

LEGISLATURE OF NEBRASKA  
ONE HUNDRED FOURTH LEGISLATURE  
FIRST SESSION

**LEGISLATIVE BILL 146**

Introduced by Crawford, 45; Bloomfield, 17; Hansen, 26.

Read first time January 09, 2015

Committee: Health and Human Services

- 1 A BILL FOR AN ACT relating to the Cremation of Human Remains Act; to
- 2 amend sections 71-1355, 71-1382, and 80-104, Reissue Revised
- 3 Statutes of Nebraska, and section 71-1356, Revised Statutes
- 4 Cumulative Supplement, 2014; to define and redefine terms; to
- 5 provide for disposition of certain unclaimed cremated remains in a
- 6 veteran cemetery as prescribed; to harmonize provisions; and to
- 7 repeal the original sections.
- 8 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 71-1355, Reissue Revised Statutes of Nebraska, is  
2 amended to read:

3 71-1355 Sections 71-1355 to 71-1385 and section 4 of this act shall  
4 be known and may be cited as the Cremation of Human Remains Act.

5 Sec. 2. Section 71-1356, Revised Statutes Cumulative Supplement,  
6 2014, is amended to read:

7 71-1356 For purposes of the Cremation of Human Remains Act, unless  
8 the context otherwise requires:

9 (1) Alternative container means a container in which human remains  
10 are placed in a cremation chamber for cremation;

11 (2) Authorizing agent means a person vested with the right to  
12 control the disposition of human remains pursuant to section 30-2223 or a  
13 person authorized on the decedent's United States Department of Defense  
14 record of emergency data, DD Form 93, or its successor form, as provided  
15 in section 38-1425;

16 (3) Casket means a rigid container made of wood, metal, or other  
17 similar material, ornamented and lined with fabric, which is designed for  
18 the encasement of human remains;

19 (4) Cremated remains means the residue of human remains recovered  
20 after cremation and the processing of such remains by pulverization,  
21 leaving only bone fragments reduced to unidentifiable dimensions, and the  
22 unrecoverable residue of any foreign matter, such as eyeglasses,  
23 bridgework, or other similar material, that was cremated with the human  
24 remains;

25 (5) Cremated remains receipt form means a form provided by a  
26 crematory authority to an authorizing agent or his or her representative  
27 that identifies cremated remains and the person authorized to receive  
28 such remains;

29 (6) Cremation means the technical process that uses heat and  
30 evaporation to reduce human remains to bone fragments;

31 (7) Cremation chamber means the enclosed space within which a

1 cremation takes place;

2 (8) Crematory means a building or portion of a building which  
3 contains a cremation chamber and holding facility;

4 (9) Crematory authority means the legal entity subject to licensure  
5 by the department to maintain and operate a crematory and perform  
6 cremation;

7 (10) Crematory operator means a person who is responsible for the  
8 operation of a crematory;

9 (11) Delivery receipt form means a form provided by a funeral  
10 establishment to a crematory authority to document the receipt of human  
11 remains by such authority for the purpose of cremation;

12 (12) Department means the Division of Public Health of the  
13 Department of Health and Human Services;

14 (13) Director means the Director of Public Health of the Division of  
15 Public Health;

16 (14) Funeral director has the same meaning as in section 71-507;

17 (15) Funeral establishment has the same meaning as in section  
18 38-1411;

19 (16) Holding facility means the area of a crematory designated for  
20 the retention of human remains prior to cremation and includes a  
21 refrigerated facility;

22 (17) Human remains means the body of a deceased person, or a human  
23 body part, in any stage of decomposition and includes limbs or other  
24 portions of the anatomy that are removed from a person or human remains  
25 for medical purposes during treatment, surgery, biopsy, autopsy, or  
26 medical research;

27 (18) Permanent container means a receptacle made of durable material  
28 for the long-term placement of cremated remains; ~~and~~

29 (19) Temporary container means a receptacle made of cardboard,  
30 plastic, or other similar material in which cremated remains are placed  
31 prior to the placement of such remains in an urn or other permanent

1 container; -

2 (20) Veteran means a person who served on active duty as a member of  
3 the United States Armed Services, a member of the Nebraska National  
4 Guard, or a member of the United States Reserved Forces, who was  
5 discharged or released from such service under conditions other than  
6 dishonorable, and who is eligible for burial in a veteran cemetery;

7 (21) Veteran cemetery means a cemetery under the control of the  
8 United States Department of Veterans Affairs National Cemetery  
9 Administration or the Nebraska Department of Veterans' Affairs; and

10 (22) Veterans service organization means an association,  
11 corporation, or other entity that is:

12 (a) A charitable organization that is tax exempt under section  
13 501(c)(3) or 501(c)(19) of the Internal Revenue Code of 1986; and

14 (b) Organized for the benefit of veterans burial and interment and  
15 recognized by the Memorial Affairs Division of the United States  
16 Department of Veterans Affairs or the Nebraska Department of Veterans'  
17 Affairs. The term includes a member or employee of an eligible nonprofit  
18 veterans association, corporation, or entity that specifically assists in  
19 facilitating the identification, recovery, and interment of the unclaimed  
20 cremated remains of veterans.

21 Sec. 3. Section 71-1382, Reissue Revised Statutes of Nebraska, is  
22 amended to read:

23 71-1382 (1) For purposes of the Cremation of Human Remains Act, the  
24 delivery of the cremated remains to the authorizing agent or his or her  
25 representative shall constitute final disposition. If, after a period of  
26 sixty days after the date of cremation, the authorizing agent or his or  
27 her representative has not directed or otherwise arranged for the final  
28 disposition of the cremated remains or claimed the cremated remains for  
29 final disposition as provided in this section, the crematory authority or  
30 the funeral establishment in possession of the cremated remains may  
31 dispose of the cremated remains after making a reasonable attempt to

1 contact the authorizing agent or his or her representative. This method  
2 of disposition may be used by any crematory authority or funeral  
3 establishment to dispose of all cremated remains in the possession of a  
4 crematory authority or funeral establishment on or after August 31, 2003.

5 (2)(a) Cremated remains shall be delivered or released by the  
6 crematory authority or funeral establishment to the representative  
7 specified by the authorizing agent on the cremation authorization form.

8 (b) If the crematory authority or funeral establishment has  
9 documentation that the cremated remains are those of a veteran or the  
10 spouse or dependent of a veteran who did not desire any funeral or  
11 burial-related services or ceremonies recognizing his or her service as a  
12 veteran and the authorizing agent or his or her representative has not  
13 directed or otherwise arranged for the final disposition or claimed the  
14 remains after such sixty-day period, the crematory authority or funeral  
15 establishment may dispose of the remains.

16 (c) If the crematory authority or funeral establishment (i) has no  
17 information whether the cremated remains are those of a veteran or the  
18 spouse or dependent of a veteran or (ii) has information that the  
19 cremated remains are those of a veteran or the spouse or dependent of a  
20 veteran but no information on whether such veteran desired a service  
21 recognizing his or her service as a veteran, the crematory authority or  
22 funeral establishment may use the process provided in section 4 of this  
23 act to relinquish control of such cremated remains.

24 (d) The owner of the crematory authority or his or her  
25 representative and the party receiving the cremated remains shall sign a  
26 cremated remains receipt form. The form shall include the name of the  
27 deceased, the date, time, and place of receipt of the cremated remains,  
28 and the signatures of the owner of the crematory or his or her  
29 representative and the authorizing agent or his or her representative. If  
30 the cremated remains are shipped, a form used by the shipper under  
31 subsection (4) of section 71-1381 may be used in lieu of a completed

1 cremated remains receipt form if the shipper's form contains the  
2 information required for a cremated remains receipt form. Both the party  
3 delivering such remains and the party receiving such remains shall retain  
4 a copy of the cremated remains receipt form or shipper's form. Upon  
5 delivery, the cremated remains may be further transported within this  
6 state in any manner without a permit.

7       Sec. 4.     (1)(a) If the authorizing agent or his or her  
8 representative has not directed or otherwise arranged for the final  
9 disposition of cremated remains or claimed cremated remains for final  
10 disposition as provided in section 71-1382, the crematory authority or  
11 funeral establishment may provide information regarding the unclaimed  
12 remains to the United States Department of Veterans Affairs, the Nebraska  
13 Department of Veterans' Affairs, or a veterans service organization and  
14 request that the department or the veterans service organization working  
15 with the department:

16       (i) Determine if, based on the information received, the unclaimed  
17 cremated remains are those of a veteran or the spouse or dependent of a  
18 veteran; and

19       (ii) Verify if the decedent is eligible for burial in a veteran  
20 cemetery.

21       (b) The information provided to the department may include a copy of  
22 the person's death certificate, the person's name, date of birth, place  
23 of birth, date of death, marriage certificate, social security number,  
24 military service number, branch of service, or military rank on date of  
25 death, or the Department of Defense Form 214, also known as the DD Form  
26 214.

27       (c) The information submitted by the crematory authority or funeral  
28 establishment to the Nebraska Department of Veterans' Affairs shall not  
29 be considered a public record for purposes of sections 84-712 to  
30 84-712.09.

31       (2) If the crematory authority or funeral establishment receives

1 notification of a determination by the United States Department of  
2 Veterans Affairs or the Nebraska Department of Veterans' Affairs that the  
3 unclaimed cremated remains are those of a veteran or the spouse or  
4 dependent of a veteran and such person is eligible for burial in a  
5 veteran cemetery, then the crematory authority or funeral establishment  
6 may relinquish control of such remains to a veterans service organization  
7 or a designated member or employee of such organization.

8 (3)(a) The veterans service organization shall provide disposition  
9 of the remains of such veteran or the spouse or dependent of a veteran  
10 with a funeral at a veteran cemetery after:

11 (i) The veterans service organization has made reasonable efforts to  
12 locate the authorizing agent to notify him or her of the veterans service  
13 organization's intent to claim the cremated remains for the purpose of  
14 providing disposition in accordance with this section;

15 (ii) The cremated remains of such veteran or the spouse or dependent  
16 of a veteran have been in the possession of the veterans service  
17 organization for a period of at least one year; and

18 (iii) No attempt has been made to claim the unclaimed cremated  
19 remains by the authorizing agent within such one-year period.

20 (b) The veterans service organization may provide disposition of  
21 cremated remains by placement in a tomb, mausoleum, crypt, or columbarium  
22 in a veteran cemetery or by burial in a veteran cemetery but shall not  
23 scatter the cremated remains.

24 (4) If the crematory authority or funeral establishment relinquishes  
25 control of the unclaimed cremated remains to a veterans service  
26 organization, it shall:

27 (a) Establish and maintain a record identifying the veterans service  
28 organization receiving the remains; and

29 (b) Retain such record for five years from the date of transfer of  
30 the remains to the veterans service organization.

31 (5) A crematory operator, funeral director, crematory authority,

1 funeral establishment, or veterans service organization shall not be  
2 liable for the disposition of cremated remains in accordance with this  
3 section unless there is gross negligence or willful misconduct.

4       Sec. 5. Section 80-104, Reissue Revised Statutes of Nebraska, is  
5 amended to read:

6       80-104 Except for cremated remains disposed of as provided in  
7 section 4 of this act, it ~~It~~ shall be the duty of the county veterans  
8 service committee to cause to be decently interred the body of any person  
9 who has been discharged or otherwise separated with a characterization of  
10 honorable or general (under honorable conditions) from any arm of the  
11 military or naval service of the United States, has served during a  
12 period of war, as defined in section 80-401.01, or during a period of  
13 actual hostilities in any war or conflict in which the United States  
14 Government was engaged prior to April 6, 1917, and may hereafter die  
15 without leaving sufficient means to defray his or her funeral expenses.  
16 Such burials should not be made in any cemetery or burial grounds used  
17 exclusively for the burial of pauper dead. If surviving relatives of the  
18 deceased shall desire to conduct the funeral, they shall be permitted to  
19 do so.

20       Sec. 6. Original sections 71-1355, 71-1382, and 80-104, Reissue  
21 Revised Statutes of Nebraska, and section 71-1356, Revised Statutes  
22 Cumulative Supplement, 2014, are repealed.