

By: Senator(s) Wiggins

To: Public Health and Welfare

SENATE BILL NO. 2822

1 AN ACT TO AMEND SECTION 73-11-51, MISSISSIPPI CODE OF 1972,
2 TO REVISE THE LICENSING REQUIREMENTS FOR FUNERAL DIRECTORS TO
3 REQUIRE APPLICANTS TO HAVE SERVED AS A RESIDENT TRAINEE FOR NOT
4 LESS THAN TWELVE MONTHS UNDER THE SUPERVISION OF A LICENSED
5 FUNERAL DIRECTOR; TO AMEND SECTION 73-11-53, MISSISSIPPI CODE OF
6 1972, TO REVISE CERTAIN TIME REQUIREMENTS RELATED TO THE FUNERAL
7 DIRECTOR TRAINEE AND APPRENTICESHIP PROGRAM; TO BRING FORWARD
8 SECTION 73-11-57, MISSISSIPPI CODE OF 1972, FOR THE PURPOSE OF
9 POSSIBLE AMENDMENT; TO CREATE NEW SECTION 73-11-57.2, MISSISSIPPI
10 CODE OF 1972, TO PROVIDE THAT NO PERSON OR ENTITY SHALL ENGAGE IN
11 ANY ACTIVITY FOR WHICH A LICENSE IS REQUIRED UNDER THE CHAPTER
12 WITHOUT HOLDING SUCH LICENSE IN GOOD STANDING; TO PROVIDE THAT A
13 PERSON MAY NOT BE, ACT AS, OR ADVERTISE OR HOLD HIMSELF OR HERSELF
14 OUT TO BE A FUNERAL SERVICE, A FUNERAL DIRECTOR, OR A CERTIFIED
15 CREMATORY OPERATOR UNLESS HE OR SHE IS CURRENTLY LICENSED BY THE
16 BOARD; TO AUTHORIZE THE BOARD OF FUNERAL SERVICE TO ISSUE
17 ADMINISTRATIVE COMPLAINTS TO ANY PERSON OR ENTITY WHO IT BELIEVES
18 HAS VIOLATED PROVISIONS OF THE LAW; TO ALLOW THE BOARD TO IMPOSE A
19 FINE OF UP TO \$5,000.00 FOR VIOLATIONS OF THE CHAPTER; TO
20 AUTHORIZE THE BOARD TO HOLD AND CONDUCT HEARINGS ON SUBJECT
21 VIOLATIONS; TO AUTHORIZE THE BOARD TO ISSUE AN EMERGENCY ORDER
22 UPON AN UNLICENSED PERSON OR ENTITY; TO EMPOWER THE BOARD TO FILE
23 FOR AN INJUNCTION SEEKING ENFORCEMENT OF THE EMERGENCY ORDER; TO
24 PROVIDE THAT AN AGGRIEVED PARTY MAY APPEAL FROM THE ASSESSMENT AND
25 LEVY OF A MONETARY PENALTY; TO AMEND SECTION 73-11-58, MISSISSIPPI
26 CODE OF 1972, TO REVISE CERTAIN TIME REQUIREMENTS RELATED TO THE
27 DISPOSITION OF DECEDENT'S BODIES BY FUNERAL SERVICE PRACTITIONERS;
28 TO AMEND SECTION 73-11-69, MISSISSIPPI CODE OF 1972, TO REVISE THE
29 NOTICE REQUIREMENT BEFORE A CREMATORY OR FUNERAL ESTABLISHMENT MAY
30 DISPOSE OF UNCLAIMED REMAINS; TO AMEND SECTION 73-11-71,
31 MISSISSIPPI CODE OF 1972, TO REVISE THE WRITTEN ACKNOWLEDGMENT
32 FORM THAT IS OBTAINED FROM THE PERSON ENTITLED TO CONTROL THE
33 DISPOSITION OF CREMATED REMAINS; AND FOR RELATED PURPOSES.



34 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

35 **SECTION 1.** Section 73-11-51, Mississippi Code of 1972, is
36 amended as follows:

37 73-11-51. (1) No person shall engage in the business or
38 practice of funeral service, including embalming, and/or funeral
39 directing or hold himself out as transacting or practicing or
40 being entitled to transact or practice funeral service, including
41 embalming, and/or funeral directing in this state unless duly
42 licensed under the provisions of this chapter.

43 (2) The board is authorized and empowered to examine
44 applicants for licenses for the practice of funeral service and
45 funeral directing and shall issue the proper license to those
46 persons who successfully pass the applicable examination and
47 otherwise comply with the provisions of this chapter.

48 (3) To be licensed for the practice of funeral directing
49 under this chapter, a person must furnish satisfactory evidence to
50 the board that he or she:

51 (a) Is at least eighteen (18) years of age;

52 (b) Has a high school diploma or the equivalent
53 thereof;

54 (c) Has served as a resident trainee for not less
55 than * * * twelve (12) months under the supervision of a person
56 licensed for the practice of funeral service or funeral directing
57 in this state;



58 (d) Has successfully passed a written and/or oral
59 examination as prepared or approved by the board; and

60 (e) Is of good moral character.

61 (4) To be licensed for the practice of funeral service under
62 this chapter, a person must furnish satisfactory evidence to the
63 board that he or she:

64 (a) Is at least eighteen (18) years of age;

65 (b) Has a high school diploma or the equivalent
66 thereof;

67 (c) Has successfully completed twelve (12) months or
68 more of academic and professional instruction from an institution
69 accredited by the United States Department of Education for
70 funeral service education and have a certificate of completion
71 from an institution accredited by the American Board of Funeral
72 Service Education or any other successor recognized by the United
73 States Department of Education for funeral service education;

74 (d) Has served as a resident trainee for not less than
75 twelve (12) months, either before or after graduation from an
76 accredited institution mentioned above, under the supervision of a
77 person licensed for the practice of funeral service in this state
78 and in an establishment licensed in this state;

79 (e) Has successfully passed the National Conference of
80 Funeral Examiners examination and/or such other examination as
81 approved by the board; and

82 (f) Is of good moral character.



83 (5) All applications for examination and license for the
84 practice of funeral service or funeral directing shall be upon
85 forms furnished by the board and shall be accompanied by an
86 examination fee, a licensing fee and a nonrefundable application
87 fee in amounts fixed by the board in accordance with Section
88 73-11-56. The fee for an initial license, however, may be
89 prorated in proportion to the period of time from the date of
90 issuance to the date of biennial license renewal prescribed in
91 subsection (8) of this section. All applications for examination
92 shall be filed with the board office at least sixty (60) days
93 before the date of examination. A candidate shall be deemed to
94 have abandoned the application for examination if he does not
95 appear on the scheduled date of examination unless such failure to
96 appear has been approved by the board.

97 (6) The practice of funeral service or funeral directing
98 must be engaged in at a licensed funeral establishment, at least
99 one (1) of which is listed as the licensee's place of business;
100 and no person, partnership, corporation, association or other
101 organization shall open or maintain a funeral establishment at
102 which to engage in or conduct or hold himself or itself out as
103 engaging in the practice of funeral service or funeral directing
104 until such establishment has complied with the licensing
105 requirements of this chapter. A license for the practice of
106 funeral service or funeral directing shall be used only at
107 licensed funeral establishments; however, this provision shall not



108 prevent a person licensed for the practice of funeral service or
109 funeral directing from conducting a funeral service at a church, a
110 residence, public hall, lodge room or cemetery chapel, if such
111 person maintains a fixed licensed funeral establishment of his own
112 or is in the employ of or an agent of a licensed funeral
113 establishment.

114 (7) Any person holding a valid, unrevoked and unexpired
115 nonreciprocal license in another state or territory having
116 requirements greater than or equal to those of this state as
117 determined by the board may apply for a license to practice in
118 this state by filing with the board a certified statement from the
119 secretary of the licensing board of the state or territory in
120 which the applicant holds his license certifying to his
121 qualifications and good standing with that board. He/she must
122 also successfully pass a written and/or oral examination on the
123 Mississippi Funeral Service licensing law and rules and
124 regulations as prepared or approved by the board, and must pay a
125 nonrefundable application fee set by the board. If the board
126 finds that the applicant has fulfilled aforesaid requirements and
127 has fulfilled substantially similar requirements of those required
128 for a Mississippi licensee, the board shall grant such license
129 upon receipt of a fee in an amount equal to the renewal fee set by
130 the board for a license for the practice of funeral service or
131 funeral directing, as the case may be, in this state. The board
132 may issue a temporary funeral service or funeral directing work



133 permit before a license is granted, before the next regular
134 meeting of the board, if the applicant for a reciprocal license
135 has complied with all requirements, rules and regulations of the
136 board. The temporary permit will expire at the next regular
137 meeting of the board. The issuance of a license or temporary
138 permit by reciprocity to a military-trained applicant, military
139 spouse or person who establishes residence in this state shall be
140 subject to the provisions of Section 73-50-1 or 73-50-2, as
141 applicable.

142 (8) (a) Except as provided in Section 33-1-39, any person
143 holding a license for the practice of funeral service or funeral
144 directing may have the same renewed for a period of two (2) years
145 by making and filing with the board an application on or before
146 the due date. Payment of the renewal fee shall be in an amount
147 set by the board in accordance with Section 73-11-56. The board
148 shall mail the notice of renewal and the due date for the payment
149 of the renewal fee to the last-known address of each licensee at
150 least thirty (30) days before that date. It is the responsibility
151 of the licensee to notify the board in writing of any change of
152 address. An application will be considered late if the
153 application and proper fees are not in the board's office or
154 postmarked by the due date. Failure of a license holder to
155 receive the notice of renewal shall not exempt or excuse a license
156 holder from the requirement of renewing the license on or before
157 the license expiration date.



158 (b) If the renewal fee is not paid on or postmarked by
159 the due date, the license of such person shall by operation of law
160 automatically expire and become void without further action of the
161 board. The board may reinstate such license if application for
162 licensure is made within a period of five (5) years, upon payment
163 of the renewal fee for the current year, all renewal fees in
164 arrears, and a reinstatement fee. After a period of five (5)
165 years, the licensee must make application, pay the current renewal
166 fee, all fees in arrears, and pass a written and/or oral
167 examination as prepared or approved by the board.

168 (9) No license shall be assignable or valid for any person
169 other than the original licensee.

170 (10) The board may, in its discretion, if there is a major
171 disaster or emergency where human death is likely to occur,
172 temporarily authorize the practice of funeral directing and
173 funeral service by persons licensed to practice in another state
174 but not licensed to practice in this state. Only persons licensed
175 in this state, however, may sign death certificates.

176 (11) Any funeral service technology or mortuary science
177 program accredited by the American Board of Funeral Service
178 Education in the State of Mississippi, as well as students
179 enrolled in such a program, shall be exempt from licensing under
180 this chapter when embalming or otherwise preparing a deceased
181 human body for disposition as part of a student practicum
182 experience, when the student is directly supervised by an



183 instructor or preceptor who holds a current funeral service
184 license. This exemption shall apply to practicum experiences
185 performed at an accredited institution of funeral service
186 technology or mortuary science program or at a duly licensed
187 funeral establishment or commercial mortuary service. Nothing in
188 this subsection shall be construed to allow any funeral service
189 technology or mortuary science program, or those students enrolled
190 in such a program, to engage in practicum experiences for
191 remuneration.

192 (12) Each application or filing made under this section
193 shall include the social security number(s) of the applicant in
194 accordance with Section 93-11-64.

195 **SECTION 2.** Section 73-11-53, Mississippi Code of 1972, is
196 amended as follows:

197 73-11-53. (1) The State Board of Funeral Service is
198 authorized to establish a trainee and apprenticeship program
199 whereby persons desiring to apprentice as a funeral service or
200 funeral director trainee may be issued a resident traineeship
201 certificate to practice funeral directing or funeral service under
202 the direct on-premises supervision of a sponsoring Mississippi
203 licensed funeral director or funeral service practitioner.

204 (2) A person desiring to become a resident trainee for the
205 practice of funeral service or funeral directing shall make
206 application to the board. Such application shall be verified by
207 the licensee under whom the applicant is serving, and shall be



208 accompanied by a nonrefundable application fee in an amount set by
209 the board in accordance with Section 73-11-56. When the board is
210 satisfied as to the qualifications of an applicant, it shall issue
211 a certificate of resident traineeship.

212 (3) The board shall have the power to suspend or revoke a
213 certificate of a resident traineeship for violation of any
214 provision of this chapter.

215 (4) A resident trainee must serve the apprenticeship in a
216 funeral establishment that is licensed by the State of Mississippi
217 and the preceptor must be a Mississippi licensed funeral service
218 practitioner or funeral director who is employed by a Mississippi
219 licensed funeral establishment and actively practicing within the
220 State of Mississippi. The funeral service trainee and
221 apprenticeship program shall be completed within no less than
222 twelve (12) months or more than eighteen (18) months under the
223 direct supervision of a funeral director or funeral service
224 licensee of the board. The funeral director trainee and
225 apprenticeship program shall be completed within no less
226 than * * * twelve (12) months or more than * * * eighteen (18)
227 months under the direct supervision of a funeral director or
228 funeral service licensee of the board. * * *

229 (5) A resident trainee may serve under the supervision of
230 more than one (1) preceptor under conditions established by board
231 rules and regulations. The board may also adopt rules that will



232 allow training at more than one (1) funeral establishment under
233 special circumstances.

234 (6) A resident traineeship certificate shall be valid for
235 one (1) year. The board may renew a resident traineeship
236 certificate if the trainee applies for renewal on a form provided
237 by the board, shows that the training activity continues to
238 satisfy applicable requirements and pays a renewal fee as set by
239 the board. The fee and application will be considered late if the
240 fee and application are not in the office or show a postmark of
241 December 31. Applications received late may be reinstated by the
242 payment of a renewal fee, a reinstatement fee and other applicable
243 fees. Failure to receive a renewal notice does not exempt a
244 resident trainee from the required renewal of his/her traineeship.

245 (7) A resident trainee shall not advertise or hold himself
246 out as a funeral director, funeral service practitioner, embalmer
247 or use any other title or abbreviation indicating that the trainee
248 is a funeral director, funeral service practitioner or embalmer.
249 A resident trainee does not have the rights and duties of a
250 funeral director or funeral service licensee and is only
251 authorized to act under the direct supervision of the approved
252 preceptor.

253 **SECTION 3.** Section 73-11-57, Mississippi Code of 1972, is
254 brought forward as follows:

255 73-11-57. (1) The board, upon satisfactory proof at proper
256 hearing and in accordance with the provisions of this chapter and



257 the regulations of the board, may suspend, revoke, or refuse to
258 issue or renew any license under this chapter, reprimand or place
259 the holder of a license on a term of probation, and/or take any
260 other action in relation to a license as the board may deem proper
261 under the circumstances upon any of the following grounds:

262 (a) The employment of fraud or deception in applying
263 for a license or in passing the examination provided for in this
264 chapter;

265 (b) The erroneous issuance of a license to any person;

266 (c) The conviction of a felony by any court in this
267 state or any federal court or by the court of any other state or
268 territory of the United States; having been convicted of or pled
269 guilty to a felony in the courts of this state or any other state,
270 territory or country which would prevent a person from holding
271 elected office. Conviction, as used in this paragraph, shall
272 include a deferred conviction, deferred prosecution, deferred
273 sentence, finding or verdict of guilt, an admission of guilty, or
274 a plea of nolo contendere;

275 (d) The practice of embalming under a false name or
276 without a license for the practice of funeral service;

277 (e) The impersonation of another funeral service or
278 funeral directing licensee;

279 (f) The permitting of a person other than a funeral
280 service or funeral directing licensee to make arrangements for a
281 funeral and/or form of disposition;



282 (g) Violation of any provision of this chapter or any
283 rule or regulation of the board;

284 (h) Having had a license for the practice of funeral
285 service or funeral directing suspended or revoked in any
286 jurisdiction, having voluntarily surrendered his license in any
287 jurisdiction, having been placed on probation in any jurisdiction,
288 having been placed under disciplinary order(s) or other
289 restriction in any manner for funeral directing and/or funeral
290 service, or operating a funeral establishment (a certified copy of
291 the order of suspension, revocation, probation or disciplinary
292 action shall be prima facie evidence of such action);

293 (i) Solicitation of dead human bodies by the licensee,
294 his agents, assistants or employees, whether such solicitation
295 occurs after death or when death is imminent; if the person
296 solicited has made known a desire not to receive the
297 communication, or if the solicitation involves coercion, duress or
298 harassment, or if the solicitation takes place at the residence of
299 the client or prospective client and is uninvited by the client or
300 prospective client and has not been previously agreed to by the
301 client or prospective client; however, this shall not be deemed to
302 prohibit general advertising;

303 (j) Employment directly or indirectly of any
304 apprentice, agent, assistant, employee, or other person, on a
305 part-time or full-time basis or on commission, for the purpose of
306 calling upon individuals or institutions by whose influence dead



307 human bodies may be turned over to a particular funeral
308 establishment;

309 (k) Failure to give full cooperation to the board
310 and/or its designees, agents or other representatives in the
311 performance of official duties of the board. Such failure to
312 cooperate includes, but is not limited to:

313 (i) Not furnishing any relevant papers or
314 documents requested by or for the board;

315 (ii) Not furnishing, in writing, an adequate
316 explanation covering the matter contained in a complaint filed
317 with the board;

318 (iii) Not responding without cause to subpoenas
319 issued by the board, whether or not the licensee is the party
320 charged in any proceeding before the board;

321 (iv) Not reasonably providing access, as directed
322 by the board for its authorized agents or representatives seeking
323 to perform reviews or inspections at facilities or places utilized
324 by the license holder in the practice of funeral service or
325 funeral directing and/or in performing any other activity
326 regulated by the board under this chapter;

327 (v) Failure to provide information within the
328 specified time allotted and as required by the board and/or its
329 representatives or designees;

330 (vi) Failure to cooperate with the board or its
331 designees or representatives in the investigation of any alleged



332 misconduct or interfering with a board investigation by willful
333 misrepresentation of facts;

334 (vii) Deceiving or attempting to deceive the board
335 regarding any matter under investigation, including altering or
336 destroying any records; and

337 (viii) Failure, without good cause, to cooperate
338 with any request by the board to appear before it;

339 (l) Knowingly performing any act that in any way
340 assists an unlicensed person to practice funeral service or
341 funeral directing;

342 (m) Knowingly making a false statement on death
343 certificates;

344 (n) Conviction of a crime involving moral turpitude;

345 (o) Violating any statute, ordinance, rule or
346 regulation of the state or any of its boards, agencies or
347 political subdivisions affecting the registration of deaths or the
348 handling, custody, care or transportation of dead human bodies; or

349 (p) Unprofessional conduct in the practice of funeral
350 service or funeral directing which includes, but is not limited
351 to:

352 (i) Retaining a dead human body for the payment of
353 a fee for the performance of services that are not authorized;

354 (ii) Knowingly performing any act which in any way
355 assists an unlicensed person to practice funeral service or
356 funeral directing;



357 (iii) Being guilty of any dishonorable conduct
358 likely to deceive, defraud or harm the public;

359 (iv) Any act or omission in the practice of
360 funeral service or directing which constitutes dishonesty, fraud
361 or misrepresentation with the intent to benefit the licensee,
362 another person or funeral establishment, or with the intent to
363 substantially injure another person, licensee or funeral
364 establishment; or

365 (v) Any act or conduct, whether the same or of a
366 different character than specified above, which constitutes or
367 demonstrates bad faith, incompetency or untrustworthiness; or
368 dishonest, fraudulent or improper dealing; or any other violation
369 of the provisions of this chapter, the rules and regulations
370 established by the board or any rule or regulation promulgated by
371 the Federal Trade Commission relative to the practice of funeral
372 service or funeral directing.

373 (2) Any person, including a member of the board, may
374 initiate a complaint against a licensee of the board by filing
375 with the board a written complaint on a form prescribed by the
376 board.

377 (a) Upon receipt of a properly verified complaint, the
378 board shall send a copy of the complaint to the affected licensee
379 by certified mail to the address of such licensee appearing of
380 record with the board. The licensee shall answer the complaint in
381 writing within twenty (20) days after receipt of the complaint.



382 The licensee shall mail a copy of his, her or its response to the
383 board and the complainant. Upon receipt of the licensee's
384 response or lapse of twenty (20) days, the board is authorized to
385 investigate a complaint that appears to show the existence of any
386 of the causes or grounds for disciplinary action as provided in
387 Section 73-11-57. Upon finding reasonable cause to believe that
388 the charges are not frivolous, unfounded or filed in bad faith,
389 the board may, in its discretion, cause a hearing to be held, at a
390 time and place fixed by the board, regarding the charges that a
391 violation of this chapter has occurred. The board shall order a
392 hearing for the licensee to appear and show cause why he/she
393 should not be disciplined for a violation of this chapter.

394 (b) The board shall give the complainant and the
395 affected licensee twenty (20) days' notice of any hearing upon a
396 complaint. Such notice shall be by United States certified mail.

397 (c) Any party appearing before the board may be
398 accompanied by counsel.

399 (d) Before commencing a hearing, the chairman or
400 designee of the board shall determine if all parties are present
401 and ready to proceed. If the complainant fails to attend a
402 hearing without good cause shown, the complaint shall be dismissed
403 summarily and all fees and expenses of convening the hearing shall
404 be assessed to, and paid by, the complainant. If any affected
405 licensee fails to appear for a hearing without good cause shown,



406 such licensee shall be presumed to have waived his right to appear
407 before the board and be heard.

408 (e) Upon the chair's determination that all parties are
409 ready to proceed, the chair or designee shall call the hearing to
410 order and the complainant and the licensee may give opening
411 statements. The board may order the sequestration of nonparty
412 witnesses.

413 (f) The complainant shall then present his, her or its
414 complaint. The licensee, any counsel and any member or designee
415 of the board may ask questions of witnesses.

416 (g) The licensee shall then present his, her or its
417 case in rebuttal. The complainant, any counsel and any member or
418 designee of the board may ask questions of witnesses.

419 (h) At the completion of the evidence, all parties may
420 give closing statements.

421 (i) At the conclusion of the hearing, the board may
422 either decide the issue at that time or take the case under
423 advisement for further deliberation. The board shall render its
424 decision not more than ninety (90) days after the close of the
425 hearing and shall forward the decision to the last-known business
426 or residence address of the parties.

427 (3) The board, on its own motion, may file a formal
428 complaint against a licensee.

429 (4) The board may temporarily suspend a license under this
430 chapter without any hearing, simultaneously with the institution



431 of proceedings under this section, if it finds that the evidence
432 in support of the board's determination is clear, competent and
433 unequivocal and that the licensee's continuation in practice would
434 constitute an imminent danger to public health and safety.

435 (5) The board may, upon satisfactory proof that the
436 applicant or licensee has been guilty of any of the offenses above
437 enumerated, take the action authorized by this section against an
438 applicant or licensee of the board upon a majority vote of the
439 board members, after a hearing thereon. The board is vested with
440 full power and authority to hold and conduct such hearings, compel
441 the attendance of witnesses and the production of books, records
442 and documents, issue subpoenas therefor, administer oaths, examine
443 witnesses, and do all things necessary to properly conduct such
444 hearings. The board may waive the necessity of a hearing if the
445 person accused of a violation admits that he has been guilty of
446 such offense. Any person who has been refused a license or whose
447 license has been revoked or suspended may, within thirty (30) days
448 after the decision of the board, file with the board a written
449 notice stating that he feels himself aggrieved by such decision
450 and may appeal therefrom to the circuit court of the county and
451 judicial district of residence of the person, or if the person is
452 a nonresident of the State of Mississippi, to the Circuit Court of
453 the First Judicial District of Hinds County. The circuit court
454 shall determine the action of the board was in accord or
455 consistent with law, or was arbitrary, unwarranted or an abuse of



456 discretion. The appeal shall be perfected upon filing notice of
457 the appeal with the circuit court and by the prepayment of all
458 costs, including the cost of the preparation of the record of the
459 proceedings by the board. An appeal from the circuit court
460 judgment or decree may be reviewed by the Supreme Court as is
461 provided by law for other appeals. An appeal of a decision or
462 order of the board does not act as a supersedeas.

463 (6) In addition to any other power that it has, the board
464 may, upon finding that an applicant or licensee has committed any
465 of the violations listed in Section 73-11-57(1), impose a monetary
466 penalty as follows:

467 (a) For the first violation of any of the subparagraphs
468 of subsection (1) of this section, a monetary penalty of not more
469 than Five Hundred Dollars (\$500.00).

470 (b) For the second violation of any of the
471 subparagraphs of subsection (1) of this section, a monetary
472 penalty of not more than One Thousand Dollars (\$1,000.00).

473 (c) For the third and any subsequent violation of any
474 of the subparagraphs of subsection (1) of this section, a monetary
475 penalty of not more than Five Thousand Dollars (\$5,000.00).

476 (d) For any violation of any of the subparagraphs of
477 subsection (1) of this section, those reasonable costs that are
478 expended by the board in the investigation and conduct of a
479 proceeding for licensure revocation or suspension, including, but



480 not limited to, the cost of process service, court reporters,
481 expert witnesses and investigators.

482 (7) The power and authority of the board to assess and levy
483 such monetary penalties hereunder shall not be affected or
484 diminished by any other proceeding, civil or criminal, concerning
485 the same violation or violations except as provided in this
486 section.

487 (8) A licensee shall have the right of appeal from the
488 assessment and levy of a monetary penalty as provided in this
489 section under the same conditions as a right of appeal is provided
490 elsewhere for appeals from an adverse ruling, order or decision of
491 the board.

492 (9) Any monetary penalty assessed and levied under this
493 section shall not take effect until after the time for appeal
494 shall have expired.

495 (10) A monetary penalty assessed and levied under this
496 section shall be paid to the board by the licensee upon the
497 expiration of the period allowed for appeal of such penalties
498 under this section or may be paid sooner if the licensee elects.

499 With the exception of subsection (5) (d) of this section,
500 monetary penalties collected by the board under this section shall
501 be deposited in the State Treasury to the credit of the State
502 Board of Funeral Service. Any monies collected by the board under
503 subsection (5) (d) of this section shall be deposited into the
504 special fund operating account of the board.



505 (11) When payment of a monetary penalty assessed and levied
506 by the board against a licensee in accordance with this section is
507 not paid by the licensee when due under this section, the board
508 shall have power to institute and maintain proceedings in its name
509 for enforcement of payment in the chancery court of the county and
510 judicial district of residence of the licensee, or if the licensee
511 is a nonresident of the State of Mississippi, in the Chancery
512 Court of the First Judicial District of Hinds County, Mississippi.

513 (12) In any administrative or judicial proceeding in which
514 the board prevails, the board shall have the right to recover
515 reasonable attorney fees.

516 (13) In addition to the reasons specified in subsection (1)
517 of this section, the board shall be authorized to suspend the
518 license of any licensee for being out of compliance with an order
519 for support, as defined in Section 93-11-153. The procedure for
520 suspension of a license for being out of compliance with an order
521 for support, and the procedure for the reissuance or reinstatement
522 of a license suspended for that purpose, and the payment of any
523 fees for the reissuance or reinstatement of a license suspended
524 for that purpose, shall be governed by Section 93-11-157 or
525 93-11-163, as the case may be. Actions taken by the board in
526 suspending a license when required by Section 93-11-157 or
527 93-11-163 are not actions from which an appeal may be taken under
528 this section. Any appeal of a license suspension that is required
529 by Section 93-11-157 or 93-11-163 shall be taken in accordance



530 with the appeal procedure specified in Section 93-11-157 or
531 93-11-163, as the case may be, rather than the procedure specified
532 in this section. If there is any conflict between any provision
533 of Section 93-11-157 or 93-11-163 and any provision of this
534 chapter, the provisions of Section 93-11-157 or 93-11-163, as the
535 case may be, shall control.

536 **SECTION 4.** The following shall be codified as Section
537 73-11-57.2, Mississippi Code of 1972:

538 73-11-57.2 (1) No person or entity shall engage in any
539 activity for which a license is required under this chapter,
540 without holding such licensure in good standing.

541 (2) A person may not be, act as, or advertise or hold
542 himself or herself out to be a funeral service, a funeral
543 director, or a certified crematory operator unless he or she is
544 currently licensed by the board.

545 (3) When the board has reasonable cause to believe that any
546 person or entity not licensed under this chapter has violated any
547 provision of this chapter or any rule adopted under this chapter,
548 the board may issue an administrative complaint to such person or
549 entity, alleging violation of this chapter and providing notice
550 therein of intent by the board to order such person to cease and
551 desist from the alleged violation of this chapter, to take
552 corrective action, including payment of restitution to persons
553 adversely affected by the violation, to pay the board's reasonable
554 costs of investigation and prosecution, or to impose a fine of up



555 to Five-Thousand Dollars (\$5,000.00) upon such person for each
556 violation of this chapter alleged in the administrative complaint.
557 When issuing an administrative complaint to such person or entity,
558 the board shall order a hearing for the subject individual or
559 entity to appear and show cause why he/she should not be
560 disciplined for a violation of this chapter. Any party appearing
561 before the board may be accompanied by counsel. The board is
562 vested with full power and authority to hold and conduct such
563 hearings, compel the attendance of witnesses and the production of
564 books, records and documents, issue subpoenas therefor, administer
565 oaths, examine witnesses, and do all things necessary to properly
566 conduct such hearings.

567 (4) Where the board determines that an emergency exists
568 regarding any violation of this chapter by any unlicensed person
569 or entity, the board may issue and serve an emergency order upon
570 such unlicensed person or entity. Such an emergency order may
571 impose such prohibitions and requirements as are reasonably
572 necessary to protect the public health, safety and welfare. Such
573 emergency order shall be effective on the date of service on the
574 unlicensed person or entity.

575 (a) For the purpose of enforcing such an emergency
576 order, the board may file in circuit court for an injunction or
577 other order seeking enforcement of the emergency order. The court
578 shall issue its injunction or other order enforcing the emergency
579 order pending administrative resolution of the matter under



580 subsection (3) of this section, unless the court determines that
581 such action would work a manifest injustice under the
582 circumstances. Venue for judicial actions under this section
583 shall be, at the election of the board, in the Circuit Court of
584 Rankin County or in a circuit court of a county where the
585 respondent resides or has a place of business.

586 (b) After serving an emergency order on any person or
587 entity, the board shall within ten (10) days issue and serve upon
588 the same person or entity an administrative complaint as set forth
589 in subsection (3) of this section, except that, absent order of a
590 court to the contrary, the emergency order will be effective
591 throughout the pendency of proceedings under subsection (3) of
592 this section.

593 (5) For the purpose of this section, the violation of this
594 chapter by a person who is not licensed under this chapter or by
595 any person who aids and abets the unlicensed activity shall be
596 presumed to be irreparable harm to the public health, safety, or
597 welfare.

598 (6) Any administrative complaint or emergency order under
599 this section may be served in person by a board employee or by
600 certified mail, return receipt requested, to the subject's place
601 of residence or business, or by other means authorized by law.

602 (7) An aggrieved party shall have the right of appeal from
603 the assessment and levy of a monetary penalty as provided in this
604 section under the same conditions as a right of appeal is provided



605 elsewhere for appeals from an adverse ruling, order or decision of
606 the board.

607 **SECTION 5.** Section 73-11-58, Mississippi Code of 1972, is
608 amended as follows:

609 73-11-58. (1) Residents of the state shall have the right
610 to direct their own disposition without interference from others,
611 regardless of their relationship. This right of
612 self-authorization can be executed through the use of the
613 Self-Directed Disposition Authorization document. This document
614 shall supersede the wishes and rights commonly executed by the
615 next of kin. If a decedent has left no written authorization for
616 the cremation and/or disposition of the decedent's body as
617 permitted by law, any of the following persons, in the order of
618 priority listed below, may authorize any lawful manner of
619 disposition of the decedent's body by completion of a written
620 instrument:

621 (a) The person designated by the decedent as authorized
622 to direct disposition pursuant to Public Law No. 109-163, Section
623 564, as listed on the decedent's United States Department of
624 Defense Record of Emergency Data, DD Form 93, or its successor
625 form, if the decedent died during military service, as provided in
626 10 USC Section 1481(a)(1) through (8), in any branch of the United
627 States Armed Forces, United States Reserve Forces or National
628 Guard.

629 (b) The surviving spouse.



630 (c) A majority of the surviving * * * children
631 who * * * are at least eighteen (18) years of age and can be
632 located within five (5) days from the date of death.

633 (d) A grandchild who is at least eighteen (18) years of
634 age.

635 (e) Either surviving parent.

636 (f) A surviving sibling who is at least eighteen (18)
637 years of age.

638 (g) A person acting as a representative of the decedent
639 under a signed authorization of the decedent.

640 (h) The guardian of the person of the decedent at the
641 time of the decedent's death, if a guardian has been appointed.

642 (i) A person in the class of the next degree of
643 kinship, in descending order, who, under state law, would inherit
644 the decedent's estate if the decedent died intestate and who is at
645 least eighteen (18) years of age.

646 (j) A person who has exhibited special care and concern
647 for the decedent and is willing and able to make decisions about
648 the cremation and disposition.

649 (k) In the case of individuals who have donated their
650 bodies to science or whose death occurred in a nursing home or
651 private institution and in which the institution is charged with
652 making arrangements for the final disposition of the decedent, a
653 representative of the institution may serve as the authorizing
654 agent in the absence of any of the above.



655 (1) In the absence of any of the above, any person
656 willing to assume responsibility for the cremation and disposition
657 of the decedent.

658 (m) In the case of indigents or any other individuals
659 whose final disposition is the responsibility of the state or any
660 of its instrumentalities, a public administrator, medical
661 examiner, coroner, state-appointed guardian, or any other public
662 official charged with arranging the final disposition of the
663 decedent may serve as the authorizing agent.

664 (2) No funeral establishment shall accept a dead human body
665 from any public officer or employee or from the official of any
666 institution, hospital or nursing home, or from a physician or any
667 person having a professional relationship with a decedent, without
668 having first made due inquiry as to the desires of the persons who
669 have the legal authority to direct the disposition of the
670 decedent's body. If any persons are found, their authority and
671 directions shall govern the disposal of the remains of the
672 decedent. Any funeral establishment receiving the remains in
673 violation of this subsection shall make no charge for any service
674 in connection with the remains before delivery of the remains as
675 stipulated by the persons having legal authority to direct the
676 disposition of the body. This section shall not prevent any
677 funeral establishment from charging and being reimbursed for
678 services rendered in connection with the removal of the remains of
679 any deceased person in case of accidental or violent death and



680 rendering necessary professional services required until the
681 persons having legal authority to direct the disposition of the
682 body have been notified.

683 (3) A person who does not exercise his or her right to
684 dispose of the decedent's body under subsection (1) of this
685 section within five (5) days * * * from the date of the death
686 shall be deemed to have waived his or her right to authorize
687 disposition of the decedent's body or contest disposition in
688 accordance with this section. If, during the aforesaid time
689 period, the funeral director, funeral service practitioner and/or
690 funeral establishment has been provided contrary written consent
691 from members of the same class with the highest priority as to the
692 disposition of the decedent's body, the licensed funeral director
693 or service practitioner or funeral establishment shall act in
694 accordance with the directive of the greatest number of consents
695 received from members of the class. If that number is equal, the
696 funeral director or funeral service practitioner and/or the
697 funeral establishment shall act in accordance with the earlier
698 consent unless the person(s) providing the later consent is
699 granted an order from a court of competent jurisdiction in which
700 the funeral establishment is located, and such order will be filed
701 and paid for by the family of the deceased within twenty (20) days
702 from the date of death.

703 (4) If no consent for the embalming, cremation or other
704 disposition of a dead human body from any of the relatives or



705 interested persons or institutions listed above in subsection (1)
706 of this section is received within ten (10) days of the decedent's
707 death, the coroner for, or other person designated by, the county
708 in which the funeral establishment is located is authorized to
709 sign the consent authorizing the disposition of the decedent's
710 remains.

711 (5) If none of the parties listed above in subsection (1) of
712 this section is financially capable of providing for the
713 cremation, embalming or disposition of a dead human body, the
714 coroner for, or other person designated by, the county in which
715 the funeral establishment is located is authorized to sign the
716 consent authorizing the disposition of the decedent's remains.

717 (6) The licensed funeral director, funeral service
718 practitioner or funeral establishment shall have authority to
719 control the disposition of the remains of a decedent and proceed
720 to recover the costs for the disposition when: (a) none of the
721 persons or parties described above in subsection (1)(a) through
722 (1) assume responsibility for the disposition of the remains, and
723 (b) the coroner or other public official designated in subsection
724 (1)(m) fails to assume responsibility for disposition of the
725 remains within seven (7) days after having been given written
726 notice of the facts. Written notice may be made by personal
727 delivery, United States mail, facsimile or transmission. The
728 method of disposition must be in the least costly and most



729 environmentally sound manner that complies with law, and that does
730 not conflict with known wishes of the decedent.

731 (7) A funeral director, funeral service and/or funeral
732 establishment licensee acting in accordance with this section, or
733 attempting in good faith to act in accordance with this section,
734 shall not be subject to criminal prosecution or civil liability
735 for carrying out the otherwise lawful instructions of the person
736 or persons described in this section.

737 (8) The liability for the reasonable cost of the final
738 disposition of the remains of the decedent devolves upon the
739 individual or entity authorizing the disposition and/or upon the
740 estate of the decedent and, in cases when the county board of
741 supervisors has the right to control the disposition of the
742 remains under this section, upon the county in which the death
743 occurred.

744 **SECTION 6.** Section 73-11-69, Mississippi Code of 1972, is
745 amended as follows:

746 73-11-69. (1) No person or party shall conduct, maintain,
747 manage or operate a crematory unless a license for each such
748 crematory has been issued by the board and is conspicuously
749 displayed in such crematory.

750 (2) The operator of a crematory facility shall issue a
751 certificate of cremation to the family of each person cremated in
752 the facility. In addition, the operator of the crematory facility
753 shall maintain a log of all cremations performed in the facility,



754 and this log shall match the certificates of cremation that have
755 been issued by the facility.

756 (3) No operator of a crematory facility shall knowingly
757 represent that an urn or temporary container contains the
758 recovered cremated remains of specific decedent or of body parts
759 removed from a specific decedent when it does not. This
760 subsection does not prohibit the making of such a representation
761 because of the presence in the recovered cremated remains of de
762 minimis amounts of the cremated remains of another decedent or of
763 body parts.

764 (4) The board shall inspect each licensed crematory facility
765 during each licensure period, and at such other times as
766 necessary, to verify that the crematory facility is in compliance
767 with the requirements of this section. Any person who operates a
768 crematory facility in this state without a license, or any person
769 who otherwise violates any provision of this section, is guilty of
770 a felony. Upon conviction for a violation of this section, in
771 addition to any penalty that may be imposed by the court, the
772 board may revoke the person's crematory facility license.

773 (5) If the retort of a crematory becomes in need of repair,
774 then the operator of the crematory shall notify the board in
775 writing and by telephone within forty-eight (48) hours of
776 discovery of the need to repair, and no cremation shall be made
777 from the time of discovery until satisfactory proof is provided to
778 the board that the repair has been made.



779 (6) The board may promulgate such rules and regulations as
780 deemed necessary for the proper licensure and regulation of
781 crematory facilities in this state. Such rules and regulations
782 shall include, but not be limited to, the following: crematory
783 facility requirements, identification of deceased human beings,
784 cremation process, processing of remains, commingling of human
785 remains, disposition of cremated remains, removal of human remains
786 and proper documentation requirements as prescribed by state
787 agencies.

788 (7) Any crematory or funeral establishment may dispose of
789 any remains unclaimed by the family after twelve (12) months after
790 cremation by scattering or burial * * *.

791 (8) The crematory retort operator must be a certified
792 crematory operator as defined in Section 73-11-41.

793 (9) No crematory facility licensed by the board shall be
794 used for the cremation of deceased animals.

795 (10) A crematory may be constructed on or adjacent to any
796 cemetery, on or adjacent to any funeral establishment, or at any
797 other location consistent with local zoning regulations.

798 **SECTION 7.** Section 73-11-71, Mississippi Code of 1972, is
799 amended as follows:

800 73-11-71. (1) Upon the completion of each cremation, and
801 insofar as is practicable, all of the recoverable residue of the
802 cremation process shall be removed from the crematory and placed
803 in a separate container so that the residue may not be commingled



804 with the cremated remains of other persons. Cremated remains of a
805 dead human shall not be divided or separated without the prior
806 written consent from the person entitled to control the
807 disposition of the cremated remains.

808 (2) Written acknowledgement from the person entitled to
809 control the disposition of the cremated remains shall be obtained
810 by the person with whom arrangements are made for disposition of
811 the remains on a form that includes, but is not limited to, the
812 following information:

813 "The human body burns with the casket, container or other
814 material in the cremation chamber. Some bone fragments are not
815 combustible at the incineration temperature and, as a result,
816 remain in the cremation chamber. During the cremation, the
817 contents of the chamber may be moved to facilitate incineration.
818 The chamber is composed of ceramic or other material which
819 disintegrates slightly during each cremation and the produce of
820 that disintegration is commingled with the cremated remains.
821 Nearly all of the contents of the cremation chamber, consisting of
822 the cremated remains, disintegrated chamber material, and small
823 amounts of residue from previous cremations, are removed together
824 and crushed, pulverized or ground to facilitate inurnment or
825 scattering. Some residue remains in the cracks and uneven places
826 of the chamber. Periodically, the accumulation of this residue is
827 removed and interred or scattered in a dedicated cemetery property
828 or appropriate area."



829 The acknowledgment shall be filed and retained for at least
830 three (3) years by the person who disposes of or inters the
831 remains.

832 **SECTION 8.** This act shall take effect and be in force from
833 and after July 1, 2023.

