



Ohio Revised Code

Section 2105.35 Determination and evidence of death and status.

Effective: April 7, 2009

Legislation: House Bill 529 - 127th General Assembly

- (A)(1) A person is dead if the person has been determined to be dead pursuant to standards established under section 2108.40 of the Revised Code.
- (2) A physician who makes a determination of death in accordance with section 2108.40 of the Revised Code and any person who acts in good faith in reliance on a determination of death made by a physician in accordance with that section is entitled to the immunity conveyed by that section.
- (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 a person purportedly occurred is prima-facie evidence of the fact, place, date, and time of the person'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 a person 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 a person arises:
- (1) When the person has disappeared and been continuously absent from the person's place of last domicile for a five-year period without being heard from during the period;
 - (2) When the person has disappeared and been continuously absent from the person's place of last domicile without being heard from and was at the beginning of the person's absence exposed to a specific peril of death, even though the absence has continued for less than a five-year period.
- (F) When a person 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 one hundred twenty hours or more after the time of death of another person, however the time of death of the other person is determined, establishes by clear and convincing evidence that the person survived the other person by one hundred twenty hours.

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