

AN ACT concerning health.

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

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

(410 ILCS 18/20)

(Section scheduled to be repealed on January 1, 2024)

Sec. 20. Authorization to cremate.

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

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

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

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

(C) Notification as to whether the death occurred from a disease declared by the Department of Health to be infectious, contagious, communicable, or dangerous

to the public health.

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

(E) A representation that the authorizing agent does in fact have the right to authorize the cremation of the decedent, and that the authorizing agent is not aware of any living person who has a superior priority right to that of the authorizing agent, as set forth in Section 15. In the event there is another living person who has a superior priority right to that of the authorizing agent, the form shall contain a representation that the authorizing agent has made all reasonable efforts to contact that person, has been unable to do so, and has no reason to believe that the person would object to the cremation of the decedent.

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

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

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

(I) The manner in which final disposition of the

cremated remains is to take place, if known. If the cremation authorization form does not specify final disposition in a grave, crypt, niche, or scattering area, then the form may indicate that the cremated remains will be held by the crematory authority for 30 days before they are released, unless they are picked up from the crematory authority prior to that time, in person, by the authorizing agent. At the end of the 30 days the crematory authority may return the cremated remains to the authorizing agent if no final disposition arrangements are made; or at the end of 60 days the crematory authority may dispose of the cremated remains in accordance with subsection (d) of Section 40.

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

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

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

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

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

authorization form.

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

(3) Any other documentation required by this State.

(b) If an authorizing agent is not available to execute a cremation authorization form in person, that person may delegate that authority to another person in writing, or by sending the crematory authority a facsimile transmission that contains the name, address, and relationship of the sender to the decedent and the name and address of the individual to whom authority is delegated. Upon receipt of the written document, or facsimile transmission, telegram, or other electronic telecommunications transmission which specifies the individual to whom authority has been delegated, the crematory authority shall allow this individual to serve as the authorizing agent and to execute the cremation authorization form. The crematory authority shall be entitled to rely upon the cremation authorization form without liability.

(c) An authorizing agent who signs, in either paper or electronic format, a cremation authorization form shall be deemed to warrant the truthfulness of any facts set forth on the cremation authorization form, including that person's authority to order the cremation; except for the information required by items (C) and (G) of paragraph (1) of subsection (a) of this Section, unless the authorizing agent has actual knowledge to the contrary. An authorizing agent signing, in

either paper or electronic format, a cremation authorization form shall be personally and individually liable for all damages occasioned by and resulting from authorizing the cremation.

(d) A crematory authority shall have authority to cremate human remains upon the receipt of a cremation authorization form signed, in either paper or electronic format, by an authorizing agent. There shall be no liability for a crematory authority that cremates human remains according to an authorization, or that releases or disposes of the cremated remains according to an authorization, except for a crematory authority's gross negligence, provided that the crematory authority performs its functions in compliance with this Act.

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

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

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

Sec. 25. Recordkeeping.

(a) The crematory authority shall furnish to the person who delivers human remains to the crematory authority a receipt signed, in either paper or electronic format, at the time of delivery by both the crematory authority and the person who delivers the human remains, showing the date and time of the delivery, the type of casket or alternative container that was delivered, the name of the person from whom the human remains were received and the name of the funeral establishment or other entity with whom the person is affiliated, the name of the person who received the human remains on behalf of the crematory authority, and the name of the decedent. The crematory shall retain a copy of this receipt in its permanent records.

(b) Upon its release of cremated remains, the crematory authority shall furnish to the person who receives the cremated remains from the crematory authority a receipt signed, in either paper or electronic format, by both the crematory authority and the person who receives the cremated remains, showing the date and time of the release, the name of the person to whom the cremated remains were released and the name of the funeral establishment, cemetery, or other entity with whom the person is affiliated, the name of the person who released the cremated remains on behalf of the crematory authority, and the name of the decedent. The crematory shall

retain a copy of this receipt in its permanent records.

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

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

(e) Upon completion of the cremation, the crematory authority shall file the burial transit permit as required by the Illinois Vital Records Act and rules adopted under that Act and the Illinois Counties Code, and transmit a photocopy of the burial transit permit along with the cremated remains to whoever receives the cremated remains from the authorizing agent unless the cremated remains are to be interred, entombed, inurned, or placed in a scattering area, in which case the crematory authority shall retain a copy of the burial transit permit and shall send the permit, along with the cremated remains, to the cemetery, which shall file the permit with the designated agency after the interment, entombment, inurnment, or scattering has taken place.

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

of the cremated remains.

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

(410 ILCS 18/35)

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

Sec. 35. Cremation procedures.

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

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

cremation authorization form.

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

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

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

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

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

(h) The simultaneous cremation of the human remains of

more than one person within the same cremation chamber, without the prior written consent of the authorizing agent, is prohibited except for common cremation pursuant to Section 11.4 of the Hospital Licensing Act. Nothing in this subsection, however, shall prevent the simultaneous cremation within the same cremation chamber of body parts delivered to the crematory authority from multiple sources, or the use of cremation equipment that contains more than one cremation chamber.

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

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

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

(l) If all of the recovered cremated remains will not fit within the receptacle that has been selected, the remainder of

the cremated remains shall be returned to the authorizing agent or the agent's designee in a separate container. The crematory authority shall not return to an authorizing agent or the agent's designee more or less cremated remains than were removed from the cremation chamber.

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

(n) Cremated remains shall be shipped only by a method that has an internal tracing system available and that provides a receipt signed, in either paper or electronic format, by the person accepting delivery.

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

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

(410 ILCS 18/55)

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

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

(1) Performing a cremation without receipt of a cremation authorization form signed, in either paper or electronic format, by an authorizing agent shall be a

Class 4 felony.

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

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

(4) Holding oneself out to the public as a crematory authority, or the operation of a building or structure within this State as a crematory, without being licensed under this Act, shall be a Class A misdemeanor.

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

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

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

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

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