

Governor's Office of Management and Budget

Alexis Sturm

Director



IL Regulatory Sunset Act Review of The Crematory Regulation Act

March 18, 2021

**To the Honorable JB Pritzker
Governor of Illinois**

Governor Pritzker:

The Governor's Office of Management and Budget (GOMB), in compliance with the requirements set forth in the Illinois Regulatory Sunset Act (5 ILCS 80), has conducted a review of the Crematory Regulation Act (410 ILCS 18/1). Public Act 101-639 extended this sunset until January 1, 2022 due to COVID-19. As a result of this review, GOMB makes the following recommendation:

The Crematory Regulation Act (410 ILCS 18/1) should be continued.

GOMB's examination of this Act was conducted taking into account the nine factors set out in Section 6 of the Illinois Regulatory Sunset Act. The following report details the criteria and data utilized to come to the above recommendation.

Very sincerely and respectfully,

Alexis Sturm
Director
Governor's Office of Management and Budget

Criteria (1) "The extent to which the agency or program has permitted qualified applicants to serve the public."

As of June 2018, there are 193 licensed crematories in Illinois.

License Type	2015	2016	2017	2018	2019
Crematory License	x	132	136	x	193

The current licensure fee structure is as follows:

Type	Fee Amount
Crematory License Application fee	\$50
Crematory License Annual fee	\$25

All fifty states regulate cremation in some way. About half require a certification to operate crematory equipment, including Illinois. Illinois is different from some states like Florida and Missouri, in that it licenses the crematory as a facility, but does not license the funeral home as a facility.

Criteria (2) "The extent to which the trade, business, profession, occupation, or industry being regulated is being administered in a nondiscriminatory manner both in terms of employment and rendering of services."

The Illinois Office of the Comptroller (IOC) reports that there are female and minority owned crematories licensed in Illinois. However, data on percentage and geographic distribution was not available at the time of this report.

Criteria (3) "The extent to which the regulatory agency or program has operated in the public interest, and the extent to which its operation has been impeded or enhanced by existing statutes, procedures, and practices of any other department of state government, and any other circumstances, including budgetary resources, and personnel matters."

The IOC believes that the Crematory Regulation Act has functioned in the public interest. The IOC has recommended future amendments to the statute to allow for enhanced exchange of information from the Illinois Environmental Protection Agency and Department of Financial and Professional Regulation regarding permits, licenses and disciplinary actions.

Criteria (4) "The extent to which the agency running the program has recommended statutory changes to the General Assembly that would benefit the public as opposed to the persons it regulates."

The IOC successfully recommended a statutory change in 2011. Since the single rulemaking in this period, the IOC has not recommended statutory changes to the General Assembly.

Criteria (5) "The extent to which the agency or program has required the persons it regulates to report to it

concerning the impact of rules and decisions of the agency or the impact of the program on the public regarding improved service, economy of service, and availability of service.”

The IOC takes the feedback of the industry and consumers into consideration in every decision that is made in relation to the administration of this act, including public feedback during the JCAR rulemaking process.

Criteria (6) “The extent to which persons regulated by the agency or under the program have been required to assess the problems in their industry that affect the public.”

The IOC has held industry roundtable discussions and its employees attend annual industry tradeshow and events to receive feedback on the state of the industry.

Criteria (7) “The extent to which the agency or program has encouraged participation by the public in making its rules and decisions as opposed to participation solely by the persons it regulates and the extent to which such rules and decisions are consistent with statutory authority.”

The IOC encourages public participation through maintenance of a hotline for questions and concerns, and a website with contact information.

Criteria (8) “The efficiency with which formal public complaints filed with the regulatory agency or under the program concerning persons subject to regulation have been processed to completion, by the executive director of the regulatory agencies or programs, by the Attorney General and by any other applicable department of the State government.”

Complaints are received on the IOC hotline, by mail or by email. Once they are recorded or opened, they are routed to the Director or Deputy Director of the PLACE Department, and then disseminated to either legal counsel or the auditor in charge of the licensee. Each complaint is addressed in a timely manner relative to the complaint. There are no pending complaints and there is no backlog of complaints.

Criteria (9) “The extent to which changes are necessary in the enabling laws of the agency or program to adequately comply with the factors listed in this section.”

The IOC recommends amending the statute to allow for an enhanced exchange of information from other state agencies (E.g. Illinois Department of Revenue, the Illinois Office of the Secretary of State, Illinois Department of Financial and Professional Regulation and Illinois Environmental Protection Agency) for noncompliance and financial, regulatory, environmental or consumer issues.

Conclusion:

According to the Cremation Association of North America (CANA), “In 1999, there were 1,468 crematories and 595,617 cremations, which accounts for 25.39% of the final disposition of remains for all deaths in the United States. By 2009, there were over 2,100 crematories and over 900,000 cremations...and 36.84% of deaths in the United States resulted in cremation, a percentage that is expected to grow to over half of deaths by 2018.” The cremation rate for 2018 of 53.1% was released in May of 2019.

In an article published in 2018 by the National Funeral Directors Association (NFDA), “Over the next 18 years, the

rate of cremation in the United States is projected to increase by nearly 30 percent according to the 2018 Cremation and Burial Report. Already having outpaced the rate of burial for three consecutive years, the national cremation rate will reach nearly 80 percent (or 2.80 million cremations per year) by 2035, based on a variety of factors including changing consumer preference, weakening religious prohibitions and environmental concerns.” In the future, it is possible that cremation and crematories may replace traditional funeral homes and cemeteries, altogether. It is important that regulation of cremation and crematories keeps up with this growing trend and evolves to protect public health, safety, and welfare.

The IOC believes the absence of regulation of crematories would significantly harm or endanger public health, safety, and welfare. As cremation is growing in popularity as a disposition choice, it is imperative that there are licensing and operational requirements for crematories, and state laws governing who can authorize a cremation and how long after a death a cremation can be performed. Without regulation crematories would have no standards to follow and the public could be harmed in countless ways.

Consequently, GOMB recommends the continuation of the Crematory Regulation Act.