



## 103RD GENERAL ASSEMBLY

### State of Illinois

2023 and 2024

HB1367

Introduced 1/31/2023, by Rep. Anthony DeLuca

#### 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 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.

LRB103 25732 CPF 52081 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7 (Section scheduled to be repealed on January 1, 2024)

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

17 "Alternative container" means a receptacle, other than a  
18 casket, in which human remains are transported to the  
19 crematory and placed in the cremation chamber for cremation.  
20 An 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  
15 that have been donated to science for medical research  
16 purposes.

17 "Burial transit permit" means a permit for disposition of  
18 a dead human body or fully intact or cremated remains to a  
19 cemetery for burial, entombment, or inurnment as required by  
20 Illinois law.

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

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

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

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

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

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

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

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

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

1 perform cremations.

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

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

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

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

26 "Human remains" means the body of a deceased person,

1 including any form of body prosthesis that has been  
2 permanently attached or implanted in the body.

3 "Licensee" means an entity licensed under this Act. An  
4 entity that holds itself as a licensee or that is accused of  
5 unlicensed practice is considered a licensee for purposes of  
6 enforcement, investigation, hearings, and the Illinois  
7 Administrative Procedure Act.

8 "Niche" means a compartment or cubicle for the  
9 memorialization and permanent placement of an urn containing  
10 cremated remains.

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

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

19 "Pulverization" means the reduction of identifiable bone  
20 fragments after the completion of the cremation process to  
21 granulated particles by manual or mechanical means.

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

25 "Scattering area" means an area which may be (i)  
26 designated by a cemetery and located on dedicated cemetery

1 property, (ii) private property of a consenting owner, ~~or~~  
2 ~~property used for outdoor recreation~~ or (iii) natural resource  
3 conservation property owned by the Department of Natural  
4 Resources and designated as a scattering area, ~~where cremated~~  
5 ~~remains, which have been removed from their container, can be~~  
6 ~~mixed with, or placed on top of, the soil or ground cover.~~

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

14 "Urn" means a receptacle designed to encase the cremated  
15 remains.

16 (Source: P.A. 100-97, eff. 1-1-18; 100-526, eff. 6-1-18;  
17 100-863, eff. 8-14-18.)

18 (410 ILCS 18/20)

19 (Section scheduled to be repealed on January 1, 2024)

20 Sec. 20. Authorization to cremate.

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

23 (1) A cremation authorization form signed, in either  
24 paper or electronic format, by an authorizing agent. The  
25 cremation authorization form shall be provided by the

1 crematory authority and shall contain, at a minimum, the  
2 following information:

3 (A) The identity of the human remains and the time  
4 and date of death.

5 (B) The name of the funeral director and funeral  
6 establishment, if applicable, that obtained the  
7 cremation authorization.

8 (C) Notification as to whether the death occurred  
9 from a disease declared by the Department of Health to  
10 be infectious, contagious, communicable, or dangerous  
11 to the public health.

12 (D) The name of the authorizing agent and the  
13 relationship between the authorizing agent and the  
14 decedent.

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



1 (F) Authorization for the crematory authority to  
2 cremate the human remains.

3 (G) A representation that the human remains do not  
4 contain a pacemaker or any other material or implant  
5 that may be potentially hazardous or cause damage to  
6 the cremation chamber or the person performing the  
7 cremation.

8 (H) The name of the cemetery ~~person~~ authorized to  
9 receive the cremated remains from the funeral director  
10 ~~crematory authority~~.

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

1           (J) A listing of any items of value to be delivered  
2 to the crematory authority along with the human  
3 remains, and instructions as to how the items should  
4 be handled.

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

13           (L) The signature, in either paper or electronic  
14 format, of the authorizing agent, attesting to the  
15 accuracy of all representations contained on the  
16 cremation authorization form, except as set forth in  
17 paragraph (M) of this subsection.

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

22           (N) The cremation authorization form, other than  
23 pre-need cremation forms, shall also be signed, in  
24 either paper or electronic format, by a funeral  
25 director or other representative of the funeral  
26 establishment that obtained the cremation

1 authorization. That individual shall merely execute  
2 the cremation authorization form as a witness and  
3 shall not be responsible for any of the  
4 representations made by the authorizing agent, unless  
5 the individual has actual knowledge to the contrary.  
6 The information requested by items (A), (B), (C) and  
7 (G) of this subsection, however, shall be considered  
8 to be representations of the authorizing agent. In  
9 addition, the funeral director or funeral  
10 establishment shall warrant to the crematory that the  
11 human remains delivered to the crematory authority are  
12 the human remains identified on the cremation  
13 authorization form.

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

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

17 (b) If an authorizing agent is not available to execute a  
18 cremation authorization form in person, that person may  
19 delegate that authority to another person in writing, or by  
20 sending the crematory authority a facsimile transmission that  
21 contains the name, address, and relationship of the sender to  
22 the decedent and the name and address of the individual to whom  
23 authority is delegated. Upon receipt of the written document,  
24 or facsimile transmission, telegram, or other electronic  
25 telecommunications transmission which specifies the individual  
26 to whom authority has been delegated, the crematory authority

1 shall allow this individual to serve as the authorizing agent  
2 and to execute the cremation authorization form. The crematory  
3 authority shall be entitled to rely upon the cremation  
4 authorization form without liability.

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

17 (d) A crematory authority shall have authority to cremate  
18 human remains upon the receipt of a cremation authorization  
19 form signed, in either paper or electronic format, by an  
20 authorizing agent. There shall be no liability for a crematory  
21 authority that cremates human remains according to an  
22 authorization, or that releases or disposes of the cremated  
23 remains according to an authorization, except for a crematory  
24 authority's gross negligence, provided that the crematory  
25 authority performs its functions in compliance with this Act.

26 (e) After an authorizing agent has executed a cremation

1 authorization form, the authorizing agent may revoke the  
2 authorization and instruct the crematory authority to cancel  
3 the cremation and to release or deliver the human remains to  
4 another crematory authority or funeral establishment. The  
5 instructions shall be provided to the crematory authority in  
6 writing. A crematory authority shall honor any instructions  
7 given to it by an authorizing agent under this Section if it  
8 receives the instructions prior to beginning the cremation of  
9 the human remains.

10 (Source: P.A. 102-824, eff. 1-1-23.)

11 (410 ILCS 18/25)

12 (Section scheduled to be repealed on January 1, 2024)

13 Sec. 25. Recordkeeping.

14 (a) The crematory authority shall furnish to the person  
15 who delivers human remains to the crematory authority a  
16 receipt signed, in either paper or electronic format, at the  
17 time of delivery by both the crematory authority and the  
18 person who delivers the human remains, showing the date and  
19 time of the delivery, the type of casket or alternative  
20 container that was delivered, the name of the person from whom  
21 the human remains were received and the name of the funeral  
22 establishment or other entity with whom the person is  
23 affiliated, the name of the person who received the human  
24 remains on behalf of the crematory authority, and the name of  
25 the decedent. The crematory shall retain a copy of this

1 receipt in its permanent records.

2 (b) Upon its release of cremated remains, the funeral  
3 director ~~crematory authority~~ shall furnish to the cemetery  
4 that person who receives the cremated remains from the funeral  
5 director ~~crematory authority~~ a receipt signed, in either paper  
6 or electronic format, by both the crematory authority and the  
7 funeral director ~~person~~ who receives the cremated remains,  
8 showing the date and time of the release, the name of the  
9 funeral establishment or cemetery ~~person~~ to which ~~whom~~ the  
10 cremated remains were released ~~and the name of the funeral~~  
11 ~~establishment, cemetery, or other entity with whom the person~~  
12 ~~is affiliated, the name of the person who released the~~  
13 ~~cremated remains on behalf of the crematory authority,~~ and the  
14 name of the decedent. The crematory shall retain a copy of this  
15 receipt in its permanent records.

16 (c) A crematory authority shall maintain at its place of  
17 business a permanent record of each cremation that took place  
18 at its facility which shall contain the name of the decedent,  
19 the date of the cremation, and the final disposition of the  
20 cremated remains.

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

24 (e) Upon completion of the cremation, the funeral director  
25 ~~crematory authority~~ shall file the burial transit permit as  
26 required by the Illinois Vital Records Act and rules adopted

1 under that Act and the Illinois Counties Code, and transmit a  
2 photocopy of the burial transit permit along with the cremated  
3 remains ~~to whoever receives the cremated remains from the~~  
4 ~~authorizing agent unless the cremated remains are to be~~  
5 ~~interred, entombed, inurned, or placed in a scattering area,~~  
6 ~~in which case the crematory authority shall retain a copy of~~  
7 ~~the burial transit permit and shall send the permit, along~~  
8 ~~with the cremated remains,~~ to the cemetery for interment,  
9 entombment, or inurnment, which shall file the permit with the  
10 designated agency after the interment, entombment, or  
11 ~~inurnment, or scattering~~ has taken place.

12 (f) All cemeteries shall maintain a record of all cremated  
13 remains that are disposed of on their property, provided that  
14 the cremated remains were properly transferred to the cemetery  
15 and the cemetery issued a receipt acknowledging the transfer  
16 of the cremated remains.

17 (Source: P.A. 102-824, eff. 1-1-23.)

18 (410 ILCS 18/40)

19 (Section scheduled to be repealed on January 1, 2024)

20 Sec. 40. Disposition of cremated remains.

21 (a) A licensed funeral director ~~The authorizing agent~~  
22 shall be responsible for the final disposition of the cremated  
23 remains by burying, entombing, or inurning the cremated  
24 remains in a cemetery selected by the authorizing agent.

25 (b) Cremated remains must ~~may~~ be disposed of by placing

1 them in a grave, crypt, or niche in a designated cemetery, by  
2 ~~scattering them in a scattering area as defined in this Act, or~~  
3 ~~in any manner whatever on the private property of a consenting~~  
4 ~~owner.~~

5 (c) Upon the completion of the cremation process and  
6 after, ~~and except as provided for in item (I) of paragraph (1)~~  
7 ~~of subsection (a) of Section 20, if the crematory authority~~  
8 ~~has not been instructed to arrange for the interment,~~  
9 ~~entombment, inurnment, or scattering of the cremated remains,~~  
10 ~~the crematory authority shall deliver the cremated remains to~~  
11 ~~the individual specified on the cremation authorization form,~~  
12 ~~or if no individual is specified then to the authorizing~~  
13 ~~agent. The delivery may be made in person or by registered~~  
14 ~~mail. Upon receipt of the cremated remains, the individual~~  
15 ~~receiving them may transport them in any manner in this State~~  
16 ~~without a permit, and may dispose of them in accordance with~~  
17 ~~this Section. After delivery, the funeral director crematory~~  
18 ~~authority shall be discharged from any legal obligation or~~  
19 ~~liability concerning the cremated remains.~~

20 (d) (Blank). ~~If, after a period of 60 days from the date of~~  
21 ~~the cremation, the authorizing agent or the agent's designee~~  
22 ~~has not instructed the crematory authority to arrange for the~~  
23 ~~final disposition of the cremated remains or claimed the~~  
24 ~~cremated remains, the crematory authority may dispose of the~~  
25 ~~cremated remains in any manner permitted by this Section. The~~  
26 ~~crematory authority, however, shall keep a permanent record~~



1 ~~identifying the site of final disposition. The authorizing~~  
2 ~~agent shall be responsible for reimbursing the crematory~~  
3 ~~authority for all reasonable expenses incurred in disposing of~~  
4 ~~the cremated remains. Upon disposing of the cremated remains,~~  
5 ~~the crematory authority shall be discharged from any legal~~  
6 ~~obligation or liability concerning the cremated remains. Any~~  
7 ~~person who was in possession of cremated remains prior to the~~  
8 ~~effective date of this Act may dispose of them in accordance~~  
9 ~~with this Section.~~

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

12 (1) Dispose of cremated remains in a manner or in a  
13 location so that the cremated remains are commingled with  
14 those of another person. ~~This prohibition shall not apply~~  
15 ~~to the scattering of cremated remains at sea, by air, or in~~  
16 ~~an area located in a dedicated cemetery and used~~  
17 ~~exclusively for those purposes.~~

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

20 (f) The authorizing agent has the right to request and  
21 retain up to 8 ounces of cremated remains, before final  
22 disposition, for scattering or private memorialization of the  
23 cremated remains in accordance with this Act. A funeral  
24 director shall notify an authorizing agent of the right to  
25 request and retain up to 8 ounces of cremated remains.

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