

HEALTH AND SAFETY CODE

TITLE 8. DEATH AND DISPOSITION OF THE BODY

SUBTITLE B. DISPOSITION OF THE BODY

CHAPTER 697. DISPOSITION OF EMBRYONIC AND FETAL TISSUE REMAINS

Sec. 697.001. PURPOSE. The purpose of this chapter is to express the state's profound respect for the life of the unborn by providing for a dignified disposition of embryonic and fetal tissue remains.

Added by Acts 2017, 85th Leg., R.S., Ch. 441 (S.B. 8), Sec. 13, eff. September 1, 2017.

Sec. 697.002. DEFINITIONS. In this chapter:

(1) "Cremation" means the irreversible process of reducing remains to bone fragments through direct flame, extreme heat, and evaporation.

(2) "Department" means the Department of State Health Services.

(3) "Embryonic and fetal tissue remains" means an embryo, a fetus, body parts, or organs from a pregnancy that terminates in the death of the embryo or fetus and for which the issuance of a fetal death certificate is not required by state law. The term does not include the umbilical cord, placenta, gestational sac, blood, or body fluids.

(4) "Executive commissioner" means the executive commissioner of the Health and Human Services Commission.

(5) "Incineration" means the process of burning remains in an incinerator.

(6) "Interment" means the disposition of remains by entombment, burial, or placement in a niche.

(7) "Steam disinfection" means the act of subjecting remains to steam under pressure to disinfect the remains.

Added by Acts 2017, 85th Leg., R.S., Ch. 441 (S.B. 8), Sec. 13, eff. September 1, 2017.

Sec. 697.003. APPLICABILITY OF OTHER LAW. Embryonic and fetal tissue remains are not pathological waste under state

law. Unless otherwise provided by this chapter, Chapters 711 and 716 of this code and Chapter 651, Occupations Code, do not apply to the disposition of embryonic and fetal tissue remains.

Added by Acts 2017, 85th Leg., R.S., Ch. 441 (S.B. 8), Sec. 13, eff. September 1, 2017.

Sec. 697.004. DISPOSITION OF EMBRYONIC AND FETAL TISSUE REMAINS. (a) Subject to Section 241.010, a health care facility in this state that provides health or medical care to a pregnant woman shall dispose of embryonic and fetal tissue remains that are passed or delivered at the facility by:

- (1) interment;
- (2) cremation;
- (3) incineration followed by interment; or
- (4) steam disinfection followed by interment.

(b) The ashes resulting from the cremation or incineration of embryonic and fetal tissue remains:

(1) may be interred or scattered in any manner as authorized by law for human remains; and

(2) may not be placed in a landfill.

(c) A health care facility responsible for disposing of embryonic and fetal tissue remains may coordinate with an entity in the registry established under Section 697.005 in an effort to offset the cost associated with burial or cremation of the embryonic and fetal tissue remains of an unborn child.

(d) Notwithstanding any other law, the umbilical cord, placenta, gestational sac, blood, or body fluids from a pregnancy terminating in the death of the embryo or fetus for which the issuance of a fetal death certificate is not required by state law may be disposed of in the same manner as and with the embryonic and fetal tissue remains from that same pregnancy as authorized by this chapter.

Added by Acts 2017, 85th Leg., R.S., Ch. 441 (S.B. 8), Sec. 13, eff. September 1, 2017.

Sec. 697.005. BURIAL OR CREMATION ASSISTANCE REGISTRY. The department shall:

(1) establish and maintain a registry of:

(A) participating funeral homes and cemeteries willing to provide free common burial or low-cost private burial; and

(B) private nonprofit organizations that register with the department to provide financial assistance for the costs associated with burial or cremation of the embryonic and fetal tissue remains of an unborn child; and

(2) make the registry information available on request to a physician, health care facility, or agent of a physician or health care facility.

Added by Acts 2017, 85th Leg., R.S., Ch. 441 (S.B. 8), Sec. 13, eff. September 1, 2017.

Sec. 697.006. ETHICAL FETAL REMAINS GRANT PROGRAM. The department shall develop a grant program that uses private donations to provide financial assistance for the costs associated with disposing of embryonic and fetal tissue remains.

Added by Acts 2017, 85th Leg., R.S., Ch. 441 (S.B. 8), Sec. 13, eff. September 1, 2017.

Sec. 697.007. SUSPENSION OR REVOCATION OF LICENSE. The department may suspend or revoke the license of a health care facility that violates this chapter or a rule adopted under this chapter.

Added by Acts 2017, 85th Leg., R.S., Ch. 441 (S.B. 8), Sec. 13, eff. September 1, 2017.

Sec. 697.008. CIVIL PENALTY. (a) A person that violates this chapter or a rule adopted under this chapter is liable for a civil penalty in an amount of \$1,000 for each violation.

(b) The attorney general, at the request of the department, may sue to collect the civil penalty. The attorney general may recover reasonable expenses incurred in collecting the civil penalty, including court costs, reasonable attorney's fees, investigation costs, witness fees, and disposition expenses.

Added by Acts 2017, 85th Leg., R.S., Ch. 441 (S.B. 8), Sec. 13, eff.

September 1, 2017.

Sec. 697.009. RULES. The executive commissioner shall adopt rules to implement this chapter.

Added by Acts 2017, 85th Leg., R.S., Ch. 441 (S.B. 8), Sec. 13, eff. September 1, 2017.