

First Regular Session
Seventieth General Assembly
STATE OF COLORADO

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 15-0196.01 Jery Payne x2157

SENATE BILL 15-110

SENATE SPONSORSHIP

Baumgardner, Aguilar, Newell

HOUSE SPONSORSHIP

Ginal,

Senate Committees

Business, Labor, & Technology
Appropriations

House Committees

A BILL FOR AN ACT

101 **CONCERNING THE CONTINUATION OF THE REGULATION BY THE**
102 **DIRECTOR OF THE DIVISION OF PROFESSIONS AND OCCUPATIONS**
103 **OF FUNERAL ESTABLISHMENTS, AND, IN CONNECTION**
104 **THEREWITH, IMPLEMENTING THE RECOMMENDATIONS OF THE**
105 **DEPARTMENT OF REGULATORY AGENCIES AS CONTAINED IN THE**
106 **2014 SUNSET REPORT.**

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://www.leg.state.co.us/bills summaries>.)

Sunset Process - Senate Business, Labor, and Technology

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.

Committee. The bill implements the recommendations of the sunset report for the mortuary science code. The bill:

- ! Continues the registration of mortuary science businesses (**Sections 1 and 2**);
- ! Clarifies that a funeral establishment is responsible for the identification and tracking of human remains from the time it takes custody until final disposition or the return to the next of kin. The establishment must get an attestation of identity before taking possession of the remains (**Section 3**).
- ! Changes the subject of certain regulation from a cremationist to a crematory, which is a registered entity (**Sections 4 and 5**).

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

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

4 **12-54-410. Repeal.** Sections 12-54-110, 12-54-111, 12-54-303,
5 and 12-54-304 and this part 4 are repealed, effective July 1, 2015 2024.
6 Prior to such repeal, the regulation of persons registered to practice
7 cremation and mortuary science shall be reviewed pursuant to section
8 24-34-104, C.R.S.

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

11 **24-34-104. General assembly review of regulatory agencies**
12 **and functions for termination, continuation, or reestablishment.**

13 (46) The following agencies, functions, or both shall terminate on July
14 1, 2015:

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

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

3 (j) THE REGULATION OF PERSONS REGISTERED TO PRACTICE
4 MORTUARY SCIENCE BY SECTIONS 12-54-110 AND 12-54-111, C.R.S., AND
5 CREMATION BY SECTIONS 12-54-303 AND 12-54-304, C.R.S., AND THE
6 ADMINISTRATION THEREOF UNDER PART 4 OF ARTICLE 54 OF TITLE 12,
7 C.R.S.;

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

10 **12-54-102. Definitions.** As used in this article, unless the context
11 **otherwise requires:**

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

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

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

18 **12-54-105. Care of bodies required - public health. The**
19 **custodian shall not keep the human remains more than twenty-four hours**
20 **after death before final disposition but shall embalm or properly**
21 **refrigerate the body after twenty-four hours** A FUNERAL ESTABLISHMENT
22 **SHALL EMBALM, REFRIGERATE, CREMATE, BURY, OR ENTOMB HUMAN**
23 **REMAINS WITHIN TWENTY-FOUR HOURS AFTER TAKING CUSTODY OF THE**
24 **REMAINS.**

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

27 **12-54-113. Custody and responsibility - rules.** (1) A FUNERAL

1 ESTABLISHMENT SHALL NOT, THROUGH ITS MANAGERS, EMPLOYEES,
2 CONTRACTORS, OR AGENTS, TAKE CUSTODY OF HUMAN REMAINS WITHOUT
3 AN ATTESTATION OF POSITIVE IDENTIFICATION ON A FORM PROMULGATED
4 BY THE DIRECTOR BY RULE BY:

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

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

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

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

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

21

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

- 24 (a) ESTABLISH WHAT CONSTITUTES CUSTODY;
- 25 (b) DEFINE "CARE FACILITY", "REPOSITORY", AND "ENTITY";
- 26 (c) ESTABLISH WHO IS AUTHORIZED TO IDENTIFY HUMAN REMAINS
27 AT A CARE FACILITY FOR A FUNERAL ESTABLISHMENT; AND

1 (d) PRESCRIBE THE PROCEDURES FOR DOCUMENTING THE POSITIVE
2 IDENTIFICATION AND CHAIN OF CUSTODY OF HUMAN REMAINS.

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

5 **12-54-301. Unlawful acts.** (1) It is unlawful for a cremationist
6 CREMATORY:

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

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

13 **12-54-302. Exceptions - safe harbor.** (1) If a cremationist
14 CREMATORY has acted in good faith, the cremationist CREMATORY may
15 rely on a signed statement from a person with the right of final disposition
16 under section 15-19-106, C.R.S., that:

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

25 (II) A cremationist CREMATORY may comply with this paragraph
26 (a) by transferring the cremated remains and the records showing the
27 funeral establishment and the deceased's name, date of birth, and next of

1 kin for final disposition to a facility or place normally used for final
2 disposition if the new custodian can comply with this paragraph (a).

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

9 (b) If the deceased was cremated prior to July 1, 2003, and the
10 cremationist CREMATORY reasonably attempts to notify the person with
11 the right of final disposition of the provisions of this subsection (2), the
12 remains may be disposed of in accordance with this subsection (2),
13 notwithstanding a failure to provide the notice of the provisions of this
14 subsection (2) to the person with the right of final disposition prior to
15 disposing of the remains.

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

18 **12-54-308. Custody and responsibility - rules. (1) A**
19 **CREMATORY SHALL NOT, THROUGH ITS MANAGERS, EMPLOYEES,**
20 **CONTRACTORS, OR AGENTS, TAKE CUSTODY OF HUMAN REMAINS WITHOUT**
21 **AN ATTESTATION OF POSITIVE IDENTIFICATION ON A FORM PROMULGATED**
22 **BY THE DIRECTOR BY RULE BY:**

23 **(a) THE NEXT OF KIN;**

24 **(b) THE COUNTY CORONER OR THE COUNTY CORONER'S DESIGNEE;**

25 **OR**

26 **(c) AN AUTHORIZED PERSON AT THE CARE FACILITY WHERE THE**
27 **DECEASED DIED.**

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

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

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

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

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

14 (a) ESTABLISH WHAT CONSTITUTES CUSTODY;

15 (b) DEFINE "CARE FACILITY", "REPOSITORY", AND "ENTITY";

16 (c) ESTABLISH WHO IS AUTHORIZED TO IDENTIFY HUMAN REMAINS
17 AT A CARE FACILITY FOR A FUNERAL ESTABLISHMENT; AND

18 (d) PRESCRIBE THE PROCEDURES FOR DOCUMENTING THE POSITIVE
19 IDENTIFICATION AND CHAIN OF CUSTODY OF HUMAN REMAINS.

20 **SECTION 9. Effective date - applicability.** This act takes effect
21 July 1, 2015, and applies to acts committed on or after said date.

22 **SECTION 10. Safety clause.** The general assembly hereby finds,
23 determines, and declares that this act is necessary for the immediate
24 preservation of the public peace, health, and safety.