

**Second Regular Session
Seventy-fourth General Assembly
STATE OF COLORADO**

REREVISED

*This Version Includes All Amendments
Adopted in the Second House*

LLS NO. 24-0568.01 Jery Payne x2157

HOUSE BILL 24-1335

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House Committees

Business Affairs & Labor
Finance
Appropriations

Senate Committees

Business, Labor, & Technology
Finance
Appropriations

SENATE
3rd Reading Unamended
May 6, 2024

A BILL FOR AN ACT

101 **CONCERNING THE CONTINUATION OF THE REGULATION OF PERSONS**
102 **RELATED TO THE FINAL DISPOSITION OF DECEASED HUMAN**
103 **BODIES, AND, IN CONNECTION THEREWITH, IMPLEMENTING THE**
104 **RECOMMENDATIONS IN THE 2023 SUNSET REPORT BY THE**
105 **DEPARTMENT OF REGULATORY AGENCIES AND MAKING AN**
106 **APPROPRIATION.**

SENATE
Amended 2nd Reading
May 4, 2024

HOUSE
3rd Reading Unamended
April 17, 2024

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/>.)

HOUSE
Amended 2nd Reading
April 16, 2024

Sunset Process - House Business Affairs and Labor

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing law.
Dashes through the words or numbers indicate deletions from existing law.

Committee. The bill implements the recommendations of the department of regulatory agencies (department) concerning the mortuary science code (code), as the recommendations are specified in the department's sunset review of the registration of funeral establishments and crematories, as follows:

- **Sections 1 and 2** of the bill continue registration of funeral establishments and crematories and the title protection of mortuary science practitioners, funeral directors, embalmers, and cremationists until 2031;
- **Section 3:**
 - Requires the inspection of funeral homes and crematories on a routine basis and for a period of time after the business has ceased operations for the purpose of ensuring compliance with the code during this time; and
 - Repeals the limitation on the authority of the director of the division of professions and occupations (director) to inspect funeral homes and crematories only during business hours;
- **Sections 3 and 4** expand the director's authority to promulgate rules to include any rules necessary to administer the code;
- **Section 3** repeals the code's stakeholder engagement provisions for rule-making to allow the "State Administrative Procedure Act" to control stakeholder engagement;
- **Section 3:**
 - Adds the failure to respond to a complaint within the appropriate time to the grounds for discipline; and
 - Repeals the requirement that a letter of admonition be sent by certified mail;
- **Section 5** authorizes the director to suspend the registration of a person that fails to comply with the condition of a stipulation or order;
- **Sections 6 and 7** replace the term "applicant" with the term "person" in the title-protection provisions for funeral directors, embalmers, and cremationists; and
- **Sections 8 through 11** remove gendered language from the code.

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

2 **SECTION 1.** In Colorado Revised Statutes, **amend** 12-135-406

1 as follows:

2 **12-135-406. Repeal - subject to review.** Sections 12-135-110,
3 12-135-111, 12-135-303, and 12-135-304 and this part 4 are repealed,
4 effective ~~July 1, 2024~~ SEPTEMBER 1, 2029. Before the repeal, the
5 regulation of persons registered to practice cremation and mortuary
6 science is scheduled for review in accordance with section 24-34-104.

7 **SECTION 2.** In Colorado Revised Statutes, 24-34-104, **amend**
8 (25)(a)(XIII); and **add** (30)(a)(IX) as follows:

9 **24-34-104. General assembly review of regulatory agencies**
10 **and functions for repeal, continuation, or reestablishment - legislative**
11 **declaration - repeal.** (25) (a) The following agencies, functions, or both,
12 are scheduled for repeal on September 1, 2024:

13 ~~(XIII) The regulation of persons registered to practice mortuary~~
14 ~~science by sections 12-135-110 and 12-135-111 and cremation by~~
15 ~~sections 12-135-303 and 12-135-304, and the administration thereof in~~
16 ~~accordance with part 4 of article 135 of title 12, and The regulation of~~
17 ~~nontransplant tissue banks by section 12-140-103;~~

18 (30) (a) The following agencies, functions, or both, are scheduled
19 for repeal on September 1, 2029:

20 (IX) THE FUNCTIONS OF THE DIRECTOR OF THE DIVISION OF
21 PROFESSIONS AND OCCUPATIONS RELATED TO THE REGISTRATION OF
22 FUNERAL ESTABLISHMENTS SPECIFIED IN SECTION 12-135-110 AND
23 CREMATORIES SPECIFIED IN SECTION 12-135-303 AND TO THE TITLE
24 PROTECTIONS SPECIFIED IN SECTIONS 12-135-111 AND 12-135-304.

25 **SECTION 3.** In Colorado Revised Statutes, 12-135-401, **amend**
26 (1) introductory portion, (1)(b), (1)(c), (3)(a), and (6); and **add** (1)(d) and
27 (7) as follows:

1 **12-135-401. Powers and duties of the director - rules.** (1) The
2 director may deny, suspend, refuse to renew, or revoke a registration
3 pursuant to section 12-20-404 (1)(d); issue and send by ~~certified~~
4 ~~ELECTRONIC mail THAT IS ACTUALLY RECEIVED~~, a letter of admonition to
5 a funeral establishment or crematory under the circumstances specified
6 in and in accordance with section 12-20-404 (4); issue a confidential
7 letter of concern to a funeral establishment or crematory under the
8 circumstance specified in section 12-20-404 (5); place a registered funeral
9 establishment or crematory on probation pursuant to section 12-20-404
10 (1)(b); or limit the scope of practice of the registration of a funeral
11 establishment or crematory under this article 135 that has:

12 (b) Had a registration issued by Colorado, or an equivalent
13 license, registration, or certification issued by another state, to practice
14 mortuary science or to embalm or cremate human remains revoked; ~~or~~

15 (c) Violated this article 135, an applicable provision of article 20
16 of this title 12, or any rule of the director adopted under this article 135;
17 OR

18 (d) FAILED TO RESPOND TO A COMPLAINT WITHIN THE LENGTH OF
19 TIME SPECIFIED IN THE NOTICE TO THE REGISTRANT OF THE COMPLAINT.

20 (3) (a) (I) The director may investigate the activities of a funeral
21 establishment or crematory upon the director's own initiative or upon
22 receipt of a complaint or a suspected or alleged violation of this article
23 135.

24 (II) THE DIRECTOR SHALL PERFORM ROUTINE INSPECTIONS OF ALL
25 FUNERAL ESTABLISHMENTS AND CREMATORIES ON A PERIODIC BASIS AS
26 DETERMINED BY RULE. The director may contract with a private party to
27 perform ~~an inspection~~ THESE INSPECTIONS.

1 (III) To perform an inspection, the director or a private party with
2 whom the director contracts to perform the inspection may enter the
3 premises of a funeral establishment or crematory with full right of ingress
4 and egress: ~~during business hours.~~

5 (A) WHILE THE FUNERAL ESTABLISHMENT OR CREMATORY IS
6 REGISTERED; ■

7 (B) FOR A PERIOD OF TIME, AS DETERMINED BY RULE, AFTER A
8 FUNERAL ESTABLISHMENT'S OR CREMATORY'S REGISTRATION HAS
9 EXPIRED, HAS BEEN REVOKED, OR HAS BEEN SURRENDERED; AND

10 (C) UPON APPLICATION FOR A NEW REGISTRATION.

11 (IV) THE DIRECTOR SHALL PROMULGATE RULES DETERMINING THE
12 PERIOD OF TIME AFTER A REGISTRATION IS NO LONGER VALID DURING
13 WHICH TIME THE DIRECTOR OR A PRIVATE PARTY WITH WHOM THE
14 DIRECTOR CONTRACTS MAY PERFORM INSPECTIONS TO ENSURE THAT THE
15 FUNERAL ESTABLISHMENT OR CREMATORY CONTINUES TO COMPLY WITH
16 THIS ARTICLE 135 AND WINDS DOWN THE BUSINESS WITHOUT CREATING AN
17 UNDUE RISK TO THE PUBLIC HEALTH.

18 (6) (a) The director may promulgate reasonable rules necessary to
19 implement this ~~section, sections 12-135-110, 12-135-111, 12-135-303,~~
20 ~~and 12-135-304, and this part 4~~ ARTICLE 135.

21 (b) ~~Before promulgating rules, the director shall seek input and~~
22 ~~advice from a person, or any state professional organization of persons,~~
23 ~~offering services that require registration pursuant to this article 135~~ IN
24 PROMULGATING RULES UNDER THIS ARTICLE 135, THE DIRECTOR IS
25 SUBJECT TO ARTICLE 4 OF TITLE 24.

26 (c) ~~Before promulgating rules, the director may seek input and~~
27 ~~advice from a consumer representative who advocates for consumers~~

1 ~~affected by this article 135.~~

2 (7) THE DIRECTOR MAY IMPOSE DISCIPLINE, PURSUANT TO THIS
3 SECTION, ON AN APPLICANT FOR REGISTRATION UNDER THIS ARTICLE 135,
4 A FUNERAL ESTABLISHMENT REGISTERED PURSUANT TO SECTION
5 12-135-110, OR A CREMATORY REGISTERED PURSUANT TO SECTION
6 12-135-303 FOR THE ACTS OF A PERSON THAT:

7 (a) IS ACTING ON BEHALF OF THE APPLICANT, REGISTERED FUNERAL
8 ESTABLISHMENT, OR REGISTERED CREMATORY; AND

9 (b) IS AN OFFICER, A DIRECTOR, A MEMBER, A PARTNER, OR AN
10 OWNER OF THE APPLICANT, REGISTERED FUNERAL ESTABLISHMENT, OR
11 REGISTERED CREMATORY IF:

12 (I) THE PERSON HOLDS AT LEAST A TEN PERCENT INTEREST IN THE
13 APPLICANT, REGISTERED FUNERAL ESTABLISHMENT, OR REGISTERED
14 CREMATORY THAT IS PUBLICLY TRADED; OR

15 (II) THE PERSON HOLDS AN INTEREST IN THE APPLICANT,
16 REGISTERED FUNERAL ESTABLISHMENT, OR REGISTERED CREMATORY THAT
17 IS NOT PUBLICLY TRADED.

18 **SECTION 4.** In Colorado Revised Statutes, 12-20-204, **amend**
19 (2)(a); and **repeal** (2)(c) as follows:

20 **12-20-204. Regulator's rule-making authority.** (2) Subsection
21 (1) of this section does not apply to the following:

22 (a) Article 110 of this title 12 concerning combative sports; AND

23 (c) ~~Article 135 of this title 12 concerning mortuaries and~~
24 ~~crematories; and~~

25 **SECTION 5.** In Colorado Revised Statutes, **amend** 12-135-403
26 as follows:

27 **12-135-403. Cease-and-desist orders - orders and stipulations**

1 **- suspension - procedure.** (1) The director may issue cease-and-desist
2 orders under the circumstances and in accordance with the procedures
3 specified in section 12-20-405.

4 (2) THE DIRECTOR MAY SUSPEND A REGISTRATION UPON THE
5 FAILURE OF THE REGISTRANT TO COMPLY WITH ANY CONDITION OF A
6 STIPULATION OR ORDER IMPOSED BY THE DIRECTOR UNTIL THE
7 REGISTRANT COMPLIES WITH THE CONDITION.

8 **SECTION 6.** In Colorado Revised Statutes, 12-135-111, **amend**
9 (2) introductory portion and (3) introductory portion as follows:

10 **12-135-111. Title protection.** (2) A person shall not advertise,
11 represent, or hold oneself THEMSELF out as or use the title of a "funeral
12 director" unless the ~~applicant~~ PERSON:

13 (3) A person shall not advertise, represent, or hold oneself
14 THEMSELF out as or use the title of an "embalmer" unless the ~~applicant~~
15 PERSON:

16 **SECTION 7.** In Colorado Revised Statutes, **amend** 12-135-304
17 as follows:

18 **12-135-304. Title protection.** A person shall not advertise,
19 represent, or hold oneself THEMSELF out as or use the title of a
20 "cremationist" unless the ~~applicant~~ PERSON has at least five hundred hours
21 practicing or interning as a cremationist and has cremated at least fifty
22 human remains.

23 **SECTION 8.** In Colorado Revised Statutes, 12-135-111, **amend**
24 (1) introductory portion as follows:

25 **12-135-111. Title protection.** (1) A person shall not advertise,
26 represent, or hold ~~himself or herself~~ THEMSELF out as or use the title of a
27 "mortuary science practitioner" unless the person:

1 **SECTION 9.** In Colorado Revised Statutes, 12-135-104, **add**
2 (1.5) as follows:

3 **12-135-104. Funeral establishment - subcontractor.** (1.5) A
4 FUNERAL ESTABLISHMENT SHALL HAVE A WRITTEN CONTRACT WITH ALL
5 SUBCONTRACTORS OR AGENTS. THE CONTRACT MUST BE SIGNED BY THE
6 ESTABLISHMENT'S DESIGNEE AND MADE, UPON REQUEST, AVAILABLE TO A
7 CONSUMER THAT IS AFFECTED BY THE CONTRACT OR THE DIRECTOR.

8 **SECTION 10.** In Colorado Revised Statutes, 12-135-105, **amend**
9 (1)(d) and (1)(o) as follows:

10 **12-135-105. Unlawful acts.** (1) It is unlawful:

11 (d) For a person in the business of paying for or providing death
12 benefits, funerals, funeral ceremonies, final dispositions, or preneed
13 contracts to pay or provide benefits in a manner that ~~deprives~~ LIMITS THE
14 FUNERAL ESTABLISHMENTS WHERE the next of kin or legal representative
15 ~~of the right to~~ CAN use those payments or benefits; ~~at a funeral~~
16 ~~establishment of his or her choice;~~

17 (o) To fail to include in a contract for funeral services the
18 following statement: ~~"INQUIRIES REGARDING YOUR FUNERAL~~
19 ~~AGREEMENT MAY BE DIRECTED TO~~ "FUNERAL HOMES AND
20 CREMATORY ESTABLISHMENTS ARE REGULATED BY THE DEPARTMENT
21 OF REGULATORY AGENCIES. TO FILE A COMPLAINT, CONTACT",
22 along with the current address or telephone number of the department;

23 **SECTION 11.** In Colorado Revised Statutes, 12-135-109, **amend**
24 (4)(b); and **add** (6) as follows:

25 **12-135-109. Exceptions - safe harbor.** (4) If a funeral director,
26 mortuary science practitioner, or embalmer has acted in good faith, the
27 funeral director, mortuary science practitioner, or embalmer may rely on

1 a signed statement from a person with the right of final disposition under
2 section 15-19-106 that:

3 (b) The person has made a reasonable effort under section
4 15-19-106 to contact each person with the right of final disposition and
5 to learn ~~his or her~~ EACH PERSON'S wishes; and

6 (6) THIS PART 1 DOES NOT APPLY TO OR INTERFERE WITH CRYONIC
7 PRESERVATION OF HUMAN REMAINS IF DONE PURSUANT TO RULE.

8 **SECTION 12.** In Colorado Revised Statutes, 12-135-112, **repeal**
9 (1)(a); and **add** (4) as follows:

10 **12-135-112. Standards of practice - embalming - transporting.**

11 (1) A funeral establishment that performs embalming shall:

12 (a) ~~Maintain a sanitary preparation room with sanitary flooring,~~
13 ~~drainage, and ventilation;~~

14 (4) A FUNERAL ESTABLISHMENT SHALL MAINTAIN A SANITARY
15 PREPARATION ROOM WITH SANITARY FLOORING, DRAINAGE, VENTILATION,
16 AND REFRIGERATION AND OTHER EQUIPMENT NECESSARY TO MAINTAIN
17 SANITARY CONDITIONS.

18 **SECTION 13.** In Colorado Revised Statutes, 12-135-113, **add** (4)
19 as follows:

20 **12-135-113. Custody and responsibility - rules.** (4) A FUNERAL
21 ESTABLISHMENT SHALL NOT TAKE CUSTODY OF MORE HUMAN REMAINS
22 THAN THE FUNERAL ESTABLISHMENT HAS CAPACITY TO REFRIGERATE
23 UNLESS THE FUNERAL ESTABLISHMENT MAINTAINS CUSTODY OF THE
24 HUMAN REMAINS FOR LESS THAN TWENTY-FOUR HOURS.

25 **SECTION 14.** In Colorado Revised Statutes, **add** 12-135-114 as
26 follows:

27 **12-135-114. Insurance requirements.** (1) A FUNERAL

1 ESTABLISHMENT SHALL OBTAIN AND MAINTAIN A PROFESSIONAL LIABILITY
2 INSURANCE POLICY WITH LIABILITY LIMITS OF AT LEAST ONE MILLION
3 DOLLARS. THE FUNERAL ESTABLISHMENT MUST SUBMIT THE CERTIFICATE
4 OF PROFESSIONAL LIABILITY INSURANCE TO THE DIRECTOR:

5 (a) WITHIN THIRTY DAYS AFTER THE INITIAL REGISTRATION OF THE
6 FUNERAL ESTABLISHMENT BY THE BOARD; AND

7 (b) UPON REQUEST BY THE DIRECTOR.

8 (2) A FUNERAL ESTABLISHMENT SHALL NOTIFY THE BOARD IN
9 WRITING WITHIN THIRTY DAYS AFTER DOING ANY OF THE FOLLOWING FOR
10 THE PROFESSIONAL LIABILITY INSURANCE POLICY REQUIRED BY
11 SUBSECTION (1) OF THIS SECTION:

12 (a) CHANGING THE POLICY OR THE INSURER THAT ISSUES THE
13 POLICY; OR

14 (b) CANCELING OR SUSPENDING THE POLICY.

15 **SECTION 15.** In Colorado Revised Statutes, 12-135-302, **amend**
16 (1)(b) as follows:

17 **12-135-302. Exceptions - safe harbor.** (1) If a crematory has
18 acted in good faith, the crematory may rely on a signed statement from a
19 person with the right of final disposition under section 15-19-106 that:

20 (b) The person has made a reasonable effort under section
21 15-19-106 to contact each person with the right of final disposition and
22 to learn ~~his or her~~ EACH PERSON'S wishes; and

23 **SECTION 16.** In Colorado Revised Statutes, 12-135-307, **amend**
24 (5)(b) as follows:

25 **12-135-307. Standards of practice - cremating.** (5) (b) After
26 ~~cremation is complete, all of the cremains and reasonable recoverable~~
27 ~~residue shall be removed from the cremation chamber and processed as~~

1 ~~necessary. Anything other than the cremains shall be disposed of unless~~
2 ~~the next of kin authorizes otherwise.~~ UPON THE COMPLETION OF EACH
3 CREMATION, THE CREMATIONIST SHALL REMOVE ALL OF THE
4 RECOVERABLE RESIDUE, INsofar AS IS PRACTICABLE, OF THE CREMATION
5 PROCESS FROM THE CREMATORY AND PLACE THE RESIDUE IN A SEPARATE
6 CONTAINER SO THAT THE RESIDUE DOES NOT COMMINGLE WITH THE
7 CREMATED REMAINS OF OTHER INDIVIDUALS. THE CREMATIONIST SHALL
8 DISPOSE OF ACCUMULATED RESIDUE IN ACCORDANCE WITH THE
9 REGULATIONS OF A CEMETERY WITH A DEFINED AREA TO SCATTER
10 REMAINS AND RESIDUE AND ANY APPLICABLE LOCAL ORDINANCES. FOR
11 THE PURPOSES OF THIS SUBSECTION (5)(b), RESIDUE DOES NOT INCLUDE
12 HUMAN ASHES, BONE FRAGMENTS, PROSTHESES, AND DISINTEGRATED
13 MATERIAL IN THE CHAMBER THAT IS IMBEDDED IN CRACKS AND UNEVEN
14 SPACES OF A CREMATION CHAMBER AND THAT CANNOT BE REMOVED
15 THROUGH REASONABLE MANUAL CONTACT WITH SWEEPING OR SCRAPING
16 EQUIPMENT.

17 **SECTION 17. Appropriation.** (1) For the 2024-25 state fiscal
18 year, \$339,196 is appropriated to the department of regulatory agencies.
19 This appropriation is from the division of professions and occupations
20 cash fund created in section 12-20-105 (3), C.R.S. To implement this act,
21 the department may use this appropriation as follows:

22 (a) \$206,081 for use by the division of professions and
23 occupations for personal services, which amount is based on an
24 assumption that the division will require an additional 2.8 FTE;

25 (b) \$65,546 for use by the division of professions and occupations
26 for operating expenses;

27 (c) \$22,762 for vehicle lease payments; and

1 (d) \$44,807 for the purchase of legal services.

2 (2) For the 2024-25 state fiscal year, \$44,807 is appropriated to
3 the department of law. This appropriation is from reappropriated funds
4 received from the department of regulatory agencies under subsection
5 (1)(d) of this section and is based on an assumption that the department
6 of law will require an additional 0.2 FTE. To implement this act, the
7 department of law may use this appropriation to provide legal services for
8 the department of regulatory agencies.

9 **SECTION 18. Safety clause.** The general assembly finds,
10 determines, and declares that this act is necessary for the immediate
11 preservation of the public peace, health, or safety or for appropriations for
12 the support and maintenance of the departments of the state and state
13 institutions.