

House File 2472 - Introduced

HOUSE FILE 2472
BY COMMITTEE ON STATE
GOVERNMENT

(SUCCESSOR TO HSB 521)

A BILL FOR

1 An Act relating to the final disposition and disinterment of
2 human remains.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 144.1, Code 2020, is amended by adding
2 the following new subsections:

3 NEW SUBSECTION. 3A. "*Cremated remains*" means all the
4 remains of the cremated human body recovered after the
5 completion of the cremation process, including pulverization
6 which leaves only bone fragments reduced to unidentifiable
7 dimensions, and may include the residue of any foreign matter
8 including casket material, bridgework, or eyeglasses that were
9 cremated with the human remains.

10 NEW SUBSECTION. 3B. "*Cremation*" means the technical
11 process, using heat and flame, that reduces human remains to
12 bone fragments, with the reduction taking place through heat
13 and evaporation. Cremation shall include the processing, and
14 may include the pulverization, of the bone fragments.

15 Sec. 2. Section 144.34, Code 2020, is amended to read as
16 follows:

17 **144.34 Disinterment — permit.**

18 1. a. Disinterment of a dead body or fetus, without a court
19 order, shall be allowed for the purpose of autopsy or reburial
20 only, and then only if accomplished by a funeral director. A
21 ~~permit for such disinterment and, thereafter, reinterment shall~~
22 ~~be issued by the state registrar according to rules adopted~~
23 ~~pursuant to [chapter 17A](#) or when ordered by the district court~~
24 ~~of the county in which such body is buried.~~

25 b. Disinterment of cremated remains, without a court order,
26 may be allowed, but only if accomplished by a funeral director.

27 c. The state registrar, without a court order, shall not
28 issue a permit without the consent of the person authorized to
29 control the decedent's remains under [section 144C.5](#).

30 2. a. Disinterment of a dead body or fetus for the
31 purpose of reburial may be allowed by court order only upon a
32 showing of substantial benefit to the public, and then only if
33 accomplished by a funeral director.

34 b. Disinterment of a dead body or fetus for the purpose of
35 autopsy ~~or reburial~~ by court order shall be allowed only when

1 reasonable cause is shown that someone is criminally or civilly
2 responsible for such death, after hearing, upon reasonable
3 notice prescribed by the court to the person authorized to
4 control the decedent's remains under section 144C.5, and then
5 only if accomplished by a funeral director.

6 c. Disinterment of a dead body or fetus for the purpose of
7 cremation may be allowed by court order only upon a showing
8 of substantial benefit to the public, upon determination of
9 the state or county medical examiner that the manner of death
10 is due to natural causes, and then only if accomplished by a
11 funeral director.

12 3. A permit for disinterment and, thereafter, any
13 reinterment shall be issued by the state registrar according to
14 rules adopted pursuant to chapter 17A or when ordered by the
15 district court of the county in which such body is buried.

16 4. Due consideration under this section shall be given to
17 the public health, the dead, and the feelings of relatives.

18 Sec. 3. Section 144C.3, subsection 4, Code 2020, is amended
19 to read as follows:

20 4. A funeral director, an attorney, or any agent, owner, or
21 employee of a funeral establishment, cremation establishment,
22 cemetery, elder group home, assisted living program, adult day
23 services program, or licensed hospice program shall not serve
24 as a designee unless married to the declarant or related to the
25 declarant within the third degree of consanguinity.

26 EXPLANATION

27 The inclusion of this explanation does not constitute agreement with
28 the explanation's substance by the members of the general assembly.

29 This bill relates to disinterment and final disposition of
30 human remains.

31 The bill provides definitions for "cremated remains"
32 and "cremation" for the purposes of the bill relating to
33 disinterment.

34 The bill provides the process for disinterment of a dead body
35 or fetus, or cremated remains, with or without a court order.

1 In all cases, a permit must be issued by the state registrar
2 for disinterment and any reinterment, and the disinterment must
3 be accomplished by a funeral director.

4 The bill provides that disinterment of a dead body or fetus
5 without a court order shall be allowed for the purpose of
6 autopsy or reburial only. Under the bill, the purposes for
7 disinterment are not limited. Instead, the bill provides
8 that disinterment of cremated remains without a court order
9 may be allowed. In any case of disinterment without a court
10 order, the state registrar shall not issue a permit without
11 the consent of the person authorized to control the decedent's
12 remains under Code section 144C.5 (final disposition of remains
13 — right to control).

14 If disinterment of a dead body or fetus involves a court
15 order, and the purpose of the disinterment is for reburial, the
16 disinterment may only be allowed upon a showing of substantial
17 benefit to the public. If disinterment of a dead body or fetus
18 involves a court order, and the purpose of the disinterment
19 is for autopsy, the disinterment shall be allowed only when
20 reasonable cause is shown that someone is criminally or civilly
21 responsible for such death, after hearing, upon reasonable
22 notice to the person authorized to control the decedent's
23 remains. If disinterment of a dead body or fetus involves
24 a court order, and the purpose of the disinterment is for
25 cremation, the disinterment may be allowed only upon a showing
26 of substantial benefit to the public, upon determination of the
27 state or county medical examiner that the manner of death is
28 due to natural causes.

29 Due consideration under the bill relative to disinterment
30 shall be given to the public health.

31 The bill also amends a provision of Code chapter 144C
32 (final disposition Act) specifying who may act as the designee
33 who shall have sole responsibility and discretion for making
34 decisions concerning the final disposition of the declarant's
35 remains and the ceremonies planned after the declarant's

1 death. Under current law, a funeral director, an attorney,
2 or any agent, owner, or employee of a funeral establishment,
3 cremation establishment, cemetery, elder group home, assisted
4 living program, adult day services program, or licensed hospice
5 program shall not serve as a designee unless related to the
6 declarant within the third degree of consanguinity. Under the
7 bill, in addition to the exception for relatives within the
8 third degree of consanguinity, an individual who is one of the
9 named entities is exempt from the prohibition if the individual
10 is married to the declarant.

11 ARC 4849C amends an administrative rule governing the
12 issuance of disinterment permits for human (noncremated)
13 remains and cremated remains. ARC 4849C would exempt cremated
14 remains from the required issuance of a permit for any
15 relocation of remains from the original site of interment or
16 entombment if the purpose is for autopsy or burial. ARC 4849C
17 will go into effect upon the adjournment of the 2020 session
18 of the general assembly if the general assembly does not take
19 action relating to this rulemaking.