



Ohio Revised Code

Section 2105.35 Determination and evidence of death and status.

Effective: April 6, 2017

Legislation: House Bill 432 - 131st General Assembly

In addition to any provisions of the Rules of Evidence, the following provisions relating to the determination of death and status apply:

(A)(1) An individual is dead if the individual has sustained either irreversible cessation of circulatory and respiratory functions or irreversible cessation of all functions of the brain, including the brain stem, as determined in accordance with accepted medical standards. If the respiratory and circulatory functions of an individual are being artificially sustained, under accepted medical standards a determination that death has occurred is made by a physician by observing and conducting a test to determine that the irreversible cessation of all functions of the brain has occurred.

(2) A physician who makes a determination of death in accordance with division (A) of this section and accepted medical standards is not liable for damages in any civil action or subject to prosecution in any criminal proceeding for the physician's acts or the acts of others based on that determination.

(3) Any person who acts in good faith and relies on a determination of death made by a physician in accordance with division (A) of this section and accepted medical standards is not liable for damages in any civil action or subject to prosecution in any criminal proceeding for the person's actions.

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

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

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



(E) Except as provided in division (F) of this section, a presumption of the death of an individual arises when either of the following applies:

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

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

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

(G) In the absence of evidence disputing the time of death stipulated on a document described in division (B) or (C) of this section, a document described in either of those divisions that stipulates a time of death of an individual one hundred twenty hours or more after the time of death of another individual, however the time of death of the other individual is determined, establishes by clear and convincing evidence that the individual survived the other individual by one hundred twenty hours.