authorizing  
6 agent unless the cremated remains are to be interred,  
7 entombed, inurned, or placed in a scattering area, in which  
8 case the crematory authority shall retain a copy of the burial  
9 transit permit and shall send the permit, along with the  
10 cremated remains, to the cemetery, which shall file the permit  
11 with the designated agency after the interment, entombment,  
12 inurnment, or scattering has taken place.

13 (f) All cemeteries shall maintain a record of all cremated  
14 remains that are disposed of on their property, provided that  
15 the cremated remains were properly transferred to the cemetery  
16 and the cemetery issued a receipt acknowledging the transfer  
17 of the cremated remains.

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

19 (410 ILCS 18/35)

20 (Section scheduled to be repealed on January 1, 2024)

21 Sec. 35. Cremation procedures.

22 (a) Human remains shall not be cremated within 24 hours  
23 after the time of death, as indicated on the Medical  
24 Examiner's/Coroner's Certificate of Death. In any death, the  
25 human remains shall not be cremated by the crematory authority

1 until a cremation permit has been received from the coroner or  
2 medical examiner of the county in which the death occurred and  
3 the crematory authority has received a cremation authorization  
4 form, executed by an authorizing agent, in accordance with the  
5 provisions of Section 15 of this Act. In no instance, however,  
6 shall the lapse of time between the death and the cremation be  
7 less than 24 hours, unless (i) it is known the deceased has an  
8 infectious or dangerous disease and that the time requirement  
9 is waived in writing by the medical examiner or coroner where  
10 the death occurred or (ii) because of a religious requirement.

11 (b) Except as set forth in subsection (a) of this Section,  
12 a crematory authority shall have the right to schedule the  
13 actual cremation to be performed at its own convenience, at  
14 any time after the human remains have been delivered to the  
15 crematory authority, unless the crematory authority has  
16 received specific instructions to the contrary on the  
17 cremation authorization form.

18 (c) No crematory authority shall cremate human remains  
19 when it has actual knowledge that human remains contain a  
20 pacemaker or any other material or implant that may be  
21 potentially hazardous to the person performing the cremation.

22 (d) No crematory authority shall refuse to accept human  
23 remains for cremation because such human remains are not  
24 embalmed.

25 (e) Whenever a crematory authority is unable or  
26 unauthorized to cremate human remains immediately upon taking

1 custody of the remains, the crematory authority shall place  
2 the human remains in a holding facility in accordance with the  
3 crematory authority's rules and regulations. The crematory  
4 authority must notify the authorizing agent of the reasons for  
5 delay in cremation if a properly authorized cremation is not  
6 performed within any time period expressly contemplated in the  
7 authorization.

8 (f) A crematory authority shall not accept a casket or  
9 alternative container from which there is any evidence of the  
10 leakage of body fluids.

11 (g) The casket or the alternative container shall be  
12 cremated with the human remains or destroyed, unless the  
13 crematory authority has notified the authorizing agent to the  
14 contrary on the cremation authorization form and obtained the  
15 written consent of the authorizing agent.

16 (h) The simultaneous cremation of the human remains of  
17 more than one person within the same cremation chamber,  
18 without the prior written consent of the authorizing agent, is  
19 prohibited except for common cremation pursuant to Section  
20 11.4 of the Hospital Licensing Act. Nothing in this  
21 subsection, however, shall prevent the simultaneous cremation  
22 within the same cremation chamber of body parts delivered to  
23 the crematory authority from multiple sources, or the use of  
24 cremation equipment that contains more than one cremation  
25 chamber.

26 (i) No unauthorized person shall be permitted in the

1 holding facility or cremation room while any human remains are  
2 being held there awaiting cremation, being cremated, or being  
3 removed from the cremation chamber.

4 (j) A crematory authority shall not remove any dental  
5 gold, body parts, organs, or any item of value prior to or  
6 subsequent to a cremation without previously having received  
7 specific written authorization from the authorizing agent and  
8 written instructions for the delivery of these items to the  
9 authorizing agent. Under no circumstances shall a crematory  
10 authority profit from making or assisting in any removal of  
11 valuables.

12 (k) Upon the completion of each cremation, and insofar as  
13 is practicable, all of the recoverable residue of the  
14 cremation process shall be removed from the cremation chamber.

15 (l) If all of the recovered cremated remains will not fit  
16 within the receptacle that has been selected, the remainder of  
17 the cremated remains shall be returned to the authorizing  
18 agent or the agent's designee in a separate container. The  
19 crematory authority shall not return to an authorizing agent  
20 or the agent's designee more or less cremated remains than  
21 were removed from the cremation chamber.

22 (m) A crematory authority shall not knowingly represent to  
23 an authorizing agent or the agent's designee that a temporary  
24 container or urn contains the cremated remains of a specific  
25 decedent when it does not.

26 (n) Cremated remains shall be shipped only by a method



1 that has an internal tracing system available and that  
2 provides a receipt signed, in either paper or electronic  
3 format, by the person accepting delivery.

4 (o) A crematory authority shall maintain an identification  
5 system that shall ensure that it shall be able to identify the  
6 human remains in its possession throughout all phases of the  
7 cremation process.

8 (Source: P.A. 96-338, eff. 1-1-10.)

9 (410 ILCS 18/55)

10 (Section scheduled to be repealed on January 1, 2024)

11 Sec. 55. Penalties. Violations of this Act shall be  
12 punishable as follows:

13 (1) Performing a cremation without receipt of a  
14 cremation authorization form signed, in either paper or  
15 electronic format, by an authorizing agent shall be a  
16 Class 4 felony.

17 (2) Signing, in either paper or electronic format, a  
18 cremation authorization form with the actual knowledge  
19 that the form contains false or incorrect information  
20 shall be a Class 4 felony.

21 (3) A Violation of any cremation procedure set forth  
22 in Section 35 shall be a Class 4 felony.

23 (4) Holding oneself out to the public as a crematory  
24 authority, or the operation of a building or structure  
25 within this State as a crematory, without being licensed

1 under this Act, shall be a Class A misdemeanor.

2 (4.5) Performance of a cremation service by a person  
3 who has not completed a training program as defined in  
4 Section 22 of this Act shall be a Class A misdemeanor.

5 (4.10) Any person who intentionally violates a  
6 provision of this Act or a final order of the Comptroller  
7 is liable for a civil penalty not to exceed \$5,000 per  
8 violation.

9 (4.15) Any person who knowingly acts without proper  
10 legal authority and who willfully and knowingly destroys  
11 or damages the remains of a deceased human being or who  
12 desecrates human remains is guilty of a Class 3 felony.

13 (5) A violation of any other provision of this Act  
14 shall be a Class B misdemeanor.

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