

## House Amendments to Senate Bill No. 2087

TO THE SECRETARY OF THE SENATE:

THIS IS TO INFORM YOU THAT THE HOUSE HAS ADOPTED THE AMENDMENTS SET OUT BELOW:

### AMENDMENT NO. 1

Amend by striking all after the enacting clause and inserting in lieu thereof the following:

14        SECTION 1. (1) Every person or entity that owns any  
15 cemetery in which dead human remains are buried or otherwise  
16 interred is authorized to disinter individual remains and either  
17 reinter the remains at another location within the cemetery or  
18 deliver the remains to a carrier for transportation out of the  
19 cemetery, all pursuant to written instructions signed and  
20 acknowledged by the next of kin of the deceased person as provided  
21 in subsection (2) of this section. The costs of the disinterment  
22 and reinterment or delivery shall be paid by the next of kin.

23        (2) For purposes of subsection (1) of this section, the term  
24 "next of kin" means the following persons in the priority listed  
25 if the person is eighteen (18) years of age or older, is mentally  
26 competent, and is willing to assume responsibility for the costs  
27 of disposition:

28               (a) The decedent's spouse, if the spouse has not  
29 remarried.

30               (b) The decedent's children.

31 (c) The decedent's parents.

32 (d) The decedent's siblings.

33 (3) Every person or entity that owns any cemetery in which  
34 dead human remains are buried or otherwise interred is authorized  
35 to disinter individual remains and either reinter the remains at  
36 another location within the cemetery or to deliver the remains to  
37 a carrier for transportation out of the cemetery, all pursuant to  
38 a final order issued by the chancery court for the county in which  
39 the cemetery is located. The court may issue the order, in the  
40 court's discretion and upon such notice and hearing as the court  
41 deems appropriate, for good cause shown. The costs of such  
42 disinterment and reinterment or delivery, and the related court  
43 proceedings, shall be paid by the persons or entities so ordered  
44 by the court.

45 (4) Every person or entity that owns any cemetery in which  
46 dead human remains are buried or otherwise interred is authorized,  
47 at the cemetery owner's expense, to disinter individual remains  
48 and reinter the remains at another location within the cemetery in  
49 order to correct an error made in the original burial or interment  
50 of the remains only after: (a) the person or entity petitions the  
51 chancery court to request permission to change the location, (b)  
52 the person or entity, not less than thirty (30) days before the  
53 petition is filed, provides written notification of the intent to  
54 file the petition to the known next of kin of the deceased person  
55 as provided in subsection (2) of this section and (c) the chancery  
56 court provides a final order approving the change. The notice

57 shall indicate that the remains were disinterred, the reason for  
58 the disinterment and reinterment of the remains, and the location  
59 of the reinterred remains.

60 (5) Any person or entity that owns any cemetery or funeral  
61 establishment, and its employees, officers and directors, shall  
62 not be liable to any person or entity for any claims, causes of  
63 action, or damages arising out of or resulting from the original  
64 interment and the disinterment and reinterment or delivery of dead  
65 human remains made pursuant to this section, except in cases of  
66 intentional misconduct or malice.

67 **SECTION 2.** Section 41-37-25, Mississippi Code of 1972, is  
68 amended as follows:

69 41-37-25. An autopsy may be performed without court order by  
70 a qualified physician when authorized by (a) the decedent, during  
71 his lifetime, or (b) any of the following persons who shall have  
72 assumed custody of the body for the purpose of burial: a  
73 surviving spouse, either parent or any person in loco parentis, a  
74 descendant over the age of eighteen (18) years, a guardian, or the  
75 next of kin. In the absence of any of the foregoing persons any  
76 friend of the deceased who has assumed responsibility for burial,  
77 or any other person charged by law with responsibility for burial,  
78 may give such consent. If two (2) or more persons have assumed  
79 custody of the body of an adult for purposes of burial, the  
80 consent of one (1) such person shall be deemed sufficient.

81 In the case of a minor, however, the consent of either parent  
82 shall be deemed sufficient, unless the other parent gives written

83 notice to the physician who is to perform the autopsy of such  
84 parent's objection thereto \* \* \* before the commencement of the  
85 autopsy. \* \* \* If neither parent has legal custody of the minor,  
86 the guardian shall have the right to authorize an autopsy. The  
87 fees provided in this chapter for autopsies in criminal  
88 investigations shall not be applicable to this section.

89 No autopsy shall be held under this section over the  
90 objection of the surviving spouse, or if there be no surviving  
91 spouse, of any surviving parent, or if there be neither a  
92 surviving spouse nor parent, then of any surviving child.

93 If the body has already been buried, disinterment of the body  
94 for an autopsy without a court order shall be subject to the  
95 provisions of Section 1 of this act.

96 **SECTION 3.** Section 41-39-117, Mississippi Code of 1972, is  
97 amended as follows:

98 41-39-117. (a) Subject to subsections (b) and (c) and  
99 unless barred by Section 41-39-113 or 41-39-115, an anatomical  
100 gift of a decedent's body or part for purpose of transplantation,  
101 therapy, research, or education may be made by any member of the  
102 following classes of persons who is reasonably available, in the  
103 order of priority listed:

104 (1) An agent of the decedent at the time of death who  
105 could have made an anatomical gift under Section 41-39-107(2)  
106 immediately before the decedent's death;

107 (2) The spouse of the decedent;

108 (3) Adult children of the decedent;

- 109           (4) Parents of the decedent;
- 110           (5) Adult siblings of the decedent;
- 111           (6) Adult grandchildren of the decedent;
- 112           (7) Grandparents of the decedent;
- 113           (8) An adult who exhibited special care and concern for  
114 the decedent;
- 115           (9) The persons who were acting as the guardians of the  
116 person of the decedent at the time of death; and
- 117           (10) Any other person having the authority to dispose  
118 of the decedent's body.

119           (b) If there is more than one (1) member of a class listed  
120 in subsection (a) (1), (3), (4), (5), (6), (7), or (9) entitled to  
121 make an anatomical gift, an anatomical gift may be made by a  
122 member of the class unless that member or a person to which the  
123 gift may pass under Section 41-39-121 knows of an objection by  
124 another member of the class. If an objection is known, the gift  
125 may be made only by a majority of the members of the class who are  
126 reasonably available.

127           (c) A person may not make an anatomical gift if, at the time  
128 of the decedent's death, a person in a prior class under  
129 subsection (a) is reasonably available to make or to object to the  
130 making of an anatomical gift.

131           (d) If the decedent's body has already been buried,  
132 disinterment of the body for any one or more of the purposes  
133 specified in subsection (a) of this section shall be subject to  
134 the provisions of Section 1 of this act.

135           **SECTION 4.** This act shall take effect and be in force from  
136 and after July 1, 2021, and shall stand repealed on June 30, 2021.

**Further, amend by striking the title in its entirety and  
inserting in lieu thereof the following:**

1           AN ACT TO AUTHORIZE CEMETERY OWNERS TO DISINTER DEAD HUMAN  
2 REMAINS FOR REINTERMENT OR FOR TRANSPORTATION FROM THE CEMETERY  
3 PURSUANT TO WRITTEN INSTRUCTIONS OF THE NEXT OF KIN, OR PURSUANT  
4 TO A FINAL ORDER OF THE CHANCERY COURT IN THE COUNTY IN WHICH THE  
5 CEMETERY IS LOCATED, OR IN ORDER TO CORRECT AN ERROR MADE IN THE  
6 ORIGINAL INTERMENT OF THE REMAINS UPON NOTICE; TO PROVIDE IMMUNITY  
7 FROM LIABILITY FOR CEMETERY OWNERS, CEMETERY OPERATORS, FUNERAL  
8 DIRECTORS, FUNERAL ESTABLISHMENTS AND OTHER PERSONS AND ENTITIES  
9 INVOLVED IN THE PROCESS OF DISINTERMENT AND REINTERMENT OR  
10 DELIVERY OF DEAD HUMAN REMAINS MADE PURSUANT TO THIS ACT; TO AMEND  
11 SECTIONS 41-37-25 AND 41-39-117, MISSISSIPPI CODE OF 1972, TO  
12 CONFORM TO THE PROVISIONS OF THIS ACT; AND FOR RELATED PURPOSES.

HR43\SB2087A.2J

Andrew Ketchings  
Clerk of the House of Representatives