

CHAPTER 178

PROFESSIONS AND OCCUPATIONS

SENATE BILL 15-110

BY SENATOR(S) Baumgardner, Aguilar, Newell, Steadman, Todd, Cadman;
also REPRESENTATIVE(S) Ginal, Priola, Ryden, Tate.

AN ACT

CONCERNING THE CONTINUATION OF THE REGULATION BY THE DIRECTOR OF THE DIVISION OF PROFESSIONS AND OCCUPATIONS OF FUNERAL ESTABLISHMENTS, AND, IN CONNECTION THEREWITH, IMPLEMENTING THE RECOMMENDATIONS OF THE DEPARTMENT OF REGULATORY AGENCIES AS CONTAINED IN THE 2014 SUNSET REPORT AND MAKING AN APPROPRIATION.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, **amend** 12-54-410 as follows:

12-54-410. Repeal. Sections 12-54-110, 12-54-111, 12-54-303, and 12-54-304 and this part 4 are repealed, effective July 1, 2015 2024. Prior to such repeal, the regulation of persons registered to practice cremation and mortuary science shall be reviewed pursuant to section 24-34-104, C.R.S.

SECTION 2. In Colorado Revised Statutes, 24-34-104, **repeal** (46) (l); and **add** (55) (m) as follows:

24-34-104. General assembly review of regulatory agencies and functions for termination, continuation, or reestablishment. (46) The following agencies, functions, or both shall terminate on July 1, 2015:

(l) ~~The regulation of persons registered to practice mortuary science pursuant to sections 12-54-110 and 12-54-111, C.R.S., and cremation pursuant to sections 12-54-303 and 12-54-304, C.R.S., and the administration thereof pursuant to part 4 of article 54 of title 12, C.R.S.;~~

(55) The following agencies, functions, or both, terminate on September 1, 2024:

(m) THE REGULATION OF PERSONS REGISTERED TO PRACTICE MORTUARY SCIENCE

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

BY SECTIONS 12-54-110 AND 12-54-111, C.R.S., AND CREMATION BY SECTIONS 12-54-303 AND 12-54-304, C.R.S., AND THE ADMINISTRATION THEREOF UNDER PART 4 OF ARTICLE 54 OF TITLE 12, C.R.S.;

SECTION 3. In Colorado Revised Statutes, 12-54-102, **amend** (5) and (12) introductory portion as follows:

12-54-102. Definitions. As used in this article, unless the context otherwise requires:

(5) "Crematory" means a building, facility, ESTABLISHMENT, or structure where human remains are cremated.

(12) "Funeral establishment", "FUNERAL HOME", OR "MORTUARY" means:

SECTION 4. In Colorado Revised Statutes, **amend** 12-54-105 as follows:

12-54-105. Care of bodies required - public health. ~~The custodian shall not keep the human remains more than twenty-four hours after death before final disposition but shall embalm or properly refrigerate the body after twenty-four hours~~
A FUNERAL ESTABLISHMENT SHALL EMBALM, REFRIGERATE, CREMATE, BURY, OR ENTOMB HUMAN REMAINS WITHIN TWENTY-FOUR HOURS AFTER TAKING CUSTODY OF THE REMAINS.

SECTION 5. In Colorado Revised Statutes, **add** 12-54-113 as follows:

12-54-113. Custody and responsibility - rules. (1) A FUNERAL ESTABLISHMENT SHALL NOT, THROUGH ITS MANAGERS, EMPLOYEES, CONTRACTORS, OR AGENTS, TAKE CUSTODY OF HUMAN REMAINS WITHOUT AN ATTESTATION OF POSITIVE IDENTIFICATION ON A FORM PROMULGATED BY THE DIRECTOR BY RULE BY:

- (a) THE NEXT OF KIN;
- (b) THE COUNTY CORONER OR THE COUNTY CORONER'S DESIGNEE; OR
- (c) AN AUTHORIZED PERSON AT THE CARE FACILITY WHERE THE DECEASED DIED.

(2) A FUNERAL ESTABLISHMENT IS RESPONSIBLE FOR IDENTIFYING AND TRACKING HUMAN REMAINS FROM THE TIME IT TAKES CUSTODY OF HUMAN REMAINS UNTIL THE:

(a) FINAL DISPOSITION HAS OCCURRED OR THE REMAINS ARE RETURNED TO THE PERSON WHO HAS THE RIGHT OF FINAL DISPOSITION;

(b) HUMAN REMAINS ARE RELEASED IN ACCORDANCE WITH THE INSTRUCTIONS GIVEN BY THE PERSON WHO HAS THE RIGHT OF FINAL DISPOSITION; OR

(c) REMAINS ARE RELEASED TO ANOTHER FUNERAL ESTABLISHMENT, CREMATORY, REPOSITORY, OR ENTITY AS AUTHORIZED BY THE PERSON WHO HAS THE RIGHT OF FINAL DISPOSITION.

(3) THE DIRECTOR SHALL ADOPT RULES IMPLEMENTING THIS SECTION THAT:

- (a) ESTABLISH WHAT CONSTITUTES CUSTODY;
- (b) DEFINE "CARE FACILITY", "REPOSITORY", AND "ENTITY";
- (c) ESTABLISH WHO IS AUTHORIZED TO IDENTIFY HUMAN REMAINS AT A CARE FACILITY FOR A FUNERAL ESTABLISHMENT; AND
- (d) PRESCRIBE THE MINIMUM STANDARDS FOR THE POSITIVE IDENTIFICATION AND CHAIN OF CUSTODY OF HUMAN REMAINS. A FUNERAL ESTABLISHMENT MAY USE THE ESTABLISHMENT'S OWN PROCEDURES IF THE PROCEDURES MEET OR EXCEED THE MINIMUM STANDARDS OF THE RULE PROMULGATED BY THE DIRECTOR.

SECTION 6. In Colorado Revised Statutes, 12-54-301, **amend** (1) introductory portion and (1) (k) as follows:

12-54-301. Unlawful acts. (1) It is unlawful for a ~~cremationist~~ CREMATORY:

- (k) To ALLOW A CREMATORY OPERATOR TO perform services beyond a ~~cremationist's~~ AN OPERATOR'S competency, training, or education;

SECTION 7. In Colorado Revised Statutes, 12-54-302, **amend** (1) introductory portion, (2) (a) (I), (2) (a) (II), (2) (a) (III), and (2) (b) as follows:

12-54-302. Exceptions - safe harbor. (1) If a ~~cremationist~~ CREMATORY has acted in good faith, the ~~cremationist~~ CREMATORY may rely on a signed statement from a person with the right of final disposition under section 15-19-106, C.R.S., that:

(2) (a) (I) A ~~cremationist~~ CREMATORY may dispose of cremains at the expense of the person with the right of final disposition one hundred eighty days after cremation if the person was given clear prior notice of this paragraph (a) and a reasonable opportunity to collect the cremains; the exact location of the final disposition and the costs associated with the final disposition are recorded; and the recovery of the cremains is possible. Recovery of costs is limited to a reasonable amount of the costs actually expended by the ~~cremationist~~ CREMATORY.

(II) A ~~cremationist~~ CREMATORY may comply with this paragraph (a) by transferring the cremated remains and the records showing the funeral establishment and the deceased's name, date of birth, and next of kin for final disposition to a facility or place normally used for final disposition if the new custodian can comply with this paragraph (a).

(III) If cremated remains are not claimed by the person with the right of final disposition within three years after cremation, a ~~cremationist~~ CREMATORY may dispose of the remains in an unrecoverable manner by placing the remains in an ossuary or by scattering the remains in a dedicated cemetery, scattering garden, or consecrated ground used exclusively for these purposes.

(b) If the deceased was cremated prior to July 1, 2003, and the ~~cremationist~~ CREMATORY reasonably attempts to notify the person with the right of final disposition of the provisions of this subsection (2), the remains may be disposed of

in accordance with this subsection (2), notwithstanding a failure to provide the notice of the provisions of this subsection (2) to the person with the right of final disposition prior to disposing of the remains.

SECTION 8. In Colorado Revised Statutes, **add** 12-54-308 as follows:

12-54-308. Custody and responsibility - rules. (1) A CREMATORY SHALL NOT, THROUGH ITS MANAGERS, EMPLOYEES, CONTRACTORS, OR AGENTS, TAKE CUSTODY OF HUMAN REMAINS WITHOUT AN ATTESTATION OF POSITIVE IDENTIFICATION ON A FORM PROMULGATED BY THE DIRECTOR BY RULE BY:

- (a) THE NEXT OF KIN;
- (b) THE COUNTY CORONER OR THE COUNTY CORONER'S DESIGNEE; OR
- (c) AN AUTHORIZED PERSON AT THE CARE FACILITY WHERE THE DECEASED DIED.

(2) A CREMATORY IS RESPONSIBLE FOR IDENTIFYING AND TRACKING HUMAN REMAINS FROM THE TIME IT TAKES CUSTODY OF HUMAN REMAINS UNTIL THE:

- (a) FINAL DISPOSITION HAS OCCURRED OR THE REMAINS ARE RETURNED TO THE PERSON WHO HAS THE RIGHT OF FINAL DISPOSITION;
- (b) HUMAN REMAINS ARE RELEASED IN ACCORDANCE WITH THE INSTRUCTIONS GIVEN BY THE PERSON WHO HAS THE RIGHT OF FINAL DISPOSITION; OR
- (c) REMAINS ARE RELEASED TO A FUNERAL ESTABLISHMENT, ANOTHER CREMATORY, REPOSITORY, OR ENTITY AS AUTHORIZED BY THE PERSON WHO HAS THE RIGHT OF FINAL DISPOSITION.

(3) THE DIRECTOR SHALL ADOPT RULES IMPLEMENTING THIS SECTION THAT:

- (a) ESTABLISH WHAT CONSTITUTES CUSTODY;
- (b) DEFINE "CARE FACILITY", "REPOSITORY", AND "ENTITY";
- (c) ESTABLISH WHO IS AUTHORIZED TO IDENTIFY HUMAN REMAINS AT A CARE FACILITY FOR A FUNERAL ESTABLISHMENT; AND
- (d) PRESCRIBE THE MINIMUM STANDARDS FOR THE POSITIVE IDENTIFICATION AND CHAIN OF CUSTODY OF HUMAN REMAINS. A CREMATORY MAY USE THE CREMATORY'S OWN PROCEDURES IF THE PROCEDURES MEET OR EXCEED THE MINIMUM STANDARDS OF THE RULE PROMULGATED BY THE DIRECTOR.

SECTION 9. Appropriation. (1) For the 2015-16 state fiscal year, \$4,726 is appropriated to the department of regulatory agencies. This appropriation is from the division of professions and occupations cash fund created in section 24-34-105 (2) (b) (I), C.R.S. To implement this act, the department may use this appropriation for the purchase of legal services.

(2) For the 2015-16 state fiscal year, \$4,726 is appropriated to the department of

law. This appropriation is from reappropriated funds received from the department of regulatory agencies under subsection (1) of this section. To implement this act, the department of law may use this appropriation to provide legal services for the department of regulatory agencies.

SECTION 10. Effective date - applicability. This act takes effect July 1, 2015, and applies to acts committed on or after said date.

SECTION 11. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: May 11, 2015