



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

SB2257

Introduced 5/15/2019, by Sen. Antonio Muñoz

SYNOPSIS AS INTRODUCED:

410 ILCS 18/5
410 ILCS 18/20
410 ILCS 18/25
410 ILCS 18/40

Amends the Crematory Regulation Act. Provides that a "temporary container" is, among other things, a single container of sufficient size to hold the cremated remains only until an urn is acquired. Provides that a funeral director (rather than a crematory authority or authorizing agent) has responsibilities specified throughout the Act. Provides that a crematory authority shall not cremate human remains until it has received, among other things, the name of the funeral establishment or cemetery (rather than the person) authorized to receive the cremated remains from the crematory authority and the manner in which final disposition of the cremated remains is to take place, whether it be burial, entombment, or inurnment in a cemetery. Provides that cremated remains must (rather than may) be disposed of by placing them in a grave, crypt, or niche in a designated cemetery. Removes language authorizing a crematory authority to dispose of cremated remains in a specified manner if the authorizing agent has not, within 60 days following the date of the cremation, instructed the crematory authority to arrange for the final disposition of the remains or claimed the remains. Removes language allowing for the disposal of cremated remains commingled with those of another person when scattering cremated remains at sea, by air, or in an area located in a dedicated cemetery and used exclusively for those purposes. Provides that an authorizing agent has the right to request and retain up to 8 ounces of cremated remains for memorialization before final disposition of the remains and requires funeral directors to notify an authorizing agent of that right. Makes other changes.

LRB101 12475 CPF 60661 b

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 5, 20, 25, and 40 as follows:

6 (410 ILCS 18/5)

7 (Section scheduled to be repealed on January 1, 2021)

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

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

17 "Alternative container" means a receptacle, other than a
18 casket, in which human remains are transported to the crematory
19 and placed in the cremation chamber for cremation. An
20 alternative container shall be (i) composed of readily
21 combustible or consumable materials suitable for cremation,
22 (ii) able to be closed in order to provide a complete covering
23 for the human remains, (iii) resistant to leakage or spillage,

1 (iv) rigid enough for handling with ease, and (v) able to
2 provide protection for the health, safety, and personal
3 integrity of crematory personnel.

4 "Authorizing agent" means a person legally entitled to
5 designate a cemetery for the burial, entombment, or inurnment
6 of cremated remains in a designated cemetery and to order the
7 cremation and final disposition of specific human remains.
8 "Authorizing agent" includes an institution of medical,
9 mortuary, or other sciences as provided in Section 20 of the
10 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 or fully intact or cremated remains to a
18 cemetery for burial, entombment, or inurnment as required by
19 Illinois law.

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

24 "Comptroller" means the Comptroller of the State of
25 Illinois.

26 "Cremated remains" means all human remains recovered after

1 the completion of the cremation, which may possibly include the
2 residue of any foreign matter including casket material,
3 bridgework, or eyeglasses, that was cremated with the human
4 remains.

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

11 "Cremation chamber" means the enclosed space within which
12 the cremation takes place.

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

20 "Cremation room" means the room in which the cremation
21 chamber is located.

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

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

1 "Final disposition" means the burial, entombment, or
2 inurnment in a cemetery of a dead human body or parts of a dead
3 human body, whether fully intact or cremated ~~cremation, or~~
4 ~~other disposition of a dead human body or parts of a dead human~~
5 ~~body.~~

6 "Funeral director" means a person known by the title of
7 "funeral director", "funeral director and embalmer", or other
8 similar words or titles, licensed by the State to practice
9 funeral directing or funeral directing and embalming and
10 charged with the responsibility of final disposition of all
11 human remains, whether fully intact or cremated, in a cemetery.

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

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

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

26 "Licensee" means an entity licensed under this Act. An

1 entity that holds itself as a licensee or that is accused of
2 unlicensed practice is considered a licensee for purposes of
3 enforcement, investigation, hearings, and the Illinois
4 Administrative Procedure Act.

5 "Niche" means a compartment or cubicle for the
6 memorialization and permanent placement of an urn containing
7 cremated remains.

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

13 "Processing" means the reduction of identifiable bone
14 fragments after the completion of the cremation process to
15 unidentifiable bone fragments by manual or mechanical means.

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

19 "Scattering" means the process of removing cremated
20 remains from a container and mixing them with or placing them
21 on top of the soil or ground cover in a scattering area.

22 "Scattering area" means an area which may be (i) designated
23 by a cemetery and located on dedicated cemetery property, (ii)
24 private property of a consenting owner, ~~or property used for~~
25 ~~outdoor recreation~~ or (iii) natural resource conservation
26 property owned by the Department of Natural Resources and

1 designated as a scattering area, ~~where cremated remains, which~~
2 ~~have been removed from their container, can be mixed with, or~~
3 ~~placed on top of, the soil or ground cover.~~

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

11 "Urn" means a receptacle designed to encase the cremated
12 remains.

13 (Source: P.A. 100-97, eff. 1-1-18; 100-526, eff. 6-1-18;
14 100-863, eff. 8-14-18.)

15 (410 ILCS 18/20)

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

17 Sec. 20. Authorization to cremate.

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

20 (1) A cremation authorization form signed by an
21 authorizing agent. The cremation authorization form shall
22 be provided by the crematory authority and shall contain,
23 at a minimum, the following information:

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

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

4 (C) Notification as to whether the death occurred
5 from a disease declared by the Department of Health to
6 be infectious, contagious, communicable, or dangerous
7 to the public health.

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

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

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

25 (G) A representation that the human remains do not
26 contain a pacemaker or any other material or implant

1 that may be potentially hazardous or cause damage to
2 the cremation chamber or the person performing the
3 cremation.

4 (H) The name of the cemetery ~~person~~ authorized to
5 receive the cremated remains from the funeral director
6 ~~crematory authority~~.

7 (I) The manner in which final disposition of the
8 cremated remains is to take place, whether it be
9 burial, entombment, or inurnment in a cemetery. ~~The~~
10 ~~manner in which final disposition of the cremated~~
11 ~~remains is to take place, if known. If the cremation~~
12 ~~authorization form does not specify final disposition~~
13 ~~in a grave, crypt, niche, or scattering area, then the~~
14 ~~form may indicate that the cremated remains will be~~
15 ~~held by the crematory authority for 30 days before they~~
16 ~~are released, unless they are picked up from the~~
17 ~~crematory authority prior to that time, in person, by~~
18 ~~the authorizing agent. At the end of the 30 days the~~
19 ~~crematory authority may return the cremated remains to~~
20 ~~the authorizing agent if no final disposition~~
21 ~~arrangements are made; or at the end of 60 days the~~
22 ~~crematory authority may dispose of the cremated~~
23 ~~remains in accordance with subsection (d) of Section~~
24 ~~40.~~

25 (J) A listing of any items of value to be delivered
26 to the crematory authority along with the human

1 remains, and instructions as to how the items should be
2 handled.

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

11 (L) The signature of the authorizing agent,
12 attesting to the accuracy of all representations
13 contained on the cremation authorization form, except
14 as set forth in paragraph (M) of this subsection.

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

19 (N) The cremation authorization form, other than
20 pre-need cremation forms, shall also be signed by a
21 funeral director or other representative of the
22 funeral establishment that obtained the cremation
23 authorization. That individual shall merely execute
24 the cremation authorization form as a witness and shall
25 not be responsible for any of the representations made
26 by the authorizing agent, unless the individual has

1 actual knowledge to the contrary. The information
2 requested by items (A), (B), (C) and (G) of this
3 subsection, however, shall be considered to be
4 representations of the authorizing agent. In addition,
5 the funeral director or funeral establishment shall
6 warrant to the crematory that the human remains
7 delivered to the crematory authority are the human
8 remains identified on the cremation authorization
9 form.

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

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

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

1 (c) An authorizing agent who signs a cremation
2 authorization form shall be deemed to warrant the truthfulness
3 of any facts set forth on the cremation authorization form,
4 including that person's authority to order the cremation;
5 except for the information required by items (C) and (G) of
6 paragraph (1) of subsection (a) of this Section, unless the
7 authorizing agent has actual knowledge to the contrary. An
8 authorizing agent signing a cremation authorization form shall
9 be personally and individually liable for all damages
10 occasioned by and resulting from authorizing the cremation.

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

20 (e) After an authorizing agent has executed a cremation
21 authorization form, the authorizing agent may revoke the
22 authorization and instruct the crematory authority to cancel
23 the cremation and to release or deliver the human remains to
24 another crematory authority or funeral establishment. The
25 instructions shall be provided to the crematory authority in
26 writing. A crematory authority shall honor any instructions

1 given to it by an authorizing agent under this Section if it
2 receives the instructions prior to beginning the cremation of
3 the human remains.

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

5 (410 ILCS 18/25)

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

7 Sec. 25. Recordkeeping.

8 (a) The crematory authority shall furnish to the person who
9 delivers human remains to the crematory authority a receipt
10 signed at the time of delivery by both the crematory authority
11 and the person who delivers the human remains, showing the date
12 and time of the delivery, the type of casket or alternative
13 container that was delivered, the name of the person from whom
14 the human remains were received and the name of the funeral
15 establishment or other entity with whom the person is
16 affiliated, the name of the person who received the human
17 remains on behalf of the crematory authority, and the name of
18 the decedent. The crematory shall retain a copy of this receipt
19 in its permanent records.

20 (b) Upon its release of cremated remains, the funeral
21 director ~~crematory authority~~ shall furnish to the cemetery that
22 ~~person who~~ receives the cremated remains from the funeral
23 director ~~crematory authority~~ a receipt signed by both the
24 crematory authority and the funeral director ~~person~~ who
25 receives the cremated remains, showing the date and time of the

1 release, the name of the funeral establishment or cemetery
2 ~~person to which whom~~ the cremated remains were released ~~and the~~
3 ~~name of the funeral establishment, cemetery, or other entity~~
4 ~~with whom the person is affiliated, the name of the person who~~
5 ~~released the cremated remains on behalf of the crematory~~
6 ~~authority,~~ and the name of the decedent. The crematory shall
7 retain a copy of this receipt in its permanent records.

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

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

16 (e) Upon completion of the cremation, the funeral director
17 ~~crematory authority~~ shall file the burial transit permit as
18 required by the Illinois Vital Records Act and rules adopted
19 under that Act and the Illinois Counties Code, and transmit a
20 photocopy of the burial transit permit along with the cremated
21 remains ~~to whoever receives the cremated remains from the~~
22 ~~authorizing agent unless the cremated remains are to be~~
23 ~~interred, entombed, inurned, or placed in a scattering area, in~~
24 ~~which case the crematory authority shall retain a copy of the~~
25 ~~burial transit permit and shall send the permit, along with the~~
26 ~~cremated remains,~~ to the cemetery for interment, entombment, or

1 inurnment, which shall file the permit with the designated
2 agency after the interment, entombment, or inurnment, ~~or~~
3 ~~scattering~~ has taken place.

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

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

10 (410 ILCS 18/40)

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

12 Sec. 40. Disposition of cremated remains.

13 (a) A licensed funeral director ~~The authorizing agent~~ shall
14 be responsible for the final disposition of the cremated
15 remains by burying, entombing, or inurning the cremated remains
16 in a cemetery selected by the authorizing agent.

17 (b) Cremated remains must ~~may~~ be disposed of by placing
18 them in a grave, crypt, or niche in a designated cemetery, ~~by~~
19 ~~scattering them in a scattering area as defined in this Act, or~~
20 ~~in any manner whatever on the private property of a consenting~~
21 ~~owner.~~

22 (c) Upon the completion of the cremation process and after,
23 ~~and except as provided for in item (I) of paragraph (1) of~~
24 ~~subsection (a) of Section 20, if the crematory authority has~~
25 ~~not been instructed to arrange for the interment, entombment,~~

1 ~~inurnment, or scattering of the cremated remains, the crematory~~
2 ~~authority shall deliver the cremated remains to the individual~~
3 ~~specified on the cremation authorization form, or if no~~
4 ~~individual is specified then to the authorizing agent. The~~
5 ~~delivery may be made in person or by registered mail. Upon~~
6 ~~receipt of the cremated remains, the individual receiving them~~
7 ~~may transport them in any manner in this State without a~~
8 ~~permit, and may dispose of them in accordance with this~~
9 ~~Section. After delivery, the funeral director crematory~~
10 ~~authority shall be discharged from any legal obligation or~~
11 ~~liability concerning the cremated remains.~~

12 (d) (Blank). ~~If, after a period of 60 days from the date of~~
13 ~~the cremation, the authorizing agent or the agent's designee~~
14 ~~has not instructed the crematory authority to arrange for the~~
15 ~~final disposition of the cremated remains or claimed the~~
16 ~~cremated remains, the crematory authority may dispose of the~~
17 ~~cremated remains in any manner permitted by this Section. The~~
18 ~~crematory authority, however, shall keep a permanent record~~
19 ~~identifying the site of final disposition. The authorizing~~
20 ~~agent shall be responsible for reimbursing the crematory~~
21 ~~authority for all reasonable expenses incurred in disposing of~~
22 ~~the cremated remains. Upon disposing of the cremated remains,~~
23 ~~the crematory authority shall be discharged from any legal~~
24 ~~obligation or liability concerning the cremated remains. Any~~
25 ~~person who was in possession of cremated remains prior to the~~
26 ~~effective date of this Act may dispose of them in accordance~~

1 ~~with this Section.~~

2 (e) Except with the express written permission of the
3 authorizing agent, no person shall:

4 (1) Dispose of cremated remains in a manner or in a
5 location so that the cremated remains are commingled with
6 those of another person. ~~This prohibition shall not apply
7 to the scattering of cremated remains at sea, by air, or in
8 an area located in a dedicated cemetery and used
9 exclusively for those purposes.~~

10 (2) Place cremated remains of more than one person in
11 the same temporary container or urn.

12 (f) The authorizing agent has the right to request and
13 retain up to 8 ounces of cremated remains, before final
14 disposition, for scattering or private memorialization of the
15 cremated remains in accordance with this Act. A funeral
16 director shall notify an authorizing agent of the right to
17 request and retain up to 8 ounces of cremated remains.

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