

By: Senator(s) Parker

To: Accountability,
Efficiency, Transparency

SENATE BILL NO. 2078

1 AN ACT TO BRING FORWARD SECTIONS 73-11-41 THROUGH 73-11-73,
2 MISSISSIPPI CODE OF 1972, FOR THE PURPOSE OF POSSIBLE AMENDMENT;
3 TO AMEND SECTION 73-11-33, MISSISSIPPI CODE OF 1972, TO EXTEND THE
4 REPEAL DATE OF THE SECTIONS OF LAW WHICH CREATE THE STATE BOARD OF
5 FUNERAL SERVICE AND PRESCRIBE ITS DUTIES AND POWERS; AND FOR
6 RELATED PURPOSES.

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

8 **SECTION 1.** Section 73-11-41, Mississippi Code of 1972, is
9 brought forward as follows:

10 73-11-41. The following terms shall have the meanings
11 ascribed herein unless the context shall otherwise require:

12 (a) "Alternative container" is an unfinished wood box
13 or other nonmetal receptacle or enclosure, without ornamentation
14 or a fixed interior lining, which is designed for the encasement
15 of human remains and which is made of fiberboard, pressed wood,
16 composition materials (with or without an outside covering) or
17 like materials.

18 (b) "Board" means the State Board of Funeral Service of
19 the State of Mississippi as created by Section 73-11-43, or any
20 successor thereof.



21 (c) "Branch establishment" means an auxiliary facility
22 or division of a main funeral establishment licensed under this
23 chapter that is within seventy-five (75) miles of the main
24 facility.

25 (d) "Casket" is defined as a rigid container that is
26 designed for the encasement of human remains and that is usually
27 constructed of wood, metal, fiberglass, plastic or like material
28 and ornamented and lined with fabric which may or may not be
29 combustible.

30 (e) "Cremation" means a two-part procedure whereby a
31 dead human body or body parts shall be reduced by direct flame to
32 residue which includes bone fragments and the pulverization of
33 said bone fragments to coarse powdery consistency.

34 (f) "Crematory" is defined as any person, partnership
35 or corporation that performs cremation. A crematory must comply
36 with any applicable public health laws and rules and must contain
37 the equipment and meet all of the standards established by the
38 rules and regulations adopted by the board.

39 (g) "Certified crematory operator" means an individual
40 who has completed the certification program as approved by the
41 board.

42 (h) "Crematory operator" means the legal entity that
43 operates a crematory and performs cremations.



(i) "Direct cremation" means a disposition of human remains by cremation without formal viewing, visitation or ceremony with the body present.

(j) "Embalming" means the disinfection of the dead human body by replacing certain body fluids with preserving and disinfecting chemicals.

(k) "First call" means the beginning of the relationship between the consumer and the licensed funeral director, funeral service practitioner and/or funeral establishment to take charge of a dead human body and/or have the body prepared for burial or disposition by embalming, cremation or another method.

(l) "Funeral establishment" means a fixed place or premise duly licensed by the board that is devoted to or used in the immediate post-death activities of custody, shelter, care, preparation and/or embalming for final disposition of the body; or used for religious services or other rites or ceremonies associated with the final disposition of the human dead; or maintained or held out to the public by advertising or otherwise as such, for the convenience and comfort of the bereaved and the community for viewing or other services in connection with the human dead, and as the office or place for carrying on the profession of funeral service and/or funeral directing.

(m) "Licensee" means a person or entity who holds a license issued by the board.



69 (n) "License for funeral establishment" means a license
70 issued to a place or premise devoted to or used in the immediate
71 post-death activities of transportation, custody, shelter, care,
72 preparation and/or embalming for final disposition of the body; or
73 used for religious services or other rites or ceremonies
74 associated with the final disposition of human dead; or maintained
75 for the convenience and comfort of the bereaved and the community
76 for viewing or other services in connection with the human dead,
77 and as the office or place for carrying on the profession of
78 funeral service and/or funeral directing.

79 (o) "License for the practice of funeral directing"
80 means the license given to a person engaging in the "practice of
81 funeral service" who is not engaged in the practice of embalming.

82 (p) "License for the practice of funeral service" means
83 the license given to a person engaging in the "practice of funeral
84 service," including the practice of embalming.

85 (q) "Practice of funeral service" means:

86 (i) Providing shelter, care and custody of the
87 human dead;

88 (ii) Conducting immediate post-death activities;

89 (iii) Preparing of the human dead by embalming or
90 other methods for burial or other disposition;

91 (iv) Being responsible for the transportation of
92 the human dead, bereaved relatives and friends;



(v) Making arrangements, financial or otherwise,
for the providing of such services;

(vi) The sale of funeral merchandise; or

(vii) The practice or performance of any function
of funeral directing and/or embalming as presently known,
including those stipulated herein.

This definition shall not include persons or corporations
engaging only in the preneed sale of funeral merchandise or
service.

(r) "Mortuary service establishment" means a place of
business where dead human bodies are embalmed or otherwise
prepared or held for burial, including the transportation of the
bodies.

(s) "Resident trainee" means a person who is preparing
to become licensed for the practice of funeral service or funeral
directing and who is serving under the supervision and instruction
of a person duly licensed for the practice of funeral service or
funeral directing in this state.

(t) "Retort" means an enclosed space within which the
cremation process takes place.

(u) "Trade embalmer" means an embalmer who does
embalming for a licensed funeral establishment.

SECTION 2. Section 73-11-43, Mississippi Code of 1972, is
brought forward as follows:



73-11-43. There is created the State Board of Funeral Service which shall consist of seven (7) members, one (1) funeral service licensee and one (1) funeral director licensee to be appointed from each Mississippi Supreme Court district. Three (3) members shall have been licensed for the practice of funeral service under this chapter for five (5) consecutive years and/or have had at least five (5) consecutive years' experience as a funeral director and embalmer in this state immediately preceding his appointment. Three (3) members shall have been licensed for the practice of funeral directing under this chapter for five (5) consecutive years and/or have had at least five (5) consecutive years' experience as a funeral director immediately preceding his appointment. One (1) member shall be a public member and be appointed from the public at large. The members of the board shall be appointed by the Governor with the advice and consent of the Senate. All appointments shall be for terms of four (4) years from the expiration date of the previous term. Upon the expiration of his term of office, a board member may continue to serve until his successor has been appointed and confirmed. No board member shall serve more than two (2) consecutive full terms. Vacancies in office shall be filled by appointment by the Governor in the same manner as the appointment to the position which becomes vacant, subject to the advice and consent of the Senate at the next regular session of the Legislature. Appointments for vacancies in office, except those from the public at large, may be



made from a joint list of four (4) qualified persons, two (2) each submitted by the Mississippi Funeral Directors Association and the Mississippi Funeral Directors and Morticians Association. Nothing in this chapter or any other statute shall preclude the members of the State Embalming Board from serving as members of the State Board of Funeral Service.

SECTION 3. Section 73-11-45, Mississippi Code of 1972, is brought forward as follows:

73-11-45. The members of the board, before entering upon their duties, shall take and subscribe to the oath of office prescribed for other state officers, which oath shall be administered by properly qualified authority and shall be filed in the Office of the Secretary of State.

SECTION 4. Section 73-11-47, Mississippi Code of 1972, is brought forward as follows:

73-11-47. The board shall hold not less than two (2) meetings annually for the purpose of conducting the business of the board and for examining applications for licenses. Four (4) or more members shall comprise a quorum. Any member who shall not attend two (2) consecutive meetings of the board shall be subject to removal by the Governor. The chairman of the board shall notify the Governor in writing when any such member has failed to attend two (2) consecutive regular meetings.

SECTION 5. Section 73-11-49, Mississippi Code of 1972, is brought forward as follows:



73-11-49. (1) The board is authorized to select from its own membership a chairman, vice chairman and secretary-treasurer. Election of officers shall be held at the first regularly scheduled meeting of the fiscal year.

(2) All members of the board shall be reimbursed for their necessary traveling expenses and mileage incident to their attendance upon the business of the board, as provided in Section 25-3-41, and shall receive a per diem as provided in Section 25-3-69 for every day actually spent upon the business of the board, not to exceed twenty (20) days per year unless authorized by a majority vote of the board.

(3) All monies received by the board shall be paid into a special fund in the State Treasury to the credit of the board and shall be used by the board for paying the traveling and necessary expenses and per diem of the members of the board while on board business, and for paying other expenses necessary for the operation of the board in carrying out and involving the provisions of this chapter.

(4) The board shall employ an administrator of the board, who shall have complete supervision and be held responsible for the direction of the office of the board, shall have supervision over field inspections and enforcement of the provisions of this chapter, shall have such other duties as may be assigned by the board, shall be responsible and answerable to the board. The board may employ such other clerical assistants and employees as



may be necessary to carry out the provisions of this chapter, and the terms and conditions of such employment shall be determined by the board in accordance with applicable state law and rules and regulations of the State Personnel Board.

(5) Except as otherwise authorized in Section 7-5-39, the board, when it shall deem necessary, shall be represented by an assistant attorney general duly appointed by the Attorney General of this state, and may also request and receive the assistance of other state agencies and county and district attorneys, all of whom are authorized to provide the assistance requested.

(6) The board shall have subpoena power in enforcing the provisions of this chapter.

(7) The board shall adopt and promulgate rules and regulations consistent with law concerning, but not limited to, trainees, apprentices and preceptors, practitioners of funeral service, funeral directors, embalmers and funeral establishments and branches. These rules and regulations shall not become effective unless promulgated and adopted in accordance with the provisions of the Mississippi Administrative Procedures Law (Section 25-43-1.101 et seq.).

(8) The board may designate the administrator to perform inspections under this chapter, may employ an individual to perform such inspections or may contract with any other individual or entity to perform such inspections. Any individual or entity that performs such inspections shall have the right of entry into



any place in which the business or practice of funeral service and/or funeral directing is carried on or advertised as being carried on, for the purpose of inspection, for the investigation of complaints coming before the board and for such other matters as the board may direct.

(9) The board shall not adopt any rule or regulation requiring dead bodies to be embalmed except as required by rule or otherwise by the State Department of Health.

SECTION 6. Section 73-11-51, Mississippi Code of 1972, is brought forward as follows:

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

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

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

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



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

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

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

(e) Is of good moral character.

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

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

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

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

(d) Has served as a resident trainee for not less than twelve (12) months, either before or after graduation from an accredited institution mentioned above, under the supervision of a



person licensed for the practice of funeral service in this state
and in an establishment licensed in this state;

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

(f) Is of good moral character.

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

(6) The practice of funeral service or funeral directing
must be engaged in at a licensed funeral establishment, at least
one (1) of which is listed as the licensee's place of business;
and no person, partnership, corporation, association or other
organization shall open or maintain a funeral establishment at



which to engage in or conduct or hold himself or itself out as
engaging in the practice of funeral service or funeral directing
until such establishment has complied with the licensing
requirements of this chapter. A license for the practice of
funeral service or funeral directing shall be used only at
licensed funeral establishments; however, this provision shall not
prevent a person licensed for the practice of funeral service or
funeral directing from conducting a funeral service at a church, a
residence, public hall, lodge room or cemetery chapel, if such
person maintains a fixed licensed funeral establishment of his own
or is in the employ of or an agent of a licensed funeral
establishment.

(7) Any person holding a valid, unrevoked and unexpired
nonreciprocal license in another state or territory having
requirements greater than or equal to those of this state as
determined by the board may apply for a license to practice in
this state by filing with the board a certified statement from the
secretary of the licensing board of the state or territory in
which the applicant holds his license certifying to his
qualifications and good standing with that board. He/she must
also successfully pass a written and/or oral examination on the
Mississippi Funeral Service licensing law and rules and
regulations as prepared or approved by the board, and must pay a
nonrefundable application fee set by the board. If the board
finds that the applicant has fulfilled aforesaid requirements and



has fulfilled substantially similar requirements of those required for a Mississippi licensee, the board shall grant such license upon receipt of a fee in an amount equal to the renewal fee set by the board for a license for the practice of funeral service or funeral directing, as the case may be, in this state. The board may issue a temporary funeral service or funeral directing work permit before a license is granted, before the next regular meeting of the board, if the applicant for a reciprocal license has complied with all requirements, rules and regulations of the board. The temporary permit will expire at the next regular meeting of the board. The issuance of a license or temporary permit by reciprocity to a military-trained applicant, military spouse or person who establishes residence in this state shall be subject to the provisions of Section 73-50-1 or 73-50-2, as applicable.

(8) (a) Except as provided in Section 33-1-39, any person holding a license for the practice of funeral service or funeral directing may have the same renewed for a period of two (2) years by making and filing with the board an application on or before the due date. Payment of the renewal fee shall be in an amount set by the board in accordance with Section 73-11-56. The board shall mail the notice of renewal and the due date for the payment of the renewal fee to the last-known address of each licensee at least thirty (30) days before that date. It is the responsibility of the licensee to notify the board in writing of any change of



address. An application will be considered late if the application and proper fees are not in the board's office or postmarked by the due date. Failure of a license holder to receive the notice of renewal shall not exempt or excuse a license holder from the requirement of renewing the license on or before the license expiration date.

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

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

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



(11) Any funeral service technology or mortuary science program accredited by the American Board of Funeral Service Education in the State of Mississippi, as well as students enrolled in such a program, shall be exempt from licensing under this chapter when embalming or otherwise preparing a deceased human body for disposition as part of a student practicum experience, when the student is directly supervised by an instructor or preceptor who holds a current funeral service license. This exemption shall apply to practicum experiences performed at an accredited institution of funeral service technology or mortuary science program or at a duly licensed funeral establishment or commercial mortuary service. Nothing in this subsection shall be construed to allow any funeral service technology or mortuary science program, or those students enrolled in such a program, to engage in practicum experiences for remuneration.

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

SECTION 7. Section 73-11-53, Mississippi Code of 1972, is brought forward as follows:

73-11-53. (1) The State Board of Funeral Service is authorized to establish a trainee and apprenticeship program whereby persons desiring to apprentice as a funeral service or funeral director trainee may be issued a resident traineeship



391 certificate to practice funeral directing or funeral service under
392 the direct on-premises supervision of a sponsoring Mississippi
393 licensed funeral director or funeral service practitioner.

394 (2) A person desiring to become a resident trainee for the
395 practice of funeral service or funeral directing shall make
396 application to the board. Such application shall be verified by
397 the licensee under whom the applicant is serving, and shall be
398 accompanied by a nonrefundable application fee in an amount set by
399 the board in accordance with Section 73-11-56. When the board is
400 satisfied as to the qualifications of an applicant, it shall issue
401 a certificate of resident traineeship.

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

405 (4) A resident trainee must serve the apprenticeship in a
406 funeral establishment that is licensed by the State of Mississippi
407 and the preceptor must be a Mississippi licensed funeral service
408 practitioner or funeral director who is employed by a Mississippi
409 licensed funeral establishment and actively practicing within the
410 State of Mississippi. The funeral service trainee and
411 apprenticeship program shall be completed within no less than
412 twelve (12) months or more than eighteen (18) months under the
413 direct supervision of a funeral director or funeral service
414 licensee of the board. The funeral director trainee and
415 apprenticeship program shall be completed within no less than



twelve (12) months or more than eighteen (18) months under the direct supervision of a funeral director or funeral service licensee of the board.

(5) A resident trainee may serve under the supervision of more than one (1) preceptor under conditions established by board rules and regulations. The board may also adopt rules that will allow training at more than one (1) funeral establishment under special circumstances.

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

(7) A resident trainee shall not advertise or hold himself out as a funeral director, funeral service practitioner, embalmer or use any other title or abbreviation indicating that the trainee is a funeral director, funeral service practitioner or embalmer. A resident trainee does not have the rights and duties of a funeral director or funeral service licensee and is only



authorized to act under the direct supervision of the approved preceptor.

SECTION 8. Section 73-11-55, Mississippi Code of 1972, is brought forward as follows:

73-11-55. (1) No person or party shall conduct, maintain, manage or operate a funeral establishment or branch thereof unless a license for each such establishment has been issued by the board and is conspicuously displayed in such funeral establishment. In case of funeral services held in any private residence, church, cemetery, cemetery chapel, cemetery facility, or lodge hall, no license shall be required.

(2) There shall be four (4) funeral establishment license classifications:

- (a) Full-service funeral establishment;
- (b) Branch establishment;
- (c) Mortuary service establishment; and
- (d) Crematory establishment.

(3) To be licensed as a funeral establishment, a place or premise must be at a fixed and specified address or location and must be used for immediate post-death activities, whether used for the custody, shelter, care, preparation and/or embalming of the human dead. Every funeral establishment shall be under the charge and personal supervision of a Mississippi funeral director licensee or a Mississippi funeral service licensee. The licensee in charge and the licensee with personal supervisory



responsibilities need not be the same licensee. Each licensed funeral establishment shall be inspected at least once during each licensing period. Such inspections may be unannounced. After inspection of a funeral establishment, if the board cites the funeral establishment for failure to comply with any provision of this chapter or a rule or regulation of the board, the funeral establishment shall resolve the violation to the satisfaction of the board and be in full compliance with this chapter and board rules and regulations not later than thirty (30) days after the board files the inspection report.

(4) (a) A funeral establishment where embalming is conducted must contain an embalming room with a sanitary floor, walls and ceiling, adequate sanitary drainage and disposal facilities, including running water and exhaust fans. A full-service funeral establishment must also have an adequate casket and/or vault selection room, holding facilities and proper room or rooms in which rites and ceremonies may be held. A funeral establishment shall be subject to an inspection at least once during a two-year license period. Each new establishment must be inspected before the opening. All portions of each facility licensed under this section shall be kept in a clean and sanitary condition.

(b) (i) A branch establishment must contain an office and/or an arrangement room, and a room for viewing and/or a chapel or proper place for ceremonies. A branch establishment need not



491 meet all requirements specified in paragraph (a) of this
492 subsection and need not be under the personal supervision of a
493 Mississippi funeral director licensee or a Mississippi funeral
494 service licensee.

495 (ii) If the branch meets all requirements of a
496 funeral establishment as specified in paragraph (a) of this
497 subsection, such establishment must be under the charge and
498 personal supervision of a Mississippi funeral director licensee or
499 a Mississippi funeral service licensee.

500 (c) A commercial mortuary service is a funeral
501 establishment that embalms and transports for licensed funeral
502 establishments and does not sell any services or merchandise
503 directly or at retail to the public. A mortuary service
504 establishment shall not arrange or conduct a funeral or direct
505 burial. A mortuary service establishment may arrange for and
506 transport dead human bodies for direct cremation purposes only
507 under the following circumstances:

508 (i) On behalf of a full-service funeral
509 establishment;

510 (ii) On behalf of a branch funeral establishment;
511 or

512 (iii) At the direction of a public administrator,
513 medical examiner, coroner or any other public official charged
514 with arranging the final disposition of dead human bodies.



(d) A crematory establishment shall have the authority to cremate dead human bodies and to transport dead human bodies to and from the establishment and shall meet the requirements of Section 73-11-69. An establishment licensed only as a crematory establishment is prohibited from the care and preparation of dead human bodies other than by cremating and shall also be prohibited from embalming, making funeral arrangements or cremation arrangements with any person or party that is not licensed by the board, conducting visitations and funeral ceremonies, and furnishing any funeral service in connection with the disposition of dead human bodies or selling funeral merchandise.

(5) Applications for funeral establishment licenses, branch establishment licenses or commercial mortuary service licenses shall be made on blanks furnished by the board and shall be accompanied by a fee in an amount fixed by the board under Section 73-11-56. All establishment licenses shall be issued for a period of two (2) years, except initial licenses may be prorated from the date of issuance to the next renewal date.

Renewal funeral establishment and branch establishment license applications and license fees shall be due and payable to the board on or before the expiration date of the license. The board shall mail the notice of renewal and the due date for payment of the renewal fee at least thirty (30) days before that date. Failure of the license holder to receive the notice of



renewal shall not exempt or excuse the holder from the requirement of renewing the license on or before the license expiration date.

(6) If the renewal fee is not paid on or postmarked by the due date, the license shall by operation of law automatically expire and become void without further action of the board. All establishments whose licenses have expired under this section may be reinstated by filing with the board an application for reinstatement, submitting to an inspection during which time the licensee in charge of such establishment shall be interviewed by the board or its designee and by paying all renewal fees, a reinstatement fee, and other applicable fees.

(7) No license shall be assignable or transferable or valid for any establishment other than the original licensee. License fees and application fees are nonrefundable.

(8) A license for each new establishment shall not be issued until an inspection has been made, license and inspection fees have been paid, and the licensee in charge and/or owners of such establishment has been interviewed by the board or its designee.

(9) The board is authorized to establish rules and regulations for the issuance of a special funeral establishment work permit.

SECTION 9. Section 73-11-56, Mississippi Code of 1972, is brought forward as follows:

73-11-56. On or before October 1 of each year, the board shall determine the amount of funds that will be required during



564 the next ensuing two (2) years to properly administer the laws
565 which the board is directed to enforce and administer and by rule
566 and regulation shall fix fees in such reasonable sums as may be
567 necessary for such purposes within the following limitations:

568 Funeral establishment:

569 Application fee, for a new or change of
570 ownership establishment.....\$ 500.00
571 Inspection fee.....\$ 75.00
572 Renewal application and licensee fee.....\$ 300.00
573 Commercial mortuary service license fee
574 for a new or change of ownership.....\$ 500.00
575 Renewal application and licensee fee.....\$ 300.00
576 Crematory application fee for a new
577 or change of ownership.....\$ 500.00
578 Renewal application and license fee.....\$ 300.00
579 Special work permit.....\$ 150.00

580 Funeral service:

581 Initial application fee.....\$ 50.00
582 Reciprocal application fee.....\$ 200.00
583 Renewal license and application fee.....\$ 125.00
584 Work permit.....\$ 50.00

585 Funeral director:

586 Initial application fee.....\$ 50.00
587 Reciprocal application fee.....\$ 200.00
588 Renewal license and application fee.....\$ 100.00



589 Work permit.....\$ 50.00

590 Certified crematory operator:

591 Initial application fee.....\$ 100.00

592 Renewal license and application fee.....\$ 100.00

593 Resident trainee certificate:

594 Funeral service application fee.....\$ 50.00

595 Funeral director application fee.....\$ 50.00

596 Funeral service renewal application fee.....\$ 50.00

597 Funeral director renewal application fee.....\$ 50.00

598 Other fees:

599 Certification fee.....\$ 50.00

600 Duplicate license fee.....\$ 25.00

601 Reinstatement of lapsed license fee, equal to the

602 amount of the applicable license fee (or the amount of

603 the application fee for the resident trainees).

604 Late fee equal to the amount of the applicable

605 license fee (or the amount of the application fee

606 for the resident trainees).

607 Public records of the board per page.....\$ 1.00

608 All licenses will have a reinstatement and late fee added to

609 the renewal fee if the payment is not in the board's office or

610 postmarked by the due date.

611 At least thirty (30) days prior to the expiration date of any

612 license issued by the board, the board shall notify the licensee

613 of the applicable renewal fee therefor.



614 **SECTION 10.** Section 73-11-57, Mississippi Code of 1972, is
615 brought forward as follows:

616 73-11-57. (1) The board, upon satisfactory proof at proper
617 hearing and in accordance with the provisions of this chapter and
618 the regulations of the board, may suspend, revoke, or refuse to
619 issue or renew any license under this chapter, reprimand or place
620 the holder of a license on a term of probation, and/or take any
621 other action in relation to a license as the board may deem proper
622 under the circumstances upon any of the following grounds:

623 (a) The employment of fraud or deception in applying
624 for a license or in passing the examination provided for in this
625 chapter;

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

627 (c) The conviction of a felony by any court in this
628 state or any federal court or by the court of any other state or
629 territory of the United States; having been convicted of or pled
630 guilty to a felony in the courts of this state or any other state,
631 territory or country which would prevent a person from holding
632 elected office. Conviction, as used in this paragraph, shall
633 include a deferred conviction, deferred prosecution, deferred
634 sentence, finding or verdict of guilt, an admission of guilty, or
635 a plea of nolo contendere;

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



638 (e) The impersonation of another funeral service or
639 funeral directing licensee;

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

643 (g) Violation of any provision of this chapter or any
644 rule or regulation of the board;

645 (h) Having had a license for the practice of funeral
646 service or funeral directing suspended or revoked in any
647 jurisdiction, having voluntarily surrendered his license in any
648 jurisdiction, having been placed on probation in any jurisdiction,
649 having been placed under disciplinary order(s) or other
650 restriction in any manner for funeral directing and/or funeral
651 service, or operating a funeral establishment (a certified copy of
652 the order of suspension, revocation, probation or disciplinary
653 action shall be prima facie evidence of such action);

654 (i) Solicitation of dead human bodies by the licensee,
655 his agents, assistants or employees, whether such solicitation
656 occurs after death or when death is imminent; if the person
657 solicited has made known a desire not to receive the
658 communication, or if the solicitation involves coercion, duress or
659 harassment, or if the solicitation takes place at the residence of
660 the client or prospective client and is uninvited by the client or
661 prospective client and has not been previously agreed to by the



client or prospective client; however, this shall not be deemed to prohibit general advertising;

(j) Employment directly or indirectly of any apprentice, agent, assistant, employee, or other person, on a part-time or full-time basis or on commission, for the purpose of calling upon individuals or institutions by whose influence dead human bodies may be turned over to a particular funeral establishment;

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

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

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

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

(iv) Not reasonably providing access, as directed by the board for its authorized agents or representatives seeking to perform reviews or inspections at facilities or places utilized by the license holder in the practice of funeral service or



686 funeral directing and/or in performing any other activity
687 regulated by the board under this chapter;

688 (v) Failure to provide information within the
689 specified time allotted and as required by the board and/or its
690 representatives or designees;

691 (vi) Failure to cooperate with the board or its
692 designees or representatives in the investigation of any alleged
693 misconduct or interfering with a board investigation by willful
694 misrepresentation of facts;

695 (vii) Deceiving or attempting to deceive the board
696 regarding any matter under investigation, including altering or
697 destroying any records; and

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

700 (l) Knowingly performing any act that in any way
701 assists an unlicensed person to practice funeral service or
702 funeral directing;

703 (m) Knowingly making a false statement on death
704 certificates;

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

706 (o) Violating any statute, ordinance, rule or
707 regulation of the state or any of its boards, agencies or
708 political subdivisions affecting the registration of deaths or the
709 handling, custody, care or transportation of dead human bodies; or



710 (p) Unprofessional conduct in the practice of funeral
711 service or funeral directing which includes, but is not limited
712 to:

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

715 (ii) Knowingly performing any act which in any way
716 assists an unlicensed person to practice funeral service or
717 funeral directing;

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

720 (iv) Any act or omission in the practice of
721 funeral service or directing which constitutes dishonesty, fraud
722 or misrepresentation with the intent to benefit the licensee,
723 another person or funeral establishment, or with the intent to
724 substantially injure another person, licensee or funeral
725 establishment; or

726 (v) Any act or conduct, whether the same or of a
727 different character than specified above, which constitutes or
728 demonstrates bad faith, incompetency or untrustworthiness; or
729 dishonest, fraudulent or improper dealing; or any other violation
730 of the provisions of this chapter, the rules and regulations
731 established by the board or any rule or regulation promulgated by
732 the Federal Trade Commission relative to the practice of funeral
733 service or funeral directing.



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

(a) Upon receipt of a properly verified complaint, the board shall send a copy of the complaint to the affected licensee by certified mail to the address of such licensee appearing of record with the board. The licensee shall answer the complaint in writing within twenty (20) days after receipt of the complaint. The licensee shall mail a copy of his, her or its response to the board and the complainant. Upon receipt of the licensee's response or lapse of twenty (20) days, the board is authorized to investigate a complaint that appears to show the existence of any of the causes or grounds for disciplinary action as provided in Section 73-11-57. Upon finding reasonable cause to believe that the charges are not frivolous, unfounded or filed in bad faith, the board may, in its discretion, cause a hearing to be held, at a time and place fixed by the board, regarding the charges that a violation of this chapter has occurred. The board shall order a hearing for the licensee to appear and show cause why he/she should not be disciplined for a violation of this chapter.

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



758 (c) Any party appearing before the board may be
759 accompanied by counsel.

760 (d) Before commencing a hearing, the chairman or
761 designee of the board shall determine if all parties are present
762 and ready to proceed. If the complainant fails to attend a
763 hearing without good cause shown, the complaint shall be dismissed
764 summarily and all fees and expenses of convening the hearing shall
765 be assessed to, and paid by, the complainant. If any affected
766 licensee fails to appear for a hearing without good cause shown,
767 such licensee shall be presumed to have waived his right to appear
768 before the board and be heard.

769 (e) Upon the chair's determination that all parties are
770 ready to proceed, the chair or designee shall call the hearing to
771 order and the complainant and the licensee may give opening
772 statements. The board may order the sequestration of nonparty
773 witnesses.

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

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

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



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

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

790 (4) The board may temporarily suspend a license under this
791 chapter without any hearing, simultaneously with the institution
792 of proceedings under this section, if it finds that the evidence
793 in support of the board's determination is clear, competent and
794 unequivocal and that the licensee's continuation in practice would
795 constitute an imminent danger to public health and safety.

796 (5) The board may, upon satisfactory proof that the
797 applicant or licensee has been guilty of any of the offenses above
798 enumerated, take the action authorized by this section against an
799 applicant or licensee of the board upon a majority vote of the
800 board members, after a hearing thereon. The board is vested with
801 full power and authority to hold and conduct such hearings, compel
802 the attendance of witnesses and the production of books, records
803 and documents, issue subpoenas therefor, administer oaths, examine
804 witnesses, and do all things necessary to properly conduct such
805 hearings. The board may waive the necessity of a hearing if the
806 person accused of a violation admits that he has been guilty of



807 such offense. Any person who has been refused a license or whose
808 license has been revoked or suspended may, within thirty (30) days
809 after the decision of the board, file with the board a written
810 notice stating that he feels himself aggrieved by such decision
811 and may appeal therefrom to the circuit court of the county and
812 judicial district of residence of the person, or if the person is
813 a nonresident of the State of Mississippi, to the Circuit Court of
814 the First Judicial District of Hinds County. The circuit court
815 shall determine the action of the board was in accord or
816 consistent with law, or was arbitrary, unwarranted or an abuse of
817 discretion. The appeal shall be perfected upon filing notice of
818 the appeal with the circuit court and by the prepayment of all
819 costs, including the cost of the preparation of the record of the
820 proceedings by the board. An appeal from the circuit court
821 judgment or decree may be reviewed by the Supreme Court as is
822 provided by law for other appeals. An appeal of a decision or
823 order of the board does not act as a supersedeas.

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

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



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

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

(d) For any violation of any of the subparagraphs of subsection (1) of this section, those reasonable costs that are expended by the board in the investigation and conduct of a proceeding for licensure revocation or suspension, including, but not limited to, the cost of process service, court reporters, expert witnesses and investigators.

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

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

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



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

860 With the exception of subsection (5)(d) of this section,
861 monetary penalties collected by the board under this section shall
862 be deposited in the State Treasury to the credit of the State
863 Board of Funeral Service. Any monies collected by the board under
864 subsection (5)(d) of this section shall be deposited into the
865 special fund operating account of the board.

866 (11) When payment of a monetary penalty assessed and levied
867 by the board against a licensee in accordance with this section is
868 not paid by the licensee when due under this section, the board
869 shall have power to institute and maintain proceedings in its name
870 for enforcement of payment in the chancery court of the county and
871 judicial district of residence of the licensee, or if the licensee
872 is a nonresident of the State of Mississippi, in the Chancery
873 Court of the First Judicial District of Hinds County, Mississippi.

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

877 (13) In addition to the reasons specified in subsection (1)
878 of this section, the board shall be authorized to suspend the
879 license of any licensee for being out of compliance with an order
880 for support, as defined in Section 93-11-153. The procedure for



suspension of a license for being out of compliance with an order for support, and the procedure for the reissuance or reinstatement of a license suspended for that purpose, and the payment of any fees for the reissuance or reinstatement of a license suspended for that purpose, shall be governed by Section 93-11-157 or 93-11-163, as the case may be. Actions taken by the board in suspending a license when required by Section 93-11-157 or 93-11-163 are not actions from which an appeal may be taken under this section. Any appeal of a license suspension that is required by Section 93-11-157 or 93-11-163 shall be taken in accordance with the appeal procedure specified in Section 93-11-157 or 93-11-163, as the case may be, rather than the procedure specified in this section. If there is any conflict between any provision of Section 93-11-157 or 93-11-163 and any provision of this chapter, the provisions of Section 93-11-157 or 93-11-163, as the case may be, shall control.

SECTION 11. Section 73-11-57.1, Mississippi Code of 1972, is brought forward as follows:

73-11-57.1. The State Board of Funeral Service may revoke, refuse to renew, suspend or place on probation the license of a funeral home establishment or funeral director, or both, if the funeral home or funeral director accepts funds for a preneed funeral contract or other prepayment of funeral expenses without a registration to sell preneed funeral contracts; or is registered to sell preneed funeral contracts and fails to deposit the funds



906 in trust or to timely remit premium payments from consumers to the
907 insurer as provided in Section 75-63-59 and Section 75-63-61,
908 respectively.

909 The State Board of Funeral Service shall make written
910 notification to the Secretary of State of all license suspensions
911 and revocations issued by the board as well as written
912 notification for all new licenses issued by the board. The
913 Secretary of State shall make written notification to the board of
914 all registration suspensions, revocations, orders of cease and
915 desist, and administrative penalties imposed by the Secretary of
916 State under Article 3, Chapter 11, Title 73, Mississippi Code of
917 1972.

918 **SECTION 12.** Section 73-11-57.2, Mississippi Code of 1972, is
919 brought forward as follows:

920 73-11-57.2 (1) No person or entity shall engage in any
921 activity for which a license is required under this chapter,
922 without holding such licensure in good standing.

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

927 (3) When the board has reasonable cause to believe that any
928 person or entity not licensed under this chapter has violated any
929 provision of this chapter or any rule adopted under this chapter,
930 the board may issue an administrative complaint to such person or



entity, alleging violation of this chapter and providing notice therein of intent by the board to order such person to cease and desist from the alleged violation of this chapter, to take corrective action, including payment of restitution to persons adversely affected by the violation, to pay the board's reasonable costs of investigation and prosecution, or to impose a fine of up to Five Thousand Dollars (\$5,000.00) upon such person for each violation of this chapter alleged in the administrative complaint. When issuing an administrative complaint to such person or entity, the board shall order a hearing for the subject individual or entity to appear and show cause why he/she should not be disciplined for a violation of this chapter. Any party appearing before the board may be accompanied by counsel. The board is vested with full power and authority to hold and conduct such hearings, compel the attendance of witnesses and the production of books, records and documents, issue subpoenas therefor, administer oaths, examine witnesses, and do all things necessary to properly conduct such hearings.

(4) Where the board determines that an emergency exists regarding any violation of this chapter by any unlicensed person or entity, the board may issue and serve an emergency order upon such unlicensed person or entity. Such an emergency order may impose such prohibitions and requirements as are reasonably necessary to protect the public health, safety and welfare. Such



955 emergency order shall be effective on the date of service on the
956 unlicensed person or entity.

957 (a) For the purpose of enforcing such an emergency
958 order, the board may file in circuit court for an injunction or
959 other order seeking enforcement of the emergency order. The court
960 shall issue its injunction or other order enforcing the emergency
961 order pending administrative resolution of the matter under
962 subsection (3) of this section, unless the court determines that
963 such action would work a manifest injustice under the
964 circumstances. Venue for judicial actions under this section
965 shall be, at the election of the board, in the Circuit Court of
966 Rankin County or in a circuit court of a county where the
967 respondent resides or has a place of business.

968 (b) After serving an emergency order on any person or
969 entity, the board shall within ten (10) days issue and serve upon
970 the same person or entity an administrative complaint as set forth
971 in subsection (3) of this section, except that, absent order of a
972 court to the contrary, the emergency order will be effective
973 throughout the pendency of proceedings under subsection (3) of
974 this section.

975 (5) For the purpose of this section, the violation of this
976 chapter by a person who is not licensed under this chapter or by
977 any person who aids and abets the unlicensed activity shall be
978 presumed to be irreparable harm to the public health, safety, or
979 welfare.



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

(7) An aggrieved party shall have the right of appeal from the assessment and levy of a monetary penalty as provided in this section under the same conditions as a right of appeal is provided elsewhere for appeals from an adverse ruling, order or decision of the board.

SECTION 13. Section 73-11-58, Mississippi Code of 1972, is brought forward as follows:

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

(a) The person designated by the decedent as authorized to direct disposition pursuant to Public Law No. 109-163, Section



1005 564, as listed on the decedent's United States Department of
1006 Defense Record of Emergency Data, DD Form 93, or its successor
1007 form, if the decedent died during military service, as provided in
1008 10 USC Section 1481(a)(1) through (8), in any branch of the United
1009 States Armed Forces, United States Reserve Forces or National
1010 Guard.

1011 (b) The surviving spouse.

1012 (c) A surviving child who is at least eighteen (18)
1013 years of age.

1014 (d) A grandchild who is at least eighteen (18) years of
1015 age.

1016 (e) Either surviving parent.

1017 (f) A surviving sibling who is at least eighteen (18)
1018 years of age.

1019 (g) A person acting as a representative of the decedent
1020 under a signed authorization of the decedent.

1021 (h) The guardian of the person of the decedent at the
1022 time of the decedent's death, if a guardian has been appointed.

1023 (i) A person in the class of the next degree of
1024 kinship, in descending order, who, under state law, would inherit
1025 the decedent's estate if the decedent died intestate and who is at
1026 least eighteen (18) years of age.

1027 (j) A person who has exhibited special care and concern
1028 for the decedent and is willing and able to make decisions about
1029 the cremation and disposition.



1030 (k) In the case of individuals who have donated their
1031 bodies to science or whose death occurred in a nursing home or
1032 private institution and in which the institution is charged with
1033 making arrangements for the final disposition of the decedent, a
1034 representative of the institution may serve as the authorizing
1035 agent in the absence of any of the above.

1036 (1) In the absence of any of the above, any person
1037 willing to assume responsibility for the cremation and disposition
1038 of the decedent.

1039 (m) In the case of indigents or any other individuals
1040 whose final disposition is the responsibility of the state or any
1041 of its instrumentalities, a public administrator, medical
1042 examiner, coroner, state-appointed guardian, or any other public
1043 official charged with arranging the final disposition of the
1044 decedent may serve as the authorizing agent.

1045 (2) The provisions of subsection (1) of this section shall
1046 not apply to any listed person, regardless of priority, when that
1047 person has been finally adjudicated by a court of competent
1048 jurisdiction to be at fault for the decedent's death, whether that
1049 liability be criminal or civil. Such persons shall be barred and
1050 precluded from deciding the disposition of the decedent's body.

1051 (a) Upon motion by the state or any person listed in
1052 subsection (1) of this section in the chancery court of the county
1053 of the decedent's residence, the chancellor shall designate the
1054 next available person listed in subsection (1) of this section and



1055 such person may then authorize any lawful manner of disposition of
1056 the decedent's body by completion of a written instrument.

1057 (b) If a criminal prosecution arising from the
1058 decedent's death is actively ongoing at the time of the
1059 disposition of the decedent's remains, the chancellor may request
1060 a bond be filed with the court in the sum of Five Thousand Dollars
1061 (\$5,000.00) by the moving party before granting the motion.

1062 (3) No funeral establishment shall accept a dead human body
1063 from any public officer or employee or from the official of any
1064 institution, hospital or nursing home, or from a physician or any
1065 person having a professional relationship with a decedent, without
1066 having first made due inquiry as to the desires of the persons who
1067 have the legal authority to direct the disposition of the
1068 decedent's body. If any persons are found, their authority and
1069 directions shall govern the disposal of the remains of the
1070 decedent. Any funeral establishment receiving the remains in
1071 violation of this subsection shall make no charge for any service
1072 in connection with the remains before delivery of the remains as
1073 stipulated by the persons having legal authority to direct the
1074 disposition of the body. This section shall not prevent any
1075 funeral establishment from charging and being reimbursed for
1076 services rendered in connection with the removal of the remains of
1077 any deceased person in case of accidental or violent death and
1078 rendering necessary professional services required until the



1079 persons having legal authority to direct the disposition of the
1080 body have been notified.

1081 (4) A person who does not exercise his or her right to
1082 dispose of the decedent's body under subsection (1) of this
1083 section within five (5) days from the date of the death shall be
1084 deemed to have waived his or her right to authorize disposition of
1085 the decedent's body or contest disposition in accordance with this
1086 section. If, during the aforesaid time period, the funeral
1087 director, funeral service practitioner and/or funeral
1088 establishment has been provided contrary written consent from
1089 members of the same class with the highest priority as to the
1090 disposition of the decedent's body, the licensed funeral director
1091 or service practitioner or funeral establishment shall act in
1092 accordance with the directive of the greatest number of consents
1093 received from members of the class. If that number is equal, the
1094 funeral director or funeral service practitioner and/or the
1095 funeral establishment shall act in accordance with the earlier
1096 consent unless the person(s) providing the later consent is
1097 granted an order from a court of competent jurisdiction in which
1098 the funeral establishment is located, and such order will be filed
1099 and paid for by the family of the deceased within twenty (20) days
1100 from the date of death.

1101 (5) If no consent for the embalming, cremation or other
1102 disposition of a dead human body from any of the relatives or
1103 interested persons or institutions listed above in subsection (1)



1104 of this section is received within ten (10) days of the decedent's
1105 death, the coroner for, or other person designated by, the county
1106 in which the funeral establishment is located is authorized to
1107 sign the consent authorizing the disposition of the decedent's
1108 remains.

1109 (6) If none of the parties listed above in subsection (1) of
1110 this section is financially capable of providing for the
1111 cremation, embalming or disposition of a dead human body, the
1112 coroner for, or other person designated by, the county in which
1113 the funeral establishment is located is authorized to sign the
1114 consent authorizing the disposition of the decedent's remains.

1115 (7) The licensed funeral director, funeral service
1116 practitioner or funeral establishment shall have authority to
1117 control the disposition of the remains of a decedent and proceed
1118 to recover the costs for the disposition when: (a) none of the
1119 persons or parties described above in subsection (1)(a) through
1120 (1) assume responsibility for the disposition of the remains, and
1121 (b) the coroner or other public official designated in subsection
1122 (1)(m) fails to assume responsibility for disposition of the
1123 remains within seven (7) days after having been given written
1124 notice of the facts. Written notice may be made by personal
1125 delivery, United States mail, facsimile or transmission. The
1126 method of disposition must be in the least costly and most
1127 environmentally sound manner that complies with law, and that does
1128 not conflict with known wishes of the decedent.



1129 (8) A funeral director, funeral service and/or funeral
1130 establishment licensee acting in accordance with this section, or
1131 attempting in good faith to act in accordance with this section,
1132 shall not be subject to criminal prosecution or civil liability
1133 for carrying out the otherwise lawful instructions of the person
1134 or persons described in this section.

1135 (9) The liability for the reasonable cost of the final
1136 disposition of the remains of the decedent devolves upon the
1137 individual or entity authorizing the disposition and/or upon the
1138 estate of the decedent and, in cases when the county board of
1139 supervisors has the right to control the disposition of the
1140 remains under this section, upon the county in which the death
1141 occurred.

1142 **SECTION 14.** Section 73-11-59, Mississippi Code of 1972, is
1143 brought forward as follows:

1144 73-11-59. Any person, partnership, corporation, association
1145 or his or her or its agents or representatives who shall violate
1146 any of the provisions of this chapter shall be deemed guilty of a
1147 misdemeanor and, upon conviction thereof, shall be punished by a
1148 fine of Five Thousand Dollars (\$5,000.00), or by imprisonment for
1149 not more than six (6) months in the county jail, or by both such
1150 fine and imprisonment.

1151 **SECTION 15.** Section 73-11-61, Mississippi Code of 1972, is
1152 brought forward as follows:



1153 73-11-61. Every funeral director or funeral service licensee
1154 shall provide, before the rendering of services, the funeral
1155 establishment's current general price list, casket price list,
1156 outer container price list, and a statement of goods and services
1157 to the person or persons who authorize the services and is
1158 responsible for payment of the expenses therefor, in a manner and
1159 format as prescribed by the Federal Trade Commission's Funeral
1160 Rule of 1984 and any future changes with regard to required
1161 disclosures. The general price list must be made available to any
1162 person upon request.

1163 **SECTION 16.** Section 73-11-63, Mississippi Code of 1972, is
1164 brought forward as follows:

1165 73-11-63. Nothing in this chapter shall be construed to
1166 authorize the regulation or licensing of cemeteries or cemetery
1167 chapels by the board, except the regulation or licensing of any
1168 funeral establishment operated by a cemetery. In addition,
1169 nothing in this chapter shall be construed to prevent or interfere
1170 with the ceremonies, customs, religious rites or religion of any
1171 people, denomination, or sect, or to prevent or interfere with any
1172 religious denomination, sect or anybody composed of persons of a
1173 denomination, or to prevent or interfere with any church or
1174 synagogue from having its committee or committees prepare human
1175 bodies for burial or the families, friends or neighbors of
1176 deceased persons who prepare and bury their dead without charge.



1177 **SECTION 17.** Section 73-11-65, Mississippi Code of 1972, is
1178 brought forward as follows:

1179 73-11-65. Every funeral service or interment, or part
1180 thereof, that is conducted in Mississippi must be in the actual
1181 charge and under the supervision of a funeral director or funeral
1182 service licensee who is licensed under this chapter. However,
1183 this section shall not prevent a family from burying its own dead
1184 without charge.

1185 **SECTION 18.** Section 73-11-67, Mississippi Code of 1972, is
1186 brought forward as follows:

1187 73-11-67. (1) Every person, establishment or company not
1188 licensed under this chapter that sells caskets at retail shall
1189 register annually with the board. The names of registrants under
1190 this section shall be made available to any person upon request
1191 during the regular business hours of the board. The procedure for
1192 conducting a disciplinary proceeding against any casket retailer
1193 accused of failing to register with the board, as well as the
1194 penal sanctions available to the board, shall be the same as those
1195 set forth in Section 73-11-57.

1196 (2) Any person, establishment or company required to
1197 register under subsection (1) of this section that sells preneed
1198 contracts for caskets, either directly or indirectly or through an
1199 agent, shall be required to meet all of the requirements of
1200 Sections 75-63-51 through 75-63-75 that are applicable to preneed
1201 contracts for funeral services under those sections. For the



1202 purposes of this section, the term "preneed contract for caskets"
1203 means any contract, agreement or any series or combination of
1204 contracts or agreements, whether funded by trust deposits or
1205 insurance, or any combination thereof, that is for the purpose of
1206 furnishing or delivering a casket or caskets for the final
1207 disposition of a dead human body, to be furnished or delivered at
1208 a time determinable by the death of the person whose body is to be
1209 disposed of.

1210 **SECTION 19.** Section 73-11-69, Mississippi Code of 1972, is
1211 brought forward as follows:

1212 73-11-69. (1) No person or party shall conduct, maintain,
1213 manage or operate a crematory unless a license for each such
1214 crematory has been issued by the board and is conspicuously
1215 displayed in such crematory.

1216 (2) The operator of a crematory facility shall issue a
1217 certificate of cremation to the family of each person cremated in
1218 the facility. In addition, the operator of the crematory facility
1219 shall maintain a log of all cremations performed in the facility,
1220 and this log shall match the certificates of cremation that have
1221 been issued by the facility.

1222 (3) No operator of a crematory facility shall knowingly
1223 represent that an urn or temporary container contains the
1224 recovered cremated remains of specific decedent or of body parts
1225 removed from a specific decedent when it does not. This
1226 subsection does not prohibit the making of such a representation



1227 because of the presence in the recovered cremated remains of de
1228 minimis amounts of the cremated remains of another decedent or of
1229 body parts.

1230 (4) The board shall inspect each licensed crematory facility
1231 during each licensure period, and at such other times as
1232 necessary, to verify that the crematory facility is in compliance
1233 with the requirements of this section. Any person who operates a
1234 crematory facility in this state without a license, or any person
1235 who otherwise violates any provision of this section, is guilty of
1236 a felony. Upon conviction for a violation of this section, in
1237 addition to any penalty that may be imposed by the court, the
1238 board may revoke the person's crematory facility license.

1239 (5) If the retort of a crematory becomes in need of repair,
1240 then the operator of the crematory shall notify the board in
1241 writing and by telephone within forty-eight (48) hours of
1242 discovery of the need to repair, and no cremation shall be made
1243 from the time of discovery until satisfactory proof is provided to
1244 the board that the repair has been made.

1245 (6) The board may promulgate such rules and regulations as
1246 deemed necessary for the proper licensure and regulation of
1247 crematory facilities in this state. Such rules and regulations
1248 shall include, but not be limited to, the following: crematory
1249 facility requirements, identification of deceased human beings,
1250 cremation process, processing of remains, commingling of human
1251 remains, disposition of cremated remains, removal of human remains



1252 and proper documentation requirements as prescribed by state
1253 agencies.

1254 (7) Any crematory or funeral establishment may dispose of
1255 any remains unclaimed by the family after twelve (12) months after
1256 cremation by scattering or burial.

1257 (8) The crematory retort operator must be a certified
1258 crematory operator as defined in Section 73-11-41.

1259 (9) No crematory facility licensed by the board shall be
1260 used for the cremation of deceased animals.

1261 (10) A crematory may be constructed on or adjacent to any
1262 cemetery, on or adjacent to any funeral establishment, or at any
1263 other location consistent with local zoning regulations.

1264 **SECTION 20.** Section 73-11-71, Mississippi Code of 1972, is
1265 brought forward as follows:

1266 73-11-71. (1) Upon the completion of each cremation, and
1267 insofar as is practicable, all of the recoverable residue of the
1268 cremation process shall be removed from the crematory and placed
1269 in a separate container so that the residue may not be commingled
1270 with the cremated remains of other persons. Cremated remains of a
1271 dead human shall not be divided or separated without the prior
1272 written consent from the person entitled to control the
1273 disposition of the cremated remains.

1274 (2) Written acknowledgement from the person entitled to
1275 control the disposition of the cremated remains shall be obtained
1276 by the person with whom arrangements are made for disposition of



1277 the remains on a form that includes, but is not limited to, the
1278 following information:

1279 "The human body burns with the casket, container or other
1280 material in the cremation chamber. Some bone fragments are not
1281 combustible at the incineration temperature and, as a result,
1282 remain in the cremation chamber. During the cremation, the
1283 contents of the chamber may be moved to facilitate incineration.
1284 The chamber is composed of ceramic or other material which
1285 disintegrates slightly during each cremation and the produce of
1286 that disintegration is commingled with the cremated remains.
1287 Nearly all of the contents of the cremation chamber, consisting of
1288 the cremated remains, disintegrated chamber material, and small
1289 amounts of residue from previous cremations, are removed together
1290 and crushed, pulverized or ground to facilitate inurnment or
1291 scattering. Some residue remains in the cracks and uneven places
1292 of the chamber. Periodically, the accumulation of this residue is
1293 removed and interred or scattered in a dedicated cemetery property
1294 or appropriate area."

1295 The acknowledgment shall be filed and retained for at least
1296 three (3) years by the person who disposes of or inters the
1297 remains.

1298 **SECTION 21.** Section 73-11-73, Mississippi Code of 1972, is
1299 brought forward as follows:

1300 73-11-73. (1) A funeral establishment and its employees,
1301 licensees and/or representatives shall not respond to a death call



1302 unless properly contacted and requested to so respond. No person
1303 or entity subject to regulation under this chapter shall remove or
1304 cause to be removed any dead human body from the place of death or
1305 take or cause to take custody of a dead human body without the
1306 permission of the next of kin or authorized representative, in the
1307 order of priority specified in Section 73-11-58, of the deceased.

1308 (2) Dead human bodies may be picked up on first call or
1309 removed by a funeral director or funeral service practitioner
1310 licensed by the board or under the direction of the licensed
1311 funeral director or funeral service practitioner. When a licensed
1312 funeral director or funeral service practitioner directs another
1313 to make a first call or removal of a dead human body, he accepts,
1314 in every manner, full responsibility for all aspects of the first
1315 call or removal.

1316 (3) A licensed funeral establishment or other licensee of
1317 the board shall not embalm or cremate a dead human body without
1318 the prior written or oral consent of the next of kin or
1319 authorizing agent or representative of the deceased for each body
1320 that is placed under its care and custody. In determining who the
1321 proper next of kin is or authorizing agent or representative of
1322 the deceased, the order of priority is the same as provided in
1323 Section 73-11-58.

1324 (4) The licensed funeral establishment or licensee
1325 responsible for the embalming or cremation of the dead human body



1326 shall create a written record of an oral consent given under this
1327 section that includes all of the following:

1328 (a) The name of the authorizing agent;
1329 (b) The relation of the authorizing agent to the
1330 deceased;

1331 (c) The date and time that consent was given;
1332 (d) The name of the person who obtained the consent;
1333 and

1334 (e) Any other information required by the board.

1335 **SECTION 22.** Section 73-11-33, Mississippi Code of 1972, is
1336 amended as follows:

1337 73-11-33. Sections 73-11-41 through 73-11-73, which create
1338 the State Board of Funeral Service and prescribe its duties and
1339 powers, shall stand repealed on July 1, * * * 2029.

1340 **SECTION 23.** This act shall take effect and be in force from
1341 and after July 1, 2025.

