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MEMORANDUM (2)(D)¹

TO: Statutory Revision Committee

FROM: Brita Darling, Office of Legislative Legal Services

DATE: August 11, 2017

SUBJECT: Removing the term "pauper" from the statutes

Summary

In several places in the Colorado Revised Statutes, the terms "pauper" or "pauper dead" are used. Referring to a person as a "pauper" or "pauper dead" is antiquated and the language should be modernized to refer to an "indigent person", a "person who is indigent", or a "deceased indigent person".

This issue was raised by Office of Legislative Legal Services in the course of reviewing statutes as part of the annual publications process for the Colorado Revised Statutes.

Analysis

The term "pauper" is antiquated and should be replaced in the Colorado Revised Statutes with the term "indigent".

The terms "pauper", "paupers", or "pauper dead" appear in the following sections of the Colorado Revised Statutes included in **Addendum A**:

¹ This legal memorandum was prepared by the Office of Legislative Legal Services (OLLS) in the course of its statutory duty to provide staff assistance to the Statutory Revision Committee (SRC). It does not represent an official legal position of the OLLS, SRC, General Assembly, or the state of Colorado, and is not binding on the members of the SRC. This memorandum is intended for use in the legislative process and as information to assist the SRC in the performance of its legislative duties.

15-19-302. Duty of public officers as to unclaimed bodies.
25-3-309. Hospital fees.
28-5-502. Internment of deceased veterans.

These terms are antiquated and should be replaced in the Colorado Revised Statutes with more modern language. "Pauper" is defined in *Black's Law Dictionary, Seventh Edition*, as "A very poor person, esp. one who receives aid from charity or public funds; an indigent." Therefore, the terms "pauper", "paupers", and "pauper dead" should be replaced with "indigent person", "indigent persons", or "deceased indigent persons".

Statutory Charge²

Removing or modernizing antiquated references to a "pauper", "paupers", and the "pauper dead" meets the Committee's statutory charge to remove antiquated language and to bring the law of this state into harmony with modern conditions.

Proposed Bill

Staff has attached a bill draft³ to address the issue. Staff has sought input on the proposed changes from Colorado Counties, Inc., and the Colorado Hospital Association.

² The Statutory Revision Committee is charged with "[making] an ongoing examination of the statutes of the state and current judicial decisions for the purpose of discovering defects and anachronisms in the law and recommending needed reforms" and recommending "legislation annually to effect such changes in the law as it deems necessary in order to modify or eliminate antiquated, redundant, or contradictory rules of law and to bring the law of this state into harmony with modern conditions". Section 2-3-902 (1), C.R.S. In addition, the Committee "shall propose legislation only to streamline, reduce, or repeal provisions of the Colorado Revised Statutes." Section 2-3-902 (3), C.R.S.

³ See **Addendum B**.

Addendum A

15-19-302. Duty of public officers as to unclaimed bodies. (2) Such notices shall be given to the anatomical board in all cases, but no such body shall be delivered if any relative, by blood or marriage, shall previously claim the body for burial at the expense of the relative, but the body shall be surrendered to the claimant for interment; nor shall any such body be delivered if any representative of a fraternal society of which the deceased was a member, or a representative of any charitable organization, or if any friend of the deceased shall claim the body for burial prior to delivery to the board, the burial to be at the expense of the fraternal society, charitable organization, or friend. In the case of death of any person whose body is required to be buried at public expense and the duly authorized officer or agent of the anatomical board deems the body unfit for anatomical purposes, he or she shall notify the board of county commissioners or such other agency as may be **in charge of the county paupers** of the county in which the person dies, in writing, and the board of county commissioners or other agency shall direct some person to take charge of the body of the **deceased indigent person**, and cause it to be buried, and draw warrants upon the treasurer of the county for the payment of such expenses. **(Emphasis added)**

(3) No warrants for the payment of the expenses of the burial of any person whose body is required to be buried at public expense shall be drawn or paid except upon the certificate of the duly authorized officer or agent of the anatomical board to the effect that the unclaimed body is unfit for anatomical purposes, by reason of decomposition or contagious disease, and that the provisions of this part 3 have been complied with. If, through the failure of any person to deliver the body of a **deceased indigent** as required by this part 3, the unclaimed body becomes unfit for anatomical purposes, and is so certified by the duly authorized officer or agent of the anatomical board, the body shall be buried in accordance with the provisions of this part 3, and the person so failing to deliver the unclaimed body shall pay to the county treasurer the expense so incurred. Upon the refusal or failure of the person, on demand, to pay the expense, the board of county commissioners, or such other agency as may be **in charge of the county paupers**, may bring suit to recover the expenses, and the same may be recovered, as debts of like amount are collectible by law. **(Emphasis added)**

25-3-309. Hospital fees. Every hospital established under this part 3 shall be for the benefit of the inhabitants of such county and of any person falling sick or being injured or maimed within its limits. **Every inhabitant or person who is not a pauper** shall pay to the board of public hospital trustees or such officer as it shall designate for such county public hospital a reasonable

compensation for occupancy, nursing, laboratories, care, medicine, or attendants according to the rules and regulations prescribed by said board in order to render the use of said hospital of the greatest benefit to the greatest number. (**Emphasis added**)

Addendum B
Second Regular Session
Seventy-first General Assembly
STATE OF COLORADO

BILL (2)(D)

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LLS NO. 18-####.## Brita Darling x2241

COMMITTEE BILL

Statutory Revision Committee

A BILL FOR AN ACT

101 **CONCERNING MODERNIZING LANGUAGE IN STATUTORY SECTIONS THAT**
102 **REFER TO PAUPERS.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov/>.)

Statutory Revision Committee. The bill modernizes the language in statutory sections by replacing the terms "pauper" and "paupers" with "indigent" or "indigent persons".

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

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

2 **SECTION 1.** In Colorado Revised Statutes, 15-19-302, **amend**
3 (2) and (3) as follows:

4 **15-19-302. Duty of public officers as to unclaimed bodies.**

5 (2) ~~Such notices~~ NOTICE shall be given to the anatomical board in all
6 cases, but ~~no such~~ THE body ~~shall~~ MUST NOT be delivered if any relative,
7 by blood or marriage, ~~shall~~ HAS previously ~~claim~~ CLAIMED the body for
8 burial at the expense of the relative, ~~but~~ IN WHICH CASE the body ~~shall~~
9 MUST be surrendered to the claimant for interment. ~~nor shall any such~~
10 FURTHER, THE body MUST NOT be delivered if any representative of a
11 fraternal society of which the deceased was a member, or a representative
12 of any charitable organization, or if any friend of the deceased ~~shall claim~~
13 INDIGENT PERSON CLAIMS the body for burial prior to delivery to the
14 board, WITH the burial ~~to be~~ at the expense of the fraternal society,
15 charitable organization, or friend. In the case of death of any person
16 whose body is required to be buried at public expense and the duly
17 authorized officer or agent of the anatomical board deems the body unfit
18 for anatomical purposes, he or she shall notify the board of county
19 commissioners or ~~such other~~ agency ~~as may be~~ in charge of ~~the county~~
20 ~~paupers of~~ INDIGENT PERSONS IN the county in which the person dies, in
21 writing, and the board of county commissioners or ~~other~~ agency shall
22 direct ~~some~~ A person to take charge of the body of the deceased indigent
23 person, and cause it to be buried, and draw warrants upon the treasurer of
24 the county for the payment of ~~such~~ expenses.

25 (3) ~~No~~ Warrants for the payment of the expenses of the burial of
26 any person whose body is required to be buried at public expense ~~shall~~
27 MUST NOT be drawn or paid except upon the certificate of the duly

1 authorized officer or agent of the anatomical board to the effect that the
2 unclaimed body is unfit for anatomical purposes ~~by reason of~~ DUE TO
3 decomposition or contagious disease, and that the provisions of this part
4 3 have been complied with. If, through the failure of any person to deliver
5 the body of a deceased indigent PERSON as required by this part 3, the
6 unclaimed body ~~becomes~~ IS unfit for anatomical purposes, and is ~~so~~
7 certified AS UNFIT by the duly authorized officer or agent of the
8 anatomical board, the body ~~shall~~ MUST be buried in accordance with the
9 provisions of this part 3, and the person ~~so failing~~ WHO FAILED to deliver
10 the unclaimed body shall pay to the county treasurer the ~~expense so~~
11 EXPENSES incurred. Upon the refusal or failure of the person, on demand,
12 to pay the ~~expense~~ EXPENSES, the board of county commissioners, or such
13 other agency as may be in charge of ~~the county paupers~~ INDIGENT
14 PERSONS IN THE COUNTY, may bring suit to recover the expenses, and the
15 ~~same~~ EXPENSES may be recovered as debts ~~of like amount are~~ collectible
16 by law.

17 **SECTION 2.** In Colorado Revised Statutes, **amend** 25-3-309 as
18 follows:

19 **25-3-309. Hospital fees.** Every hospital established under this part
20 3 ~~shall be~~ IS for the benefit of the inhabitants of ~~such~~ THE county and of
21 any person falling sick or ~~being~~ WHO IS injured or maimed within its
22 limits. Every inhabitant or person who is not a ~~pauper~~ INDIGENT shall pay
23 to the board of public hospital trustees or ~~such~~ TO THE officer as it ~~shall~~
24 ~~designate~~ DESIGNATES for ~~such~~ THE county public hospital a reasonable
25 compensation for occupancy, nursing, laboratories, care, medicine, or
26 attendants according to ~~the rules and regulations~~ prescribed by ~~said~~ THE
27 board in order to render the use of ~~said~~ THE hospital of the greatest benefit

1 to the greatest number.

2 **SECTION 3.** In Colorado Revised Statutes, **amend** 28-5-502 as
3 follows:

4 **28-5-502. Interment of deceased veterans.** (2) ~~Such Burial shall~~
5 MUST not be made in that portion of ~~any~~ A cemetery or burial ground used
6 exclusively for the burial of ~~the pauper dead~~ DECEASED INDIGENT
7 PERSONS. Each county, by resolution of its board of county
8 commissioners, shall establish the maximum expense to the county for
9 each burial, exclusive of any federal funds provided for such purposes. In
10 case the deceased VETERAN has relatives or friends who desire to conduct
11 the funeral services, they shall be permitted to do so, and the expenses
12 shall be paid as provided in this section.

13 **SECTION 4. Act subject to petition - effective date.** This act
14 takes effect at 12:01 a.m. on the day following the expiration of the
15 ninety-day period after final adjournment of the general assembly (August
16 , 2018, if adjournment sine die is on May , 2018); except that, if a
17 referendum petition is filed pursuant to section 1 (3) of article V of the
18 state constitution against this act or an item, section, or part of this act
19 within such period, then the act, item, section, or part will not take effect
20 unless approved by the people at the general election to be held in
21 November 2018 and, in such case, will take effect on the date of the
22 official declaration of the vote thereon by the governor.