

**Effective 5/3/2023**

**58-9-607 Authorization to cremate -- Penalties for removal of items from human remains.**

- (1) Except as otherwise provided in this section and Section 58-9-619, a funeral service establishment may not cremate human remains until it has received:
  - (a) a cremation authorization form signed by an authorizing agent;
  - (b) a completed and executed burial transit permit or similar document, as provided by state law, indicating that human remains are to be cremated; and
  - (c) any other documentation required by the state, county, or municipality.
- (2)
  - (a) The cremation authorization form shall contain, at a minimum, the following information:
    - (i) the identity of the human remains and the time and date of death, including a signed declaration of visual identification of the deceased or refusal to visually identify the deceased;
    - (ii) the name of the funeral director and funeral service establishment that obtained the cremation authorization;
    - (iii) notification as to whether the death occurred from a disease declared by the department of health to be infectious, contagious, communicable, or dangerous to the public health;
    - (iv) the name of the authorizing agent and the relationship between the authorizing agent and the decedent;
    - (v) a representation that the authorizing agent has the right to authorize the cremation of the decedent and that the authorizing agent is not aware of any living person with a superior or equal priority right to that of the authorizing agent, except that if there is another living person with a superior or equal priority right, the form shall contain a representation that the authorizing agent has:
      - (A) made reasonable efforts to contact that person;
      - (B) been unable to do so; and
      - (C) no reason to believe that the person would object to the cremation of the decedent;
    - (vi) authorization for the funeral service establishment to cremate the human remains;
    - (vii) a representation that the human remains do not contain a pacemaker or other material or implant that may be potentially hazardous or cause damage to the cremation chamber or the person performing the cremation;
    - (viii) the name of the person authorized to receive the cremated remains from the funeral service establishment;
    - (ix) the manner in which the final disposition of the cremated remains is to take place, if known;
    - (x) a listing of each item of value to be delivered to the funeral service establishment along with the human remains, and instructions as to how each item should be handled;
    - (xi) the signature of the authorizing agent, attesting to the accuracy of all representations contained on the authorization form;
    - (xii) if the cremation authorization form is being executed on a preneed basis, the form shall contain the disclosure required for preneed programs under this chapter; and
    - (xiii) except for a preneed cremation authorization, the signature of the funeral director of the funeral service establishment that obtained the cremation authorization.
  - (b)
    - (i) The individual described in Subsection (2)(a)(xiii) shall execute the funeral authorization form as a witness and is not responsible for any of the representations made by the authorizing agent.
    - (ii) The funeral director or the funeral service establishment shall warrant to the crematory that the human remains delivered to the funeral service establishment have been positively

identified as the decedent listed on the cremation authorization form by the authorizing agent or a designated representative of the authorizing agent.

- (iii) The authorizing agent or the agent's designee may make the identification referred to in Subsection (2)(b)(ii) in person or by photograph.

(3)

- (a) Except as provided in Section 58-9-619, a funeral service establishment may not accept unidentified human remains for cremation.
- (b) If a funeral service establishment takes custody of a cremation container subsequent to the human remains being placed within the container, it can rely on the identification made before the remains were placed in the container.
- (c) The funeral service establishment shall place appropriate identification on the exterior of the cremation container based on the prior identification.

(4)

- (a) A person who removes or possesses dental gold or silver, jewelry, or mementos from human remains:
  - (i) with purpose to deprive another over control of the property is guilty of an offense and subject to the punishments provided in Section 76-6-404;
  - (ii) with purpose to exercise unauthorized control and with intent to temporarily deprive another of control over the property is guilty of an offense and subject to the punishments provided in Section 76-6-404.5; and
  - (iii) under circumstances not amounting to Subsection (4)(a)(i) or (ii) and without specific written permission of the individual who has the right to control those remains is guilty of a class B misdemeanor.
- (b) The fact that residue or any unavoidable dental gold or dental silver or other precious metals remain in a cremation chamber or other equipment or a container used in a prior cremation is not a violation of Subsection (4)(a).

Amended by Chapter 111, 2023 General Session