

State of South Dakota

EIGHTY-FOURTH SESSION LEGISLATIVE ASSEMBLY, 2009

913Q0044

SENATE BILL NO. 130

Introduced by: Senators Gillespie and Miles and Representatives Deadrick and Dennert

1 FOR AN ACT ENTITLED, An Act to require written consent for the issuance of certain
2 disinterment permits.

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

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

5 34-25-38.1. A disinterment permit shall be issued by the department upon receipt of a
6 written or electronic application from a person licensed by the State Board of Funeral Service
7 or upon receipt of an order of a court of competent jurisdiction directing the disinterment. If the
8 disinterment is not directed pursuant to a court order, the department may not issue a
9 disinterment permit without the written consent of the surviving spouse, or in the case of a
10 spouse's absence, death, or incapacity, the next of kin. In the case of a minor, if the disinterment
11 is not directed pursuant to a court order, the department may not issue a disinterment permit for
12 the minor without the written consent of the surviving parents. The disinterment permit becomes
13 effective as provided in this section. Unless the disinterment permit was issued as the result of
14 a court order, the department shall, upon issuance of the disinterment permit, notify the affected
15 cemetery board of directors appointed pursuant to § 7-26-7 or 9-12-18 or the board of county



1 commissioners of the county in which the disinterment is to occur on the issuance of the permit.
2 The cemetery board of directors or the board of county commissioners may request the circuit
3 court to prevent the disinterment. The disinterment permit shall take effect within fifteen days
4 after its issuance unless the circuit court has ordered otherwise. The disinterment permit
5 authorizes disinterment, transportation, and reinterment of a dead body or fetus. Authorities in
6 charge of a cemetery may not transfer bodies buried in one part of the cemetery to another part
7 without the authority of a disinterment permit.