

CHAPTER 402

CRIMINAL LAW AND PROCEDURE

SENATE BILL 03-038

BY SENATOR(S) Windels, and Takis;
 also REPRESENTATIVE(S) Jahn, Borodkin, Boyd, Coleman, Frangas, Fritz, Larson, Merrifield, Ragsdale, Stafford, and
 Williams, S.

AN ACT

**CONCERNING A CLARIFICATION OF CERTAIN TERMS CONTAINED IN THE UNLAWFUL ACTS SECTION OF
 THE "MORTUARY SCIENCE CODE".**

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

SECTION 1. 12-54-117 (1) (a), (1) (f), (1) (g), (1) (h), and (1) (h.1), Colorado Revised Statutes, are amended, and the said 12-54-117 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

12-54-117. Unlawful acts. (1) It is unlawful:

(a) For any mortuary science practitioner to disinfect or preserve or to make final disposition of a dead human body when any fact within his OR HER knowledge or brought to his OR HER attention is sufficient to arouse a reasonable suspicion of a crime in connection with the cause of death of the deceased until the permission of the coroner, deputy coroner, or district attorney, if there is no coroner, has been first obtained;

(f) For any public officer or employee, the official of any public institution, any hospital, nursing home, physician, or surgeon, or any other person having a professional relationship with any decedent to send or cause to be sent to any funeral establishment or to any mortuary science practitioner the remains of any deceased person for preparation of the body for permanent disposition without having first made a diligent inquiry as to the desires of the next of kin. In the absence of any next of kin or authorized representative, disposition shall be as reflected in hospital records. If any such kin is found, his OR HER authority and directions shall govern.

(g) For any company, corporation, or association engaged in the business of paying

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

for or otherwise providing death benefits, funerals, or other methods of disposition for deceased members or certificate or policy holders to pay or provide those benefits by contract or otherwise in any manner which may deprive the next of kin or legal representative the right to use those benefits or payments at any funeral establishment of his OR HER choice;

(h) For any mortuary science practitioner or anyone acting for him OR HER to have any part in a transaction or business which in any way interferes with the freedom of choice of the general public to choose a mortuary science practitioner or to choose a funeral establishment;

(h.1) For any mortuary science practitioner who is also a county coroner to direct business to his OR HER funeral establishment except as provided in section 30-10-619, C.R.S.;

(2) FOR PURPOSES OF THIS SECTION ONLY, "NEXT OF KIN", "KIN", OR "FAMILY MEMBER" SHALL NOT INCLUDE ANY PERSON WHO IS ARRESTED ON SUSPICION OF HAVING COMMITTED, IS CHARGED WITH, OR HAS BEEN CONVICTED OF, ANY FELONY OFFENSE SPECIFIED IN PART 1 OF ARTICLE 3 OF TITLE 18, C.R.S., INVOLVING THE DEATH OF THE DECEDENT.

SECTION 2. Effective date - applicability. This act shall take effect July 1, 2003, and shall apply to deaths occurring on or after said date.

SECTION 3. 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: June 5, 2003