



99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

HB5892

by Rep. Dan Brady

SYNOPSIS AS INTRODUCED:

New Act
410 ILCS 18/5

Creates the Disposition of Remains of the Indigent Act. Provides that if private funds are not available for the funeral or burial of a decedent, then State or local officials shall refer a family member, executor, or agent empowered to direct the disposition of a decedent's remains to the option of donating the remains to an institution of medical, mortuary, or other sciences on the registry created under the Act. Provides that such family member, executor, or agent shall be responsible for authorizing such use. Provides that unclaimed cadavers held by any State facility, hospital, institution, morgue, or other place for bodies of deceased persons may be turned over to an institution on the registry. Contains provisions requiring the directors of State facilities with possession of unclaimed human remains to make reasonable efforts to contact family and other responsible parties. Contains provisions concerning circumstances in which family or other responsible parties request the remains and situations when they fail to do so. Contains other provisions concerning what the State facility with humans remains shall do. Provides that the Department of Human Services may pay a funeral home or an institution of medical, mortuary, or other science an allowance for funeral and burial costs. Contains provisions concerning the disposition of the remains after use of the remains by a registered institution. Requires the Department of Public Health to maintain a registry of institutions qualifying as institutions of medical, mortuary, or other sciences eligible to receive donations under the Act. Contains provisions concerning requirements for the registry and granting the Department of Public Health rulemaking and other powers.

LRB099 19499 MJP 43892 b

FISCAL NOTE ACT
MAY APPLY

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 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 will no longer make payments for
7 funeral and burial services of indigent individuals;

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

15 (10) that current law provides that any county coroner
16 may donate bodies not claimed by family members or friends.

17 Section 10. Indigent funeral and burial.

18 (a) If private funds are not available to pay funeral and
19 burial costs and a request is made for those costs to an
20 official of State or local government, such official shall
21 refer the appropriate family member, executor, or agent
22 empowered to direct the disposition of the decedent's remains
23 as provided in Section 65 of the Crematory Regulation Act or in
24 subsection (a) of Section 40 of the Disposition of Remains Act
25 to any institution of medical, mortuary, or other sciences

1 registered in accordance with this Act for use in the
2 advancement of medical science.

3 (b) The appropriate family member, executor, or agent
4 empowered to direct the disposition of the decedent's remains
5 shall be responsible for authorizing the use of such remains in
6 accordance with the process of the specific institution of
7 medical, mortuary, or other sciences registered in accordance
8 with this Act.

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

14 Section 15. Funeral and burial of cadavers in the custody
15 of the State.

16 (a) Unclaimed cadavers held by any State facility,
17 hospital, institution, morgue, or other place for bodies of
18 deceased persons may be turned over to any institution of
19 medical, mortuary, or other sciences registered in accordance
20 with this Act for use in the advancement of medical science.

21 (b) The State facility director must make reasonable
22 efforts to contact family members or other responsible persons
23 so that they take responsibility for burial.

24 (c) No body may be surrendered if a family member or other
25 responsible person requests the remains. However, in such

1 event, such family member or other responsible person must
2 remove the cadaver within 72 hours of notice from the facility.

3 (d) If arrangements have not been made or the cadaver has
4 not been removed within 72 hours of notice from the facility,
5 the State facility director may contribute the cadaver to any
6 institution of medical, mortuary, or other sciences registered
7 in accordance with this Act for use in the advancement of
8 medical science.

9 (e) The State facility director shall inquire and obtain
10 from the Department of Public Health the appropriate
11 institution to which it should send the cadaver.

12 (f) The State facility director shall provide to the
13 institution the name, address, e-mail, and telephone of the
14 family member or other responsible party if a contribution has
15 been made.

16 (g) The State facility shall not pay any costs related to
17 funeral or burial.

18 Section 20. Responsibility for expenses. The Department of
19 Human Services, subject to appropriation, may pay to a funeral
20 home or an institution of medical, mortuary, or other sciences
21 an allowance for:

22 (1) funeral homes services;

23 (2) the burial ceremony; and

24 (3) transportation of the remains to the institution of
25 medical, mortuary, or other sciences.

1 Section 25. Institution of medical, mortuary, or other
2 sciences.

3 (a) After use of the remains, the institution of medical,
4 mortuary, or other sciences shall cremate them pursuant to
5 Section 19 of the Crematory Regulation Act and deliver them to
6 the appropriate family member, executor, or agent empowered to
7 direct the disposition of the decedent's cremated human
8 remains. Only for the purpose of ordering the cremation as
9 provided in this subsection, the institution of medical,
10 mortuary, or other sciences shall be considered an authorizing
11 agent under the Crematory Regulation Act.

12 (b) If no such person is available, the institution of
13 medical, mortuary, or other sciences shall inter the cremated
14 human remains at a cemetery licensed under the Cemetery
15 Oversight Act. Upon such interment, the institution shall
16 notify the family member, executor, or agent empowered to
17 direct the disposition of the decedent's remains by mail of the
18 location of the remains. The institution shall maintain at all
19 times a registry of such interred cremated human remains. Only
20 for the purpose of interring the remains following cremation as
21 provided in this subsection the institution of medical,
22 mortuary, or other sciences will be considered an authorizing
23 agent under the Crematory Regulation Act.

24 (c) If at any time an appropriate family member, executor,
25 or agent empowered to direct the disposition of the decedent's

1 remains makes a written request concerning disposition, the
2 institution of medical, mortuary, or other sciences shall
3 return the remains within a reasonable time.

4 (d) If a family member, executor, or agent empowered to
5 direct the disposition of the decedent's remains prior to the
6 commencement of its use for medical or science purposes
7 requests that the remains be returned for burial, the
8 institution shall surrender the remains for interment at the
9 institution's place of business.

10 Section 30. Registry of institutions of medical, mortuary,
11 or other sciences.

12 (a) The Department of Public Health shall maintain a
13 registry of institutions qualifying as institutions of
14 medical, mortuary, or other sciences eligible to receive
15 donations under this Act.

16 (b) An institution must be a not-for-profit corporation
17 under Section 501(c)(3) of the Internal Revenue Code and
18 registered under the Charitable Trust Act in order to qualify
19 for registration.

20 (c) The Department of Public Health shall adopt rules to
21 determine the appropriate qualifications for such
22 institutions.

23 (d) Each institution shall submit its request for cadavers
24 in State custody. The Department of Public Health shall
25 designate the next institution to receive a cadaver when

1 requested by a State facility.

2 (e) If the number of cadavers is insufficient for the use
3 of the relevant institutions, the Department of Public Health
4 shall determine which institution shall receive them, taking
5 into account the relative proportion of the numbers of students
6 at each institution.

7 Section 90. The Crematory Regulation Act is amended by
8 changing Section 5 as follows:

9 (410 ILCS 18/5)

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

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

12 "Address of record" means the designated address recorded
13 by the Comptroller in the applicant's or licensee's application
14 file or license file. It is the duty of the applicant or
15 licensee to inform the Comptroller of any change of address
16 within 14 days, and such changes must be made either through
17 the Comptroller's website or by contacting the Comptroller. The
18 address of record shall be the permanent street address of the
19 crematory.

20 "Alternative container" means a receptacle, other than a
21 casket, in which human remains are transported to the crematory
22 and placed in the cremation chamber for cremation. An
23 alternative container shall be (i) composed of readily
24 combustible or consumable materials suitable for cremation,

1 (ii) able to be closed in order to provide a complete covering
2 for the human remains, (iii) resistant to leakage or spillage,
3 (iv) rigid enough for handling with ease, and (v) able to
4 provide protection for the health, safety, and personal
5 integrity of crematory personnel.

6 "Authorizing agent" means a person legally entitled to
7 order the cremation and final disposition of specific human
8 remains. "Authorizing agent" includes an institution of
9 medical, mortuary, or other sciences as provided in Section 25
10 of the Disposition of Remains of the Indigent Act.

11 "Body parts" means limbs or other portions of the anatomy
12 that are removed from a person or human remains for medical
13 purposes during treatment, surgery, biopsy, autopsy, or
14 medical research; or human bodies or any portion of bodies that
15 have been donated to science for medical research purposes.

16 "Burial transit permit" means a permit for disposition of a
17 dead human body as required by Illinois law.

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

22 "Comptroller" means the Comptroller of the State of
23 Illinois.

24 "Cremated remains" means all human remains recovered after
25 the completion of the cremation, which may possibly include the
26 residue of any foreign matter including casket material,

1 bridgework, or eyeglasses, that was cremated with the human
2 remains.

3 "Cremation" means the technical process, using heat and
4 flame, or alkaline hydrolysis that reduces human remains to
5 bone fragments. The reduction takes place through heat and
6 evaporation or through hydrolysis. Cremation shall include the
7 processing, and may include the pulverization, of the bone
8 fragments.

9 "Cremation chamber" means the enclosed space within which
10 the cremation takes place.

11 "Cremation interment container" means a rigid outer
12 container that, subject to a cemetery's rules and regulations,
13 is composed of concrete, steel, fiberglass, or some similar
14 material in which an urn is placed prior to being interred in
15 the ground, and which is designed to withstand prolonged
16 exposure to the elements and to support the earth above the
17 urn.

18 "Cremation room" means the room in which the cremation
19 chamber is located.

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

22 "Crematory authority" means the legal entity which is
23 licensed by the Comptroller to operate a crematory and to
24 perform cremations.

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

1 "Funeral director" means a person known by the title of
2 "funeral director", "funeral director and embalmer", or other
3 similar words or titles, licensed by the State to practice
4 funeral directing or funeral directing and embalming.

5 "Funeral establishment" means a building or separate
6 portion of a building having a specific street address and
7 location and devoted to activities relating to the shelter,
8 care, custody, and preparation of a deceased human body and may
9 contain facilities for funeral or wake services.

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

16 "Human remains" means the body of a deceased person,
17 including any form of body prosthesis that has been permanently
18 attached or implanted in the body.

19 "Licensee" means an entity licensed under this Act. An
20 entity that holds itself as a licensee or that is accused of
21 unlicensed practice is considered a licensee for purposes of
22 enforcement, investigation, hearings, and the Illinois
23 Administrative Procedure Act.

24 "Niche" means a compartment or cubicle for the
25 memorialization and permanent placement of an urn containing
26 cremated remains.

1 "Person" means any person, partnership, association,
2 corporation, limited liability company, or other entity, and in
3 the case of any such business organization, its officers,
4 partners, members, or shareholders possessing 25% or more of
5 ownership of the entity.

6 "Processing" means the reduction of identifiable bone
7 fragments after the completion of the cremation process to
8 unidentifiable bone fragments by manual or mechanical means.

9 "Pulverization" means the reduction of identifiable bone
10 fragments after the completion of the cremation process to
11 granulated particles by manual or mechanical means.

12 "Scattering area" means an area which may be designated by
13 a cemetery and located on dedicated cemetery property where
14 cremated remains, which have been removed from their container,
15 can be mixed with, or placed on top of, the soil or ground
16 cover.

17 "Temporary container" means a receptacle for cremated
18 remains, usually composed of cardboard, plastic or similar
19 material, that can be closed in a manner that prevents the
20 leakage or spillage of the cremated remains or the entrance of
21 foreign material, and is a single container of sufficient size
22 to hold the cremated remains until an urn is acquired or the
23 cremated remains are scattered.

24 "Urn" means a receptacle designed to encase the cremated
25 remains.

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