

AN ACT

ENTITLED, An Act to revise certain provisions in regarding disinterment permits.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

Section 1. That § 34-25-38.1 be amended to read:

34-25-38.1. A disinterment permit shall be issued by the department upon receipt of a written or electronic application from a person licensed by the State Board of Funeral Service or upon receipt of an order of a court of competent jurisdiction directing the disinterment. If the disinterment is not directed pursuant to a court order, the department may not issue a disinterment permit without the written consent of the surviving spouse, or in the case of a spouse's absence, death, or incapacity, the next of kin within the same degree of kinship. In the case of a minor, if the disinterment is not directed pursuant to a court order, the department may not issue a disinterment permit for the minor without the written consent of the surviving parents. The Department of Health may promulgate rules pursuant to chapter 1-26 to establish the process for issuing a disinterment permit that is not directed pursuant to a court order. The disinterment permit becomes effective as provided in this section. Unless the disinterment permit was issued as the result of a court order, the department shall, upon issuance of the disinterment permit, notify the affected cemetery board of directors appointed pursuant to § 7-26-7 or 9-12-18 or the board of county commissioners of the county in which the disinterment is to occur, or in the case of a disinterment for an enrolled tribal member, the tribal chairperson on the issuance of the permit. The cemetery board of directors, the board of county commissioners, or the tribal chairperson may request the circuit court to prevent the disinterment. The disinterment permit shall take effect within fifteen days after its issuance unless the circuit court has ordered otherwise. The disinterment permit authorizes disinterment, transportation, and reinterment of a dead body or fetus. Authorities in charge of a cemetery may not transfer bodies buried in one part of the cemetery to another part without the authority of a disinterment permit.

Section 2. That ARSD 44:09:03:04 be amended to read:

44:09:03:04. Disinterment permits. Upon issuance of a disinterment permit by the Department of Health, the department shall notify in writing the affected cemetery board of directors or board of county commissioners and, if the permit is in regard to an enrolled tribal member, the applicable tribal chairman. The notice shall be postmarked no later than two business days after receipt of the application for a disinterment permit with all required signatures and sent by registered or certified mail, return receipt requested or within two business days after the department is notified the permit is in regard to an enrolled tribal member. The department will keep a copy of the registered or certified mail receipt on file for a period of at least one year.

An Act to revise certain provisions in regarding disinterment permits.

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I certify that the attached Act
originated in the
SENATE as Bill No. 88

Secretary of the Senate
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President of the Senate

Attest:

Secretary of the Senate

Speaker of the House

Attest:

Chief Clerk

Senate Bill No. 88
File No. _____
Chapter No. _____

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Received at this Executive Office
this ____ day of _____ ,
20__ at _____ M.

By _____
for the Governor
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The attached Act is hereby
approved this _____ day of
_____, A.D., 20__

Governor

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STATE OF SOUTH DAKOTA,
ss.
Office of the Secretary of State

Filed _____, 20__
at _____ o'clock __ M.

Secretary of State

By _____
Asst. Secretary of State