

As Introduced

**125th General Assembly
Regular Session
2003-2004**

H. B. No. 398

**Representatives J. Stewart, Allen, Aslanides, Core, Hollister, McGregor,
Redfern, Seitz, Setzer, Taylor, Willamowski, Olman**

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To enact sections 5122.44, 5122.45, and 5122.46 of 1
the Revised Code to require the Department of 2
Mental Health, in coordination with specified 3
agencies and organizations, to create compilations 4
of the patients who died while residing at public 5
hospitals under the Department's jurisdiction and 6
of the cemeteries and gravesites of those 7
patients; to require state agencies, subject to 8
certain restrictions, to grant cemetery 9
restoration organizations access to the death and 10
burial records of those patients in order to 11
facilitate the restoration of their cemeteries and 12
gravesites; and to make other related changes. 13

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 5122.44, 5122.45, and 5122.46 of the 14
Revised Code be enacted to read as follows: 15

Sec. 5122.44. As used in sections 5122.44 to 5122.46 of the 16
Revised Code: 17

(A) "Cemetery restoration organization" means any group or 18
entity that the director of mental health recognizes under section 19
5122.45 of the Revised Code as satisfying the criteria for 20

recognition as a group or entity that restores the cemeteries and gravesites of patients located on the grounds of public hospitals or on property that is not owned by the state but has been designated by the state for the burial, entombment, or inurnment of patients.

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(B) "Family member" means a spouse or a parent, child, or other person related by consanguinity to a patient.

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(C) "Patient" means an individual who died while residing at a public hospital.

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(D) "Record of death and burial" means information in a record to the extent it specifies the name of a patient and either the date of death of the patient or the location of the burial, entombment, or inurnment of the patient. "Record", for purposes of "record of death and burial," has the same meaning as in section 149.011 of the Revised Code.

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(E) "State agency" means every organized body, office, or agency established by the laws of the state for the exercise of any function of state government.

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Sec. 5122.45. (A) The department of mental health, in coordination with county and other local historical and genealogical societies, the Ohio historical society, the state library, the secretary of state, and any other relevant state and local agencies and organizations identified by the department, shall do each of the following:

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(1) Determine all available records of death and burial necessary to create the most complete compilation possible of patients and create that compilation;

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(2) Prepare the most complete compilation possible of the cemeteries and gravesites of patients located on the grounds of public hospitals or on property that is not owned by the state but

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has been designated by the state for the burial, entombment, or
inurnment of patients;

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(3) Assist and cooperate with cemetery restoration
organizations.

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(B) The director of mental health shall adopt rules under
section 111.15 of the Revised Code establishing criteria and a
procedure for recognizing, for purposes of sections 5122.44 to
5122.46 of the Revised Code, groups and entities that restore the
cemeteries and grave sites of patients located on the grounds of
public hospitals or on property that is not owned by the state but
has been designated by the state for the burial, entombment, or
inurnment of patients.

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Sec. 5122.46. (A) Notwithstanding any contrary provision of
section 149.43 or 5122.31 of the Revised Code, and only if an
inspection or copying is not precluded under division (B) of this
section, records of death and burial in the possession of a state
agency shall be made available to cemetery restoration
organizations for inspection and copying at all reasonable times
during regular business hours for the purpose of facilitating
their restoration of the cemeteries and gravesites of the patients
who are the subjects of the records.

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(B)(1) Upon the request of a cemetery restoration
organization to inspect or copy a record of death and burial, a
state agency that possess the record shall cause the notice
described in this division to be published once a week for two
consecutive weeks in a newspaper of general circulation in the
county in which the principal office of the agency is located and
in a newspaper of general circulation in the county in which the
public hospital is located to which the record of death and burial
relates. The notice shall not disclose the name of the patient who
is the subject of the record, but shall describe the patient as an

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individual who died on a specified date while residing in a 82
specified public hospital to which the record of death and burial 83
relates and also include each of the following: 84

(a) The name of and a mailing address for notification of the 85
state agency; 86

(b) A statement that, under House Bill _____ of the 125th 87
general assembly, records of death and burial in the possession of 88
the state agency generally must be made available, upon the 89
request of a cemetery restoration organization, for inspection and 90
copying for the purpose of facilitating the restoration of 91
cemeteries and gravesites of patients; that such a request has 92
been made; and that, within two weeks after the second publication 93
of the notice, a family member of the patient who is the subject 94
of the record of death and burial involved may notify the agency 95
of the family member's desire to have that patient's record 96
withheld from the requested and any future requested inspection 97
and copying by a cemetery restoration organization; 98

(c) Information on how a family member of the patient 99
involved who desires to have that patient's record of death and 100
burial withheld from the requested and any future requested 101
inspection and copying by a cemetery restoration organization may 102
notify the agency within that two-week period. 103

(2) Within two weeks after the second publication of the 104
notice described in division (B)(1) of this section, a family 105
member of the patient who is the subject of the record of death 106
and burial may request in writing that the state agency withhold 107
that patient's record from the requested and any future requested 108
inspection and copying by a cemetery restoration organization 109
under division (A) of this section. If a family member of the 110
patient so notifies the agency, the patient's record shall not be 111
made available for inspection or copying by the requesting 112

cemetery restoration organization or any other cemetery

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restoration organization under that division.

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