

As Introduced

**127th General Assembly
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H. B. No. 413

Representative Ujvagi

Cosponsors: Representatives Flowers, McGregor, J., Luckie, Yuko, Evans

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A B I L L

To amend sections 2105.35, 2108.07, and 2108.30 of 1
the Revised Code to authorize registered nurses to 2
determine and pronounce death. 3

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

Section 1. That sections 2105.35, 2108.07, and 2108.30 of the 4
Revised Code be amended to read as follows: 5

Sec. 2105.35. (A)(1) A person is dead if the person has been 6
determined and pronounced to be dead pursuant to standards 7
established under section 2108.30 of the Revised Code. 8

(2) A physician or registered nurse who makes a determination 9
and pronouncement of death in accordance with section 2108.30 of 10
the Revised Code and any person who acts in good faith in reliance 11
on a determination and pronouncement of death made by a physician 12
or registered nurse in accordance with that section is entitled to 13
the immunity conveyed by that section. 14

(B) A certified or authenticated copy of a death certificate 15
purporting to be issued by an official or agency of the place 16
where the death of a person purportedly occurred is prima-facie 17
evidence of the fact, place, date, and time of the person's death 18
and the identity of the decedent. 19

(C) A certified or authenticated copy of any record or report 20
of a domestic or foreign governmental agency that a person is 21
missing, detained, dead, or alive is prima-facie evidence of the 22
status and of the dates, circumstances, and places disclosed by 23
the record or report. 24

(D) In the absence of prima-facie evidence of death under 25
division (B) or (C) of this section, the fact of death may be 26
established by clear and convincing evidence, including 27
circumstantial evidence. 28

(E) Except as provided in division (F) of this section, a 29
presumption of the death of a person arises: 30

(1) When the person has disappeared and been continuously 31
absent from the person's place of last domicile for a five-year 32
period without being heard from during the period; 33

(2) When the person has disappeared and been continuously 34
absent from the person's place of last domicile without being 35
heard from and was at the beginning of the person's absence 36
exposed to a specific peril of death, even though the absence has 37
continued for less than a five-year period. 38

(F) When a person who is on active duty in the armed services 39
of the United States has been officially determined to be absent 40
in a status of "missing" or "missing in action," a presumption of 41
death arises when the head of the federal department concerned has 42
made a finding of death pursuant to the "Federal Missing Persons 43
Act," 80 Stat. 625 (1966), 37 U.S.C.A. 551, as amended. 44

(G) In the absence of evidence disputing the time of death 45
stipulated on a document described in division (B) or (C) of this 46
section, a document described in either of those divisions that 47
stipulates a time of death one hundred twenty hours or more after 48
the time of death of another person, however the time of death of 49
the other person is determined, establishes by clear and 50

convincing evidence that the person survived the other person by 51
one hundred twenty hours. 52

(H) The provisions of divisions (A) to (G) of this section 53
are in addition to any other provisions of the Revised Code, the 54
Rules of Criminal Procedure, or the Rules of Evidence that pertain 55
to the determination of death and status of a person. 56

Sec. 2108.07. A donee may accept or reject an anatomical 57
gift. If a donee accepts an anatomical gift of an entire body, the 58
surviving spouse or next of kin may, after consultation with the 59
donee and subject to the terms of the anatomical gift, allow the 60
embalming and use of the body in funeral services. If the 61
anatomical gift is of a part of a body, the donee, upon the death 62
of the donor and prior to embalming, shall cause the part to be 63
removed without unnecessary disfigurement. After removal of the 64
part, the custody of the remainder of the body vests in the 65
surviving spouse, next of kin, or other persons under obligation 66
to dispose of the body. 67

(B) The physician or registered nurse who ~~attends~~ determines 68
and pronounces the death of the donor at death or, if none, the 69
physician who certifies the death shall determine the time of 70
death of the donor and record the time in writing. The physician 71
or registered nurse determining and pronouncing the time of death 72
or the physician certifying the death shall not participate in the 73
procedures for removing or transplanting a part. 74

Sec. 2108.30. (A)(1) An individual is dead if ~~he~~ the 75
individual has sustained either irreversible cessation of 76
circulatory and respiratory functions or irreversible cessation of 77
all functions of the brain, including the brain stem, as 78
determined in accordance with accepted medical standards. ~~If~~ 79
Except as provided in division (A)(2) of this section, the 80

determination and pronouncement of an individual's death may be 81
made by either a physician or registered nurse. A registered nurse 82
is not authorized to complete any portion of the individual's 83
death certificate. 84

(2) If the respiratory and circulatory functions of a person 85
are being artificially sustained, under accepted medical standards 86
a determination that death has occurred is made by a physician by 87
observing and conducting a test to determine that the irreversible 88
cessation of all functions of the brain has occurred. 89

(B) A physician or registered nurse who makes a determination 90
and pronouncement of death in accordance with this section and 91
accepted medical standards is not liable for damages in any civil 92
action or subject to prosecution in any criminal proceeding for 93
~~his~~ the physician's or registered nurse's acts or the acts of 94
others based on that determination and pronouncement. 95

Any person who acts in good faith in reliance on a 96
determination and pronouncement of death made by a physician or 97
registered nurse in accordance with this section and accepted 98
medical standards is not liable for damages in any civil action or 99
subject to prosecution in any criminal proceeding for ~~his~~ the 100
person's actions. 101

Section 2. That existing sections 2105.35, 2108.07, and 102
2108.30 of the Revised Code are hereby repealed. 103