

SB1703



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

SB1703

Introduced 2/19/2009, by Sen. Kirk W. Dillard

SYNOPSIS AS INTRODUCED:

210 ILCS 85/11.4
410 ILCS 18/35

Amends the Hospital Licensing Act. Provides that a hospital may include the option of common cremation of fetal tissue in its mandatory notification to a mother following a spontaneous fetal demise after a gestation period of less than 20 weeks. Amends the Crematory Regulation Act to provide an exemption to cremation procedures concerning simultaneous cremation of the human remains for fetal tissue pursuant to the Act.

LRB096 03472 RPM 13496 b

A BILL FOR

1 AN ACT concerning public health.

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

4 Section 5. The Hospital Licensing Act is amended by
5 changing Section 11.4 as follows:

6 (210 ILCS 85/11.4)

7 Sec. 11.4. Disposition of fetus. A hospital having custody
8 of a fetus following a spontaneous fetal demise occurring after
9 a gestation period of less than 20 completed weeks must notify
10 the mother of her right to arrange for the burial or cremation
11 of the fetus. Notification may also include other options such
12 as, but not limited to, a ceremony, a certificate, or common
13 burial or cremation of fetal tissue. If, within 24 hours after
14 being notified under this Section, the mother elects in writing
15 to arrange for the burial or cremation of the fetus, the
16 disposition of the fetus shall be subject to the same laws and
17 rules that apply in the case of a fetal death that occurs in
18 this State after a gestation period of 20 completed weeks or
19 more. The Department of Public Health shall develop forms to be
20 used for notifications and elections under this Section and
21 hospitals shall provide the forms to the mother.

22 (Source: P.A. 92-348, eff. 1-1-02.)

1 Section 10. The Crematory Regulation Act is amended by
2 changing Section 35 as follows:

3 (410 ILCS 18/35)

4 Sec. 35. Cremation procedures.

5 (a) Human remains shall not be cremated within 24 hours
6 after the time of death, as indicated on the Medical
7 Examiner's/Coroner's Certificate of Death. In any death, the
8 human remains shall not be cremated by the crematory authority
9 until a cremation permit has been received from the coroner or
10 medical examiner of the county in which the death occurred and
11 the crematory authority has received a cremation authorization
12 form, executed by an authorizing agent, in accordance with the
13 provisions of Section 15 of this Act. In no instance, however,
14 shall the lapse of time between the death and the cremation be
15 less than 24 hours, unless (i) it is known the deceased has an
16 infectious or dangerous disease and that the time requirement
17 is waived in writing by the medical examiner or coroner where
18 the death occurred or (ii) because of a religious requirement.

19 (b) Except as set forth in subsection (a) of this Section,
20 a crematory authority shall have the right to schedule the
21 actual cremation to be performed at its own convenience, at any
22 time after the human remains have been delivered to the
23 crematory authority, unless the crematory authority has
24 received specific instructions to the contrary on the cremation
25 authorization form.

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

5 (d) No crematory authority shall refuse to accept human
6 remains for cremation because such human remains are not
7 embalmed.

8 (e) Whenever a crematory authority is unable or
9 unauthorized to cremate human remains immediately upon taking
10 custody of the remains, the crematory authority shall place the
11 human remains in a holding facility in accordance with the
12 crematory authority's rules and regulations. The crematory
13 authority must notify the authorizing agent of the reasons for
14 delay in cremation if a properly authorized cremation is not
15 performed within any time period expressly contemplated in the
16 authorization.

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

20 (g) The casket or the alternative container shall be
21 cremated with the human remains or destroyed, unless the
22 crematory authority has notified the authorizing agent to the
23 contrary on the cremation authorization form and obtained the
24 written consent of the authorizing agent.

25 (h) The simultaneous cremation of the human remains of more
26 than one person within the same cremation chamber, without the

1 prior written consent of the authorizing agent, is prohibited
2 except for common cremation pursuant to Section 11.4 of the
3 Hospital Licensing Act. Nothing in this subsection, however,
4 shall prevent the simultaneous cremation within the same
5 cremation chamber of body parts delivered to the crematory
6 authority from multiple sources, or the use of cremation
7 equipment that contains more than one cremation chamber.

8 (i) No unauthorized person shall be permitted in the
9 holding facility or cremation room while any human remains are
10 being held there awaiting cremation, being cremated, or being
11 removed from the cremation chamber.

12 (j) A crematory authority shall not remove any dental gold,
13 body parts, organs, or any item of value prior to or subsequent
14 to a cremation without previously having received specific
15 written authorization from the authorizing agent and written
16 instructions for the delivery of these items to the authorizing
17 agent. Under no circumstances shall a crematory authority
18 profit from making or assisting in any removal of valuables.

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

22 (l) If all of the recovered cremated remains will not fit
23 within the receptacle that has been selected, the remainder of
24 the cremated remains shall be returned to the authorizing agent
25 or the agent's designee in a separate container. The crematory
26 authority shall not return to an authorizing agent or the

1 agent's designee more or less cremated remains than were
2 removed from the cremation chamber.

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

7 (n) Cremated remains shall be shipped only by a method that
8 has an internal tracing system available and that provides a
9 receipt signed by the person accepting delivery.

10 (o) A crematory authority shall maintain an identification
11 system that shall ensure that it shall be able to identify the
12 human remains in its possession throughout all phases of the
13 cremation process.

14 (Source: P.A. 92-675, eff. 7-1-03.)