

AMENDMENTS TO LB998

(Amendments to Standing Committee amendments, AM2079)

Introduced by Seiler

1 1. Insert the following new sections:

2 Section 1. Section 12-1208, Reissue Revised Statutes of
3 Nebraska, is amended to read:

4 12-1208 (1) Upon notification pursuant to section
5 12-1206, the society shall promptly assist in examining the
6 discovered material to attempt to determine its origin and
7 identity.

8 (2) If the society finds that the discovered human
9 skeletal remains or burial goods are of non-American-Indian origin
10 with a known or unknown identity, it shall notify the county
11 attorney of the finding. Upon receipt of the finding, the county
12 attorney shall cause the remains and associated burial goods to be
13 interred in consultation with the county coroner. Reburial shall
14 be in accordance with the wishes and at the expense of any known
15 ~~relatives~~ persons in the order listed by section ~~38-1425~~ 3 of this
16 act or, if no relatives are known, in an appropriate cemetery at
17 the expense of the county in which the remains were discovered
18 after a one-year scientific study period if such study period
19 is considered necessary or desirable by the society. In no case
20 shall any human skeletal remains that are reasonably identifiable
21 as to familial or tribal origin be displayed by any entity which
22 receives funding or official recognition from the state or any of

1 its political subdivisions. In situations in which human skeletal
2 remains or burial goods that are unidentifiable as to familial
3 or tribal origin are clearly found to be of extremely important,
4 irreplaceable, and intrinsic scientific value, the remains or goods
5 may be curated by the society until the remains or goods may be
6 reinterred as provided in this subsection without impairing their
7 scientific value.

8 (3) If the society finds that the discovered human
9 skeletal remains or burial goods are of American Indian origin, it
10 shall promptly notify in writing the Commission on Indian Affairs
11 and any known ~~relatives~~ persons in the order listed in section
12 ~~38-1425~~ 3 of this act or, if no relatives are known, any Indian
13 tribes reasonably identified as tribally linked to such remains or
14 goods in order to ascertain and follow the wishes of the relative
15 or Indian tribe, if any, as to reburial or other disposition.
16 Reburial by any such relative or Indian tribe shall be by and at
17 the expense of such relative or Indian tribe. In cases in which
18 reasonably identifiable American Indian human skeletal remains or
19 burial goods are unclaimed by the appropriate relative or Indian
20 tribe, the society shall notify all other Indian tribes which can
21 reasonably be determined to have lived in Nebraska in order to
22 ascertain and follow the wishes of the tribe as to reburial or
23 other disposition. Reburial by any such tribe shall be by and at
24 the expense of the tribe. If such remains or goods are unclaimed
25 by the appropriate tribe, the remains or goods shall be reburied,
26 as determined by the commission, by one of the four federally
27 recognized Indian tribes in Nebraska.

1 Sec. 2. Section 30-2201, Revised Statutes Cumulative
2 Supplement, 2012, is amended to read:

3 30-2201 Sections 30-2201 to 30-2902, 30-3901 to 30-3923,
4 and 30-4001 to 30-4045 and section 3 of this act shall be known and
5 may be cited as the Nebraska Probate Code.

6 Sec. 3. (1) Except as otherwise provided by section
7 23-1824, a person who is eighteen years of age or older and
8 of sound mind, by testamentary disposition, by entering into a
9 pre-need sale as defined by section 12-1102, or by affidavit as
10 provided in subdivision (2)(a)(ii) of this section, may direct
11 the location, manner, and conditions of disposition of his or her
12 remains and the arrangements for funeral goods and services to be
13 provided upon his or her death.

14 (2) Except as set forth in subsection (3) of this section
15 or in section 71-20,121, the right of disposition, including the
16 right to control the disposition of the remains of a deceased
17 person, the location, manner, and conditions of disposition, and
18 the arrangements for funeral goods and services to be provided,
19 vests in the following order if the person listed is eighteen years
20 of age or older and is of sound mind:

21 (a)(i) A person designated by the decedent as the
22 person with the right of disposition in an affidavit executed
23 in accordance with subdivision (2)(a)(ii) of this section.

24 (ii) A person who is eighteen years of age or older
25 and of sound mind wishing to convey the right of disposition to
26 another person may execute an affidavit before a notary public in
27 substantially the following form:

1 State of }

2 County of }

3 I,, do hereby designate

4 with the right to control the disposition of my remains upon

5 my death. I (..... have) (..... have not) attached specific

6 directions concerning the disposition of my remains which the

7 designee shall substantially comply with, so long as such

8 directions are lawful and there are sufficient resources in my

9 estate to carry out the directions. This affidavit does not

10 constitute a durable power of attorney for health care.

11 (signature of person executing
12 affidavit)

13 Subscribed and sworn to before me this day of the

14 month of of the year

15 (signature of notary public);

16 (b) The surviving spouse of the decedent;

17 (c) The sole surviving child of the decedent or, if

18 there is more than one child of the decedent, the majority of

19 the surviving children, except that less than a majority of the

20 surviving children shall be vested with the right of disposition

21 if they have used reasonable efforts to notify all other surviving

22 children of their instructions regarding the right of disposition

23 and are not aware of any opposition to those instructions on the

24 part of a majority of the surviving children;

25 (d) The surviving parent or parents of the decedent. If

26 one of the surviving parents is absent, the remaining parent shall

27 be vested with the right of disposition after reasonable efforts

1 have been unsuccessful in locating the absent surviving parent;

2 (e) The surviving brother or sister of the decedent or,
3 if there is more than one sibling of the decedent, the majority of
4 the surviving siblings, except that less than the majority of the
5 surviving siblings shall be vested with the right of disposition
6 if they have used reasonable efforts to notify all other surviving
7 siblings of their instructions regarding the right of disposition
8 and are not aware of any opposition to those instructions on the
9 part of a majority of the surviving siblings;

10 (f) The surviving grandparent of the decedent or, if
11 there is more than one surviving grandparent, the majority
12 of the grandparents, except that less than the majority of
13 the surviving grandparents shall be vested with the right of
14 disposition if they have used reasonable efforts to notify all
15 other surviving grandparents of their instructions regarding the
16 right of disposition and are not aware of any opposition to
17 those instructions on the part of a majority of the surviving
18 grandparents;

19 (g) The person in the next degree of kinship, in
20 descending order, under the laws of descent and distribution,
21 to inherit the estate of the decedent. If there is more than one
22 person of the same degree, any person of that degree may exercise
23 the right of disposition;

24 (h) The guardian of the person of the decedent at the
25 time of the decedent's death, if one had been appointed;

26 (i) The personal representative of the estate of the
27 decedent. The powers and duties under this section of the personal

1 representative shall commence upon his or her appointment. Such
2 powers and duties of the personal representative shall relate back
3 in time to give acts by the personal representative which are
4 beneficial to the disposition of the decedent's remains occurring
5 prior to appointment the same effect as those occurring thereafter.
6 Prior to appointment, the personal representative may carry out
7 written instructions of the decedent relating to his or her body,
8 funeral, and burial arrangements. The personal representative may
9 also ratify and accept acts regarding disposition of the decedent's
10 remains done by others where the acts would have been proper for
11 the personal representative;

12 (j) The State Anatomical Board or the county board of
13 the county where the death occurred in the case of an indigent
14 person or any other person the disposition of whose remains is a
15 responsibility of the state or county;

16 (k) A representative as described in section 38-1426 or
17 38-1427 that has arranged with the funeral establishment, cemetery,
18 or crematory authority to cremate or bury a body part in the case
19 of body parts received from the entity described in section 38-1426
20 or 38-1427; and

21 (1) In the absence of any person listed in subdivisions
22 (2)(a) through (k) of this section, any other person willing to
23 assume the right of disposition, including the funeral director
24 with custody of the body, after attesting, in writing, that a good
25 faith effort has been made to no avail to contact the persons
26 listed in subdivisions (2)(a) through (k) of this section.

27 (3) A person entitled under this section to the right of

1 disposition shall forfeit that right and the right is passed on to
2 the next qualifying person as listed in subdivisions (2) (a) through
3 (1) of this section in the following circumstances:

4 (a) Any person charged with first or second degree murder
5 or voluntary manslaughter in connection with the decedent's death
6 and whose charges are known to the funeral director. If the charges
7 against such person are dismissed, or if such person is acquitted
8 of the charges, the right of disposition is returned to such
9 person;

10 (b) Any person who does not exercise his or her right
11 of disposition within three days after notification of the death
12 of the decedent or within four days after the decedent's death,
13 whichever is earlier;

14 (c) If the person and the decedent are spouses and a
15 petition to dissolve the marriage was pending at the time of the
16 decedent's death; or

17 (d) If a county court pursuant to subsection (4) of
18 this section determines that the person entitled to the right of
19 disposition and the decedent were estranged at the time of death.
20 For purposes of this subdivision, estranged means a physical and
21 emotional separation from the decedent at the time of death which
22 has existed for a period of time that clearly demonstrates an
23 absence of due affection, trust, and regard for the decedent.

24 (4) (a) If two or more persons with the same relationship
25 to the decedent hold the right of disposition and cannot by
26 majority vote make a decision regarding the disposition of the
27 decedent's remains, any of such persons or a funeral home with

1 custody of the remains may file a petition asking the court to make
2 a determination in the matter;

3 (b) Notwithstanding subsections (1) through (3) of this
4 section, the county court of the county where the decedent died
5 may award the right of disposition to the person determined by the
6 court to be the most fit and appropriate to carry out the right of
7 disposition and may make decisions regarding the decedent's remains
8 if those sharing the right of disposition cannot agree.

9 (c) In making a determination under this subsection, the
10 court shall consider the following:

11 (i) The reasonableness and practicality of the proposed
12 funeral arrangements and disposition;

13 (ii) The degree of the personal relationship between the
14 decedent and each of the persons claiming the right of disposition;

15 (iii) The desires of the person or persons who are ready,
16 able, and willing to pay the cost of the funeral arrangements and
17 disposition; and

18 (iv) The convenience and needs of other families and
19 friends wishing to pay respects;

20 (d) In the event of a dispute regarding the right
21 of disposition, a funeral establishment, cemetery, or crematory
22 authority is not liable for refusing to accept the remains or
23 to inter or otherwise dispose of the remains of the decedent or
24 complete the arrangements for the final disposition of the remains
25 until the funeral establishment, cemetery, or crematory authority
26 receives a court order or other written agreement signed by the
27 parties in disagreement that decides the final disposition of

1 the remains. If the funeral establishment, cemetery, or crematory
2 authority retains the remains for final disposition while the
3 parties are in disagreement, the funeral establishment may embalm
4 or refrigerate and shelter the body, or both, in order to preserve
5 it while awaiting the final decision of the court and may add
6 the cost of embalming or refrigeration and sheltering to the
7 final disposition costs. If a funeral home brings an action under
8 this subsection, the funeral establishment, cemetery, or crematory
9 authority may add the legal fees and court costs associated with
10 a petition under this subsection to the cost of final disposition.
11 This subsection may not be construed to require or to impose a duty
12 upon a funeral establishment, cemetery, or crematory authority to
13 bring an action under this subsection;

14 (e) Except to the degree it may be considered by the
15 court under subdivision (4)(c)(iii) of this section, the fact that
16 a person has paid or agreed to pay for all or part of the funeral
17 arrangements and final disposition does not give that person a
18 greater claim to the right of disposition than the person would
19 otherwise have. The personal representative of the estate of the
20 decedent does not, by virtue of being the personal representative,
21 have a greater claim to the right of disposition than the personal
22 representative would otherwise have.

23 Sec. 4. Section 38-1425, Revised Statutes Supplement,
24 2013, is amended to read:

25 38-1425 ~~(1)~~ Except as otherwise provided in subsection
26 ~~(2)~~ of this section or section 71-20,121, the right to control the
27 disposition of the remains of a deceased person, except in the case

1 of a minor subject to section 23-1824 and unless other directions
2 have been given by the decedent in the form of a testamentary
3 disposition or a pre-need contract, vests in the following persons
4 in the order named:

5 (a) Any person authorized to direct the disposition of
6 the decedent's body pursuant to a notarized affidavit authorizing
7 such disposition and signed and sworn to by the decedent. Such
8 an affidavit shall be sufficient legal authority for authorizing
9 disposition without additional authorization from the decedent, the
10 decedent's family, or the decedent's estate. Such person shall not
11 be considered an attorney in fact pursuant to sections 30-3401 to
12 30-3432;

13 (b) The surviving spouse of the decedent;

14 (c) If the surviving spouse is incompetent or not
15 available or if there is no surviving spouse, the decedent's
16 surviving adult children. If there is more than one adult child,
17 any adult child, after confirmation in writing of the notification
18 of all other adult children, may direct the manner of disposition
19 unless the funeral establishment or crematory authority receives
20 written objection to the manner of disposition from another adult
21 child;

22 (d) The decedent's surviving parents;

23 (e) The persons in the next degree of kinship under the
24 laws of descent and distribution to inherit the estate of the
25 decedent. If there is more than one person of the same degree, any
26 person of that degree may direct the manner of disposition;

27 (f) A guardian of the person of the decedent at the time

1 of such person's death;

2 ~~(g) The personal representative of the decedent;~~

3 ~~(h) The State Anatomical Board or county board in the~~
4 ~~case of an indigent person or any other person the disposition of~~
5 ~~whose remains is the responsibility of the state or county; or~~

6 ~~(i) A representative of an entity described in section~~
7 ~~38-1426 that has arranged with the funeral establishment or~~
8 ~~crematory authority to cremate a body part in the case of body~~
9 ~~parts received from such entity described in section 38-1426.~~

10 (1) Any person signing a funeral service agreement,
11 a cremation authorization form, or any other authorization for
12 disposition shall be deemed to warrant the truthfulness of
13 any facts set forth in such agreement, form, or authorization,
14 including the identity of the decedent whose remains are to be
15 buried, cremated, or otherwise disposed of and the person's right
16 of disposition. A funeral establishment, cemetery, or crematory
17 authority shall have the right to rely on such agreement,
18 form, or authorization and shall have the authority to carry
19 out the instructions of the person or persons whom the funeral
20 establishment, cemetery, or crematory authority reasonably believes
21 holds the right of disposition. No funeral establishment, cemetery,
22 or crematory authority shall have the responsibility to contact or
23 to independently investigate the existence of any next-of-kin or
24 relative of the decedent. If there is more than one person in a
25 class equal in priority and the funeral establishment, cemetery,
26 or crematory authority has no knowledge of any objection by other
27 members of such class, the funeral establishment, cemetery, or

1 crematory authority shall be entitled to rely on and act according
2 to the instructions of the first such person in the class to make
3 funeral and disposition arrangements so long as no other person
4 in such class provides written notice of his or her objections to
5 the funeral establishment, cemetery, or crematory authority, as the
6 case may be.

7 (2) The liability for the reasonable cost of the final
8 disposition of the remains of the decedent devolves jointly and
9 severally upon all kin of the decedent in the same degree of
10 kindred into which the right of disposition fell and upon the
11 estate of the decedent and, in cases where a county board has
12 the right to control disposition of the remains under subdivision
13 (2) (j) of section 3 of this act, upon the county in which the death
14 occurred from funds available for such purpose.

15 ~~(2)~~ (3) If the decedent died during active military
16 service, as provided in 10 U.S.C. 1481 (a) (1) through (8), in any
17 branch of the United States armed forces, United States reserve
18 forces, or national guard, the person authorized by the decedent to
19 direct disposition pursuant to section 564 of Public Law 109-163,
20 as listed on the decedent's United States Department of Defense
21 record of emergency data, DD Form 93, or its successor form, shall
22 take priority over all other persons described in subsection (1) of
23 this section.

24 ~~(3)~~ A funeral director, funeral establishment, crematory
25 authority, or crematory operator shall not be subject to criminal
26 prosecution or civil liability for carrying out the otherwise
27 lawful instructions of the person or persons described in this

1 section if the funeral director or crematory authority or operator
2 reasonably believes such person is entitled to control the final
3 disposition of the remains of the deceased person.

4 (4) The liability for the reasonable cost of the final
5 disposition of the remains of the deceased person devolves jointly
6 and severally upon all kin of the decedent in the same degree of
7 kindred and upon the estate of the decedent and, in cases when the
8 county board has the right to control disposition of the remains
9 under subdivision (1)(h) of this section, upon the county in which
10 death occurred from funds available for such purpose.

11 Sec. 5. Section 38-1426, Reissue Revised Statutes of
12 Nebraska, is amended to read:

13 38-1426 (1) A decedent, prior to his or her death, may
14 direct the preparation for the final disposition of his or her
15 remains by written instructions as provided in section 38-1425 and
16 section 3 of this act. If such instructions are in a will or
17 other written instrument, the decedent may direct that the whole
18 or any part of such remains be given to a teaching institution,
19 university, college, or legally licensed hospital, to the director,
20 or to or for the use of any nonprofit blood bank, artery bank,
21 eye bank, or other therapeutic service operated by any agency
22 approved by the director under rules and regulations established by
23 the director. The person or persons otherwise entitled to control
24 the disposition of the remains under this section shall faithfully
25 carry out the directions of the decedent.

26 (2) If such instructions are contained in a will or
27 other written instrument, they shall be immediately carried out,

1 regardless of the validity of the will in other respects or of the
2 fact that the will may not be offered for or admitted to probate
3 until a later date.

4 (3) This section shall be administered and construed to
5 the end that such expressed instructions of any person shall be
6 faithfully and promptly performed.

7 (4) A funeral director and embalmer, physician, or
8 cemetery authority shall not be liable to any person or persons for
9 carrying out such instructions of the decedent, and any teaching
10 institution, university, college, or legally licensed hospital or
11 the director shall not be liable to any person or persons for
12 accepting the remains of any deceased person under a will or other
13 written instrument as set forth in this section.

14 Sec. 6. Section 38-1427, Reissue Revised Statutes of
15 Nebraska, is amended to read:

16 38-1427 A written authorization for an autopsy given by
17 the ~~survivor or survivors,~~ as enumerated person listed in section
18 ~~38-1425,~~ 3 of this act, having the right ~~to control the of~~
19 disposition of the remains may, subject to section 23-1824 and when
20 not inconsistent with any directions given by the decedent pursuant
21 to section 38-1426, include authorization for the removal of any
22 specifically named organ or organs for therapeutic or scientific
23 purposes. Pursuant to any such written authorization, any structure
24 or organ may be given to the director or to any other therapeutic
25 service operated by any nonprofit agency approved by the director,
26 including, but not limited to, a teaching institution, university,
27 college, legally licensed hospital, nonprofit blood bank, nonprofit

1 artery bank, nonprofit eye bank, or nationally recognized nonprofit
2 hormone and pituitary program. The person or persons performing any
3 autopsy shall do so within a reasonable time and without delay and
4 shall not exceed the removal permission contained in such written
5 authorization, and the remains shall not be significantly altered
6 in external appearance nor shall any portion thereof be removed for
7 purposes other than those expressly permitted in this section.

8 Sec. 8. Section 71-605, Revised Statutes Cumulative
9 Supplement, 2012, is amended to read:

10 71-605 (1) The funeral director and embalmer in charge
11 of the funeral of any person dying in the State of Nebraska
12 shall cause a certificate of death to be filled out with all the
13 particulars contained in the standard form adopted and promulgated
14 by the department. Such standard form shall include a space for
15 veteran status and the period of service in the armed forces of
16 the United States and a statement of the cause of death made
17 by a person holding a valid license as a physician, physician
18 assistant, or nurse practitioner who last attended the deceased.
19 The standard form shall also include the deceased's social security
20 number. Death and fetal death certificates shall be completed
21 by the funeral directors and embalmers and physicians, physician
22 assistants, or nurse practitioners for the purpose of filing with
23 the department and providing child support enforcement information
24 pursuant to section 43-3340.

25 (2) The physician, physician assistant, or nurse
26 practitioner shall have the responsibility and duty to complete
27 and sign in his or her own handwriting or by electronic means

1 pursuant to section 71-603.01, within twenty-four hours from the
2 time of death, that part of the certificate of death entitled
3 medical certificate of death. In the case of a death when no person
4 licensed as a physician, physician assistant, or nurse practitioner
5 was in attendance, the funeral director and embalmer shall refer
6 the case to the county attorney who shall have the responsibility
7 and duty to complete and sign the death certificate in his or
8 her own handwriting or by electronic means pursuant to section
9 71-603.01.

10 No cause of death shall be certified in the case of
11 the sudden and unexpected death of a child between the ages
12 of one week and three years until an autopsy is performed at
13 county expense by a qualified pathologist pursuant to section
14 23-1824. The parents or guardian shall be notified of the results
15 of the autopsy by their physician, physician assistant, nurse
16 practitioner, community health official, or county coroner within
17 forty-eight hours. The term sudden infant death syndrome shall
18 be entered on the death certificate as the principal cause of
19 death when the term is appropriately descriptive of the pathology
20 findings and circumstances surrounding the death of a child.

21 If the circumstances show it possible that death was
22 caused by neglect, violence, or any unlawful means, the case
23 shall be referred to the county attorney for investigation and
24 certification. The county attorney shall, within twenty-four hours
25 after taking charge of the case, state the cause of death as
26 ascertained, giving as far as possible the means or instrument
27 which produced the death. All death certificates shall show clearly

1 the cause, disease, or sequence of causes ending in death. If
2 the cause of death cannot be determined within the period of time
3 stated above, the death certificate shall be filed to establish
4 the fact of death. As soon as possible thereafter, and not more
5 than six weeks later, supplemental information as to the cause,
6 disease, or sequence of causes ending in death shall be filed with
7 the department to complete the record. For all certificates stated
8 in terms that are indefinite, insufficient, or unsatisfactory for
9 classification, inquiry shall be made to the person completing
10 the certificate to secure the necessary information to correct or
11 complete the record.

12 (3) A completed death certificate shall be filed with the
13 department within five business days after the date of death. If
14 it is impossible to complete the certificate of death within five
15 business days, the funeral director and embalmer shall notify the
16 department of the reason for the delay and file the certificate as
17 soon as possible.

18 (4) Before any dead human body may be cremated, a
19 cremation permit shall first be signed by the county attorney, or
20 by his or her authorized representative as designated by the county
21 attorney in writing, of the county in which the death occurred on a
22 form prescribed and furnished by the department.

23 (5) A permit for disinterment shall be required prior
24 to disinterment of a dead human body. The permit shall be issued
25 by the department to a licensed funeral director and embalmer
26 upon proper application. The request for disinterment shall be
27 made by the ~~next of kin of the deceased,~~ as person listed in

1 section ~~38-1425~~, 3 of this act, or a county attorney on a form
2 furnished by the department. The application shall be signed by the
3 funeral director and embalmer who will be directly supervising the
4 disinterment. When the disinterment occurs, the funeral director
5 and embalmer shall sign the permit giving the date of disinterment
6 and file the permit with the department within ten days of the
7 disinterment.

8 (6) When a request is made under subsection (5) of this
9 section for the disinterment of more than one dead human body, an
10 order from a court of competent jurisdiction shall be submitted to
11 the department prior to the issuance of a permit for disinterment.
12 The order shall include, but not be limited to, the number of
13 bodies to be disinterred if that number can be ascertained, the
14 method and details of transportation of the disinterred bodies,
15 the place of reinterment, and the reason for disinterment. No
16 sexton or other person in charge of a cemetery shall allow the
17 disinterment of a body without first receiving from the department
18 a disinterment permit properly completed.

19 (7) No dead human body shall be removed from the
20 state for final disposition without a transit permit issued by
21 the funeral director and embalmer having charge of the body in
22 Nebraska, except that when the death is subject to investigation,
23 the transit permit shall not be issued by the funeral director and
24 embalmer without authorization of the county attorney of the county
25 in which the death occurred. No agent of any transportation company
26 shall allow the shipment of any body without the properly completed
27 transit permit prepared in duplicate.

1 (8) The interment, disinterment, or reinterment of a
2 dead human body shall be performed under the direct supervision
3 of a licensed funeral director and embalmer, except that hospital
4 disposition may be made of the remains of a child born dead
5 pursuant to section 71-20,121.

6 (9) All transit permits issued in accordance with the
7 law of the place where the death occurred in a state other than
8 Nebraska shall be signed by the funeral director and embalmer
9 in charge of burial and forwarded to the department within five
10 business days after the interment takes place.

11 Sec. 9. Section 71-1356, Reissue Revised Statutes of
12 Nebraska, is amended to read:

13 71-1356 For purposes of the Cremation of Human Remains
14 Act, unless the context otherwise requires:

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

17 (2) Authorizing agent means a person vested with the
18 right to control the disposition of human remains pursuant to
19 section ~~38-1425~~, 3 of this act;

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

23 (4) Cremated remains means the residue of human
24 remains recovered after cremation and the processing of such
25 remains by pulverization, leaving only bone fragments reduced to
26 unidentifiable dimensions, and the unrecoverable residue of any
27 foreign matter, such as eyeglasses, bridgework, or other similar

1 material, that was cremated with the human remains;

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

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

8 (7) Cremation chamber means the enclosed space within
9 which a cremation takes place;

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

12 (9) Crematory authority means the legal entity subject to
13 licensure by the department to maintain and operate a crematory and
14 perform cremation;

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

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

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

23 (13) Director means the Director of Public Health of the
24 Division of Public Health;

25 (14) Funeral director has the same meaning as in section
26 71-507;

27 (15) Funeral establishment has the same meaning as in

1 section 38-1411;

2 (16) Holding facility means the area of a crematory
3 designated for the retention of human remains prior to cremation
4 and includes a refrigerated facility;

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

10 (18) Permanent container means a receptacle made of
11 durable material for the long-term placement of cremated remains;
12 and

13 (19) Temporary container means a receptacle made of
14 cardboard, plastic, or other similar material in which cremated
15 remains are placed prior to the placement of such remains in an urn
16 or other permanent container.

17 Sec. 10. Section 71-1373, Reissue Revised Statutes of
18 Nebraska, is amended to read:

19 71-1373 The right to authorize the cremation of human
20 remains and the final disposition of the cremated remains, except
21 in the case of a minor subject to section 23-1824 and unless
22 other directions have been given by the decedent in the form of a
23 testamentary disposition or a pre-need contract, vests pursuant to
24 section ~~38-1425~~. 3 of this act.

25 Sec. 11. Section 71-4813, Revised Statutes Cumulative
26 Supplement, 2012, is amended to read:

27 71-4813 (1) When an autopsy is performed by the physician

1 authorized by the county coroner to perform such autopsy, the
2 physician or an appropriately qualified designee with training in
3 ophthalmologic techniques, as provided for in subsection (2) of
4 this section, may remove eye tissue of the decedent for the purpose
5 of transplantation. The physician may also remove the pituitary
6 gland for the purpose of research and treatment of hypopituitary
7 dwarfism and of other growth disorders. Removal of the eye tissue
8 or the pituitary gland shall only take place if the:

- 9 (a) Autopsy was authorized by the county coroner;
10 (b) County coroner receives permission from the person
11 having control of the disposition of the decedent's remains
12 pursuant to section ~~38-1425~~, and 3 of this act; and

13 (c) Removal of eye tissue or of the pituitary gland will
14 not interfere with the course of any subsequent investigation or
15 alter the decedent's post mortem facial appearance.

16 (2) An appropriately qualified designee of a physician
17 with training in ophthalmologic techniques or a funeral director
18 and embalmer licensed pursuant to the Funeral Directing and
19 Embalming Practice Act upon (a) successfully completing a course
20 in eye enucleation and (b) receiving a certificate of competence
21 from the Department of Ophthalmology of the University of Nebraska
22 Medical Center may enucleate the eyes of the donor.

23 (3) The removed eye tissue or pituitary gland shall be
24 transported to the Department of Health and Human Services or any
25 desired institution or health facility as prescribed by section
26 38-1427.

27 2. Renumber the remaining sections and correct the

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1 repealer accordingly.