Hospitals & Asylums

National Cemeteries

To supplement Chapter 7 National Cemeteries and Chapter 7a Private and Commercial Cemeteries. To avoid probate own nothing when dead; free wills, estates and trusts with pay-on-death (POD), transfer-on-death (TOD) accounts and corporations. To support nearly 6 million with social security survivor benefits. To pay for the growing $20 billion funeral industry, funeral services were estimated to cost $4,166 for a burial and $1,080 for a cremation in 2007, now the real average cost of a traditional funeral is over $8,000 and much nearer to $10,000 with cemetery fees. To sustain websites of deceased persons perpetually. To advise that funeral director programs be lengthened to Bachelor degree. To continue to increase life expectancy from (76. 1 for males and 80.9 for females in 2010)(76.8 for males and 81.5 for females in 2015), although in 2015 an estimated 2.6 million Americans died, 4% up from 2.5 million in 2010, there are fewer deaths per 100,000 (821 per 100,000 in 2010)(781 per 100,000 in 2015) and in 2000 there were 65,000 centenarians and in 2010 between 100,000 and 200,000. To accurately express that globally, the proportion of persons aged 60 years and older is expected to double between 2000 and 2050, from 10 to 21 per cent, whereas the proportion of children is projected to drop by a third, from 30 to 21 per cent, whereas the Census is premature regarding the 22.9% under age 18 revision in 2015, down from 24% in 2010. To advise the Census to adopt the more popular Social Security area child ratio of 23.33% for a total of 75.7 million children in a U.S. population of 324.5 million, more than 74.9 Baby Boomers born 1946-64 in the migrant supplemented Social Security Area population of 330 million in 2016. To prescribe fresh fabrics, vegan diet and athletic exercise routine; for heart attacks; antibiotics cures endocarditis. To prescribe doxycycline to people discharged from hospitals, clindamycin for children and pregnant women, to treat toxic shock syndrome of *Strep* mixed with *Staph*, Lyme, syphilis, bubonic plague or *Staph* endocarditis with its 50% death rate per hospital admission. To differentiate flu, a wet cough, pneumonia, a dry cough, aspergillosis, painful lung nodules, and pneumonitis, is treat them with Amantadine or Tamiflu, Ampicillin or streptomycin, a dab of $1 hydrocortisone crème on the chest, and respirator to prevent dust inspiration, respectively. To differentiate cold, by runny nose, allergic rhinitis lasts more than a week, and pertussis, an extremely runny nose in the first week when it can be treated with antibiotics, to avoid 6 weeks of coughing. To continue to reduce infant mortality rate from 5.1 infant deaths per 1,000 in 2016 and reduce maternal mortality rate from the opiate epidural adjusted high of 32 per 100,000. To protect children and adolescents from unintentional injury, mostly motor-vehicle-related (MVR), death. To continue to reduce the conventional homicide rate from a high of 10.2 per 100,000 in 1980 to a low of 4.5 in 2013 to 5.3 per 100,000 in 2016. To redress 515 justified homicides from legal intervention, the homicide rate of one million police officers is 51.5 per 100,000, ten times more than average, that of prisoners is three times normal. To account for 20,0000 intentional of 52,000 poisoning deaths, opiates laced with fentanyl and co-fentanyl, respiratory depression reversed by Narcan injection of naloxone or naltrexone tablet. To reduce 156,000 accidental deaths and 15,872 homicides, abolish DEA - the H.

Be it enacted in the House and Senate assembled

1st ed. September 2003, 2nd 12 April 2007, 3rd 15 April 2009, 4th 16 August 2010, 5th 16 August 2011, 6th 28 October 2014**,** 7th 14 February 2018

Art. 1 Mortality

§271 National Cemeteries

A.This work supplements Hospitals & Asylums Title 24 US Code Chapter 7 National Cemeteries §271-296 and Chapter 7a Private and Commercial Cemeteries §298. Since the war department was abolished federal regulation of the funeral industry is limited to a prohibition of unfair and deceptive advertising by the funeral industry that must provide a general price list to consumers. The vast majority of regulation of the funeral, cemetery and estate industries is done by state license boards under state statute. To avoid probate own nothing. Free wills and trusts with pay-on-death (POD), transfer-on-death (TOD) accounts and corporations.

1. Section 2 of Ex. Ord. No. 6166, June 10, 1933, as amended by Ex. Ord. No. 6229, July 27, 1934; Ex. Ord. No. 6614, Feb. 26, 1934; Ex. Ord. No. 6690, Apr. 25, 1934, set out as a note to section 901 of Title 5, Government Organization and Employees, and transferred all functions of administrator of certain historical national cemeteries located within the continental limits of the United States, including certain cemeteries administered by the War Department to the Director of National Parks, Buildings, and Reservations in the Department of the Interior. The Director of National Parks, Buildings and Reservations was renamed Director of National Park Service by act Mar. 2, 1934, ch. 38, 48 Stat. 362.

2. Hospitals and Asylums Title 24 of the United States Code Chapter 7A – Private and Commercial Cemeteries §298 was repealed Oct. 31, 1951, ch. 654, §1(47), 65 Stat. 703 Section, act June 20, 1939, ch. 220, 53 Stat. 843, related to disposal, by Secretary of War, of government lots in commercial cemeteries. All that remains in Chapter 7 is one section on memorials and entombments at §295a Arlington Memorial Amphitheater Pub. L. 86–694, §1, Sept. 2, 1960, 74 Stat. 739. §280, act Feb. 3, 1879, ch. 44, 20 Stat. 281, related to headstones in private cemeteries §2306 and §2400 *et seq*. of Title 38, Veterans' Benefits. §280a, act Feb. 26, 1929, ch. 324, 45 Stat. 1307, related to headstones for Confederate soldiers under §2306 and §2400 *et seq*. of Title 38. §280b, act Apr. 18, 1940, ch. 109, 54 Stat. 142, related to standard headstones under §2306 and §2400 *et seq*. of Title 38. §296, act July 1, 1947, ch. 187, 61 Stat. 234, related to preservation of historic graveyards under §2405(b) of Title 38, Veterans' Benefits.

B. To process the 0.83% of the population that dies every year 0.05% of the population is employed in the death care industry. This means that there is a ratio of 16.6 dead people to every mortuary professional per year although the labor is actually divided into funeral service, cemetery maintenance and manufacturing meaning the annual caseload tends to be much higher, enough to support a comfortable living for the professional. In 2007 per death receipts for funeral services are estimated to total $4,166 for a burial and $1,080 for a cremation. It is now estimated that the real average cost of a traditional funeral is over $8,000 and much nearer to $10,000 when cemetery fees are taken into account. The U.S funeral market is currently estimated to be worth around $20 billion in 2018, with 2.4 million funerals. There are an estimated 19,000 funeral directors currently offering services in the U.S, but exact numbers prove to be difficult to pinpoint as the profession is regulated differently by each State. Funeral directors are licensed by the state after they earn an associates degree. Life expectancy might improve and wrongful deaths be

reduced, if the degree for funeral directors, were a Bachelor degree. It is advised that funeral direction programs be lengthened to Bachelor degree.

a. The 2002 Census Industry Series estimates that in 1997 there were 23,015 death care service establishments with 164,823 employees, generating revenues of $12.6 billion, with a payroll of $3.5 billion, not including the manufacturers of caskets and funeral supplies or engravers of monuments whose statistics have not yet been discovered. This is roughly the same that was spent at movie theaters. There were 6,677 cemeteries and crematories with 59,458 employees, generating $3 billion in revenues, with a payroll of $1 billion. This industry comprises establishments primarily engaged in operating sites or structures reserved for the interment of human or animal remains and/or cremating the dead. b. There were 16,338 funeral industry establishments with 105,365 employees generating $9.6 billion in revenues, with a payroll of $2.5 billion. This industry comprises establishments primarily engaged in preparing the dead for burial or interment and conducting funerals (i.e., providing facilities for wakes, arranging transportation for the dead, selling caskets and related merchandise). Funeral homes combined with crematories are included in this industry. c.There were 177 funeral supply manufacturers with 6,962 employees, revenues of $1.3 billion, and payroll of $212. 5 million. Like most US manufacturing the number of manufacturers and employees is on a decline and cremation is on the rise to 25% of all funerals. 1.8 million caskets were sold in 2002.

§272 Death Reporting

A.The Uniform Determination of Death Act provides comprehensive bases for determining death in all situations. The Act is based on a ten-year evolution of statutory language on this subject. The first statute passed in Kansas in 1970. In 1972, Professor Alexander Capron and Dr. Leon Kass refined the concept further in "A Statutory Definition of the Standards for Determining Human Death: An Appraisal and a Proposal," 121 Pa. L. Rev. 87. In 1975, the Law and Medicine Committee of the American Bar Association (ABA) drafted a Model Definition of Death Act. In 1978, the National Conference of Commissioners on Uniform State Laws (NCCUSL) completed the Uniform Brain Death Act. In 1979, the American Medical Association (AMA) created its own Model Determination of Death statute. In the meantime, some twenty-five state legislatures adopted statutes based on one or another of the existing models.

B. The interest in these statutes arises from modern advances in lifesaving technology. A person may be artificially supported for respiration and circulation after all brain functions cease irreversibly. The medical profession, also, has developed techniques for determining loss of brain functions while cardiorespiratory support is administered. At the same time, the common law definition of death cannot assure recognition of these techniques. The common law standard for determining death is the irreversible cessation of all vital functions, traditionally demonstrated by "an absence of spontaneous respiratory and cardiac functions." There is, then, a potential disparity between current and accepted biomedical practice and the common law.

C. In addition to the rules of evidence in courts of general jurisdiction, the following rules relating to a determination of death and status apply: 1.Death occurs when an individual is determined to be dead under the Uniform Determination of Death Act to have sustained either (i) irreversible cessation of circulatory and respiratory functions or (ii) irreversible cessation of all functions of the entire brain, including the brain stem. A determination of death must be made in accordance with accepted medical standards. 2. A certified or authenticated copy of a death certificate purporting to be issued by an official or agency of the place where the death purportedly occurred is prima facie evidence of the fact, place, date, and time of death and the identity of the decedent. 3. A certified or authenticated copy of any record or report of a governmental agency, domestic or foreign, 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. 4. In the absence of prima facie evidence of death, the fact of death may be established by clear and convincing evidence, including circumstantial evidence proving that an individual whose death is not established under the preceding paragraphs who is absent for a continuous period of 5 years, during which he [or she] has not been heard from, and whose absence is not satisfactorily explained after diligent search or inquiry, is presumed to be dead. His [or her] death is presumed to have occurred at the end of the period unless there is sufficient evidence for determining that death occurred earlier.

D. National death statistics are compiled from state vital statistic offices. The registration of births, deaths, fetal deaths, and other vital events in the United States is a State and local function. The civil laws of every State provide for a continuous, permanent, and compulsory vital registration system. Each system depends to a very great extent upon the conscientious efforts of the physicians, hospital personnel, funeral directors, coroners, and medical examiners in preparing or certifying information needed to complete the original records.

1. The State vital statistics office inspects each record for promptness of filing, completeness, and accuracy of information; queries for missing or inconsistent information; numbers the records; prepares indexes; processes the records; and stores the documents for permanent reference and safekeeping. 2. Statistical information from the records is tabulated for use by State and local health departments, other governmental agencies, and various private and voluntary organizations. 3. The data are used to evaluate health problems and to plan programs and services for the public. 4. An important function of the State office is to issue certified copies of the certificates to individuals in need of such records and to verify the facts of birth and death for agencies requiring legal evidence of such facts, namely the U.S. Census Bureau, Social Security Administration (SSA) and Centers for Disease Control (CDC).

E. The Centers for Disease Control and Prevention's National Center for Health Statistics (NCHS) is vested with the authority for administering the vital statistics functions at the national level. 1. From these data, monthly, annual, and special statistical reports are prepared for the United States as a whole and for the component parts—cities, counties, States, and regions—by various characteristics such as sex, race, and cause of death. 2. These statistics are essential in the fields of social welfare, public health, and demography.

F. The death certificate is a permanent record of the fact of death, and depending on the State of death, may be needed to get a burial permit. 1. State law specifies the required time for completing and filing the death certificate. 2. The death certificate provides important personal information about the decedent and about the circumstances and cause of death. 3. This information has many uses related to the settlement of the estate and provides family members closure, peace of mind, and documentation of the cause of death. 4. The death certificate is the source for State and national mortality statistics.

G. The registration of deaths is a State function supported by individual State laws and regulations. 1. The original death certificates are filed in the States and stored in accordance with State practice. 2. Each State has a contract with NCHS that allows the Federal Government to use information from the State records to produce national vital statistics. 3. The national data program is called the National Vital Statistics System.

H. The physician's primary responsibility in death registration is pronouncing the death and, when he or she is the attending physician, reporting cause of death. The medical part of the certificate includes: 1. Date and time pronounced dead. 2. Date and time of death . 3. Question on whether the case was referred to the medical examiner or coroner. 4. Cause-of-death section including cause of death, manner of death, tobacco use, and females' pregnancy status items. 5. Injury items for cases involving injuries. 6. Certifier section with signatures.

I. In most cases, a physician will both pronounce death and certify or report the cause of death. 1. A different physician will pronounce death only when the attending physician is unavailable to certify the cause of death at the time of death and if State law provides for this option. 2. If an inquiry is required by a State Post-Mortem Examinations Act, a medical examiner or coroner is responsible for determining cause of death. 3. The left-hand margin of the certificate contains a line where the physician or hospital can write in the name of the decedent. 4. This allows the hospital to assist in completing the death certificate before the body is removed by the funeral director. 5. The funeral director is responsible for completion of the personal information about the decedent because the hospital frequently does not have the complete legal name of the decedent, the hospital or physician should enter the name they have for the decedent in this item. The funeral director will then enter the full legal name in item 1.

§273 Death Rate

A. Death is vital to the calculation of net population growth. It is estimated that 56,597,030 people died around the world in 2004 an average of 863 death per 100,000, 0.86% of the population with a life expectancy of 66 years. In the United States it is estimated that 2,398,343 people died in 2004, 808 per 100,000, 0.83% of the population, a decrease of 49,945 from the previous year, the life expectancy at birth in 2004 reached 77.9 years, 76 years for men and 80 for women. Subsequently in 2005, 2006 and 2007 the death rate increased to over 2.4 million. In 2015 an estimated 2.6 million Americans died, up from 2.5 million in 2010. The total number of deaths grew an average of 1.3% annually between 2010 and 2015 up from 0.5% annually between 2000-2010.

Replacement-level fertility is the number of children each woman would need to give birth to in order to keep the national population the same size in the subsequent generation, normally about 2.1. As of 2015 the United States has the highest birth rate (12.5 per 1,000 population), infant mortality rate (6.1 infant deaths per 1,000 live births), under age 5 deaths (8 per 1,000) and maternal mortality rate (32 deaths per 100,000) of any industrialized nation. 2016 net population growth is bolstered by 1.5 million net migrants - 252,000 legal, 542 adjustment of status and 1.2 million total other net entrants reported by the Social Security Administration. With the growing population over the age of 65, augmented by the retirement of the Baby Boomer cohort, the total number of dead persons increases every year. However, the good news is, life expectancy (76. 1 for males and 80.9 for females in 2010)(76.8 for males and 81.5 for females in 2015) gets longer. There are fewer deaths per 100,000 (821 per 100,000 in 2010)(781 per 100,000 in 2015).

Population Growth Estimates of the United States 1960-2016

Year	Population	Yearly % Change	Yearly Change	Deaths	Migrants (net)	Births
2016	329,386,000	0.86 %	2,800,000	2,700,000	1,500,000	4,000,000
2015	326,586,000	0.84 %	2,908,327	2,626,418	1,557,000	3,977,745
2010	309,876,170	0.91 %	2,747,307	2,468,435	1,014,100	3,944,000
2000	282,895,741	1.22 %	3,324,043	2,403,351	1,738,500	4,058,814
1990	252,847,810	0.99 %	2,431,251	2,148,463	737,200	4,158,212
1980	229,588,208	0.95 %	2,124,929	1,989,841	774,600	3,612,258
1970	209,485,807	0.99 %	2,016,455	1,921,031	299,000	3,731,386
1960	186,176,524	1.74 %	3,076,029	1,711,982	372,000	4,257,850

Source: US Census (as edited 2015-16) Hamilton, Brady E. Ph.D., Martin, Joyce A. M.P.H., and Osterman, Michelle J.K. M.H.S. Births: Preliminary Data for 2015. Division of Vital Statistics. Center for Disease Control. National Vital Statistics Reports. Vol. 65 No. 3. June 2, 2016; Xu, Jiaquan M.D.; Murphy, Sherry L. B.S.; Kochanek, Kenneth D. M.A.; and Bastian, Brigham A B.S. Deaths: Final Data for 2013. Division of Vital Statistics. Center for Disease Control. National Vital Statistics Reports Vol. 64, No. 2 February 16, 2016 Table 1 Edited by 2016 Annual Report. Table V.A2 Immigration Assumptions, Calendar Years 1940-2090 for 2015 and net immigration re-estimated at 1.5 million and total population corroborated by Table IV.A1.—Historical and Projected Social Security Area Population based on the Intermediate Assumptions of the 2015 OASDI Trustees Report, as of July 1, 1974-2039

1. The reason for the uptick in deaths 2010-2015 is that Baby Boomers have reached their peak disability years and are now reaching age 65 . The median age in the United States is 38.1 years. United States total and under 18 population estimates are disputed between the Census (above) and Social Security Administration (330 million below). The total

population between 324 million (Census) and 330 million (SSA), respectively, a difference of 2 percent. The under age 18 population is between 74.1 million (Census) and 77.8 million (SSA), a difference of 5 percent. SSA reports that 74.9 million immortal Baby Boomers were born 1946-64. The Census has clearly erred with the 22.9% under age 18 revision in 2015 that destroyed the population pyramid and must return to a ratio closer to 24% under age 18 used in the 2010 Census. The US Census reports the current population of the United States of America is 324,430,398 as of Friday, August 19, 2016, based on the latest United Nations estimates, there are 330 million people estimated to live in the Social Security Area population. The United States population was equivalent to about 4.36% of the total world population of 7,432,663,275 in 2016. The U.S.A. ranks number 3 in the list of countries by population. The population density in the United States is 35 per sq. kilometer, 92 people per sq. miles. The total land area is 9,155,898 sq. kilometers, 3,535,111 sq. miles. 82.5 % of the population is urban, 268,012,791 people live in US cities in 2016.

US Vital Statistics 2010-2015

Year	Birth rate	Age-sex adjusted Death rate	Under 65	65 and Over	Life expectancy at birth, Male	Life expectancy at birth, Female	Life expectancy at age 65, Male	Life expectancy age 65, Female
2010	1.93	821.3	248.5	4,640.1	76.1	80.9	17.6	20.2
2011	1.89	819.3	249.1	4,621.4	76.2	81.0	17.7	20.2
2012	1.87	811.9	248.5	4,568.2	76.3	81.1	17.8	20.3
2013	1.85	812.2	249.1	4,566.1	76.3	81.1	17.8	20.3
2014	1.86	790.4	242.6	4,442.9	76.6	81.2	18.0	20.5
2015	1.87	781.4	239.8	4,392.3	76.8	81.5	18.1	20.6

Source 2016 Annual Report of OASDI Trust Fund. Table V.A.1 Fertility and Mortality Assumptions, Calendar Year 1940-2090; Table V.A4 Period Life Expectancy 1940-2090

2. The United Nations Principles on Older Persons of 1991 is aware that in all countries, individuals are reaching an advanced age in greater numbers and in better health than ever before. The reason for the significant uptick in annual deaths 2010-1015 is that the large cohort of 74.9 million Baby Boomers born are passing through their peak disability years and reaching retirement age, Being over the age of 65 is the primary risk factor for death. In 2015 the age-adjusted death rate was estimated to be 781.4 per 100,000 - 240 per 100,000 under the age of 65 and 4,393 per 100,000 over the age of 65.National death rate statistics maintained by the SSA Actuary slightly improve, go down at an average rate of 99.93% annually from a death rate of 781.4 per 100,000 for all ages, 239.8 per 100,000 under the age of 65 and 4,392.3 per 100,000 over the age of 65 in 2015. According to the Social Security Actuary the total age-sex-adjusted death rate declined at an average annual rate of 1.05 percent between 1900 and 2013. Between 1979 and 2013,

the period for which death rates were analyzed by cause, the total age-sex-adjusted death rate, for all causes combined, declined at an average rate of 0.93 percent per year. Death rates have declined substantially in the U.S. since 1900, with rapid declines over some periods and slow or no improvement over the other periods. Historical death rates generally declined more slowly for older ages and more rapidly for children and infants than for the rest of the population. Between 1900 and 2013, the age-sex-adjusted death rate for ages 65 and over declined at an average rate of 0.78 percent per year, while declining at an average rate of 3.08 percent per year for ages under 15. The only career more dangerous than logging is retiree. Occupational Health and Safety Administration (OSHA) reports that logging has the highest death rate of any career at a rate of about 100 per 100,000 per year, since the Mining Safety and Health Act of 1977 reduced the rate of mining accidents to less than 20 per 100,000 labor years. The average death rate for all careers studied by OSHA is about 3 deaths per 100,000. In peacetime there have been years where the entire 2.8 million US military did not report a single casualty – 50-100 crunches, 50-100 push-ups and 3 mile run.

Death Rate Per 100,000, by Age 1940-2020

	Total	Under 65	65 and Over
1940	1,919.8	750.1	9,718.8
1950	1,561.9	570.2	8,173.7
1960	1,454.3	503.2	7,795.4
1970	1,340.0	485.7	8,036.3
1980	1,136.9	384.3	6,154.3
1990	1,021.3	333.6	5,606.3
2000	960.7	281.0	5,492.3
2010	821.3	248.5	4,640.1
2015	781.4	239.8	4,392.3
2016	780.9	239.6	4,389.2
2017	780.4	239.4	4,386.1
2018	779.9	239.2	4,383.0

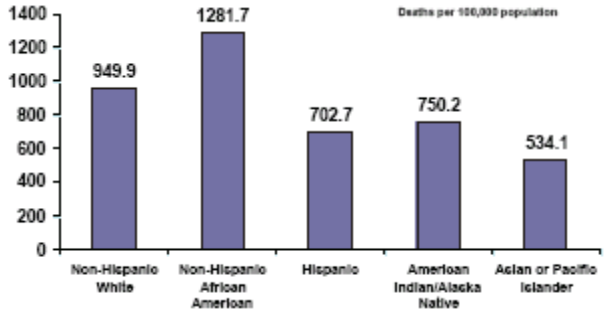
2019	779.3	239.1	4,380.0
2020	778.8	238.9	4,376.9

Source: 2016 Annual Report of the OASDI Trust Funds. June 22, 2016. Table V.A1 Pgs. 87-88

3. Older persons should remain integrated in society, participate actively in the formulation and implementation of policies that directly affect their well-being and share their knowledge and skills with younger generations. According to Child Trends Databank death rates for children have fallen dramatically since 1980. Deaths rates for infants under 1 year fell from 1,288 to 588 per 100,000 between 1980 and 2014. Between 1980 and 2014 the death rate of children ages 1 to 4 dropped from 64 to 24 per 100,000. Between 1980 and 2014 the death rate of children ages five to 14 went down from 31 to 13 per 100,000. Between 1980 and 2014 the death rate for teens between the ages of 15 and 19 went down from 98 to 46 per 100,000. Risk of dying increases for high school students mostly because of driving accidents. Males between the ages of 15 and 19 are twice as likely to die as females 63 versus 29 deaths per 100,000 in 2014. The death rate for disability beneficiaries is estimated to be about 10 per 100,000, more than three times higher than the national occupational average of 3 per 100,000. More boy than girl babies have been issued social security cards every year since 1940. In 2015 51.2% of babies were boys and 48.8% were girls. However 50.9% of the 2010 census population are female and 49.1% are male. Reason being, more males die at any age.

4. Mortality differs significantly by race or ethnic group as measured by age adjusted death rates. In 2004 death rates per 100,000 for non-hispanic whites was 949.3, non-Latino African American 1,281.7, Hispanic 702.7, American Indian 750.2, Asian or Pacific Islander 534.1. The overall death rate for African American men is 1.3, 1.8, 1.7 and 2.4 times that of White, Hispanic, American Indian/Alaska Native, and Asian or Pacific Islander men respectively. In 1998 these death rates per 100,000 people from heart disease alone in the United States were 211.8 for black non-Hispanics, compared to 145.3 for white non-Hispanics, 101.5 for Hispanics, 106 for American Indians and 78 for Asians. African American men have the lowest life expectancy and highest death rate compared to men and women in other racial/ethnic groups in the United States. Homicide is the leading cause of death for African American men between the ages of 18 and 34, and the 4th leading cause of death for African American men between the ages of 18 and 64. Among non-Hispanic White men in the same age groups, homicide is the 5th and 10th leading cause of death respectively. African American males also have higher death rates than men from other racial groups for heart disease, HIV/AIDS, and certain cancers, including prostate, lung, and colon.

Death Rate for Men by Race/Ethnicity, 2004



The Henry J. Kaiser Family Foundation. Race, Ethnicity and Health Care: Fact Sheet: The Health Status of African American Men in the United States. April 2007

B. The United States has the highest birth rate (12.5 per 1,000 population), infant mortality rate (6.1 infant deaths per 1,000 live births and 8 under age 5 deaths per 1,000) and maternal mortality rate (32 deaths per 100,000) of any industrialized nation. Globally, the **i**nfant mortality rate has decreased from an estimated rate of 63 deaths per 1000 live births (6300 per 100,000) in 1990 to 32 deaths per 1000 live births (3200 per 100,000) in 2015. Annual infant deaths, including abortions, have declined from 8.9 million in 1990 to 4.5 million in 2015. Correspondingly, the infant mortality rate of the United States declined from approximately 100 per 1,000 live births to (10,000 infant deaths per 100,000 live births in 1900, to 69 per 100,000 live births (689 per 100,000) in 2000 to 6.7 per 100,000 live births (670 per 100,000) in 2006 to 6.1 per 100,000 live births (610 per 100,000) in 2015. The United States' under-5 mortality rate (8 per 1,000 live births) is twice that of Belgium, Czech Republic, Finland, France, Italy, Japan and Norway (4 per 1,000 live births) and more than twice that of Iceland and Sweden (3 per 1,000 live births). In 2012, 699,202 legal induced abortions were reported to CDC from 49 reporting areas, about one-third of the annual number of pregnancies terminated. The abortion rate for 2012 was 13.2 abortions per 1,000 women aged 15–44 years, and the abortion ratio was 210 abortions per 1,000 live births. Compared with 2011, the total number and ratio of reported abortions for 2012 decreased 4%, and the abortion rate decreased 5%. Over the past 20 years US infant mortality remains high and maternal mortality rates have risen contrary to the achievement of the Millennium Development Goals..

Infant and Maternal Mortality in the US 1980-2015

	Live Births, number	Infant deaths, number	Infant deaths per 1,000 live births	Maternal deaths, number	Maternal death per 100,000 live births
1980	3,634,920	45,800	12.6	333	9.2
1990	4,204,565	38,682	9.2	344	8.2
1995	3,931,808	29,882	7.6	279	7.1
2000	4,081,437	28,162	6.9	399	9.8
2005	4,152,888	28,655	6.9	627	15.1

2010	4,007.631	26,450	6.6	714	17.8
2015	3,961,981	24,168	6.1	1418	35.8

Source: Numbers calculated by SSA live birth and US Census infant and maternal mortality rates

1. The US rate of 6.1 infant deaths per 1,000 live births in the first year of life is the highest in any industrialized country. The Infant death rates for poor mothers exceeds 5 per 1,000 in the first year. Data suggest that mothers with no prenatal care had a very high overall infant death rate (5281.83 and 4,262.16 deaths per 100,000 births in Mississippi and Louisiana, respectively, whereas the US average was 3,075 deaths per 100,000 live births. Over 24,000 infants are estimated to have died in the United States in 2014. The mortality rate of children younger than 5 is 8 in 1,000 live-births in the United States and 86 in 1,000 live-births for the overall child population of the world. One thousand infants die each hour; 970 of these deaths occur in developing countries. According to the World Health Organization (WHO), 10.5 million children young than 5 years old died in 1999. Of these, 99% lived in developing countries. Post-natal infant mortality for the United States 2000 was 2.3 in 1,000 live births (4.7 in 1,000 for black infants and 1.9 in 1,000 for white infants). The leading cause of death in this age groups was sudden infant death syndrome, followed by congenital anomalies, perinatal conditions, respiratory system diseases, accidents and infectious diseases. Maternal risk characteristics include unmarried status, adolescence, high parity and less than 12 years of education. Unintentional injuries are the leading cause of death for children and adolescents. In 2014, 35 percent of deaths among adolescents ages 15–19 and 30 percent of deaths among children ages 1–14 were due to unintentional injuries. For both age groups, motor-vehicle-related (MVR) injury deaths are the leading type of unintentional injury death. Compared with younger children, adolescents have much higher death rates overall and from injuries, and are much more likely to die from injuries sustained in motor vehicle traffic crashes. In 2014, the MVR death rate for children ages 1–14 was 2.2 deaths per 100,000 population, representing 1,234 deaths. Among adolescents, the MVR death rate in 2014 was 11.9 deaths per 100,000 population, a total of 2,515 deaths. Between 1999 and 2014, the total MVR death rate for adolescents ages 15–19 declined from 26 deaths per 100,000 population to 12 deaths per 100,000 population.

2. The maternal mortality rate among black women (36.1 per 100,000 live births) is about 4 times the rate among white women (9.8 per 100,000 live births). This gap has widened since 2000. Statistics for 40 states and the District of Columbia, gleaned from death certificates, indicate that whereas the reported maternal mortality rate from 1999 to 2002 was 9.8 per 100,000 live births, it jumped to 20.8 per 100,000 live births for the period 2010 to 2013. The numbers in the latter period may have been affected by a small change in the forms that are filed when a person dies. Until relatively recently most states relied on a death certificate form that was created in 1989. A newer version of the form, released in 2003, added a dedicated question asking whether the person who died was currently or recently pregnant—effectively creating a flag for capturing maternal mortality. Specifically, this recently introduced question asks if the woman was pregnant within the past year, at the time of death or within 42 days of death. The statistical

increase in maternal mortality is thought to mostly be the result of more accurate death reporting, however it could also be the 1,000% increase in fatal opiate overdoses, due to widespread contamination of opiate products, both prescription and heroin, with fentanyl and cofentanyl. New moms just need a little *Cannabis sativa* (marijuana) to quit the opiate addiction they acquired from the hospital birth epidural. Of the 3,404 deaths within a year of pregnancy termination, maternal mortality, that occurred during 2011-2012 and were reported to CDC, 1,329 were found to be pregnancy-related.

§274 Life Expectancy

A. Legend has it, before contact Native Americans on the East Coast, usually lived beyond 100 years, barring accident. In the time of King David, BC 1037-967, the days of our lives are 70 yrs, and by reason and strength 80, yet they boast only of labor and sorrow (Psalm 90-10). For the wages of sin is death; but the gift of God is eternal life through Jesus Christ our Lord (Romans 6:23). For most of human history life expectancy was between 25-50 years. Primarily as the result of improvements in water purity and sewage treatment, but also because of technological advancements in medical treatment, pharmaceutical drugs and government regulation between 1900 and 2000, life expectancy at birth in the United States increased from 47 to 77 years. Age adjusted life expectancy for people aged 65 increased more than 6 years during the twentieth century, in 2002 a 65 year old American woman could expect to live almost 20 more years and a man an additional 16.6 years. The difference between male and female life expectancy at birth has been generally decreasing since its peak of 7.8 years in 1979.

1. In 1900, one third of all deaths in the United States were attributed to three major categories of infectious disease: pneumonia and influenza, tuberculosis, and diarrheal diseases and enteritis. Many additional deaths were caused by typhoid, meningococcal meningitis, scarlet fever, whooping cough, diphtheria, dysentery, and measles. Altogether, common infectious diseases accounted for 40% of all deaths in 1900 but they accounted for only 4% of all deaths in 2000. Cardiovascular disease (CVD; heart disease and stroke) accounted for 14% of all deaths in 1900 and for 37% in 2000. Cancer accounted for only 4% of all deaths in 1900 but for 23% in 2000. In 1900, infant mortality was 162 per 1,000 live births and life expectancy at birth was only 47 years. In 1940, infant mortality was 63 per 1,000 live births and life expectancy was 55 years. In 2000, infant mortality was 7 per 1,000 and life expectancy was 77 years. As a result of these changes in mortality, and of reduced birth rates, the population of the US is aging. In 1900, only 18% of US residents were age 45 or older. In 1940, 28% were age 45 or older and in 2000, 34% were age 45 or older.

2. Never before have so many people lived to a healthy old age. In 1900 there were about 3 million people aged sixty-five and over in the United States, making up 4.1 percent of the population. By 1963 the number had grown to 17.5 million; and one could reasonably expect to survive to old age. In 2000 about 35 million citizens were aged sixty-five or over, constituting 12.5 percent of the population. By 2030, this age group will account for about 70 million people, or 20 percent of the population. Life expectancy at age sixty-five is now seventeen years, five years longer than at the turn of

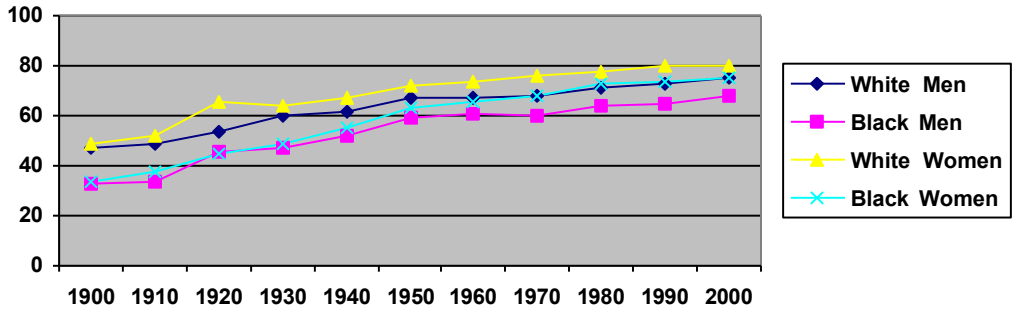
the century. Many sixty-five year olds remain physically and mentally active and capable of contributing to society on many levels. Those over age eighty-five, known as the oldest-old, are the fastest growing segment of the population. In 1900, they accounted for only 4 percent of all people over age sixty-five. Now that figure is 12 percent and growing, it is expected to triple by 2040 to 14.3 million. Now that figure is 12 percent and growing, it is expected to triple by 2040 to 14.3 million. Even living to one hundred is no longer a rarity. In 1950 there were roughly 3,000 centenarians in the United States. In 2000 centenarians on the rolls of the Social Security Administration numbered about 65,000. In 2010, estimates put the number at well over 100,000, perhaps as high as 200,000. In fifty years the figure may approach 1 million. Some authorities talk seriously of life expectancies of 110 or 120 years.

3. Although the oldest person in the world is frequently a United States citizen living in the United States, the United States is by no means the world leader in longevity. For life expectancy at birth, it is ranked twenty fourth among males and twenty first among females, behind Japan and most Western European countries. In terms of life expectancy at age sixty-five the United States ranks thirteenth for males and fourteenth for females, once again trailing Japan and Western Europe. Counting smaller countries, the United States continues to lag behind at least 40 other nations. Andorra, a tiny country in the Pyrenees Mountains between France and Spain, has the longest life expectancy, at 83.5 years, according to the U.S. Census Bureau. Most of recent progress in life expectancy is attributed to the public becoming increasingly aware of the impact of smoking, excessive drinking, uncontrolled hypertension, lack of exercise and poor diet on the incidence of disease and injury. The life expectancy for Americans was nearly 78 years in 2005, the longest in U.S. history. That age, based on the latest data available, was still lower than the life span in more than three dozen other countries, however. The annual number of U.S. deaths rose from 2,397,616 in 2004 to 2,447,910 in 2005, a depressing uptick after the figure had dropped by 50,000, 2 percent, from 2003 to 2004, the biggest decline in nearly 70 years. On the other hand, the age-adjusted death rate reached a record low of 798.8 deaths per 100,000 U.S. standard population. This value is 0.2 percent lower than the 2004 rate of 800.8 deaths per 100,000 U.S. standard population. In 2005, the number of deaths increased by about that same amount. U.S. life expectancy at birth inched up to 77.9 from the previous record, 77.8, recorded for 2004.

B. A study of 99% of US death records note a continued differences by race and sex. Life expectancy for whites in 2005 was 78.3, the same as it was in 2004. Black life expectancy rose from 73.1 in 2004 to 73.2 in 2005, but it was still nearly five years lower than the white figure. Life expectancy for women continues to be five years longer than for men. The age-adjusted death rate for heart disease dropped from 217 deaths per 100,000 in 2004 to about 210 in 2005, and actual deaths dropped from about 652,500 to about 649,000. The stroke rate dropped from 50 per 100,000 to about 46.5, and the number of stroke deaths dropped from about 150,000 to 143,500. But the count of cancer deaths rose from about 554,000 to about 559,000, according to the report. There was a 5 percent increases Alzheimer's disease, the No. 7 leading cause of death, and for Parkinson's disease, No. 14. There was a slight increase in the infant mortality rate, from 6.8 per 1,000 live births in 2004 to 6.9 in 2005.

1. Mortality differs significantly by race or ethnic group as measured by age adjusted death rates. Life expectancy may also vary with marital status; mortality rates for married people are 21 percent lower than rates for similar singles. Life expectancy at 20 for gay and bisexual men, in Vancouver, is 8 to 20 years less than for all men. Married people not only live longer but also tend to have higher earnings than singles by about 14%. There has been a gap in life expectancy between whites and blacks in the United States of nearly a decade since the beginning of the 20th century although the gap has narrowed in last half a century. Women of both races tend to live longer than men. Since the 1970s black women have tended to live as long as white men.

Life Expectancy for Whites and Blacks by Sex, 1900-2000



Source: National Vital Statistics Reports, Vol. 50. No. 6.; Life Expectancy at Birth, by Race and Sex, Selected Years 1929-98 Vol. 49, No.12.Deaths, Preliminary Data for 2000.U.S. Census Bureau. P23-190 Current Population Reports: Special Studies. 65+ in the United States

2. The difference in survival rates of the rich and poor are so great in the United States that the wealthiest quintile is competitive with the longest lived developed nations but the poorer half are even with the former Soviet republics. The biomedical know-how now available is either not available to the lower socioeconomic classes in the United States, or its impact, at this stage in the reduction of mortality, is relatively small compared with what could be achieved through reduction of the gap in levels of living and life styles associated with education, income, occupation, and geographic locale. In the United States uninsured cancer patients are nearly twice as likely to die within five years as those with private coverage, according to the first national study of its kind and one that sheds light on troubling health care obstacles. An area study comparing cancer survival in Toronto, Ontario, to that in Detroit, Michigan (both located on the Great Lakes) found low-income residents of Toronto experiencing greater survival rates than their counterparts in Detroit for 13 of 15 cancer sites, while middle- and high-income groups exhibited no survival difference by city of residence.

C. Increasing income may not be expected to increase life expectancy. For example over time in the United States and Britain there is no stable relationship between the growth of income and the decline of mortality rates. In the US in 1998 men are expected to live 73.8 years, while women are expected to live 79.5. Women on average earn less than their male counterparts. In 1999 the full time male earnings were $36,476 compared to

$26,324 for women. Therefore, women tend to outlive men despite lower earnings. Life expectancy and earnings tends to increase with education. Male Social Security–covered workers born in 1941 who had average relative earnings in the top half of the earnings distribution and who lived to age 60 would be expected to live 5.8 more years than their counterparts in the bottom half. In contrast, among male Social Security–covered workers born in 1912 who survived to age 60, those in the top half of the earnings distribution would be expected to live only 1.2 years more than those in the bottom half. The gap between the life expectancy of the rich and poor has been widening since the 1960s in the United States. In Canada the gap in life expectancy at birth between neighborhood income quintiles diminished between 1971 and 1996, and the probability of surviving to age 75 by income quintile remained roughly constant from 1970 to 1996.

By State, number of deaths, 2007, and Life Expectancy, 2005

State	Deaths	Population in 1,000	Deaths Per 1,000	Life Expectancy at Birth	Life Expectancy at Birth Male	Life Expectancy at Birth Fe-male
United States	2,448,000	301, 621	8.11	77.8	75.2	80.4
Alabama	46,764	4,628	10.1	74.6	71.3	77.5
Alaska	3,486	683	5.1	76.7	74.2	79.1
Arizona	45,215	6,339	7.13	77.5	74.7	80.2
Arkansas	28,324	2,835	9.99	75.1	72.1	77.9
California	237,059	36.553	6.49	78.3	75.9	80.6
Colorado	30,077	4,862	6.19	78.4	76.1	80.4
Connecticut	28,536	3,502	8.15	78.4	75.7	80.8
Delaware	7,332	865	8.48	76.6	74.0	78.9
District of Columbia	5,217	588	8.87	72.6	68.5	76.1
Florida	167,196	18,251	9.16	77.5	74.6	80.3
Georgia	65,913	9,545	6.91	75.3	72.3	77.8
Hawaii	9,319	1,283	7.26	79.8	77.1	82.5
Idaho	10,967	1,499	7.32	78.0	75.9	80.2
Illinois	100,049	12,853	7.78	76.7	73.9	79.2
Indiana	54,246	6,345	8.55	76.2	73.4	78.6
Iowa	27,304	2,988	9.14	78.5	75.8	80.8
Kansas	24,307	2,776	8.76	77.5	74.9	79.8
Kentucky	39,315	4,241	9.27	75.3	72.3	77.9
Louisiana	38,611	4,293	8.99	74.4	71.2	77.3
Maine	12,398	1,317	9.41	77.6	75.1	80.0
Maryland	43,715	5,618	7.78	76.3	73.6	78.8
Massachusetts	53,109	6,450	8.23	78.4	75.8	80.7
Michigan	86,740	10,072	8.61	76.5	73.9	78.7

Minnesota	37,116	5,198	7.14	79.1	76.5	81.3
Mississippi	28,236	2,919	9.67	73.7	70.4	76.7
Missouri	54,463	5,878	9.27	76.2	73.4	78.7
Montana	8,616	958	8.99	77.3	74.7	80.0
Nebraska	15,280	1,775	8.61	78.3	75.6	80.6
Nevada	19,771	2,565	7.71	75.9	73.4	78.7
New Hampshire	10,178	1,316	7.74	78.5	75.9	80.7
New Jersey	69,172	8,686	7.96	77.5	74.8	79.8
New Mexico	15,261	1,970	7.75	77.3	74.4	80.1
New York	148,378	19,298	7.69	77.9	75.1	80.2
North Carolina	76,093	9,061	8.40	75.8	72.7	78.4
North Dakota	5,648	640	8.83	78.7	75.8	81.7
Ohio	106,772	11,467	9.31	76.4	73.8	78.7
Oklahoma	36,074	3,617	9.97	75.3	72.6	77.6
Oregon	29,186	3,747	7.79	77.9	75.5	80.0
Pennsylvania	124,485	12,433	10.0	76.8	74.0	79.3
Rhode Island	9,751	1,058	9.21	78.2	75.5	80.3
South Carolina	37,763	4,408	8.57	74.9	71.6	77.9
South Dakota	6,821	796	8.57	78.0	75.0	80.9
Tennessee	56,948	6,157	9.25	75.0	71.8	77.7
Texas	158,740	23,904	6.64	76.7	74.1	79.2
Utah	14,142	2,645	5.35	78.7	76.5	80.6
Vermont	4,919	621	7.92	78.2	75.8	80.4
Virginia	57,954	7,712	7.52	76.9	74.3	79.1
Washington	47,043	6,468	7.27	78.2	75.9	80.5
West Virginia	20,912	1,812	11.54	75.0	72.3	77.7
Wisconsin	46,130	5,602	8.24	78.1	75.4	80.5
Wyoming	4,200	523	8.03	77.1	74.9	79.3

Source: National Vital Statistics Reports Births, Marriages, Divorces, and Deaths: Provisional Data for 2007. Volume 56, Number 21. US Census Interim State Population Projections 2005, Resident State Population July 2007

C. In 2014 the state with the highest age-adjusted death rate in 2014 was Mississippi (937.6 per 100,000 U.S. standard population), with a rate 29.4% above the national average (724.6). The state with the lowest age-adjusted death rate was Hawaii (588.7 per 100,000 U.S. standard population), with a rate 18.8% below the national average. For those searching a safe place to settle, by state of residence, Hawaii had the lowest mortality in 2004 with an age-adjusted death rate of 623.6 deaths per 100,000 standard

population. Mortality was highest for Mississippi, with an age-adjusted death rate of 998.2 per 100,000 standard population. In 2007 West Virginia with a crude death rate of 11.54 per 1,000 residents, Alabama with 10.1 and Pennsylvania with 10.0 suffered the highest casualties while Alaska enjoyed the lowest number of deaths with 5.1 per 1,000 and Utah 5.35. As the result of disparities in age cohort size amongst residents, crude death rates do not necessarily paint a clear picture, nor are age adjusted death rates so honest an indicator of the burden of death. The best quality of life indicator is life expectancy. In 2005 Hawaii continued to be the best with a life expectancy of 79.8 followed by Minnesota with a life expectancy of 79.1. The District of Columbia with a life expectancy of 72.6 was far and away the lowest, followed by Mississippi with a life expectancy of 73.7. More homelessness is needed to analyze counties and communities.

§275 Causes of Death

A. Life expectancy for the U.S. population in 2015 was 78.8 years, a decrease of 0.1 year from 2014. The age-adjusted death rate increased 1.2% from 724.6 deaths per 100,000 standard population in 2014 to 733.1 in 2015. The 10 leading causes of death in 2015 remained the same as in 2014. Age-adjusted death rates increased for eight leading causes and decreased for one. Rates for the two leading causes—heart disease and cancer—continued their long-term decreasing trends. Significant decreases also occurred for Chronic lower respiratory disease, diabetes, Influenza and pneumonia, and hypertension. Significant increases occurred in 2014 from 2013 for unintentional injuries, stroke, Alzheimer's disease, suicide, and Chronic liver disease and cirrhosis. The infant mortality rate of 589.5 infant deaths per 100,000 live births in 2015 was not significantly different from the 2014 rate. The 10 leading causes of infant death in 2015 remained the same as in 2014, although two causes exchanged ranks. The 15 leading causes of death in 2014 were: 1. Diseases of heart (heart disease). 2. Malignant neoplasms (cancer). 3. Chronic lower respiratory diseases. 4. Accidents (unintentional injuries), 5. Cerebrovascular diseases (stroke). 6. Alzheimer's disease. 7. Diabetes mellitus (diabetes). 8. Influenza and pneumonia. 9. Nephritis, nephrotic syndrome and nephrosis (kidney disease). 10. Intentional self-harm (suicide). 11. Septicemia. 12. Chronic liver disease and cirrhosis. 13. Essential hypertension and hypertensive renal disease (hypertension). 14. Parkinson's disease. 15. Pneumonitis due to solids and liquids.

15 Leading Causes of Death 2014

Rank	Cause of death	ICD-10	Number	% of total	Crude death rate	Age Adjusted Death Rate
	All causes		2,626,418			
1	Diseases of the heart	100-109,I13,120-151	614,348	23.4	192.7	167.0
2.	Malignant neoplasms	C00-C97	591,700	22.5	185.6	161.2

3. .	Chronic lower respiratory diseases	J40-J47	147,101	5.6	46.1	40.5
4.	Accidents (unintentional injuries)	V01-X59, Y85-Y86	135,928	5.2	42.6	40.5
5.	Cerebrovascular disease	I60-I69	133,103	5.1	41.7	36.5
6.	Alzheimer's disease	G30	93,541	3.6	29.3	25.4
7.	Diabetes mellitus	E10-E14	76,488	2.9	24.0	20.9
8.	Influenza and pneumonia	J09-J18	55,227	2.1	17.3	15.1
9.	Nephritis, nephrotic syndrome ad nephrosis	N00-N07, N17-N19, N25-N27	48,146	1.8	15.1	13.2
10.	Intentional self-harm (suicide)	U03,X60-X84, Y87.0	42,826	1.6	13.4	13.0
11.	Septicemia	A40-A41	38,940	1.5	12.2	10.7
12.	Chronic liver disease	K70, K73-K74	38,170	1.5	12.0	10.4
13.	Essential hypertension and hypertensive renal disease	I10, 12, 15	30,221	1.2	9.5	9.2
14.	Parkinson's disease	G20-G21	28,150	1.0	8.2	7.4
15.	Pneumonitis due to solids and liquids	J69	18,792	0.7	5.9	5.1
	All other causes		535,737	20.4	168.0	
	Lung diseases	J09-J18, J40-J47, J69	221,120	8.4	69.3	60.7

Source: Kochanek, Kenneth D. M.A.; Murphy, Sherry L. B.S. ; Xu, Jiquan M.D.; Tejada_Vera, Betzaida, M.S. Deaths final Data for 2014. National Vital Statistics Reports. Vol. 65, No. 4. June 30 ,2016, updated on April 3, 2017.;Table B pg. 5

1. Suicide was the 10th leading cause of death in 2014 and 2015, with 42,826 fatalities in 2014. 1.6% of all deaths were suicide, 13.4 per 100,000 or 13.0 per 100,000 age adjusted. 50% of suicides were committed with a firearm. 63.7% of firearm deaths were suicide. Suicide is 3rd leading cause of death among 15 – 24 year olds. In 1997 30,535 people died from suicide in the U.S. Suicide was the 11th leading cause of death in 2000. The highest suicide rates are found in white men over the age of 85. More than 90% of people who kill themselves have a diagnosable mental disorder. Four times as many men

as women commit suicide although women attempt to commit suicide 2-3 times more often. Major depressive disorder is the leading cause of suicide, heightened by substance abuse, and conduct disorder. Topical exposure to dimethoxymethylamphetamine (DOM) causes a three day panic attack followed by six month recovery from severe mental illness if not immediately washed off with water. Suicide is the leading cause of violent death, outnumbering homicide or war related deaths. 6,808 suicides were committed with poison and another 3,014 were undetermined in 2014.

2. Assault (homicide), the 17th leading cause of death in 2014, dropped from among the 15 leading causes of death in 2010 but is still a major issue for some age groups. In 2014, homicide remained among the 15 leading causes of death for age groups 1–4 (3rd), 5–14 (5th), 15–24 (3rd), 25–34 (3rd), 35–44 (5th), and 45–54 (13th). Homicide would be the 15th leading cause of death, if the three categories of lung disease were consolidated into the third leading cause of death, after cancer and heart disease, currently chronic lower respiratory diseases. Firearm—In 2014, 33,594 persons died from firearm injuries in the United States, accounting for 16.8% of all injury deaths in that year. The age-adjusted death rate from firearm injuries (all intents) did not change significantly in 2014 from 2013. The two major component causes of firearm injury deaths in 2014 were suicide (63.7%) and homicide (32.8%). The age-adjusted death rate for firearm homicide decreased 2.8%, from 3.6 in 2013 to 3.5 in 2014. The rate for firearm suicide did not change. In 2014, 51,966 deaths occurred as the result of poisonings, 26.0% of all injury deaths. The age-adjusted death rate for poisoning increased significantly, 6.6%, from 15.2 deaths per 100,000 U.S. standard population in 2013 to 16.2 in 2014. The majority of poisoning deaths were either unintentional (80.9%) or suicides (13.1%). However, 5.8% of poisoning deaths were of undetermined intent. The age-adjusted death rate for unintentional poisoning increased 7.4%, from 12.2 in 2013 to 13.1 in 2014, and has nearly tripled since 1999. To account for 20,0000 intentional of 52,000 poisoning deaths, opiates laced with fentanyl and co-fentanyl, respiratory depression reversed by Narcan injection of naloxone or naltrexone tablet. To reduce 156,000 accidental deaths and 15,872 homicides, abolish DEA - the H.

3. Heart failure and Malignant neoplasms cause over half of all deaths of people over 45. Accidents and adverse effects resulting from the accidents are the leading cause of death for people under 45 to 1 year of age. Of all the causes of death due to accidents, the leading cause is motor vehicle accidents. Motor-vehicle traffic—In 2014, motor-vehicle traffic-related injuries resulted in 33,736 deaths, accounting for 16.9% of all injury deaths. The age-adjusted death rate for these injuries decreased significantly, 1.9%, from 10.5 in 2013 to 10.3 in 2014. Fall—In 2014, 33,018 persons died as the result of falls, 16.5% of all injury deaths. The age-adjusted death rate for falls increased 3.4%, from 8.8 in 2013 to 9.1 in 2014. The overwhelming majority of fall-related deaths (96.8%) were unintentional. Within external causes of injury death, unintentional poisoning was the leading mechanism of injury mortality in 2014, followed by unintentional motor vehicle traffic-related injuries. During 2002–2010, unintentional motor vehicle traffic-related injuries was the leading mechanism of injury mortality, followed by unintentional poisoning, but beginning in 2011, the number of deaths from unintentional poisoning was higher than the number from unintentional motor vehicle traffic-related injuries.

4. Although disease is typically the way that the cause of death is explained there are also a number of lifestyle factors that are also blamed for taking people's lives. The leading lifestyle factor causes of death in 2000 were attributed to be tobacco (435,000 deaths; 18.1% of total US deaths), poor diet and physical inactivity (400,000 deaths; 16.6%), and alcohol consumption (85,000 deaths; 3.5%). Other actual causes of death were microbial agents (75,000), toxic agents (55,000), motor vehicle crashes (43,000), incidents involving firearms (29,000), sexual behaviors (20,000), and illicit use of drugs (17,000) by the Journal of American Medical Association. More than 60,000 people died from drug overdoses in the U.S. in 2016, and there was a fivefold increase in overdose deaths involving synthetic opioids — to about 20,000 in 2016 compared with 3,105 in 2013, according to the Centers for Disease Control and Prevention. The addiction epidemic cost the American economy $504 billion in 2015, the equivalent of 2.8% of the country's gross domestic product that year, according to a report by the Council of Economic Advisers.

5. In 2014, a total of 49,714 persons died of drug-induced causes in the United States. This category includes deaths from poisoning and medical conditions caused by use of legal or illegal drugs, as well as deaths from poisoning due to medically prescribed and other drugs. It excludes unintentional injuries, homicides, and other causes indirectly related to drug use, as well as newborn deaths due to the mother's drug use. In 2014, the age-adjusted death rate for drug-induced causes for the total population increased significantly, 6.2%, from 14.6 in 2013 to 15.5 in 2014.. For males in 2014, the age-adjusted death rate for drug-induced causes was 1.6 times the rate for females. The age-adjusted death rate for black females was 42.9% lower than for white females, and the rate for black males was 29.3% lower than for white males. The rate for drug-induced causes increased 7.2% for males and 5.4% for females in 2014 from 2013. In 2014, a total of 30,722 persons died of alcohol-induced causes in the United States. The age-adjusted death rate for alcohol-induced causes for the total population increased significantly, 3.7%, from 8.2 in 2013 to 8.5 in 2014. For males, the age-adjusted death rate for alcohol-induced causes in 2014 was 2.8 times the rate for females. Compared with the rate for the white population, the rate for the black population was 31.9% lower.

B. The five most common causes of death amongst children vary at different stages of development. Under 1 years of age these causes of death, from 1 to 5, are perinatal conditions, congenital malformations, sudden infant death syndrome, injuries and infection. Between 1-4 years injuries, congenital malformations, malignant neoplasm, homicide and heart disease. Between 5-9 years injuries (unintentional), malignant neoplasm, congenital malformation, homicide and heart disease. Between 10-14 years injuries (unintentional), homicide, suicide, malignant neoplasm and heart disease 15-19 years injuries (unintentional), homicide, suicide, malignant neoplasm and heart disease. The infant mortality rate was 5.82 infant deaths per 1,000 in 2014. The infant mortality rate decreased 2.3% in 2014 from 2013, to a record low of 5.82 infant deaths per 1,000 live births. In 2014, a total of 23,215 deaths occurred in children under age 1 year. This number represents 225 fewer infant deaths in 2014 than in 2013. The infant mortality rate was 5.82 per 1,000 live births, the neonatal mortality rate (deaths of infants aged 0–27 days per 1,000 live births) was 3.94, and the post-neonatal mortality rate (deaths of

infants aged 28 days through 11 months per 1,000 live births) was 1.88 in 2014. In 2014 from 2013, the infant mortality rate decreased 2.3% and the neonatal mortality rate decreased 2.5%. The change in the post-neonatal mortality rate was not significant. The 10 leading causes of infant death were: 1. Congenital malformations, deformations and chromosomal abnormalities (congenital malformations). 2. Disorders related to short gestation and low birth weight, not elsewhere classified (low birth weight). 3. Newborn affected by maternal complications of pregnancy (maternal complications). 4. Sudden infant death syndrome (SIDS). 5. Accidents (unintentional injuries). 6. Newborn affected by complications of placenta, cord and membranes (cord and placental complications). 7. Bacterial sepsis of newborn. 8. Respiratory distress of newborn. 9. Diseases of the circulatory system. 10. Neonatal hemorrhage.

1. The mortality rate of children younger than 5 is 8 in 1,000 live-births in the United States and 86 in 1,000 live-births for the overall child population of the world. One thousand infants die each hour; 970 of these deaths occur in developing countries. According to the World Health Organization (WHO), 10.5 million children young than 5 years old died in 1999. Of these, 99% lived in developing countries. Causes of death were attributed to malnutrition (54%), perinatal conditions (20%), pneumonia (19%), diarrhea (15%), measles (8%), malaria (7%), HIV/AIDS (3%) and other (28%). One third of births in the developing world are not registered. Malnutrition among pregnant women leads to stunting of an estimated 182 million children. From 1990 to 2000, at least 20 million children were displaced by disasters at any given time. In 2000, more than 10 million children younger than 15 had lost one or both parents to AIDS. Malnutrition, including both calorie and micronutrient deprivation, causes acute and chronic morbidity, contributes to reduced immunity, and increases the likelihood of mortality and morbidity associated with infectious diseases. Post-natal infant mortality for the United States 2000 was 2.3 in 1,000 live births (4.7 in 1,000 for black infants and 1.9 in 1,000 for white infants). The leading cause of death in this age groups was sudden infant death syndrome, followed by congenital anomalies, perinatal conditions, respiratory system diseases, accidents and infectious diseases. Maternal risk characteristics include unmarried status, adolescence, high parity and less than 12 years of education.

2. Unintentional injuries are the leading cause of death for children and adolescents. In 2014, 35 percent of deaths among adolescents ages 15–19 and 30 percent of deaths among children ages 1–14 were due to unintentional injuries. For both age groups, motor-vehicle-related (MVR) injury deaths are the leading type of unintentional injury death. Compared with younger children, adolescents have much higher death rates overall and from injuries, and are much more likely to die from injuries sustained in motor vehicle traffic crashes. In 2014, the reported MVR deaths rates for American Indian or Alaska Native children under age 20 were more than double the rates for White, non-Hispanic; Black, non-Hispanic; Asian or Pacific Islander, non-Hispanic; and Hispanic children under age 20. In 2014, the MVR death rate for children ages 1–14 was 2.2 deaths per 100,000 population, representing 1,234 deaths. MVR death rates for Black, non-Hispanic (2.8); White, non- Hispanic (2.0); and Hispanic (2.2) children ranged from 2 to 3 deaths per 100,000 population. Among adolescents, the MVR death

rate in 2014 was 11.9 deaths per 100,000 population, a total of 2,515 deaths. The MVR death rate for White, non-Hispanic (13.0) adolescents was higher than the rates for Black, non-Hispanic (11.4) and Hispanic (10.6) adolescents. Between 1999 and 2014, the total MVR death rate for adolescents ages 15–19 declined from 26 deaths per 100,000 population to 12 deaths per 100,000 population. Throughout 1999 to 2014, White, non-Hispanic adolescents had a higher MVR death rate than Black, non-Hispanic and Hispanic adolescents. This disparity in death rates declined from an 11 point difference in 1999 to about a 2 point difference in 2014. Although rapid growth may stop by 16 or 17 neuron and body growth may continue as long as 19 year of age. Adolescent growth is thought to dangerously impair a teenagers' ability to learn to drive a car safely.

C. In the US, not dissimilar to the rest of the world, in 2004 there were an estimated 250,000 deaths from what can loosely be construed as medical malpractice and product liability. 12,000 from unnecessary surgery, 7,000 from medication errors in hospitals, 20,000 from other errors in hospitals, 80,000 from infections in hospitals, 106,000 from non-error, negative effects of drugs making medical malpractice the third leading cause of death, ten times the homicide rate. 20 percent of all deaths occur in nursing homes, however autopsies are performed on only 1 percent of these deaths. In 1999 the Institute of Medicine's Committee on Quality of Health Care in America reported that medical errors cause 44,000 to 98,000 hospital deaths annually, claiming more lives than car accidents, breast cancer, or AIDS. Inadvertent deaths in other treatment venues, such as nursing homes and doctor's offices add to that toll. Another study puts the number of death attributed to medical error at 783,936 more than heart disease, 699,697 or cancer 553,251 (2001). There are other estimates where medical malpractice is the leading cause of death including 100,000 from bedsores. Bedsores are estimated to account for 115,000 deaths annually. Over one million people develop bedsores in U.S. hospitals every year, they can be avoided with proper nursing care. The mortality rate in hospitals for patients with bedsores is between 23% and 37% Nosocomial infections acquired from hospitals account for another 88,000 deaths. Reports from more than 270 US hospitals showed that the nosocomial infection rate itself had remained stable over the previous 20 years, with approximately five to six hospital-acquired infections occurring per 100 admissions, a rate of 5-6%. Due to progressively shorter inpatient stays and the increasing number of admissions, however, the number of infections increased. It is estimated that in 1995, nosocomial infections contributed to more than 88,000 deaths, or one death every 6 minutes. The rate of nosocomial infections per 1,000 patient days rose from 7.2 in 1975 to 9.8 in 1995, a 36% jump in 20 years. Unnecessary procedures cause 37,136 deaths. Surgery related errors account for another 32,000 deaths, 12,000 from unnecessary surgeries.

Estimated Annual Mortality and Economic Cost of Medical Intervention

Condition	Number of Deaths	Estimated Cost	Complications
Adverse Drug Reactions	106,000	$12 billion	19%
Medical Error	98,000		17%
Bedsores	115,000	$55 billion	10%

Nonsocomial Infection	88,000	$5 billion	5-6%
Malnutrition	108,000		10%
Iatrogenic Outpatient	199,000	$77 billion	25%
Surgery Related	32,000	$9 billion	30%
Total	783,936	$282 billion	

Source: Null, Gary PhD; Dean, Carolyn MD; Feldman, Martin MD; Rasio, Deborah MD; Smith, Dorothy MD. Death by Medicine. Life Extension Magazine. 2003

1. Some researchers estimate that 50 to 85 percent of the treatments doctors order are inadequately tested. The number of people having in-hospital, adverse reactions to prescribed drugs is estimated to be 2.2 million per year. The number of unnecessary antibiotics prescribed annually for viral infections is 20 million per year. The number of unnecessary medical and surgical procedures performed annually is 7.5 million per year. The number of people exposed to unnecessary hospitalization was 8.9 million out of 37 million in 2001. The death rate from drug errors is estimated at 106,000. Doxycycline 100 mg and doxycycline hyclate, the once a day antibiotic, is needed to treat hospital acquired methicillin resistant *Staphylococcus aureus* and should be prescribed at discharge or sold from a vending machine at the hospital and by licensed blind persons on Federal property by the Randolph-Sheppard Vending Stand Act (Pub. L. 74-732) under 34CFR§395.30 *et seq*. and 20USC§107 *et seq*. - Amantadine for human influenza A and the extra-pyramidal side-effects of antipsychotic drugs; corticosteroid inhalers for asthma; antibiotics for endocarditis and those antibiotics that solve antibiotic resistance: ampicillin for pneumonia and meningitis, doxycycline, the once a day antibiotic, for bubonic plague, Lyme disease and hospital acquired methicillin resistant *Staphylococcus aureus* and metronidazole, pre-surgery for gastroenteritis and joints. Enterocolitis due to *Clostridium difficile* (*C. difficile*)—a predominantly antibiotic-associated inflammation of the intestines caused by *C. difficile*, a gram-positive, anaerobic, spore-forming bacillus—is of growing concern. The disease is often acquired in hospitals or other health care facilities with long-term patients or residents (24,25). The number of deaths from *C. difficile* climbed from 793 deaths in 1999 to a high of 8,085 deaths in 2011. In 2014, the age-adjusted death rate for this cause was 1.9 deaths per 100,000 U.S. standard population, a decrease of 9.5% from the rate in 2013 (2.1). In 2014, C. difficile ranked as the 18th leading cause of death for the population aged 65 and over. Nearly 90% of deaths from *C. difficile* occurred among people aged 65 and over.

2. 20 percent of all deaths occur in nursing homes, however autopsies are performed on only 1 percent of these deaths. In 2014, a total of 2,626,418 resident deaths were registered in the United States—29,425 more deaths than in 2013. The crude death rate for 2014 (823.7 deaths per 100,000 population) was 0.3% higher than the 2013 rate. The age-adjusted death rate in 2014 was 724.6 deaths per 100,000 U.S. standard population—a record low value that was 1.0% lower than the 2013 rate of 731.9. Since 1980, the age-adjusted death rate has decreased significantly every year except 1983, 1985, 1988, 1993, 1999, 2005, 2008, and 2013. The Coalition for Nursing Home Reform states that at least one-third of the nation's 1.6 million nursing home residents may suffer from malnutrition

and dehydration, and this causes 108,800 premature deaths due to malnutrition in nursing homes. Bedsores are estimated to account for 115,000 deaths annually. Over one million people develop bedsores in U.S. hospitals every year, they can be avoided with proper nursing care. The mortality rate in hospitals for patients with bedsores is between 23% and 37%. Because lifting people out of bed is such a back-breaking chore for caregivers, lifting machines are useful.

3. There is an Ethical Responsibility to Study and Prevent Error and Harm under E.8.121. In the context of health care, an error is an unintended act or omission, or a flawed system or plan that harms or has the potential to harm a patient. In health care there is a delicate balance between neglect and abuse. The Institute of Medicine estimated that 18,000 deaths in America could be attributed to a lack of health insurance coverage in 2004, in 2006 that number had risen to 22,000. Seeking medical treatment is itself may be an error. In 1973 doctors in Israel staged a month-long strike and during that month, mortality fell by 50 percent. A couple of years later, a two-month work stoppage by doctors in the Columbian capital of Bogotá led to a 35-percent decline in deaths. During a "work slowdown" by doctors in Los Angeles protesting against sharp increase in premiums for liability insurance, deaths fell by 18 percent. Once doctors were back at work full time, mortality immediately jumped back to the previous level. Every year, 1.2 million Britons are hospitalized as a result of improper medical care. In the United States – where 40,000 people are shot to death each year – the chance of getting "killed" by a doctor is three times greater than being killed by a gun. Every year significantly more people die from an infection sustained while in the hospital than as a result of traffic accidents.

4. Deaths in detention are interesting insofar that, State prison inmates, particularly blacks, are living longer on average than people on the outside. Inmates in state prisons are dying at an average yearly rate of 250 per 100,000, according to the latest figures reported to the Justice Department by state prison officials. By comparison, the overall population of people between age 15 and 64 is dying at a rate of 308 per 100,000, a year. The Justice Department's Bureau of Justice Statistics reported that 12,129 state prisoners died between 2001 through 2004. 2. For black inmates, the rate of dying was 57 percent lower than among the overall black population - 206 versus 484. But white and Hispanic prisoners both had death rates slightly above their counterparts in the overall population. The death rate among men was 72 percent higher than among women. Nearly one-quarter of the women who died had breast, ovarian, cervical or uterine cancer. Eight percent were murdered or killed themselves, 2 percent died of alcohol, drugs or accidental injuries, and 1 percent of the deaths could not be explained. The rest of the deaths - 89 percent - were due to medical reasons. Of those, two-thirds of inmates had the medical problem they died of before they were admitted to prison. Medical problems that were most common among both men and women in state prisons were heart disease, lung and liver cancer, liver diseases and AIDS-related causes. Four percent of the men who died had prostate or testicular cancer. Eighty-nine percent of these inmates had gotten X-rays, MRI exams, blood tests and other diagnostic work, state prison officials told the bureau. State prison officials reported that 94 percent of their inmates who died from an illness had been evaluated by a medical professional for that illness, and 93 percent got medication for it.

More than half the inmates 65 or older who died in state prisons were at least 55 when they were admitted to prison.

5. A healthy diet is extremely important for people hoping to cheat diabetes, heart disease, and cancer, leading causes of death. Heart disease is the leading cause of death. It is estimated that 65 million American adults with high blood cholesterol need to make the therapeutic lifestyle changes (TLC) particularly a strictly vegan diet of fruits, vegetables and whole grains, and cardiovascular exercise needed to lower their cholesterol and, with it, their risk for heart disease. Diabetes is one of the nation's most prevalent, deadly, and costly diseases. Diabetes is a leading cause of heart disease, stroke, kidney disease, blindness and lower limb amputation. 20.8 million American children and adults- 7% of the population have diabetes. Nearly one-third doesn't know they have the disease. Another 54 million have "pre-diabetes," meaning their blood sugar levels are higher than normal but not high enough for a diagnosis of diabetes, putting them in an elevated risk category. On some Indian reservations 50% of the population have been diagnosed with diabetes. Type 1 diabetes, or juvenile onset diabetes, the body fails to produce enough insulin. Type 2 diabetes the body either fails to produce insulin or the cells ignore the insulin. Diabetics must limit their sugar consumption; avoid alcohol, eat a healthy diet and exercise. If they are careful they can thrive. Cancer, is referred to as a malignant neoplasm or tumors growing on a specific part of the anatomy, and can spread to other parts of the body. Cancer cells are basically mutated cells that reproduce and can dominate a system. The normal body eliminates these cells but they can dominate. A healthy diet that includes high levels of anti-oxidants and exercise are important to enable the immune systems of cancer patients to eliminate the cancer cells. All of these diseases are produced by toxic substances in laboratory animals. Cancer treatment success stories: Throat cancer treatment, usually surgery, has a 95% cure rate. Gleevec (Iminitab) has a 95% cure rate for lymphoma and leukemia.

§275a Aging

A. The US is aging rapidly. Older people now account for one in seven Americans, almost 50 million people. The number of older Americans is expected to double by 2060. The number of Americans with Alzheimer's disease, the most common form of dementia, is expected to increase from 5 million today to 15 million in 2050. Primarily as the result of improvements in water purity and sewage treatment, but also because of technological advancements in medical treatment, pharmaceutical drugs and government regulation between 1900 and 2000, life expectancy at birth in the United States increased from 47 to 77 years. Age adjusted life expectancy for people aged 65 increased more than 6 years during the twentieth century, in 2002 a 65 year old American woman could expect to live almost 20 more years and a man an additional 16.6 years. Most of recent progress in life expectancy is attributed to the public becoming increasingly aware of the impact of smoking, excessive drinking, uncontrolled hypertension, lack of exercise and poor diet on the incidence of disease and injury. The life expectancy for Americans was nearly 78 years in 2005, the longest in U.S. history. Between 2005 and 2015, the country's population aged 65 and over increased by 30 percent. Older people now account for one in seven Americans: almost 50 million people, over 26 million women and over 21

million men. By 2060, the number of older Americans (age 65 and older) is expected to double to almost 100 million, or one in four Americans. The population aged 85 and over is growing particularly rapidly and is expected to triple by 2050. The US population will include so many older people in the coming decades because the baby boom generation is aging while fertility rates continue to decline and life expectancy rates have increased. As the older population increases, more people will experience age-related disabilities, and dementia in particular. Today, over 5 million Americans have Alzheimer's disease or another form of dementia, involving the loss of cognitive abilities, memory, and language. By 2050, as many as 16 million Americans could have Alzheimer's disease; currently, one person in the United States develops the condition almost every minute of every day. increasing age is the "greatest known risk factor" for Alzheimer's disease.

1. Following up on the United Nations Principles for Older Persons of 1991, the Second World Assembly on Aging in 2002 produced a *Political Declaration and Madrid International Plan of Action on Aging* focusing on on three priority directions: older persons and development; advancing health and well- being into old age; and ensuring enabling and supportive environments. The aim of the International Plan of Action is to ensure that persons everywhere are able to age with security and dignity and to continue to participate in their societies as citizens with full rights. By 2050 the number of persons aged 60 years and over will increase from 600 million to almost 2 billion and that the proportion of persons aged 60 years and over is expected to double from 10 to 21 per cent. The increase will be greatest and most rapid in developing countries where the older population is expected to quadruple during the next 50 years. The twentieth century saw a revolution in longevity. Average life expectancy at birth has increased by 20 years since 1950 to 66 years and is expected to extend a further 10 years by 2050. This demographic triumph and the fast growth of the population in the first half of the twenty-first century mean that the number of persons over 60 will increase from about 600 million in 2000 to almost 2 billion in 2050 and the proportion of persons defined as older is projected to increase globally from 10 per cent in 1998 to 15 per cent in 2025. The increase will be greatest and most rapid in developing countries where the older population is expected to quadruple during the next 50 years. In Asia and Latin America, the proportion of persons classified as older will increase from 8 to 15 per cent between 1998 and 2025, although in Africa the proportion is only expected to grow from 5 to 6 per cent during the period but then doubling by 2050. In sub-Saharan Africa, where the struggle with the HIV/AIDS pandemic and with economic and social hardship continues, the percentage will reach half that level. In Europe and North America, between 1998 and 2025 the proportion of persons classified as older will increase from 20 to 28 per cent and 16 to 26 per cent, respectively. Globally, the proportion of persons aged 60 years and older is expected to double between 2000 and 2050, from 10 to 21 per cent, whereas the proportion of children is projected to drop by a third, from 30 to 21 per cent. In some developed countries, the number of older persons will be more than twice that of children by 2050. In developed countries the average of 71 men per 100 women is expected to increase to 78. In the less developed regions, older women do not outnumber older men. Current sex ratios in developing countries average 88 men per 100 women among those 60 and older. The fastest growing group of the older population is the oldest old, that is, those who are

80 old years or more. In 2000, the oldest old numbered 70 million and their numbers are projected to increase to more than five times that over the next 50 years. Older women outnumber older men, increasingly so as age increases. The Census is premature regarding the 22.9% under age 18 revision in 2015 that destroyed the **p**opulation pyramid and must return to a number closer to 24% under age 18 used in the 2010 Census. The US Census reports the current population of the United States of America is 324,430,398 as of Friday, August 19, 2016. In 2016 there are estimated to be 77 million children under the age of 18 residing in the Social Security Area Population United States, about 23.33% of the 330 million total area population. 22.9% of 2016 population estimate by the US Census bureau of 324.5 million comes to 74.19 million children, the same as 2010. The Census needs to fix the population pyramid by re-estimating the number of children using the more popular 23.33% child ratio used by the Social Security Actuary, for a total of 75.7 million children in a U.S. population of 324.5 million, more than 74.9 Baby Boomers born 1946-64.

3. Children and older persons are more susceptible to various forms of environmental pollution than individuals in the intermediate ages and are more likely to be affected by even the lowest pollution levels. Medical conditions due to environmental pollution reduce productivity and affect quality of life of persons as they age. Malnutrition and poor nutrition also place older persons at disproportionate risk and can adversely affect their health and vitality. The leading causes of disease, disability and mortality in older persons can be alleviated through health promotion and disease prevention measures that focus, inter alia, on nutrition, physical activity and cessation of smoking. Pay attention to the dangers arising from social isolation and mental illness and reduce the risk they pose to the health of older persons by sup- porting community empowerment and mutual aid groups, including peer out- reach and neighborhood visiting programs and by facilitating the active participation of older persons in voluntary activities. Rigorously implement and reinforce, where applicable, national and international safety standards that aim at preventing injuries at all ages. Prevent unintentional injuries - safeguard pedestrians to minimize fall hazard in the home and forest. Increase quality of care and access to long-term caregiving and house calls by skilled nurses, for older persons, as a possible alternative to hospitalization and nursing home placement. Experts estimate that approximately 70 percent of people aged 65 and over will require long-term services and support, ranging from limited support in their own homes and communities to around-the-clock care in institutional settings. Of the 6 million older people receiving long-term care, about 4 million receive care from a home health agency at home. About 1.2 million people aged 65 and over lived in 15,600 nursing facilities in 2014, and almost 780,000 people lived in other residential care communities. The proportion of people living in institutional settings increases with age because care needs become more intensive. The leading cause of admission to nursing homes is pelvic fracture.

B. Medicare is the primary provider of health insurance to people aged 65 and older in the US. It includes four parts: Parts A, B, C, and D, covering hospital insurance (including the first 100 days in a skilled nursing facility), medical insurance (such as doctors, outpatient care, medical equipment, and preventive services), private companies' health plans (Medicare Advantage), and prescription drugs (including long-stay nursing

facility residents' drug prescriptions), respectively. Medicaid is the primary public health insurance program in the US for people with low incomes, jointly administered by the federal government and the states. It is the primary payer for long- term care, accounting for 51 percent of the nursing home industry's expenditures. Consequently, to receive institutional long-term care outside of a nursing facility requires significant private resources, estimated at over US $3,000 per month. The total cost of long-term care varies by context. In 2015, the median annual cost of living in a nursing facility was over $90,000, roughly twice the cost of having a home health aide and five times the cost of an adult day health care program (almost $18,000). Long-term care costs vary significantly by state. For example, a semi-private skilled nursing home room in the most expensive states (Alaska, Connecticut, and Massachusetts) costs almost three times as much as in the least expensive states (Texas, Missouri, and Louisiana), $143,000–$168,000 compared to $56,000–$61,000 annually. Moreover, home health aides in the most expensive states (Massachusetts, Alaska, and New Jersey) cost almost twice as much as in the least expensive states (Alabama, Louisiana, and West Virginia), $28–$31 versus $17–$19 hourly. In 2013, approximately half of Medicare beneficiaries, which include older people and younger people with disabilities, earned less than $23,500 per year. Despite the common perception that Medicare is for older people and Medicaid is for the poor, many people in the middle class in nursing facilities depend on Medicaid. Many people who saved for assisted living or other non-nursing facility care spend down their savings rapidly. In 2012, paying privately for the median cost of a nursing home ($81,030) would cost 252 percent of the median household income ($34,381) for people aged 65 and up. One in three people turning 65 may require care from a nursing facility at some point in their life, and three-quarters of long-term nursing facility residents will be covered by Medicaid at some point.

1. In 2015, the nursing facility industry, assisted living, and other types of long-term care recorded annual revenues of $156.8 billion, 41 percent of which came from Medicaid and 21 percent from Medicare. Medicare and Medicaid have provided the financial foundation of the nursing facility industry since their creation. The federal government regulates the nursing facility industry through the Nursing Home Reform Act of 1987, requiring facilities to meet certain standards to be certified and paid by Medicare and Medicaid. CMS contracts with state agencies to certify facilities and to ensure "substantial compliance" with minimum health and safety requirements. Seventy percent of nursing facilities in the US—about 11,000—are owned by for-profit companies, and almost 25 percent are nonprofit. About 6 percent are publicly owned, most of which (46 percent) are owned by counties, followed by hospital districts (21 percent), states (14 percent), city-county (9 percent), city (8 percent), and the federal government (1 percent). In 2014, almost three in five nursing facilities were part of a chain, meaning they were owned by an entity that owns multiple facilities. Private equity firms own about 12 percent of all nursing facilities (18 percent of for-profit ones). Ten chains own the facilities in which 14 percent of the nation's residents live, the largest concentration.

C. The 1987 Omnibus Budget Reconciliation Act, was the federal law that amended the Social Security Act to regulate skilled nursing facilities and nursing facilities and established a residents' bill of rights. Associated federal regulations promulgated by the

US Department of Health and Human Services, revised in 2016, set out comprehensive and detailed minimum health and safety standards as well as the parameters of federal and state enforcement of the federal regulations. US federal and state laws protect against abuse and neglect in skilled nursing facilities, primarily through the Nursing Home Reform Act of 1987 and associated regulations. Some of these protections on the quality of care and quality of life a person is entitled to receive while living in a nursing facility are listed explicitly as "resident rights." Many enumerated rights pertain to antipsychotic medications. These rights include: the facility's promotion of residents' dignity; the provision of activities to meet individual needs; the provision of medically-related social services; resident assessments as the foundation for all care comprehensive care planning that involves the resident; professional quality services; availability of psychosocial services; sufficient nursing staff; care supervised by a physician; pharmacist reviews of drug regimens; effective administration of facilities; competence of nursing staff; and facilities' supervision by a medical director.

1. US federal regulations, including revised regulations that intended to go into effect on November 28, 2017, state that nursing home residents have the right to be fully informed in advance of their treatment and have the right to refuse treatment. A resident and/or representative(s) has the right to be informed about the resident's condition; treatment options, relative risks and benefits of treatment, required monitoring, expected outcomes of the treatment; and has the right to refuse care and treatment. If a resident refuses treatment, the facility staff and physician should inform the resident about the risks related to the refusal, and discuss appropriate alternatives such as offering the medication at another time or in another dosage form, or offer an alternative medication or non-pharmacological approach, if available. Under US regulations, the rights to be fully informed in advance about treatment and to refuse treatment apply only to residents that have not been formally "adjudged incompetent" under 42 CFR §483.10(c)(6).

2. In 2016, the DOJ created Elder Justice Task Forces to penalize nursing facilities for grossly substandard care. Every 15 months at most, state surveyors conduct unannounced inspections to evaluate facilities' compliance with health and safety regulations. Surveyors used a detailed protocol—the State Operations Manual produced by CMS, which includes detailed investigative protocols on particular subjects—to conduct surveys and determine the scope and severity of a deficiency. Deficiencies are determinations of noncompliance with more than 150 federal regulatory quality of care, quality of life, safety, fire, and other standards, from freedom from abuse, neglect, and exploitation to the physical environment, emergency preparedness, infection control, food services, and more. Surveyors identify and substantiate any deficiencies, and then determine the scope and severity of harm. Inspectors determine whether the deficiency is isolated, part of a pattern, or widespread and its consequence: the potential for or actual occurrence of minimal harm, actual harm, or immediate jeopardy (likelihood or occurrence of "serious injury, harm, impairment, or death to a resident"). Human Rights Watch quantitative analysis of fines assessed in all states between 2014 and 2016 found that 80 percent were less than $10,000 and 20 percent between $10,000 and $100,000. As of July 2017, a citation that is "no actual harm" with potential for more than minimal harm that is widespread can garner a fine of $405 per day or a per instance fine of $5,000.

"Actual harm" citations (Levels G, H, and I, depending on scope) can garner a fine between $505 and $2,055 per day and between $10,000 and $15,000 per instance, depending on scope. "Immediate jeopardy" level citations (Levels J, K, and L, depending on scope) can garner a fine between $6,394 and $10,494 per day or between $10,000 and $20,000 per instance, depending on scope. Only the highest level deficiency is now eligible for the top civil money penalties. Antipsychotic drug abuse was considered to not cause any actual harm 80% of the time it was stopped in time.

3. In 2016, CMS rejected a minimum staffing level or ratio. A review of the data in 2017 shows that almost a thousand nursing facilities reported that they were providing less than three hours of staff time to residents per day—almost 40 percent below the recommended level. Human Rights Watch analysis found that state-level averages of total reported nurse staffing hours vary: Illinois and Texas have two of the lowest levels, at 3.80 and 3.83 hours respectively; California and Florida have two of the highest, at 4.63 and 4.59 respectively. Moreover, CMS has stated that those numbers are likely inflated because nursing facilities tend to over-report their staffing levels. Facilities reduced their antipsychotic drug use by 1.57 percentage points on average in the year following a citation, but those same facilities were already reducing their rates by 1.60 percentage points during periods where they were not cited, and facilities that were not cited at all were reducing their rates by 1.29 percentage points. Between 2014 and the first quarter of 2016, the average reduction in antipsychotic use rates was only 0.031 percentage points greater in facilities that received an antipsychotic related citation compared with those that were not cited. The 2016 Annual Report of the Board of Trustees of the Federal Old Age and Survivor Insurance Trust Fund and Federal Disability Insurance Trust Fund held that penalties dissuade volunteers. In November 2017, CMS reduced enforcement requirements further, including placing a moratorium on the issuance of financial sanctions for noncompliance with Obama-era regulatory requirements. In a letter to US Department of Health and Human Services Secretary Thomas Price, AHCA pointed out that "a punitive approach by survey teams across the country has threatened to shut down even the best operators in our profession."

D. Between 1903 and 1940 the number of people in state hospitals rose from 150,000 to 450,000 reaching a peak in 1955 with over 550,000 patients. State hospitals began admitting people with a greater range of illnesses than they had traditionally admitted including an increase in the number of elderly who were senile. Modern nursing homes need to avoid new and invasive medical treatments for mental illness and punishments for mis-prescribing psychiatric drugs for dementia and learn to treat mental illness with appropriate volunteer opportunities under Madrid Political Declaration and Plan of Action on Aging of 2002. Antipsychotic use in nursing homes has gone down by 25%-35% since 2012 when CMS created the National Partnership to Improve Dementia Care in Nursing Homes, in recognition of the unacceptably high prevalence of antipsychotic drug use. The US Food and Drug Administration (FDA) has approved some antipsychotic drugs for treatment of conditions, which might effect some older people, such as Tourette syndrome, Huntington's disease and bipolar disorder. The FDA has not approved antipsychotic drugs for treating symptoms of dementia. In an average week, nursing facilities in the United States administer antipsychotic drugs to over 179,000

people who do not have diagnoses for which the drugs are approved. The drugs are often given without free and informed consent, which requires a decision based on a discussion of the purpose, risks, benefits, and alternatives to the medical intervention as well as the absence of pressure or coercion in making the decision. Most of these individuals—like most people in nursing homes—have Alzheimer's disease or another form of dementia. According to US Government Accountability Office (GAO) analysis, facilities often use the drugs to control common symptoms of the disease. The US Food and Drug Administration (FDA) never approved them for this use and has warned against its use for these symptoms. People in nursing facilities are often at heightened risk of neglect and abuse. Many individuals in nursing facilities are physically frail, have cognitive disabilities, and are isolated from their communities. Many individuals in nursing facilities are physically frail, have cognitive disabilities, and are isolated from their communities. Often, they are unable or not permitted to leave the facility alone. Many depend entirely on the institution's good faith and have no realistic avenues to help or safety when that good faith is violated. Such nonconsensual use and use without an appropriate medical indication are inconsistent with human rights norms. The drugs' use as a chemical restraint—for staff convenience or to discipline or punish a resident—could constitute abuse under domestic law and cruel, inhuman, and degrading treatment under international law.

1. The American Psychiatric Association (APA) Practice Guideline on the Use of Antipsychotics to Treat Agitation or Psychosis in Patients with Dementia states that, after eliminating or addressing underlying medical, physical, social, or environmental factors giving rise to manifestations of distress associated with dementia, antipsychotic drugs "can be appropriate" as a means to "minimize the risk of violence, reduce patient distress, improve the patient's quality of life, and reduce caregiver burden." The medical reason for prescribing antipsychotic drugs to people with dementia, usually as a last resort, is that dementia is often accompanied by irritability, agitation, aggression, hallucinations, delusions, wandering, disinhibition, anxiety, and depression—what some medical professionals call "behavioral and psychological symptoms of dementia." Some studies find that a majority of people with dementia will develop at least one of these symptoms and that individuals in nursing facilities tend to have more severe symptoms than people in other care settings. These symptoms can be distressing and dangerous to the individuals experiencing them and to those around them, including family and caregivers. Numerous organizations, including the American Association for Geriatric Psychiatry, American Association of Nurse Practitioners, American Geriatrics Society, American Health Care Association, American Medical Directors Association, Society for Post-Acute and Long-Term Care Medicine, American Psychiatric Association, and LeadingAge, jointly stated. While there is a national need for better and more approved treatments for behavioral and psychiatric symptoms in dementia, clinicians need to be mindful of and avoid labeling patients with other diagnoses to justify the use of medications or other treatments. Second World Assembly on Aging in 2002 produced a Political Declaration and Madrid International Plan of Action on Aging pays attention to the dangers arising from social isolation and mental illness and reduce the risk they pose to the health of older persons by supporting community empowerment and mutual aid

groups, including peer out-reach and neighborhood visiting programs and by facilitating the active participation of older persons in voluntary activities.

2. The boxed warning on antipsychotic drugs for use in older people with dementia is based on findings that the drugs increase the risk of death in older people with dementia. Elderly patients with dementia-related psychosis treated with atypical antipsychotic drugs are at an increased risk of death compared to placebo. Analyses of seventeen placebo-controlled trials . . . in these patients revealed a risk of death in the drug-treated patients of between 1.6 and 1.7 times that seen in placebo-treated patients. Over the course of a typical 10-week controlled trial, the rate of death in drug-treated patients was about 4.5%, compared to a rate of about 2.6% in the placebo group. Aside from raising the risk of death, the drugs' side effects include severe nervous system problems; neuroleptic malignant syndrome (a life-threatening reaction associated with severe muscular rigidity, fever, and altered mental status); tardive dyskinesia (characterized by stiff, jerking movements that may be permanent once they start and whose likelihood of onset increases the longer antipsychotic drugs are taken); high blood sugar and diabetes; and low blood pressure, which causes dizziness and fainting. Other side effects include increased mortality, cerebrovascular events (stroke), cardiovascular effects, blood clots, central and autonomic nervous system problems, visual disturbances, metabolic effects, extrapyramidal symptoms, fall risk and hip fracture, irreversible cognitive decompensation, and pneumonia. A 2012 Office of Inspector General investigation found that Medicare processed 1.4 million claims for atypical antipsychotic drugs from nursing facilities in 2007. Older people with dementia accounted for 88 percent of the 1.4 million claims, but somehow only 22 percent were considered inappropriate.

E. 90% of retired people earn their income in part or totally from social security. In the USA the percentage of elders living in poverty is at an all time low, while the percentage who are rich has reached an all time high. A person will not be eligible for full retirement benefits for such a time they have a monthly income above $2,500.00 from employment, annuities, investments, and royalties in Sec. 203 of the Social Security Act under 42USC§403 (f-D). Residents of public institutions are ineligible for Supplemental Security Income (SSI). However, Sec. 1611(e)(1) of the Social Security Act under 42USC§1382(e)(1) (A) provides an exception to that rule. Residents of medical treatment facilities that receive substantial Medicaid payments on the recipient's behalf can be eligible for a reduced Federal SSI monthly benefit of no more than $30. Those who reside throughout a month in a public institution that is a medical treatment facility where Medicaid (title XIX of the Social Security Act) pays a substantial part (more than 50 percent) of the cost of care; for children under the age of 18 residing throughout a month in a public institution that is a medical treatment facility where a substantial part (more than 50 percent) of the cost of care is paid under a health insurance policy issued by a private provider of such insurance; or, a child under the age of 18 residing throughout a month in a public institution that is a medical treatment facility where a substantial part (more than 50 percent) of the cost of care is paid by a combination of Medicaid payments and payments made under a health insurance policy issued by a private provider of such insurance under 20CFR§416.211...see *Schweiker v. Wilson et al*, 101 S.Ct. 1074 (1981).

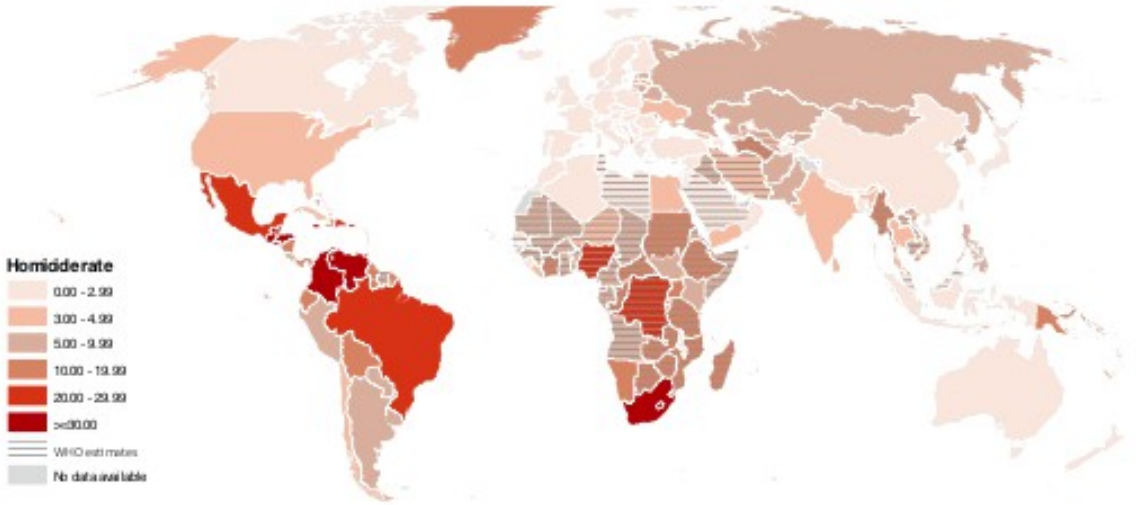
1. A nursing facility must care for its residents in such a manner and in such an environment as will promote maintenance or enhancement of the quality of life of each resident. A nursing facility must provide (or arrange for the provision of) nursing and related services and specialized rehabilitative services to attain or maintain the highest practicable physical, mental, dental and fiscal well-being of each resident, without resorting to involuntary psychiatric treatment at Sec. 1919 of the Social Security Act under 42USC§1396r. If the United States wants nursing homes to reduce the dementia, irritability, agitation, aggression, hallucinations, delusions, wandering, disinhibition, anxiety, and depression—what some medical professionals call "behavioral and psychological symptoms of dementia" nursing homes are going to have leave their patients with more money. Nursing homes need to leave their resident SSI beneficiaries with more than $30 a month. Second World Assembly on Aging in 2002 produced a Political Declaration and Madrid International Plan of Action on Aging pays attention to the dangers arising from social isolation and mental illness and reduce the risk they pose to the health of older persons by supporting community empowerment and mutual aid groups, including peer out-reach and neighborhood visiting programs and by facilitating the active participation of older persons in voluntary activities, such as buying and smoking marijuana. The custom of taking of all but $30 from SSI beneficiaries while they are in the long-term care of a hospital or nursing facility needs to be abolished under Sec. 1161(e)(1) of the Social Security Act under 42USC§1382(e)(1). SSI beneficiaries in nursing homes are due at least 30% of their benefits and the nursing home 70% whereby the residents own the home under Housing and Urban Development (HUD) guidelines - the greater of $300 or 30% of social security benefits, by Treasury under 24USC§14a or fee under 24USC§414.

§275b Homicide

A. Intentional (conventional) homicide is currently defined at the international level by UNODC as "unlawful death purposefully inflicted on a person by another person (by conventional means)". The definition contains three elements characterizing an intentional homicide: The killing of a person by another person (objective element); the intent of the perpetrator to kill or seriously injure the victim (subjective element); the intentional killing is against the law, which means that the law considers the perpetrator liable for the unlawful death (legal element). Homicide, includes murder and non-negligent manslaughter, which is the willful killing of one human being by another. Firearms are the most widely used weapons, accounting for 4 out of every 10 homicides at the global level, whereas "other means", such as physical force and blunt objects, among others, kill just over a third of homicide victims, while sharp objects kill a quarter. These data are based solely on police investigation, as opposed to the determination of a court, medical examiner, coroner, jury, or other judicial body. The general analyses excluded deaths caused by poison, tampering, negligence, suicide, or accident; justifiable homicides; and attempts to murder. Justifiable homicides based on the reports of law enforcement agencies are analyzed separately. Deaths from the terrorist attacks of 9/11/01 are not included in any of the analyses. Deaths caused by police are unaccounted for, or accounted for on a case-by-case basis. The United Nations Office on Drugs and Crime (UNODC) compiles global homicide statistics annually and in 2013 published a

global homicide book. Administered by the Federal Bureau of Investigation (FBI) since 1930 at the request of the International Association of Police Chiefs, the Uniform Crime Reporting (UCR) summary program provides data on the total number of crimes known to law enforcement agencies in the United States. Fatal Injury Reports are developed from the National Vital Statistics System (NVSS), which includes data derived from the registration of births and deaths at the state and local level. The modern system dates back to 1933 when uniform collection and national-level reporting of birth and death certificates began. Deaths recorded with ICD codes X85- Y09 (injuries inflicted by another person with intent to injure or kill) generally correspond to the definition of intentional homicide. NVSS accounts for death from legal intervention, separately ICD codes Y35,Y89.0.

Homicide by Country, 2012



Credit. UNODC

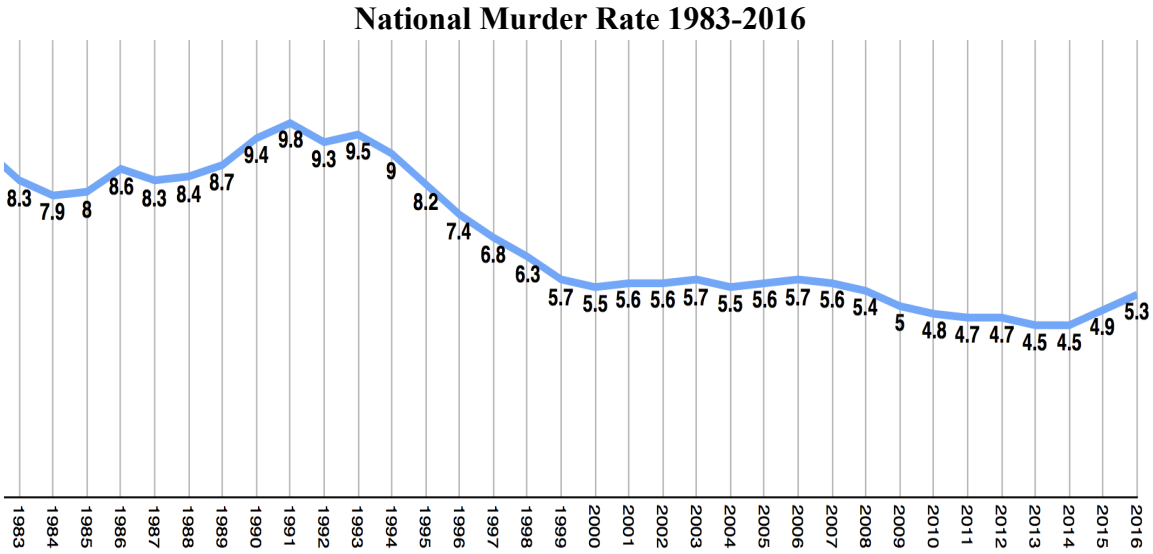
1. Intentional homicide caused the deaths of almost half a million people (437,000) across the world in 2012. More than a third of those (36 per cent) occurred in the Americas, 31 per cent in Africa and 28 per cent in Asia, while Europe (5 per cent) and Oceania (0.3 per cent) accounted for the lowest shares of homicide at the regional level. The global rate was 7.6 intentional homicides per 100,000 inhabitants for 2004. UNODC (United Nations Office on Drugs and Crime) reported a global average intentional homicide rate of 6.2 per 100,000 population for 2012 in their report titled Global Study on Homicide 2013. The global average homicide rate stands at 6.2 per 100,000 population, but Southern Africa and Central America have rates over four times higher than that (above 24 victims per 100,000 population), making them the sub-regions with the highest homicide rates on record, followed by South America, Middle Africa and the Caribbean (between 16 and 23 homicides per 100,000 population). Meanwhile, with rates some five times lower than the global average, Eastern Asia, Southern Europe and Western Europe are the sub- regions with the lowest homicide levels. Almost three billion people live in an expanding group of countries with relatively low homicide rates, many of which, particularly in Europe and Oceania, have continued to experience a

decrease in their homicide rates since 1990. At the opposite end of the scale, almost 750 million people live in countries with high homicide levels, meaning that almost half of all homicides occur in countries that make up just 11 per cent of the global population and that personal security is still a major concern for more than 1 in 10 people on the planet. The Russian Federation has a homicide rate slightly less than double the sub-regional aver- age (9.2 versus 5.8 per 100,000 population); in the latter, the Philippines has a homicide rate slightly more than double the sub-regional average (8.8 versus 4.3 per 100,000 population). In the context of family and intimate partner relationships, women are considerably more at risk than men, yet 79 per cent of all homicide victims globally are male. Moreover, some 95 per cent of homicide perpetrators at the global level are also male. The global male homicide rate is almost four times that of females (9.7 versus 2.7 per 100,000). The 15-29 and 30-44 age groups account for the vast majority of homicides globally, with almost half of all homicide victims aged 15-29 and slightly less than a third aged 30-44. Urban areas tend to have higher rates of homicide than rural areas, even though cities tend to be home to both homicide risk and protective witnesses. To redress 515 justified homicides from legal intervention, the homicide rate of one million police officers is 51.5 per 100,000, ten times more than average, that of prisoners is three times normal.

2. The National Vital Statistics Service estimates there were 15,872 homicides in the United States in 2014. For 2014 the Federal Bureau of Investigation (FBI) reported there were 14,146 murders and non-negligent manslaughter In 2016, the estimated number of murders in the nation was 17,250. This was an 8.6% increase from the 2015 estimate, a 12.2% increase from the 2014 estimate, a 16.1% increase from the 2012 figure, and a 0.7% rise from the number in 2007. There were 5.3 murders per 100,000 people in 2016. Since 1970 the national murder rate is estimated by Death Penalty Info to have gone down from a high of 10.2 per 100,000 in 1980 to 5.3 per 100,000 in 2016. The murder rate went down from 9 per 100,000 in 1994 to 5.5 in 2000 to 5 in 2008 to 4.8 in 2010, to a low of 4.5 in 2013 and 2014, going back up to 4.9 in 2015 and up to 5.3 in 2016. For 2016, Death Penalty info estimates the average Murder Rate of Death Penalty states was 5.4, while the average Murder Rate of States without the Death Penalty was 3.9. In the United States, some 909 mass killings were documented between 1900 and 1999, with the frequency of mass public shootings, the most visible form of mass murder, increasing in the 1960s. More recently, between 2002 and 2011, there was an average of 32 acts of mass murder per year, taking an average of 150 lives annually, a relatively stable trend in spite of the overall declining trend for all homicides.

3. In 2014, the United States Vital Statistics Service estimated that 11,008 were killed by discharge of firearm and 4,597 by other unspecified means and their sequelae. Unspecified means are limited to bare handed, knife, blunt object only. Intentional poisoning, negligent manslaughter and other third-party accidents are not accounted for as homicide by the National Vital Statistics Service. 249 of the homicide victims were under 1 year of age, 5 of these died from firearm injury and 249 from other causes. Assault (homicide) was the 17th leading cause of death in 2014, dropped from among the 15 leading causes of death in 2010 but is still a major issue for some age groups. In 2014, homicide remained among the 15 leading causes of death for age groups 1–4 (3rd), 5–14

(5th), 15–24 (3rd), 25–34 (3rd), 35–44 (5th), and 45–54 (13th). Homicide would be the 15th leading cause of death, if the three categories of lung disease were consolidated into the third leading cause of death, after cancer and heart disease, the third leading cause of death is currently chronic lower respiratory diseases. In 2014, there were 11,008 fatal firearm injuries in the United States. 2017 set a new record for rampage shootings - 58 dead, 546 wounded, in the Las Vegas Strip Massacre. An estimated 124 people died in rampage shootings defined as multiple firearm fatalities in 2017. In 2016 an estimated 66 people died, 49 in the Orlando nightclub massacre. In 2015 an estimated 43 people died with a high of 14 in the San Bernadino Massacre. 2016 and 2017 set consecutive highest body count records.



Credit: Death Penalty Info

4. Firearm—In 2014, 33,594 persons died from firearm injuries in the United States, accounting for 16.8% of all injury deaths in that year. The age-adjusted death rate from firearm injuries (all intents) did not change significantly in 2014 from 2013. The two major component causes of firearm injury deaths in 2014 were suicide (63.7%) and homicide (32.8%). The age-adjusted death rate for firearm homicide decreased 2.8%, from 3.6 in 2013 to 3.5 in 2014. The rate for firearm suicide did not change. In 2014, 51,966 deaths occurred as the result of poisonings, 26.0% of all injury deaths. The age-adjusted death rate for poisoning increased significantly, 6.6%, from 15.2 deaths per 100,000 U.S. standard population in 2013 to 16.2 in 2014. Countries with higher levels of firearm ownership also have higher firearm homicide rates. Instruments with sharp edges account for 24 per cent of all homicides globally. Many homicides result from cuts or slashes caused by sharp objects, such as knives, machetes, razors, swords and bayonets, as well as broken glass, but sharp objects, including less conventional examples such as screwdrivers, ice picks or stilettos, can also be used to stab or puncture. Such instruments are relatively easy to obtain and to conceal. Drug and alcohol intoxication increases likelihood of homicide victimization or perpetration. Scandinavian studies indicates +/- 80% of homicide perpetrators were intoxicated at the time of the crime. The Arms Trade Treaty (ATT), adopted by the United Nations General Assembly in April 2013,a is designed to regulate and improve the regulation of the international trade in

conventional arms, with the intention of preventing, disrupting and eradicating the illicit trade in such arms and thwarting their diversion. The ATT will be closely linked to the successful implementation and provisions of the United Nations Convention against Transnational Organized Crime and its protocols, notably the Firearms Protocol, which obliges countries to establish strict transfer control measures and enforcement provisions, as well as to criminalize the illicit manufacturing and trafficking of firearms, their parts, components and ammunition, among several other measures. The ATT introduces a set of measures designed to prevent diversions of conventional arms by prohibiting the authorization of arms transfers under certain circumstances, including where there is knowledge that arms would be used to perpetrate war crimes, genocide, attacks against civilians, and other grave breaches of the Geneva Conventions. The basic elements of homicide, such as premeditation, motivation, context, instrumentality and perpetrator-victim relationship are lumped into three major categories of homicide, those related to other criminal activities, interpersonal homicide, and socio-political homicide.

5. Police forces tend to respond promptly to homicide offenses, and in a little over 60 per cent of cases they are able to identify and arrest one or several suspects for a particular homicide, allowing the case to be turned over to the prosecution service. To use the FBI's terminology, the national "clearance rate" for homicide in the United States is 64.1%. Fifty years ago, it was more than 90%. "Clearance" doesn't equal conviction: It's just the term that police use to describe cases that end with arrests, false, or otherwise. Significant regional disparities do, however, exist: 80 and 85 per cent, respectively, of homicide cases are “cleared” in this way in Asia and Europe, and some 50 per cent in the Americas. In the Americas, where, on average, the homicide rate is high, the police are able to identify a suspect for slightly more than half of all homicide victims, but less than 50 per cent of those suspected are convicted, meaning that less than a quarter of homicides lead to a conviction. In Asia, where homicide rates are lower in general, on average there are multiple suspects for every homicide, yet only half of homicides end in a conviction. In Europe, there are as many suspects as there are homicides, with eight out of ten leading to a conviction; a high conviction rate by comparison. With 50 per cent more suspects than homicides, less than a third of whom are convicted. With a conviction rate of 24 per cent, the level of impunity for homicide in the Americas is rather high. Globally 43 perpetrators are convicted for every 100 victims of intentional homicide. When looking at the criminal justice process at the regional level, for every 100 homicide victims there are 53 suspects in the Americas, 151 in Asia and 100 in Europe, while the number of persons convicted per 100 homicide victims is 24 in the Americas, 48 in Asia and 81 in Europe. The high conviction rate in Europe is attributed to the fact that the victim and perpetrator were intimately associated and knew each other well in 90% of homicides. In countries with very low homicide rates (less than 1 per 100,000 population), clearance rates average 92 per cent, while in countries with high homicide rates (above 10 per 100,000 population), clearance rates are as low as 52 per cent. In the United States there's a 1 in 3 chance that the police won't arrest any suspects. In 2016, in the United States, among murder defendants whose cases were adjudicated 70% were convicted. Forty-one percent of murder convictions occurred at a trial rather than through a guilty plea.

6. There are about 1,000 police shootings each year in the United States. In 2016 the NVSS reported that there were 515 deaths categorized as being the result of legal intervention ICD-10 Y35,Y89. Between 2005 and April 2017, 80 officers had been arrested on murder or manslaughter charges for on-duty shootings. During that 12-year span, 35% were convicted, while the rest were pending or not convicted. The share of homicide offenders among the global prison population is not markedly different across regions: in Europe and the Americas it is between 7 and 10 per cent, whereas it is slightly lower in Asia (4 per cent). In the Americas, the homicide rate per 100,000 prisoners is three times higher than the homicide rate in the general population. At the national level, firearm and knife legislation restricting availability, accessibility and use has been implemented in various countries with varying degrees of success in preventing or reducing homicides committed with such weapons. Municipal policies, including those restricting the open- ing hours of premises licensed to sell alcohol, and others monitoring the victims of intimate partner/ family-related violence, have proved effective at reducing the number of homicides in the areas in which they have been implemented. Furthermore, policing strategies implemented at the neighborhood level have also demonstrated great success in targeting violence "hot spots" and in improving community safety. In many countries there is a substantial death rate per 100,000 prison inmates (which includes both natural causes of death as well as those resulting from external causes), which is very high, especially considering the relatively young age structure of the prison population. Among external causes, rates of homicide appear to be a bigger problem in prisons in the Americas (57 per 100,000 prisoners), than in Europe (2 per 100,000 prisoners), where suicide appears to be the main non-natural cause of death of inmates. the homicide rate per 100,000 prisoners is three times higher than the homicide rate in the general population.

7. With 515 justified homicides from legal intervention in 2016, the homicide rate of one million police officers is 51.5 per 100,000, ten times more than normal. Killings in self-defense and those deriving from legal interventions, are distinguished from intentional homicide because they are considered justifiable due to mitigating circumstances, while non-intentional homicides are considered a separate offense due to the lack of intent to kill another person. killings by the police or other law enforcement agents in the course of arresting or attempting to arrest lawbreakers, while maintaining order, or during other legal actions where they are caused by use of force by law enforcement acting in accordance with the United Nations (1990) *Basic principles on the use of force and firearms by law enforcement officials* (A/ CONF.144/28/Rev.1). Killings resulting from the excessive use of force in law enforcement or through the excessive use of force in self-defense are either considered intentional homicides or non-negligent non-intentional homicide and should therefore be counted as such. For example, some counties in the Americas record deaths due to legal interventions and homicides committed in self-defense as "intentional homicide"; other countries may include deaths which are not part of the standard definition, such as those related to armed conflict and non-intentional homicides (i.e. accidental or non-voluntary homicides, or "collateral" deaths). the notion of "intentional homicide" is broad enough to encompass deaths caused by terrorist acts, and whilst perpetrators may face additional charges, such as acts of terrorism, acts against the State, or even crimes against humanity, the core act still concerns the intentional

killing of other persons. To avoid irregular statistics, the International Classification of Crime for Statistical Purposes (ICCS), a statistical standard requested by the United Nations Statistical Commission and the United Nations Commission on Crime Prevention and Criminal Justice, the ICCS must specify that that they account only for conventional intentional homicides. The ICCS may additionally make estimates regarding conventional armed conflict related fatalities, those justifiable homicides relating to police intervention, and and conflict related fatalities of poison and tampering prohibited by the Hague Convention of 1907. Among the special procedures of the Human Rights Council, the United Nations Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions holds unlawful killings by the police may occur in situations where the police are not pursuing law enforcement objectives, such as attempts at extortion that may escalate into extra- judicial killings; engaging in "social cleansing" operations and intentionally killing criminals or members of marginalized groups; or in even more extreme situations, where police are operating as a militia or death squad. In order to win a civil rights claim, an individual bringing a police misconduct claim must prove that the actions of the police exceeded reasonable bounds, infringed the victim's constitutional rights, and produced some injury or damages to the victim (such as wrongful death by police) whereas it is unlawful for anyone acting under the authority of state law to deprive another person of his or her rights under the Constitution or federal law under 42USC§1983.

B. Murder is the unlawful killing of a human being with malice aforethought. Every murder perpetrated by poison, lying in wait, or any other kind of willful, deliberate, malicious, and premeditated killing; or committed in the perpetration of, or attempt to perpetrate, any arson, escape, murder, kidnapping, treason, espionage, sabotage, aggravated sexual abuse or sexual abuse, child abuse, burglary, or robbery; or perpetrated as part of a pattern or practice of assault or torture against a child or children; or perpetrated from a premeditated design unlawfully and maliciously to effect the death of any human being, other than him who is killed, is murder in the first degree. Any other murder is murder in the second degree. b. Within the special maritime and territorial jurisdiction of the United States, Whoever is guilty of murder in the first degree shall be punished by death or by imprisonment for life. Whoever is guilty of murder in the second degree, shall be imprisoned for any term of years or for life under 18USC§1111. First degree murder involves a premeditated killing; often in a pattern or practice with other violent offenses such as assault, child abuse, sexual abuse, serious bodily injury and torture. In other words, the killer made a plan to kill the victim and then carried that plan out. Second degree murder does not require premeditation, however. Instead, there are three typical situations that can constitute second degree murder: A killing done impulsively without premeditation, but with malice aforethought. A killing that results from an act intended to cause serious bodily harm. A killing that results from an act that demonstrates the perpetrators depraved indifference to human life. First degree murder is one of the most serious charges and it comes with the harshest of penalties. If two or more persons conspire to murder, and one or more of such persons do any overt act to effect the object of the conspiracy, each shall be punished by imprisonment for any term of years or for life under 18USC§1117. The "term of life imprisonment" means a sentence for the term of natural life, a sentence commuted to natural life, an

indeterminate term of a minimum of at least fifteen years and a maximum of life, or an unexecuted sentence of death under §1118.

1. Nothing shall impair the right of individual or collective self-defense. It is a well established principle that the use of force is acceptable only when that use of force was directly and proportionally aimed against an armed attack under Art. 51 of the UN Charter. Justifiable homicide is defined as and limited to: The killing of a felon by a peace officer in the line of duty. The killing of a felon, during the commission of a felony, by a private citizen. Because these killings are determined through law enforcement investigation to be justifiable, they are tabulated separately from murder and non-negligent manslaughter. Art. 22 of the Hague Convention IV Respecting the Laws and Customs of War on Land of October 18, 1907 the right of belligerents to adopt means of injuring the enemy is not unlimited and under Art. 23 it is especially forbidden - a. To employ poison or poisoned weapons; ...e. To employ arms, projectiles, or material calculated to cause unnecessary suffering... *g.* To destroy or seize the enemy's property, unless such destruction or seizure be imperatively demanded by the necessities of war. Intensive study of historical fires has failed to document any cases wherein fire killed a forest by burning through treetops in the ponderosa pine forests of the American Southwest prior to 1900 there was not the fuel to set timber afire under 18USC§1855. In contrast, numerous fires since 1950 exceeding 5,000 acres (2,025 hectares) have burned forests more intensively than earlier fires. Killings committed in the perpetration or attempt to perpetrate dangerous felonies, such as Arson under 18USC§81, are specifically listed, with escape, murder, kidnapping, treason, espionage, sabotage, aggravated sexual abuse or sexual abuse, child abuse, burglary, or robbery as constituting first degree murder under 18USC§1111. Unlike the other common crimes, arson is specifically listed as a crime of harbor and concealment of terrorists under 18USC§2339, provision of material support of terrorism under 18USC§2339A. Homicides linked to more conventional types of crime such as robbery or burglary are of a different nature from homicides linked to organized crime, for which homicide can often be a strategic element of its modus operandi. Among the special procedures of the Human Rights Council, the United Nations Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions holds unlawful killings by the police may occur in situations where the police are not pursuing law enforcement objectives, such as attempts at extortion that may escalate into extra- judicial killings; engaging in “social cleansing” operations and intentionally killing criminals or members of marginalized groups; or in even more extreme situations, where police are operating as a militia or death squad. In order to win a civil rights claim, an individual bringing a police misconduct claim must prove that the actions of the police exceeded reasonable bounds, infringed the victim's constitutional rights, and produced some injury or damages to the victim (such as wrongful death by police) whereas it is unlawful for anyone acting under the authority of state law to deprive another person of his or her rights under the Constitution or federal law under 42USC§1983.

2. Manslaughter is the unlawful killing of a human being without malice. It is of two kinds: Voluntary—Upon a sudden quarrel or heat of passion. Involuntary—In the commission of an unlawful act not amounting to a felony, or in the commission in an unlawful manner, or without due caution and circumspection, of a lawful act which might

produce death. (b) Within the special maritime and territorial jurisdiction of the United States. Whoever is guilty of voluntary manslaughter, shall be fined under this title or imprisoned not more than 15 years, or both. Whoever is guilty of involuntary manslaughter, shall be fined under this title or imprisoned not more than 8 years, or both under §1112. Except as provided in §113 pertaining to assault, within the special maritime and territorial jurisdiction of the United States, whoever attempts to commit murder or manslaughter, shall, for an attempt to commit murder be imprisoned not more than twenty years or fined under this title, or both, and for an attempt to commit manslaughter be imprisoned not more than seven years or fined under this title, or both under §1113. involuntary manslaughter is the unintentional killing of another human. This differs from first or second degree murder in that the killing is accidental -- resulting from recklessness, criminal negligence or in the commission of a misdemeanor or low-level felony. However, an unintentional killing committed in the commission of an "inherently dangerous" felony, is treated as first degree murder in most states.

C. Congress has enacted at least 60 criminal statutes where "causing the death of another" can be an element of the offense. These statutes preventing and punishing the crime of genocide under 18USC§1091 range from the obvious, such as making it a crime to murder the president under 18USC§1751, to the obscure, such as making it a crime to kill a poultry inspector under 21USC§461(c). Of the federal statutes covering murder or causing death offenses, 47 of them provide for capital punishment. Congress was granted the authority to define and punish piracy in Article I, § 8 of the Constitution. It used that authority when it enacted a statute that made the crime of murder on the high seas, punishable by death, under 18USC§1652. Federal statutes punishing murder or criminal conduct "resulting in death" are scattered throughout the United States Code, appearing in Titles 7, 8, 18, 21, 42, and 49. it is a federal offense if a person is killed because he or she is engaged in a federally protected or sponsored activity under 18USC§245. Murder in a federal facility is a violation of 18USC§930. If a person dies because of a captain's or employee's misconduct or negligence while the victim was on a ship, it is a federal offense under 18USC§1115. Killings within Indian Country 18USC§1153, §3242 and on federal land under 18USC§ 111(b) constitute federal offenses. If an American citizen murders another American citizen outside of the United States, but within the jurisdiction of another country, that murder may be prosecuted as a federal offense under 18USC§1119. Finally, if a defendant uses interstate commerce facilities or causes another to travel in interstate commerce in order to kill the other person (the murder-for-hire statute), it becomes a federal offense under 18USC§1958.

1. Murder-for-hire statute makes it illegal: 1) to travel or use facilities in interstate or foreign commerce; 2) with the intent that a murder in violation of federal or state law be committed; 3) "as consideration for the receipt of, or as consideration for a promise or agreement to pay, anything of pecuniary value, or who conspires to do so under 18USC§1958. The court held that the defendant's driving on roads used in interstate commerce, even when the travel occurred intrastate, was sufficient to establish jurisdiction in *United States v. Mandel*, 647 F.3d 710 (7th Cir. 2011) . The offense is complete once a defendant uses a facility of interstate commerce with the requisite intent in *United States v. Preacher*, 631 F.3d 1201, 1203 (11th Cir. 2011). The court found that

the federal government could prosecute the murder of a woman in the in the Manistee National Forest in Michigan without having provided notice to the state that it was exercising law enforcement jurisdiction because the federal government acquired the land in 1938 in *United States v. Gabrion*, 517 F.3d 839, 856-57 (6th Cir. 2008). Anything of pecuniary value, even the payment of minor expenses, meets the third element. in *United States v. Acierno*, 579 F.3d 694 (6th Cir. 2009). To convict a defendant of conspiracy, the government prove beyond a reasonable doubt that the defendant knowingly and intentionally joined in an agreement with one or more other individuals to commit an unlawful act, see *United States v. Morris*, 817 F.3d 1116, 1119 (10th Cir. 2016); *United States v. Valle*, 807 F.3d 508, 515-16 (2d Cir. 2015).

2. The United States Criminal Code contains several crimes of threat. Title 18 criminalizes threats to federal officials under §115; federal judges under § 115(a); the President and Vice President of the United States under §871; foreign officials under §878; and Presidential candidates and former Presidents under § 879. It is also a crime to transmit a threat against anyone by interstate wire under §875 or by mail under §876. Threats are sometimes charged with the federal hoax statute § 1038, as well. No discussion of threat crimes would be complete without considering *Watts v. United States*, 394 U.S. 705 (1969). Prior to Watts, lower courts had placed an extremely broad interpretation on the "threat" requirement of § 871(a), refusing to exclude conditional language, *United States v. Jasick*, 252 F. 931, 933 (E.D. Mich. 1918); words obviously made in jest, *Pierce v. United States*, 365 F.2d 292, 293-94 (10th Cir. 1966); and political hyperbole, *Rothering v. United States*, 384 F.2d 385, 386 (10th Cir. 1967). In fact, the early cases indicate a preoccupation with the supposed disloyal nature of communications rather than their seriousness or imminence; see *United States v. Stobo*, 251 F. 689, 692-93 (D. Del. 1918). At case involving racist threats against Barack Obama were not charged until after investigation ascertained that the defendant was armed in *United States v. Bagdasarian*, (9th Cir. July 19, 2011). Other recent Presidential threat cases show a very common phenomenon—the inquiry into the defendant's mental competence, see *United States v. Wine*, 408 F. App'x 303, 305-06 (11th Cir. 2011) (affirming district court's inquiry into defendant's mental competence); *United States v. Larson*, (10th Cir. Nov. 15, 2010) (following § 871 conviction, affirming district court's requirement of medical treatment); *United States v. Crape*, 603 F.3d 1237, 1247 (11th Cir. 2010) (defendant found not guilty by reason of insanity).

3. The United States takes threats seriously, upholding one conviction out of two, for threatening social security administration staff in *United States v. Bankoff*, 613 F.3d 358 (3d Cir. 2010), 27 months and 3 years probation in *United States v. Wolff*, (10th Cir. Mar. 23, 2010), 168 months imprisonment in *United States v. Bischof*, (10th Cir. Aug. 3, 2010), 24 months *United States v. Zohfeld*, 595 F.3d 740, 742 (7th Cir.2010), 120 months *United States v. Carson*, (3d Cir. Apr. 28, 2010). Chad Conrad Castagana sent threatening letters to various celebrities and political figures and included a white powdery substance in the letters. Between September 7 and November 9, 2006, Castagana mailed 14 letters to such people as comedians Jon Stewart and David Letterman, Viacom executive Sumner Redstone, Representative Nancy Pelosi, Senator Charles Schumer, and political commentator Keith Olbermann. The letters expressed

hostility to the addressees' political viewpoints, and included threats. The white powdery substance included in the letters was not dangerous; it was a combination of laundry soap and cleanser. Castagana proposed a jury instruction requiring the government to prove that Castagana intended his targets to reasonably believe that the letters contained anthrax. The district court refused Castagana's jury instruction and Castagana was convicted *United States v. Castagana*, 604 F.3d 1160, 1163 (9th Cir. 2010). In *United States v. White,* (W.D. Va. Feb. 4, 2010) involved a defendant, William White, who was charged under §875 with intimidating with the intent to influence, delay, and prevent testimony in an official proceeding involving African-American tenants. He mailed packets containing both an offensive letter and an American National Socialist Workers Party magazine to tenants of a Virginia Beach housing development, including several who were named plaintiffs in a HUD complaint against their landlord. The various crimes of threat are a powerful tool in the federal prosecutor's arsenal. They effectively allow law enforcement to intercede at a very early part of a violent scheme and to stop incidents before the trigger is pulled.

D. A wrongful death lawsuit may be filed when a person *negligently or intentionally c*auses the death of another person. A suit for wrongful death may only be brought by the personal representative of the decedent's estate. It is important to note that this is vastly different from criminal prosecutions for first degree murder in which the state must prove that a person "knowingly causes the death of another person after deliberation upon the matter". When someone dies due to the fault of another person or entity (like a car manufacturer), the survivors may be able to bring a wrongful death lawsuit. Such a lawsuit seeks compensation for the survivors' loss, such as lost wages from the deceased, lost companionship, and funeral expenses. In order to bring a successful wrongful death cause of action, the following elements must be present: The death of a human being, caused by another's negligence, or with intent to cause harm; The survival of family members who are suffering monetary injury as a result of the death, and; The appointment of a personal representative for the decedent's estate. A wrongful death claim may arise out of a number of circumstances, such as in the following situations: medical malpractice that results in decedent's death; automobile or airplane accident, occupational exposure to hazardous conditions or substances, Criminal behavior, death during a supervised activity. Pecuniary, or financial, injury is the main measure of damages in a wrongful death action. Courts have interpreted "pecuniary injuries" as including the loss of support, services, lost prospect of inheritance, and medical and funeral expenses. When determining pecuniary loss, it is relevant to consider the age, character and condition of the decedent, his/her earning capacity, life expectancy, health and intelligence, as well as the circumstances of the distributees. In the same way that the death of a child might not produce a large award of damages, the death of an elderly person also has limited recovery potential. Punitive damages are awarded in cases of serious or malicious wrongdoing to punish the wrongdoer, or deter others from behaving similarly. In most states, a plaintiff may not recover punitive damages in a wrongful death action. In addition to damages for wrongful death, the distributees may be able to recover damages for personal injury to the decedent. These are called "survival actions," since the personal injury action survives the person who suffered the injury. In a survival action for a decedent's conscious pain and suffering, the jury may make several inquiries

to determine the amount of damages, including: 1) the degree of consciousness; 2) severity of pain; and, 3) apprehension of impending death, along with the duration of such suffering.

1. In most states, the statute of limitations (time limit to file a case) varies according to how the death occurred. For example, in Oregon, many wrongful death claims have a statute of three years - but there are many exceptions, including: when alcohol is involved, when a public body is involved, or in product liability claims. One of the most difficult wrongful death issues, and a particularly poignant illustration of how wrongful death expands liability beyond that at common law, is whether a wrongful death claim can be founded upon intentional infliction of emotional distress that caused the decedent to commit suicide. The first jurisdiction to allow such a claim was California in 1960, followed by Mississippi, New Hampshire, and Wyoming. In recent years, there have been some newsworthy wrongful death settlements and jury awards that reflect how much these sorts of cases can be worth. Some notable examples include: In 1996, the jury in the civil trial awarded Brown and O.J. Simpson's children, Sydney and Justin, $12.6 million from their father as recipients of their mother's estate.. The victims' families were awarded $33.5 million in compensatory and punitive damages, thereby finding Simpson "responsible" for the respective murders.A $150 million jury award for a 13-year-old girl who witnessed the death of her entire family in a car accident. The family of Michael Brown, who was shot and killed by police in Ferguson, Missouri in 2014, settled a wrongful death lawsuit against the city for $1.5 million A $950,000 settlement in San Jose, California, for the parents of a 15-year-old girl who committed suicide after being bullied by peers. A Massachusetts jury awarded $32.3 million to the family of a woman killed when a motorist drove into the store where she worked. A $500,000 settlement between the city of Hayward, California, and the family of man shot by police officers.

C. For 2016, with a 5.3 national murder rate, Death Penalty info estimates the average murder rate of death penalty states was 5.4, while the average Murder Rate of States without the Death Penalty was 3.9. In the US the death penalty was abolished in *Furman v. Georgia* 408 U.S. 238 (1972) when it was ruled that the then existing laws governing the use of capital punishment in the USA were unconstitutional. This decision however failed to sway the legislature and the deviant practice was begun again in 1976 and must again be abolished. The Military has not executed anybody since the death penalty was reinstated. The US executed juveniles in violation to Art. 6(5) of the International Covenant on Civil and Political Rights 2200A (XXI) 1966 until *Roper v. Simmons* No. 03-633 of March 1, 2005 assured that people convicted of crimes committed while juveniles have the right to life. As of 2016 1437 prisoners had been executed in the USA since the death penalty was reinstated. The federal government has executed three prisoners between 1976 and 2016. The Justice Department's death penalty protocol process is set forth at the United States Attorneys' Manual, Sections 9-10.010 to 9-10.190. It designates the review and death penalty decision-making process for all potential federal capital cases. The protocol requires each United States Attorney to make a submission to the Criminal Division in every case in which a death penalty-eligible offence has been or could be charged against a defendant. USAM § 9-10.010. The

Attorney General of the United States makes the final decision whether the Department will seek the death penalty in every federal death penalty-eligible case. USAM § 9-10.040. The fUnited States are encouraged to ratify the Second Optional Protocol to the International Covenant on Civil and Political Rights aiming at the abolition of the death penalty of 15 December 1989 and pay arrears. *Sanchez-Lammas v. Oregon* (2006) reported the executions of prisoners who the International Court of Justice had protected by name in *Avena and other Mexican National v. USA* Judgment No. 128 March 31, 2004 after the execution of *Lagrand Brothers v. USA* Judgment No. 104 June 27, 2001.

§275c Suicide, Euthanasia and Abortion

A. Suicide was the 10th leading cause of death in 2014 and 2015, with 42,826 fatalities in 2014. 1.6% of all deaths were suicide, 13.4 per 100,000 or 13.0 per 100,000 age adjusted. 50% of suicides were committed with a firearm. 63.7% of firearm deaths were suicide. Suicide is 3rd leading cause of death among 15 – 24 year olds. In 1997 30,535 people died from suicide in the U.S. Suicide was the 11th leading cause of death in 2000. The highest suicide rates are found in white men over the age of 85. More than 90% of people who kill themselves have a diagnosable mental disorder. Four times as many men as women commit suicide although women attempt to commit suicide 2-3 times more often. Major depressive disorder is the leading cause of suicide, heightened by substance abuse, and conduct disorder. Topical exposure to dimethoxymethylamphetamine (DOM) causes a three day panic attack followed by six month recovery from severe mental illness if not immediately washed off with water. Suicide is the leading cause of violent death, outnumbering homicide or war related deaths. 6,808 suicides were committed with poison and another 3,014 were undetermined in 2014.

1. Euthanasia and physician assisted suicide and any counsel to such effect are condemned except when it involves the termination of life support for a person who can reasonably be determined to never regain consciousness and is absolutely without any moral support for their continuing life support. On George Washington, the first President of the United States birthday, 22 February 2005, Linda Greenhouse of the New York Times wrote that the Justices would try physician assisted suicide under the Oregon Death with Dignity Act of November 1994 under which 171 patients have opted to use the law to administer lethal doses of federally regulated drugs since it went into effect in 1997. In the petition for certiorari *Ashcroft v. Oregon 9th No. 04-623* that was granted on 22 February 2005 the former attorney general maintained, doctors who prescribe drugs for committing suicide violate the federal law and are subject to revocation of their federal prescription license under 21USC§824(a)(4). The decision to revoke the license of all physicians practicing assisted suicide by Attorney General John Ashcroft was overturned by the 9th Circuit Court of Appeals whose judgment was entered May 26, 2004 and petition for a rehearing denied on August 11, 2004 in the Appendix to the Petition on the grounds of state sovereignty and lack of subject matter jurisdiction of the Attorney General as the Secretary of Health and Human Services should gain complete custody of the Drug Enforcement Administration (DEA) under federal statute.

2. Euthanasia is the administration of a lethal agent by another person to a patient for the purpose of relieving the patient's intolerable and incurable suffering. It is understandable, though tragic, that some patients in extreme duress--such as those suffering from a terminal, painful, debilitating illness--may come to decide that death is preferable to life. However, permitting physicians to engage in euthanasia would ultimately cause more harm than good. Euthanasia is fundamentally incompatible with the physician's role as healer, would be difficult or impossible to control, and would pose serious societal risks. The involvement of physicians in euthanasia heightens the significance of its ethical prohibition. The physician who performs euthanasia assumes unique responsibility for the act of ending the patient's life. Euthanasia could also readily be extended to incompetent patients and other vulnerable populations. Instead of engaging in euthanasia, physicians must aggressively respond to the needs of patients at the end of life. Patients should not be abandoned once it is determined that cure is impossible. Patients near the end of life must continue to receive emotional support, comfort care, adequate pain control, respect for patient autonomy, and good communication Opinion E-2.21 of the AMA Code of Ethics.

3. The Assisted Suicide Funding Restriction Act of 1997 finds that assisted suicide, euthanasia, and mercy killing have been criminal offenses throughout the United States and, under current law, it would be unlawful to provide services in support of such illegal activities wherefore some areas might begin funding such activities Congress makes provisions to prohibit the furnishing of assistance for these practices 42USC§14401. Whereas the federal government is prohibited from any sort of interference with the medical profession the enforcement of medical ethics by the government is limited to the termination of financing under 42USC§1395. The Hippocratic Oath varies somewhat according to the particular translation, but in any translation the content is clear: "I will give no deadly medicine to anyone if asked, nor suggest any such counsel; and in like manner I will not give to a woman a pessary to produce abortion," or "I will neither give a deadly drug to anybody if asked for it, nor will I make a suggestion to this effect. Similarly, I will not give to a woman an abortive remedy." Contemporary medical ethics has however arrived at divergent opinions regarding both right to life issues. For moral reasons, the religious right is adamantly opposed to both abortion and euthanasia, but omits reference to the god like might of malevolently used and secret laboratory supplies, creating a highly charged atmosphere inspiring socio-paths from both sides of the debate, the scientific left and religious right, commit random acts of violence The Nuremburg Code of the Control Council, secured safe legal conditions for the Trials of War Criminals before the Nuremberg Military Tribunals, requiring "the voluntary consent of the human subject is absolutely essential" that "During the course of the experiment, the human subject should be at liberty to bring the experiment to an end" and that "No experiment should be conducted, where there is an a priori reason to believe that death or disabling injury will occur". Subsequently the World Medical Association International Code of Ethics of 1949 provided the physician shall "always bear in mind the obligation of preserving human life" and "preserve absolute confidentiality on all he knows about his patient even after the patient has died".

C. In 2012, 699,202 legal induced abortions were reported to CDC from 49 reporting areas, about one-third of the annual number of pregnancies terminated. The abortion rate for 2012 was 13.2 abortions per 1,000 women aged 15–44 years, and the abortion ratio was 210 abortions per 1,000 live births. Compared with 2011, the total number and ratio of reported abortions for 2012 decreased 4%, and the abortion rate decreased 5%. Additionally, from 2003 to 2012, the number, rate, and ratio of reported abortions decreased 17%, 18%, and 14%, respectively. Given the large decreases in the total number, rate, and ratio of reported abortions from 2011 to 2012, in combination with decreases that occurred during 2008–2011, all three measures reached historic lows. Women in their twenties accounted for the majority of abortions in 2012 and throughout the period of analysis. The majority of abortions in 2012 took place early in gestation: 91.4% of abortions were performed at ≤13 weeks' gestation; a smaller number of abortions (7.2%) were performed at 14–20 weeks' gestation, and even fewer (1.3%) were performed at ≥21 weeks' gestation. In 2012, 20.8% of all abortions were medical abortions. The percentage of abortions reported as early medical abortions increased 10% from 2011 to 2012.

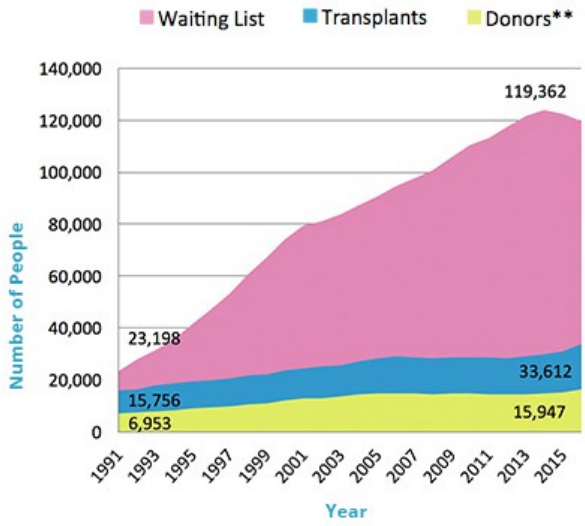
1. Both single and married women are increasingly keeping their children however single women are much more likely, 35 percent, to get an abortion, while only 6 percent of married women get abortions. Nearly half (45 percent) of the 6.4 million pregnancies in 2004 occurred among unmarried women. Pregnancy totals among unmarried women increased from over 2.7 million in 1990 to over 2.8 million in 2004, whereas pregnancy totals among married women declined from 4.1 million in 1990 to 3.5 million in 2004. The average U.S. woman is expected to have 3.2 pregnancies in her lifetime at current pregnancy rates; black and Hispanic women are expected to have 4.2 pregnancies each, compared with 2.7 for non-Hispanic white women. Three out of four pregnancies among married women (75 percent) ended in a live birth in 2004, while 19 percent ended in fetal loss, and 6 percent ended in abortion. For unmarried women, slightly over half of pregnancies (51 percent) ended in live birth, an increase from 43 percent in 1990. Thirty-five percent of these pregnancies ended in abortion and 13 percent ended in fetal loss (CDC 2008). Improved counseling regarding the value of bearing children seems to be paying off and more single women are delivering their babies. The constitutional principles regarding the right to an abortion are articulated by the Supreme Court in *Roe v. Wade* (1973), and in keeping with the science and values of medicine, the AMA recommends that abortions not be performed in the third trimester except in cases of serious fetal anomalies incompatible with life.

2. The constitutional principles regarding the right to an abortion are articulated by the Supreme Court in *Roe v. Wade* 410 US 113 (1973), and in keeping with the science and values of medicine, the AMA recommends that abortions not be performed in the third trimester except in cases of serious fetal anomalies incompatible with life H-5.982 Health and Ethics Policies of the AMA House of Delegates. Subsequently it was found to be important to protect professional organizations involved in the training and licensing of physicians who don't advocate or educate their pupils in abortion from discrimination under 42USC§238n. *Roe v. Wade* 410 US 113 (1973) established criteria for legal abortion based upon the development of the fetus as follows: 1. For the stage prior to

approximately the end of the first trimester, the abortion decision and its effectuation must be left to the medical judgment of the pregnant woman's attending physician. 2. For the stage subsequent to approximately the end of the first trimester, the State, in promoting its interest in the health of the mother, may, if it chooses, regulate the abortion procedure in ways that are reasonably related to maternal health. 3. For the stage subsequent to viability the State, in promoting its interest in the potentiality of human life, may, if it chooses, regulate, and even proscribe, abortion except where necessary, in appropriate medical judgment, for the preservation of the life or health of the mother.

3. The Principles of Medical Ethics of the AMA do not prohibit a physician from performing an abortion in accordance with good medical practice and under circumstances that do not violate the law Opinion E-2.01 of the AMA Code of Ethics. World Health Report of 2005 – Make every Mother and Child Count informs us that 68,000 women die every year from unsafe abortions and counsels for the legalization of abortion to ensure their safety. At the time of the Persian Empire abortifacients were known and that criminal abortions were severely punished. We are also told, however, that abortion was practiced in Greek times as well as in the Roman Era, and that "it was resorted to without scruple." The Ephesian, Soranos, often described as the greatest of the ancient gynecologists, appears to have been generally opposed to Rome's prevailing free-abortion practices. He found it necessary to think first of the life of the mother, and he resorted to abortion when, upon this standard, he felt the procedure advisable.

§276 Organ and Tissue Donation



A. In 2016, there were 15,947 Donors, 33,612 Transplants, and 119,362 Waiting list. There is constant growth in all three statistical categories, but the waiting list keeps getting longer. One person can donate up to 8 life-saving organs – 1 heart, 2 lungs, 1 liver, 1 pancreas, 2 kidneys and meters of intestines. In 2016 there were 121,678 people waiting for lifesaving organ transplants in the U.S. Of these, 100,791 await kidney transplants. The median wait time for an individual's first kidney transplant is 3.6 years and can vary depending on health, compatibility and availability of organs. In 2014, 17,107 kidney transplants took place in the US. Of these, 11,570 came from deceased donors and 5,537 came from living donors.

1. The Organ Procurement and Transplant Network is established under the National Organ Transplant Act of 1984 under 42USC§274. The network compiles a national list of individuals who need organs and a national system that finds matching organs. A

scientific registry keeps track of all transplant recipients. The organ donor system is important to the death care industry because it provides the final utility for a person's body. A person's state driver's license indicates whether a person wishes to participate. Organ and tissue transplants have saved or improved millions of lives. Over the last decade, the transplantation of human tissue such as bones, heart valves, ligaments and skin has grown exponentially. Researchers began experimenting with organ transplantation on animals and humans in the 18th century. Over the years, scientists have experienced many failures, but by the mid-20th century, they were performing successful organ transplants. Transplants of kidneys, livers, hearts, pancreas, intestine, lungs, and heart-lungs are now considered routine medical treatment. In the last 20 years, important medical breakthroughs such as tissue typing and immunosuppressant drugs have allowed for a larger number of organ transplants and a longer survival rate for transplant recipients. The most notable development in this area was Jean Borel's discovery of an immunosuppressant drug called Cyclosporine in the mid-1970s. This drug was approved for commercial use in November 1983. Unfortunately, the need for organ transplants continues to exceed the supply of organs. But as medical technology improves and more donors become available, the number of people who live longer and healthier lives continues to increase each year. The World Health Assembly initiated the preparation of the first WHO Guiding Principles on Transplantation, endorsed by the Assembly in 1991. These Guiding Principles have greatly influenced professional codes and practices as well as legislation around the world for almost two decades.

B. The National Organ Transplant Act enables the Secretary of Health and Human Services may make grants to qualified organ procurement organizations under 42USC§274f *et seq*. These organizations are fiscally accountable non profits. They shall have service areas designed to maximize effectiveness. 1. The Board shall be comprised of representatives of participating hospital administrators, emergency room personnel, tissue banks, members of the public, a physician skilled in the field of histocompatibility, in neurology and of the surgeons staffing the transplant center(s) where the organs and tissues would be used. 2. The organ procurement agency shall have an effective agreement to identify potential organ donors. They shall arrange for the tissue typing of donated organs. They shall have a system for equitably allocating donated organs amongst transplant patients according to medically established criteria. 3. Transplant providers shall provide information to patients, their families, and their physicians about transplantation; and the resources available nationally and in each State, and the comparative costs and patient outcomes at each transplant center affiliated with the organ procurement and transplantation network, in order to assist the patients and families with the costs associated with transplantation. 4. Under §274f donating individuals may be reimbursed for their travel and subsistence expenses incurred toward living tissue donation. Section 301 of the National Organ Transplant Act (NOTA) entitled "Prohibition of organ purchases" imposes criminal penalties of up to $50,000 and five years in prison on any person who knowingly acquires or receives or otherwise transfer any human organ for valuable consideration for use in human transplantation if the transfer affects interstate commerce in contravention to 42USC§274e.

C. The Food and Drug Administration's Center for Biologics Evaluation and Research (CBER) regulates human cells, tissues, and cellular and tissue-based products (HCT/P) intended for implantation, transplantation, infusion or transfer into a human recipient, including hematopoietic stem cells. The FDA has published comprehensive requirements (current good tissue practice, donor screening and donor testing requirements), to prevent the introduction, transmission and spread of communicable disease. Regulatory requirements for allogeneic products are more extensive than for autologous products. Stem cells come from different sources and are used in a variety of procedures or applications. Stem cells from bone marrow, umbilical cord blood or peripheral blood are routinely used in transplantation procedures to treat patients with cancer and other disorders of the blood and immune system. Stem cells sourced from cord blood for unrelated allogeneic use also are regulated by the FDA, and a license is required for distribution of these products. The FDA requires a review process in which manufacturers must show how products will be manufactured so that the FDA can make certain that appropriate steps are taken to assure purity and potency.

1. In the US, use of cell therapy products is codified within the Code of Federal Regulations in the following sections: IND regulations (21 CFR 312), biologics regulations (21 CFR 600) and cGMP (21 CFR 211). In particular, US federal regulation on cellular therapy is divided into two sections of the Public Health Service Act (PHSA), referred as “361 products” and “351 products”. Traditional blood and bone marrow progenitor cells as well as other tissues for transplantation fall into 361 products definition. The Food and Drug Administration (FDA) has established that cells or tissues used for therapeutic purposes and the regulation that pertains to processing of 361 products are codified under the Good Tissue Practice (GTP). CFR, Part 1271 provides US regulations on Cells, Tissues, and Cellular and Tissue-Based Products (HCT/Ps). This became effective in 2005 as rules for HCT/Ps. The FDA has also issued guidance documents about how the drug, biologic, and device regulations apply to cellular and genetic therapies. Classification of stem cell based therapies is based on indication to be treated. Restrictions are limited to research with federal funds. No limitations exist for research with hESCs, provided the funds come from private investors or specific states. The FDA has developed a regulatory framework that controls both cell- and tissue-based products, based on three general areas: Prevention of use of contaminated tissues or cells (e.g. AIDS or hepatitis). Prevention of inadequate handling or processing that may damage or contaminate those tissues or cells; andClinical safety of all tissues or cells that may be processed, used for functions other than normal functions, combined with components other than tissues, or used for metabolic purposes. The Center for Biologics Evaluation and Research (CBER), the division of US FDA that regulates stem cell based therapies, has so far approved ApliGraf®, Carticel® and Epicel®. Those cell-based therapeutics “that are, minimally manipulated, labeled or advertised for homologous use only, and not combined with a drug or device” do not require FDA approval. In contrast, manipulated autologous cells for structural use meet the definition of somatic cell therapy products and require an “investigational new drug” (IND) exemption or the FDA license approval. In 2007, the “Guidance for Industry: Regulation of HCT/Ps – Small Entity Compliance Guide” and in 2009, the “Guidance for Industry on Current Good Tissue Practice (cGTP) and Additional Requirements for Manufacturers of HCT/Ps”.

§277 Estate Taxes

A.The federal government has taxed estates since 1916, shortly after Congress enacted the modern income tax. Since 1976, federal law has imposed a linked set of wealth transfer taxes on estates, gifts and generation-skipping transfers (GSTs). The executor of an estate must file a federal estate tax return within nine months of a person's death if the gross estate exceeds an exempt amount. Tax Cuts and Jobs Act P.L. 115-97 went into effect on January 1, 2018 and Sec. 1601 doubles the estate and gift tax exemption amount doubles for decedents dying and gifts made after December 31, 2017, by increasing the basic exclusion amount from $5 million to $10 million. Under current law, the amount is indexed for inflation occurring after 2011. Sec. 1602 repeals the estate and generation-skipping transfer taxes for the estates of decedents dying or generation-skipping transfers after December 31, 2024. A tax, for which the personal representative of a decedent is responsible, was imposed on all estates under 26USC§2001(c). A credit is an amount that eliminates or reduces a tax. Under 26USC§2010(c) the exclusion amount from 2018 is $10,000,000. Therefore estates valued less than $10 million are tax free. An estate tax assessed at 50% of gross value over the allowable amount, must be filed, if the gross value of the estate is more than the allowable amount - $10 million as of 2018. Gifts are likewise tax exempt if they are less than $10,000 in value, tuition or medical expenses paid for someone, gifts to spouses and charities are unlimited.

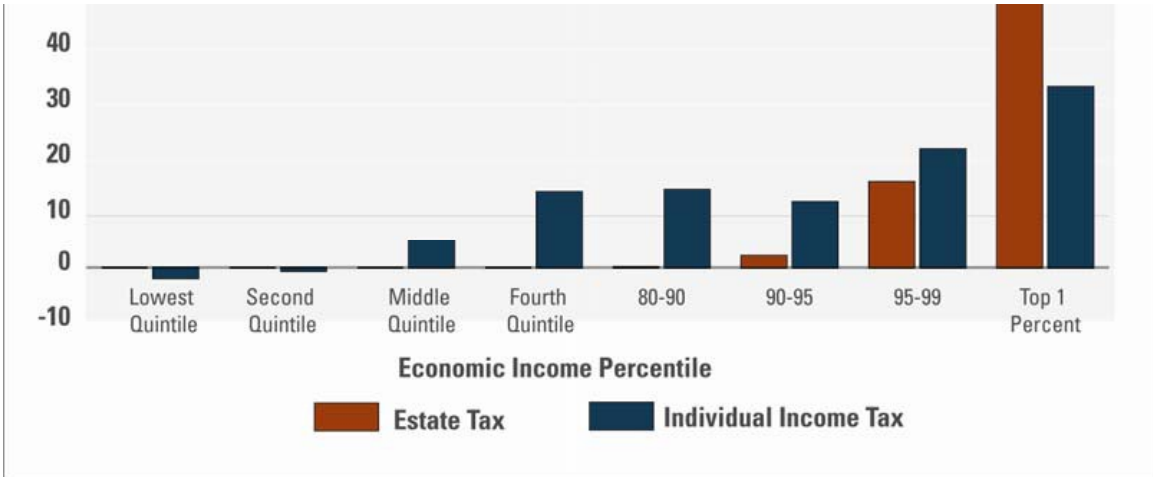
B. Generally, the gross estate includes all of the decedent's assets, his or her share of jointly owned assets, life insurance proceeds from policies owned by the decedent, and some gifts and gift tax paid within 3 years of death. Through careful tax planning, however, the valuation of assets can often be discounted for purposes of the estate tax, so the effective exemption far exceeds the statutory amount for many estates. The Uniform Estate Tax Apportionment Act as revised in 2003 (UETAA or new UETAA). The Internal Revenue Code (IRC) places the primary responsibility for paying federal estate taxes on the decedent's executor. If a state does not have a statutory apportionment law, the burden of the estate taxes generally will fall on residuary beneficiaries of the probate estate. This means that recipients of many types of non-probate assets (such as beneficiaries of revocable trusts and surviving joint tenants) may be exonerated from paying a portion of the tax. Also, it generates a risk that residual gifts to the spouse or a charity may result in a smaller deduction and a larger tax. A number of states have adopted legislation apportioning the burden of estate taxes among the beneficiaries. Under the statutory scheme, marital and charitable beneficiaries generally are insulated from bearing any of the estate tax. A direction in a will that "all taxes arising as a result of my death, whether attributable to assets passing under this will or otherwise, be paid out of the residue of my probate estate" satisfies the UETAA's requirement for an explicit mention of estate taxes and is specific and unambiguous as to what properties are to bear the payment of those taxes.

C. The starting point for calculating the apportion able estate is the value of the gross estate. Since the properties included and deductions allowed for determining different taxes can differ, the apportion able estate figure may not be the same for different taxes.

The value of the apportion able estate is reduced by claims and expenditures that are allowable estate tax deductions. A spouse's elective share is excluded from the apportion able estate to the extent that the spouse's share qualifies for an estate tax deduction. For the purposes of the estates tax a gross estate includes. 1. All property in the name of the decedent. 2. Half of all joint property owned with a spouse. 3. All joint property owned by a non-spouse. 4. Property in a revocable living trust. 5. Assets in a pay on death bank account and a transfer on death securities account. 6. Life insurance proceeds. a. Allowable deductions are, 1. Funeral expenses. 2. Debts owed at time of death. 3. Unlimited marital deduction.

D. Because of the unlimited deduction for spousal bequests, the distribution of the estate tax is more skewed for married decedents: almost 87 percent of the 10,000 married decedents who will file estate tax returns will pay no tax. In contrast, nearly three quarters of the 10,000 single decedents who will file a return will owe estate tax in 2008. Among all estates with at least half of their assets from farms or businesses, about 1,000 will need to file estate tax returns, but 70 percent of them will owe no tax, and an additional 6 percent will owe less than $100,000. Only 600 estates with farm or business assets will owe more than $100,000 in estate tax. The 90 largest estates—those with more than $10 million in estate tax liability—will pay nearly 80 percent of the tax assessed on estates with farm or business assets. Many more estates—about 16,000—report some farm or business assets, even if those assets account for only a small fraction of wealth. Collectively those estates will pay about $15 billion in tax—seven times as much as the tax paid by estates with a majority of farm and business assets. Their returns resemble those of other estate taxpayers, because most of their wealth comes from other sources.

Percentage of Estate and Individual Income Tax



E. The estate tax is significantly more progressive than the individual income tax. The top economic income quintile will pay 83 percent of income tax in 2008 compared with almost 100 percent of the estate tax. The top 1 percent of households will pay less than one quarter of individual income taxes but more than four-fifths of the estate tax. With cash income as the classifier, the top quintile will pay about 93 percent of estate tax liability, the top 5 percent will pay about 86 percent, and the top one percent will pay 61 percent. About one-third of all estate tax liability will be paid by the richest 1 in 1,000 households as measured by cash income. The Tax Policy Center projects that estates of the 2 million people dying in 2008 will file just over 35,000 estate tax returns. Of these, fewer than half—about 15,500—will owe any estate tax. This represents about 0.6 percent of all decedents, therefore only the wealthiest 1 in 160 individuals who die in 2008 will owe estate tax. Estate tax liability will total $23 billion, an average of approximately $1.5 million per taxable return, in 2008. After two increases in the exclusion amount to $5 million and then $10 million in 2018 it seems fair to cut estate tax estimates precisely in half from 2008, so that of the 2 million people who die in 2018 only 17,500 will file estate tax returns. Of these fewer than half, about 6,000 will owe any estate tax, 0.3% of decedents, the wealthiest 1 in 320 individuals who die in 2018 will owe estate tax. After increasing the exclusion to $10 million, it is estimated that estate tax liability will total an estimated $11.5 billion in 2018.

Art. 2 Free Wills and Trusts

§278 Life insurance

A. In 2015, the United States was the leading life insurance premium writing country, with a total value of life direct premiums written amounting to $552.51 billion. The second and third largest life insurance markets were Japan and the People's Republic of China, with life direct premiums written estimated at $343.82 billion and $210.76 billion respectively. Net premiums written for the US L&H sector were approximately $600 billion in 2016, or 34 percent of net premiums written for the combined L&H, P&C, and health insurance industry sectors. In 1995, there were close to 2,200 life insurance companies. There were 616 life insurance companies in the United States in 2015, most of them categorized as “stock life insurance companies”, based on their organizational structure. In 2016, Metlife was the largest life insurance company in the country, by market capitalization. The New York-based company also was the American insurer with most life insurance policies issued - approximately $237.67 billion worth of policies in 2015 alone. State insurance regulators have either reached settlements with or concluded the investigation of 28 of the top 40 companies, constituting 80 percent of the total life insurance market, based on market share. In addition, at least 27 states have adopted some version of the Unclaimed Life Insurance Benefits Act, a model law drafted by the National Conference of Insurance Legislators (NCOIL).

1. 60% of Americans have some sort of life insurance coverage, after a low of 44% in 2010 and high of 70% in 1960. Of the 60% that have life insurance, 20% of males and 18% of females only own group life insurance. Another 26% of males and 27% of

females only own private insurance. 16% of males and 14% of females own both group and private life insurance. When we look at household income levels, not surprisingly we discover that higher income households have more life insurance. But even among $100K+ households, only 51% own individual or individual and group coverage. 25% own only group coverage, putting the percentage of $100K+ households that own some form of life insurance at 76%. Therefore, even among the top 20% income earners, roughly only half have a private life insurance policy.

B. Life insurance is a contract between a life insurance company and the insurance policy holder. It is a form of financial protection for the beneficiary of the insured person in case of death. The policy holder pays periodic amounts called premiums for the duration of the policy and upon death, the insurance company pays a specific sum of money to a designated beneficiary in form of income. The insurance policy can also cover other expenses related to burial and funeral. Payment from the policy can be a lump sum or an annuity, which is paid in regular installments for either a specified time or for the lifetime of the beneficiary. Looking at a 20 year term policy (the most popular option) worth $250,000, we've determined what the average annual price is for individuals between 25 and 65. It's expensive to smoke! Smokers on average will pay up to 200% more for their life insurance policies than non-smokers. This disparity grows with age with 25 year old smokers paying twice as much for their insurance while 65 year old smokers pay almost three times as much. If a smoker quits, after one year they can ask their insurer to reevaluate their policy. As a non smoker they will benefit from a significant reduction in premiums. Life insurance becomes more expensive with age. Rates increase every year by 5% to 8% in the 40's and by 9% and 12% each year over age 50. The main reason for purchasing life insurance in the United States as of 2016 was to help covering burial and other final expenses. Among the main reasons for not buying more life insurance were high age and smoking adjustment costs of such a policy and having other financial priorities. Non-discrimination provides two reasons why not to buy life insurance (1) age discriminatory hyperinflation in premium in excess of 2.7% annual consumer price index (CPI) inflation; and (2) smoking discrimination. What would be the cost of $10,000 burial policy?

Average Cost of Term Life Insurance by Age

Age	Monthly Life Insurance Cost (Non-Smoker)	Annual Life Insurance Cost (Non-Smoker)	Monthly Life Insurance Cost (Smoker)	Annual Life Insurance Cost (Smoker)
25 years old	$27.53	$330.33	$55.71	y.$668.54
30 years old	$27.88	$334.54	$60.17	$721.99

Age	Monthly Life Insurance Cost (Non-Smoker)	Annual Life Insurance Cost (Non-Smoker)	Monthly Life Insurance Cost (Smoker)	Annual Life Insurance Cost (Smoker)
35 years old	$29.98	$359.78	$67.42	$809.02
40 years old	$36.03	$432.36	$97.95	$1,175.35
45 years old	$51.62	$619.42	$156.80	$1,881.55
50 years old	$76.58	$918.91	$233.21	$2,798.50
55 years old	$121.28	$1,455.34	$372.47	$4,469.64
60 years old	$207.70	$2,492.43	$555.73	$6,668.71
65 years old	$347.67	$4,172.01	$988.32	$11,859.78

Source: Value Penguin 2018

1. The cost of the medical exam is covered by the prospective life insurer. The purpose of the medical exam is to evaluate overall health and estimate life expectancy. For older people, additional tests may be required such as EKG or cognitive screening. These tests reveal the overall state of your health and give insurers information about illicit drug and tobacco use. There is a significant cost differential between Term life insurance and Whole life insurance. Term life pays out death benefits only and is only in force for the length of the term you choose. The majority of people who buy term will likely survive to the end of the term. This simple fact means the risk to insurers is less. Whole life not only covers death benefits, it also has a cash value accumulation or investment component. Since Whole life is a form of Permanent life insurance, the policy lasts your entire lifespan. Whole Life cost as much as 5-10 times more. The cost for men age 30 for a $500,000, 20-year term life insurance costs $246 a year whereas $500,000 whole

life insurance costs $5,178 a year. The cost for same $500,000 policy for women age 30 is $213 per year for 20 year term life insurance and $4,688 per year for whole life.

Federal Insurance Office. Annual Report on the Insurance Industry. US Department of the Treasury. Completed pursuant to Title V of the Dodd-Frank Wall Street Reform and consumer Protection Act. September 2017

§278a Disposition of the Effects of Deceased Persons; Unclaimed Property

A. §420 of Title 24 Hospitals & Asylums provides for the Disposition of effects of deceased persons; unclaimed property pursuant to Pub. L. 101–510, div. A, title XV, §1520, Nov. 5, 1990, 104 Stat. 1731; as amended Pub. L. 103–160, div. A, title III, §366(d), (e), Nov. 30, 1993, 107 Stat. 1631; Pub. L. 104–316, title II, §202(j), Oct. 19, 1996, 110 Stat. 3843; Pub. L. 107–107, div. A, title XIV, §§1408, 1410(a)(3), Dec. 28, 2001, 115 Stat. 1265, 1266; Pub. L. 107–314, div. A, title X, §1062(f)(3), Dec. 2, 2002, 116 Stat. 2651; Pub. L. 108–136, div. A, title X, §1045(g), Nov. 24, 2003, 117 Stat. 1613; Pub. L. 112–81, div. A, title V, §§564(b), 567(c)(6), Dec. 31, 2011, 125 Stat. 1424, 1426.

(a) Disposition of effects of deceased persons. The Administrator of a facility of the Retirement Home shall safeguard and dispose of the estate and personal effects of deceased residents, including effects delivered to such facility under sections 4712(f) and 9712(f) of title 10, and shall ensure the following: (1) A will or other instrument of a testamentary nature involving property rights executed by a resident shall be promptly delivered, upon the death of the resident, to the proper court of record. (2) If a resident dies intestate and the heirs or legal representative of the deceased cannot be immediately ascertained, the Administrator shall retain all property left by the decedent for a three-year period beginning on the date of the death. If entitlement to such property is established to the satisfaction of the Administrator at any time during the three-year period, the Administrator shall distribute the decedent's property, in equal pro-rata shares when multiple beneficiaries have been identified, to the highest following categories of identified survivors (listed in the order of precedence indicated): (A) The surviving spouse or legal representative. (B) The children of the deceased. (C) The parents of the deceased.(D) The siblings of the deceased. (E) The next-of-kin of the deceased.

(b) Sale of effects. (1)(A) If the disposition of the estate of a resident of the Retirement Home cannot be accomplished under subsection (a)(2) or if a resident dies testate and the nominated fiduciary, legatees, or heirs of the resident cannot be immediately ascertained, the entirety of the deceased resident's domiciliary estate and the entirety of any ancillary estate that is unclaimed at the end of the three-year period beginning on the date of the death of the resident shall escheat to the Retirement Home. (B) Upon the sale of any such unclaimed estate property, the proceeds of the sale shall be deposited in the Armed Forces Retirement Home Trust Fund. (C) If a personal representative or other fiduciary is appointed to administer a deceased resident's estate and the administration is completed

before the end of such three-year period, the balance of the entire net proceeds of the estate, less expenses, shall be deposited directly in the Armed Forces Retirement Home Trust Fund. The heirs or legatees of the deceased resident may file a claim made with the Secretary of Defense to reclaim such proceeds. A determination of the claim by the Secretary shall be subject to judicial review exclusively by the United States Court of Federal Claims.

(2)(A) The Administrator of a facility of the Retirement Home may designate an attorney who is a full-time officer or employee of the United States or a member of the Armed Forces on active duty to serve as attorney or agent for the facility in any probate proceeding in which the Retirement Home may have a legal interest as nominated fiduciary, testamentary legatee, escheat legatee, or in any other capacity.
(B) An attorney designated under this paragraph may, in the domiciliary jurisdiction of the deceased resident and in any ancillary jurisdiction, petition for appointment as fiduciary. The attorney shall have priority over any petitioners (other than the deceased resident's nominated fiduciary, named legatees, or heirs) to serve as fiduciary. In a probate proceeding in which the heirs of an intestate deceased resident cannot be located and in a probate proceeding in which the nominated fiduciary, legatees, or heirs of a testate deceased resident cannot be located, the attorney shall be appointed as the fiduciary of the deceased resident's estate. (3) The designation of an employee or representative of a facility of the Retirement Home as personal representative of the estate of a resident of the Retirement Home or as a legatee under the will or codicil of the resident shall not disqualify an employee or staff member of that facility from serving as a competent witness to a will or codicil of the resident.

(4) After the end of the three-year period beginning on the date of the death of a resident of a facility, the Administrator of the facility shall dispose of all property of the deceased resident that is not otherwise disposed of under this subsection, including personal effects such as decorations, medals, and citations to which a right has not been established under subsection (a). Disposal may be made within the discretion of the Administrator by— (A) retaining such property or effects for the facility; (B) offering such items to the Secretary of Veterans Affairs, a State, another military home, a museum, or any other institution having an interest in such items; or (C) destroying any items determined by the Administrator to be valueless. (c) Transfer of proceeds to Fund. The net proceeds received by the Administrators from the sale of effects under subsection (b) shall be deposited in the Fund.

(d) Subsequent claim. (1) A claim for the net proceeds of the sale under subsection (b) of the effects of a deceased may be filed with the Secretary of Defense at any time within six years after the death of the deceased, for action under section 2771 of title 10. (2) A claim referred to in paragraph (1) may not be considered by a court or the Secretary unless the claim is filed within the time period prescribed in such paragraph. (3) A claim allowed by the Secretary under paragraph (1) shall be certified to the Secretary of the Treasury for payment from the Fund in the amount found due, including any interest relating to the amount. No claim may be allowed or paid in excess of the net proceeds of the estate deposited in the Fund under subsection (c) plus interest.

(e) Unclaimed property. In the case of property delivered to the Retirement Home under section 2575 of title 10, the Administrator of the facility shall deliver the property to the owner, the heirs or next of kin of the owner, or the legal representative of the owner, if a right to the property is established to the satisfaction of the Administrator of the facility within two years after the delivery.

§279 Probate Avoidance Estate Planning

A.Of the 2.4 million people who die in the United States annually, just over 35,000 will file estate tax returns, after the passing of longest surviving spouse. Fewer than half of these, about 15,000, will pay any estate tax whatsoever. Despite the low number of taxpayers estate tax liability will total $23 billion, an average of approximately $1.5 million per taxable return. The vast majority of estates in probate are worth less than $15,000. It is difficult to calculate the total national value of the death transfer but it is probably around $100 billion annually. In 2004 only 12 states reported their 2003 probate/estate caseloads to the Department of Justice in at least two of the four categories provided (guardianship, conservatorship/trusteeship, probate/wills/ intestate, and elder abuse). In those states, 66 percent of the cases involved probate/wills/intestate; 21 percent involved guardianship, and 13 percent involved other matters.

B.Planning for disability and death involves three areas (1) end of life health care decisions, (2) managing the transfer of assets to survivors, (3) funeral. The most common cause of death under age 40 is accident. Because accidents often take both husband and wife designating guardianship for minor children is important. If all the deceased's assets were owned jointly, held in living trust, or consisted of life insurance or financial accounts that designate beneficiaries the will does not need to be probated. As a result of the overwhelming view that probate is an unnecessary process, it should be avoided whenever possible.

C. A will or other instrument of a testamentary nature involving property rights, that have not already been automatically transferred to a living person, shall be promptly delivered, upon death, to the executor of record, and if disputed proper court of record. Armed Forces Retirement Home statute makes provisions for unclaimed property to be disposed of by the Home after a specified amount of time, estate sales are an option for private individuals. The statute recommends distributing the decedent's property, in equal pro-rata shares to the highest following categories of identified survivors (listed in the order of precedence indicated) under 24USC(10)§420: 1. The surviving spouse or legal representative. 2. The children of the deceased. 3. The parents of the deceased. 4. The siblings of the deceased. 5. The next-of-kin of the deceased.

D. Living will and medical power of attorney allows a person to issue advance directives whether or not they wish for medical treatment if they are unable to express their opinions while suffering a terminal illness. A medical power of attorney appoints a representative to make the decision. Advances in medical science allow terminally ill patients to extend their life indefinitely, sometimes prolonging the agony. Many patients

would prefer a quick and painless death. The law distinguishes between active and passive euthanasia.

1.Active euthanasia is the deliberate administration of lethal doses of medication or any other intentional act undertaken to end a terminal patient's life is illegal in every state but Oregon, Washington is also considering such an act. 2. Passive euthanasia involves the refusal of treatment. 3. It is a well established right that all patients have the right to be fully informed of the risks and outcomes of every medical procedure and to refuse treatment. This is known as informed consent. The right to refuse treatment is however useless if the patient is comatose or otherwise incompetent. 4. In all states such cases are covered by right to die laws, which specify the circumstances under which treatment may be withheld and designate individuals empowered to make the decision to withhold treatment. A living will is the most effective instrument to express an opinion. 5. Avoiding probate with a Durable Power of Attorney appoints someone to act legally for you in the event of your disability or incapacity.

E. Probate is a court-supervised legal procedure that determines the validity of a will. As a verb "probate" is also used to mean the process of settling an estate (e.g. probating the estate). In this sense, probate is the process by which assets are gathered, applied to pay debts, taxes, and expenses of administration, and distributed to those designated as beneficiaries in the will. The purpose of probate, put bluntly, is to take the ownership of your assts out of your dead hands and put them into those of a living person or institution. Even more than most law, probate law varies by state. Probate court administration of an estate is the legal procedure by which the state ensures that after death creditors collect all lawful debts, state and federal governments collect all taxes due to them and rightful beneficiaries will be identified and distributed according to the terms of a will, or in the absence thereof. The administration is supervised by a county court, usually called a probate court but in some states referred to as a surrogate, orphan's or chancery court.

F. Since probatable assets include only those assets owned at the time of death, the simplest way to reduce their value is to give them away while still alive. The most widely used strategy for avoiding probate is joint ownership. Joint ownership applies to any type of property. For a bank account it involves only the signing of a new Pay on Death (POD) signature card. For real estate the preparation and recording of a new deed recognizing joint ownership. For securities a cost-free change in registration of certificates or brokerage account. Joint ownership can however be problematic because it can jeopardize an individual's control over their assets because transfer into joint ownership cannot be undone without the consent of all joint owners and can give rise to the suspicion of motive. There is a gift tax on up to half of the transferred of assets to joint ownership with people who did not contribute, other than a spouse.

1.Pay on death (PoD) bank accounts are available at no cost from banks, savings and loan association and credit unions permitting the owner to retain complete control over the account balance and upon death the account balance automatically passes on to the named beneficiary without probate administration.

2. Transfer on death (ToD) securities registrations are used for stocks and bonds held in a brokerage account.

3. A revocable Living Trust is a legal entity to which you can transfer assets in any amount and of any kind, real estate, motor vehicles, bank and brokerage accounts, securities, etc. Because the assets are transferred upon death they are not subject to probate instead they remain in the name of the trustee or successor trustee who must distribute them to the trust's beneficiaries according to the terms of the trust agreement. A living depositor retains full control over trust assets and their income.

4. Irrevocable living trust is also an effective means of probate avoidance and in addition can reduce both death and income taxes however one cannot change their mind regarding the distribution of assets. When assets are transferred into an irrevocable trust, tax on the income produced is payable either by the trust itself of by family members in lower tax brackets who derive income from the trust.

5. Guardianship for minor children and disabled persons can be arranged by the written informed consent of the prospective caregiver, bypassing the need for appointment by the Court. Upon death or disability of the parent the guardian takes on all responsibilities of the parent for the child or disabled person and has all the rights of a parent in regards to government assistance and is furthermore entitled to compensation for the cost of room and board of the child or disabled person if there are sufficient funds in the estate. A conservator can be appointed if the amount of property left to the child or disabled person is too large to be reasonably expected to be managed by the guardian, taking into consideration their financial skills.

6. Life insurance is usually bought to protect survivors in the event of untimely death and also offers a way to avoid probate because the proceeds of a life insurance policy transfer to the beneficiary designated in the policy. Business partnerships are usually bought out upon the death, by means of a large life insurance policy. Life insurance proceeds are considered part of a taxable estate for federal estate-tax purposes.

7. In most instances, in order to keep a business free from outside interference, the probate process should be avoided. Subjecting a business to probate, places the management of the business in the hands of the court, during the probate administration.

G. Life insurance is often a good estate-planning tool, for little up front cost the beneficiaries get more. The money passes to them directly, without probate. If most of an estate's money is tied up in non-liquid assets like a company or real estate, life insurance gets cash to beneficiaries' hands without their having to resort to a fire sale of other assets. Approximately 70 percent of family-owned businesses fail to make a successful transition into the second generation. About 90 percent fail to be transferred successfully to a third generation of family members. The most common devise used for transferring ownership of a business on the death of a partner is the buy-sell agreement, in which all the remaining partners agree to purchase the interest of any partner who dies. This allows the business to continue running smoothly with the same people in charge,

minus one. Life insurance is usually the vehicle used to finance these arrangements, which lets the business itself avoid a drain on its cash.

H. The works of authors are entitled to 50 years of copyright protection, for the benefit of their estate, after their death. Take for example the estate of a self-employed writer. Even in a profession notorious for its practitioner's lack of business acumen, certain specialized knowledge is often required. Some tasks must continue after the writer is dead; recording copyrights, negotiating contracts for reissues of previously published material, deciding which publisher should (and equally important, should not) get rights to reprint articles, determining which works should be completed by others, figuring out television and movie rights, deciding what happens to manuscripts, letters, and other unpublished material (perhaps a university or library or historical society would be interested in them).

§280 Doctrine of Free Will

A."Free Will" is a philosophical term of art for a particular sort of capacity of rational agents to choose a course of action from among various alternatives. Most philosophers suppose that the concept of free will is very closely connected to the concept of moral responsibility. Acting with free will, on such views, is just to satisfy the metaphysical requirement on being responsible for one's action. Wills, as a testamentary instrument, allow a person to take responsibility for the disposition of their estate after they have died, they however have a problem in that a properly filed will is not free from probate, no matter how well ordered the disposition of the decedents effects.

1.Without being fully informed of the options, the testator of a will typically falls prey to the advertisement that they can write a will for around $100 dollars because they feel they have a moral duty to do so, and do not know that by writing a will they were subjecting their estate and heirs to probate or that Probate Court itself is not free from the absolute corruption slavery without exercise of the Principle of Alternative Possibilities:

2. The legal instrument of the will has therefore been tainted, and to allow for a genuinely free will the testator must be informed of alternatives to the will to defend their life and legacy from probate, the writer must take precautions against their writings being involuntarily taken into the legal system and Probate Court itself must be reformed to better uphold the philosophy of free will.

3.To better reflect the philosophy of free will, lawyers selling wills must inform the testators of the alternatives to probate and in any case where the testator does not clearly state in writing that they wish their estate be subjected to probate, the estate should be settled in accordance with the writing of the decedent and by the heirs, who retain the right to settle any disputes at Court. To be free the people should write their wills themselves, vest their confidence in a trusted executor, rather than an estate professional.

B. The term "arbitrary" comes from the Latin arbitrium, which means "judgment"--as in liberum arbitrium voluntatis, "free judgment of the will" (the medieval philosophers'

designation for free will). David Hume defines liberty as “a power of acting or of not acting, according to the determination of the will.” So as not to prohibit the testator from thinking and writing about the disposition of their effects after they have passed away, and presuming the testator would like to avoid probate, it is important for the testator to make provisions in their will so that it will not act to initiate probate procedure on death. Thomas Aquinas thinks our nature determines us to will certain general ends ordered to the most general goal of goodness. These we will of necessity, not freely. Freedom enters the picture when we consider various means to these ends, none of which appear to us either as unqualifiedly good or as uniquely satisfying the end we wish to fulfill. There is, then, free choice of means to our ends, along with a more basic freedom not to consider something, thereby perhaps avoiding willing it unavoidably once we recognized its value. Free choice is an activity that involves both intellectual and volitional capacities, as it consists in both judgment and active commitment. In the right-ordered appetite view of free will the true freedom of the will involves liberation from the tyranny of base desires and acquisition of desires for the Good. Plato, for example, posits rational, spirited, and appetitive aspects to the soul and holds that willing issue from the higher, rational part alone.

C. There are two general worries about theories of free will that principally rely on the capacity to deliberate about possible actions in the light of one's conception of the good. First, there are agents who deliberately choose to act as they do but who are motivated to do so by a compulsive, controlling sort of desire. Such as lawyers who sell wills and trusts and automatically file them with the Probate Court with or without the consent of the settler. Such agents are not willing freely. The seller of wills should provide for the option of probate but should counsel against it. a. Descartes declares that “the will is by its nature so free that it can never be constrained”. And as we've seen, he believed that such freedom is present on every occasion when we make a conscious choice. b. John Paul Sartre held that human beings have ‘absolute freedom’: “No limits to freedom can be found except freedom itself. We are not free to cease being free.”

D. The informed consent principle of the Nuremburg Code for the participation of human test subjects in biological experiments is particularly applicable to the filing of wills and trusts with the Probate Court. The Code holds that the voluntary consent of the human subject is absolutely essential. This means that the person involved should have legal capacity to give consent; should be so situated as to be able to exercise free power of choice, without the intervention of any element of force, fraud, deceit, duress, over-reaching, or other ulterior form of constraint or coercion; and should have sufficient knowledge and comprehension of the elements of the subject matter involved as to enable him to make an understanding and enlightened decision. The duty and responsibility for ascertaining the quality of the consent rests upon each individual who initiates, directs or engages in the experiment. It is a personal duty and responsibility which may not be delegated to another with impunity.

§280a Copyright

A. The true purpose of a will is for the testator to exercise the freedom of the press so that their intellect can transcend the mortal limits of their body to dispose of their material and intellectual property after they have died, as the testator sees fit, so long as the designated heirs are willing to accept this responsibility. Not to confer responsibility for wills to the Copyright Office, or require them to be copyrighted – copyright protection extends to all literary works, finished or in progress, and it is not required that a work be copyrighted by the Copyright Office. The freedom of rights, conferred by a will, are equally protected by copyright law.

1. The Copyright Act provides (a) In general — Copyright in a work created on or after January 1, 1978, subsists from its creation and, except as provided by the following subsections, endures for a term consisting of the life of the author and 70 years after the author's death. (b) Joint works prepared by two or more authors who did not work for hire, the copyright endures for a term consisting of the life of the last surviving author and 70 years after such last surviving author's death. (c) Anonymous works, pseudonym works and works made for hire the copyright endures for a term of 95 years from the year of its first publication, or a term of 120 years from the year of its creation, whichever expires first. (d) Records relating to the Death of Authors provides that any person having an interest in a copyright may at any time record in the Copyright Office a statement of the date of death of the author of the copyrighted work, or a statement that the author is still living on a particular date. The statement shall identify the person filing it, the nature of that person's interest, and the source of the information recorded, and shall comply in form and content with requirements that the Register of Copyrights shall prescribe by regulation. The Register shall maintain current records of information relating to the death of authors of copyrighted works, based on such recorded statements and, to the extent the Register considers practicable, on data contained in any of the records of the Copyright Office or in other reference sources. (e) Presumption of Author's death after a period of 95 years from the year of first publication of a work, or a period of 120 years from the year of its creation, whichever expires first, any person who obtains from the Copyright Office a certified report that the records provided by subsection (d) disclose nothing to indicate that the author of the work is living, or died less than 70 years before, is entitled to the benefit of a presumption that the author has been dead for at least 70 years. Reliance in good faith upon this presumption shall be a complete defense to any action for infringement under this title under 17USC§302.

2. Where an author is dead, his or her termination interest is owned, and may be exercised, as follows: (a) The widow or widower owns the author's entire termination interest unless there are any surviving children or grandchildren of the author, in which case the widow or widower owns one-half of the author's interest. (b) The author's surviving children, and the surviving children of any dead child of the author, own the author's entire termination interest unless there is a widow or widower, in which case the ownership of one-half of the author's interest is divided among them. (c) The rights of the author's children and grandchildren are in all cases divided among them and exercised on a *per stirpes* basis according to the number of such author's children represented; the share of the children of a dead child in a termination interest can be exercised only by the action of a majority of them. (d) In the event that the author's widow or widower,

children, and grandchildren are not living, the author's executor, administrator, personal representative, or trustee shall own the author's entire termination interest under 17USC(3)§304(c)(2).

3. The Berne Convention for the Protection of Literary and Artistic Works first drafted on September 9, 1886 provides at Art. 6 *bis* (1-2) Independently of the author's economic rights, and even after the transfer of the said rights, the author shall have the right to claim authorship of the work and to object to any distortion, mutilation or other modification of, or other derogatory action in relation to, the said work, which would be prejudicial to his honor or reputation (such as the probate of a will). The rights granted to the author shall, after his death, be maintained, at least until the expiry of the economic rights. Under Art. 7(1) the term of protection of a copyrighted work, shall be the life of the author and fifty years after his death.

§281 Wills

A.According to the United Way, no more than 40 percent of adults have wills. Research by the American Association of Retired People (AARP) has found that only 60 percent of the population 50 or older has a will, with only 45 percent having a durable health-care power of attorney that permits medical decisions to be made for them if they are no longer able to. In recent years the number of Americans with a will has increased. Wills help to waive the bond requirement for personal representatives, if a person dies with property in their name, and facilitate the providing for the guardianship of minor children.

B. A will may be deposited by the testator or the testator's agent with any court for safekeeping, under rules of the court. The will must be sealed and kept confidential. During the testator's lifetime, a deposited will must be delivered only to the testator or to a person authorized in writing signed by the testator to receive the will. Upon being informed of the testator's death, the court shall notify any person designated to receive the will and deliver it to that person on request; or the court may deliver the will to the appropriate court.

C. The power of a person to leave property by will and the rights of creditors, devisees, and heirs to his property facilitates the prompt settlement of estates. Upon the death of a person, his real and personal property devolves to the persons to whom it is devised by his last will or to those indicated as substitutes for them in cases involving lapse, renunciation, or other circumstances affecting the devolution of testate estate, or in the absence of testamentary disposition, to his heirs, or to those indicated as substitutes for them in cases involving renunciation or other circumstances affecting devolution of intestate estates, subject to homestead allowance, exempt property and family allowance, to rights of creditors, elective share of the surviving spouse, and to administration.

D. In the 1990 revision of the Uniform Probate Code the minimum age for making wills was lowered to eighteen, formalities for a written and attested will were reduced, holographic wills written and signed by the testator were authorized, choice of law as to

validity of execution was broadened, and revocation by operation of law was limited to divorce or annulment. In addition, the statute also provided for an optional method of execution with acknowledgment before a public officer (the self-proved will). A Holographic will, in your handwriting, has no legal standing in more than half of states. Oral wills and death bed statements are even less accepted and in the states where they are allowed their amount is limited. The minimum age to make a will is 18 in all states,. 2 witnesses are required in every state.

1. An individual 18 or more years of age, except Georgia where it is 14 and Louisiana where it is 16, who is of sound mind may make a will.

2. A will must be: (a) in writing; (b) signed by the testator or in the testator's name by some other individual in the testator's conscious presence and by the testator's direction; and (c) signed by at least two individuals, except in Vermont where three are required.

3. A person is of sound mind according to the law, when he or she can understand in a general way, the nature and extent of the property, the people to whom he would normally leave such property, and the manner in which he is leaving such property under his will. A person need not be in perfect mental health nor be totally aware of every facet of his financial and business situation. An essential issue is whether the testator knew to whom he wanted to leave his property and understood that his will would accomplish this. Undue influence is a claim that can invalidate wills whereby a person was unduly influenced by an interested party. An insane delusion is a false belief as the result of a diseased or deranged mind, a belief that operates against all facts and reason. The belief of a dying person that they are being poisoned must not be disregarded as an insane delusion, although they may be mistaken, as to the perpetrator(s).

E. A tape-recorded will has been held not to be "in writing." *Estate of Reed,* 672 P.2d 829 (Wyo. 1983). The testator must sign the will or some other individual must sign the testator's name in the testator's presence and by the testator's direction. If the latter procedure is followed, and someone else signs the testator's name, the so-called "conscious presence" test is codified, under which a signing is sufficient if it was done in the testator's conscious presence, i.e., within the range of the testator's senses such as hearing; the signing need not have occurred within the testator's line of sight. For application of the "conscious-presence" test, *see Cunningham v. Cunningham*, 80 Minn. 180, 83 N.W. 58 (1900) (conscious-presence requirement held satisfied where "the signing was within the sound of the testator's voice; he knew what was being done . . ."); *Healy v. Bartless*, 73 N.H. 110, 59 A. 617 (1904) individuals are in the decedent's conscious presence "whenever they are so near at hand that he is conscious of where they are and of what they are doing, through any of his senses, and where he can readily see them if he is so disposed."; *Demaris' Estate*, 166 Or. 36, 110 P.2d 571 (1941) "We do not believe that sight is the only test of presence. We are convinced that any of the senses that a testator possesses, which enable him to know whether another is near at hand and what he is doing, may be employed by him in determining whether an individual is in his conscious presence . . . ".

F. An acknowledgment need not be expressly stated, but can be inferred from the testator's conduct. *Norton v. Georgia Railroad Bank & Tr. Co.*, 248 Ga. 847, 285 S.E.2d 910 (1982). The witnesses must sign as witnesses (*see, e.g., Mossler v. Johnson*, 565 S.W.2d 952 (Tex. Civ. App. 1978)), and must sign within a reasonable time after having witnessed the signing or acknowledgment. There is, however, no requirement that the witnesses sign before the testator's death; in a given case, the reasonable-time requirement could be satisfied even if the witnesses sign after the testator's death. There is no requirement that the testator's signature be at the end of the will; thus, if he or she writes his or her name in the body of the will and intends it to be his or her signature, this would satisfy the statute. *See Estate of Siegel*, 214 N.J. Super. 586, 520 A.2d 798 (App. Div. 1987).

G. Wills may specify primary and contingent beneficiaries, charitable gifts to churches, educational institutions and philanthropic organizations, it may make conditional gifts, it can forgive a debt, it can establish a trust and name a trustee for minor children, or disabled person so that they benefit from a part of the estate but do not have responsibility for managing it. In the absence of a trust a child will have complete access to their inheritance upon the attainment of the age of eighteen. A testamentary (will-created) trust can also be used to postpone the ultimate distribution of an inheritance to children beyond the age of majority.

1. A will may transfer some or all of a person’s money to a living trust established while alive. A will may name a personal representative (sometimes called an executor) who will be required by law to manage the estate until it is finally distributed. It can disinherit survivors other than a spouse, who normally have a rights to override a will that disinherits him or her. It can revoke all previous wills. Although a will can contain a statement on philosophy or message to the world but it is not recommended to use the document to express displeasure or animosity with the survivors. In disposing of property a will must express clear, unambiguous instructions, not mere wishes or hopes. A conditional bequest imposes a condition where there was none, or where it was not made clear that a condition existed. The conditional will must be legal and not against public policy.

2. In early England so much property was being left to churches and monasteries that the Crown became fearful of the tremendous power that the Church could wield and in addition it was regarded as contrary to economic growth. To counter this trend a law was enacted that made it illegal to leave property to charity. Although there is no such law in the Untied States, those concerns together with a strong tendency to protect the family, have led to laws in a number of states that limit the amount that can be left to charities or that charitable bequests be executed a specified time before death, or both.

H. As a general rule, a will may be revoked by, 1. Physical acts done to the will (ie. tearing it up or burning it). 2. A subsequent writing (such as a new will) formally revoking the previous will. 3. Getting married after the will is made, unless the will was made in anticipation of the marriage. 4. In some states a divorce automatically revokes a person’s status as beneficiary or executor. a. In the case of an act of revocation done a

burning, tearing, or canceling is a sufficient revocatory act even though the act does not touch any of the words on the will. This is consistent with cases on burning or tearing *(e.g., White v.Casten*, 46 N.C. 197 (1853) (burning); *Crampton v.Osburn*, 356 Mo. 125, 201 S.W.2d 336 (1947) (tearing)), but inconsistent with most, but not all, cases on cancellation *(e.g., Yont v. Eads*, 317 Mass. 232, 57 N.E.2d 531 (1944); *Kronauge v. Stoecklein,* 33 Ohio App.2d 229, 293 N.E.2d 320 (1972); *Thompson v. Royall*, 163 Va. 492, 175 S.E. 748 (1934); contra, *Warner v. Warner's Estate,* 37 Vt. 356 (1864)). By substantial authority, it is held that removal of the testator's signature-by, for example, lining it through, erasing or obliterating it, tearing or cutting it out of the document, or removing the entire signature page-constitutes a sufficient revocatory act to revoke the entire will *Board of Trustees of the University of Alabama v. Calhoun,* 514 So.2d 895 (Ala.1987).

§281a International Wills

A.The purpose of the Washington Convention of 1973 concerning international wills is to provide testators with a way of making wills that will be valid as to form in all countries joining the Convention. Discussions about possible international accord on an acceptable form of will led the Governing Council of UNIDROIT (International Institute for the Unification of Private Law) in 1960 to appoint a small committee of experts from several countries to develop proposals. Following week-long meetings at the Institute's quarters in Rome in 1963, and on two occasions in 1965, the Institute published and circulated a Draft Convention of December 1966 with an annexed uniform law that would be required to be enacted locally by those countries agreeing to the convention. The package and accompanying explanations were reviewed in this country by the Secretary of State's Advisory Committee on Private International Law. In turn, it referred the proposal to a special committee of American probate specialists drawn from member of NCCUSL's Special Committee on the Uniform Probate Code and its advisers and reporters. The resulting reports and recommendations were affirmative and urged the State Department to cooperate in continuing efforts to develop the 1966 Draft Convention, and to endeavor to interest other countries in the subject.

1. In October 1973, pursuant to a commitment made earlier to UNIDROIT representatives that it would provide leadership for the international will proposal if sufficient interest from other countries became evident, the United States served as host for the diplomatic Conference on Wills which met in Washington from October 10 to 26, 1973. 42 governments were represented by delegations, 6 by observers. The United States delegation of 8 persons plus 2 Congressional advisers and 2 staff advisers, was headed by Ambassador Richard D. Kearney, Chairman of the Secretary of State's Advisory Committee on Private International Law who also was selected president of the Conference. The result of the Conference was the Convention of October 26, 1973 Providing a Uniform Law on the Form of an International Will, an appended Annex, Uniform Law on the Form of an International Will, and a Resolution recommending establishment of state assisted systems for the safekeeping and discovery of wills. These three documents are reproduced at the end of these preliminary comments.

2. The 1973 Convention obligates countries becoming parties to make the annexed

uniform law a part of their local law. The details of the prescribed mode of execution reflect a blend of common and civil law elements. Two attesting witnesses are required in the tradition of the English Statute of Wills of 1837. The duties imposed by the Uniform Law upon the person doing the certifying go beyond legalization of signatures, the domain of the notary public. At least paralegal training is a necessity. Abroad, in countries with the law trained notary, the designation is likely to go to this class or at least to include it. Similarly, in countries with a closely supervised class of solicitors, their designation may be expected.

3. The obligation to introduce the uniform law into local law then could be met by passage of a federal statute incorporating the uniform law and designating authorized persons who can assist testators desiring to use the international format, possibly leaving it open for state legislatures, if they wish, to designate other or additional groups of authorized persons. As to constitutionality, the federal statute on wills could be rested on the power of the federal government to bind the states by treaty and to implement a treaty obligation to bring agreed upon rules into local law by any appropriate method.

4. A domiciliary foreign personal representative may exercise all powers of a local personal representative and may maintain actions and proceedings in this state subject to any conditions imposed upon nonresident parties generally. A foreign personal representative is subject to the jurisdiction of the courts of this state to the same extent that his decedent was subject to jurisdiction immediately prior to death. If service is made upon a foreign personal representative as provided in subsection (a), he shall be allowed at least [30] days within which to appear or respond. An adjudication rendered in any jurisdiction in favor of or against any personal representative of the estate is as binding on the local personal representative as if he were a party to the adjudication under the Uniform Ancillary Administration of Estates Act.

6. The [Secretary of State] shall establish a registry system by which authorized persons may register in a central information center, information regarding the execution of international wills, keeping that information in strictest confidence until the death of the maker and then making it available to any person desiring information about any will who presents a death certificate or other satisfactory evidence of the testator's death to the center. Information that may be received, preserved in confidence until death, and reported as indicated is limited to the name, social-security or any other individual-identifying number established by law, address, and date and place of birth of the testator, and the intended place of deposit or safekeeping of the instrument pending the death of the maker.

§282 Nonprobate Transfers on Death

A.A provision for a non-probate transfer on death in an insurance policy, contract of employment, bond, mortgage, promissory note, certificated or un-certificated security, account agreement, custodial agreement, deposit agreement, compensation plan, pension plan, individual retirement plan, employee benefit plan, trust, conveyance, deed of gift, marital property agreement, or other written instrument of a similar nature is non-testamentary, it provides that: (1) money or other benefits due to, controlled by, or owned

by a decedent before death must be paid after the decedent's death to a person whom the decedent designates either in the instrument or in a separate writing, including a will, executed either before or at the same time as the instrument, or later; (2) money due or to become due under the instrument ceases to be payable in the event of death of the promisee or the promisor before payment or demand; or (3) any property controlled by or owned by the decedent before death which is the subject of the instrument passes to a person the decedent designates either in the instrument or in a separate writing, including a will, executed either before or at the same time as the instrument, or later.

B. Will substitutes such as the revocable *inter vivos* trust, the multiple-party bank account, and United States government bonds payable on death to named beneficiaries are declared to be non-testamentary, the instrument does not have to be executed in compliance with the formalities for wills nor does the instrument have to be probated, nor does the personal representative have any power or duty with respect to the assets. The Supreme Court of Washington read that language to relieve against the delivery requirement of the law of deeds, a result that was not intended. *Estate of O'Brien v. Woodhouse,* 109 Wash.2d 913, 749 P.2d 154 (1988). The point was correctly decided in *First National Bank in Minot v. Bloom,* 264 N.W.2d 208, 212 (N.D.1978), in which the Supreme Court of North Dakota held that "nothing in [former Section 6-201] of the Uniform Probate Code . . . eliminates the necessity of delivery of a deed to effectuate a conveyance from one living person to another."

C. “Nonprobate transfer” means a valid transfer effective at death, other than a transfer of a survivorship interest in a joint tenancy of real estate, by a transferor whose last domicile was in this State to the extent that the transferor immediately before death had power, acting alone, to prevent the transfer by revocation or withdrawal and instead to use the property for the benefit of the transferor or apply it to discharge claims against the transferor’s probate estate. The recipients of nonprobate transfers can be required to contribute to pay allowed claims and statutory allowances to the extent the probate estate is inadequate. The maximum liability for a single nonprobate transferee is the value of the transfer. If there are no probate assets, a creditor or other person would first need to secure appointment of a personal representative to invoke Code procedures for establishing a creditor’s claim as “allowed.”

D. TOD security registration agreements and similar death benefits not insulated from decedents' creditors or statutory allowances by other legislation although existing legislation protecting death benefits in life insurance, retirement plans or IRAs from claims by creditors. The abatement order among classes of beneficiaries of trusts specified applies to all trusts subject to liability to the extent of nonprobate transfers received or administered whether or not the trust instrument is the principal nonprobate instrument in the decedent's estate plan.

E. A "trust" need not have been established (funded with a trust res) during the decedent's lifetime, but can be established (funded with a res) by the devise itself. Under the Uniform Testamentary Additions to Trusts Act (UTATA) authorizes pour-over devises to unfunded trusts. *E.g., Clymer v. Mayo,* 473 N.E.2d 1084 (Mass. 1985); *Trosch v. Maryland Nat'l Bank,* 32 Md. App. 249, 359 A.2d 564 (1976). The authority of these

pronouncements is problematic, however, because the trusts in these cases were so-called "unfunded" life-insurance trusts. An unfunded life-insurance trust is not a trust without a trust res; the trust res in an unfunded life-insurance trust is the contract right to the proceeds of the life-insurance policy conferred on the trustee by virtue of naming the trustee the beneficiary of the policy. *See Gordon v. Portland Trust Bank,* 201 Or. 648, 271 P.2d 653 (1954) "The trustee as the beneficiary of the policy is the owner of a promise to pay the proceeds at the death of the insured . . . "; *Gurnett v. Mutual Life Ins. Co.,* 356 Ill. 612, 191 N.E. 250 (1934). Thus, the term "unfunded life-insurance trust" does not refer to an unfunded trust, but to a funded trust that has not received *additional* funding. For further indication of the problematic nature of the idea that the pre-1990 version of this section permits pour-over devises to unfunded trusts, *see Estate of Daniels,* 665 P.2d 594 (Colo. 1983) pour-over devise failed; before signing the trust instrument, the decedent was advised by counsel that the "mere signing of the trust agreement would not activate it and that, before the trust could come into being, [the decedent] would have to fund it;" decedent then signed the trust agreement and returned it to counsel "to wait for further directions on it;" no further action was taken by the decedent prior to death; the decedent's will devised the residue of her estate to the trustee of the trust, but added that the residue should go elsewhere "if the trust created by said agreement is not in effect at my death."

F. During the lifetime of all parties, an account belongs to the parties in proportion to the net contribution of each to the sums on deposit, unless there is clear and convincing evidence of a different intent. As between parties married to each other, in the absence of proof otherwise, the net contribution of each is presumed to be an equal amount. "Net contribution" of a party means the sum of all deposits to an account made by or for the party, less all payments from the account made to or for the party which have not been paid to or applied to the use of another party and a proportionate share of any charges deducted from the account, plus a proportionate share of any interest or dividends earned, whether or not included in the current balance. The term includes deposit life insurance proceeds added to the account by reason of death of the party whose net contribution is in question.

G. A beneficiary in an account having a POD designation has no right to sums on deposit during the lifetime of the depositing party. An agent in an account with an agency designation has no beneficial right to sums on deposit. On death of a party sums on deposit in a single or multiple-party account belong to the surviving party or parties. If two or more parties survive and one is the surviving spouse of the decedent, the amount to which the decedent, immediately before death, was beneficially entitled belongs to the surviving spouse. If two or more parties survive and none is the surviving spouse of the decedent, the amount to which the decedent, immediately before death, was beneficially entitled under belongs to the surviving parties in equal shares, and augments the proportion to which each survivor, immediately before the decedent's death, was beneficially entitled and the right of survivorship continues between the surviving parties.

H. On death of the sole party or the last survivor of two or more parties, sums on deposit belong to the surviving beneficiary or beneficiaries. If two or more beneficiaries survive, sums on deposit belong to them in equal and undivided shares, and there is no right of

survivorship in the event of death of a beneficiary thereafter. If no beneficiary survives, sums on deposit belong to the estate of the last surviving party.

I. Sums on deposit in a single-party account without a POD designation, or in a multiple-party account that, by the terms of the account, is without right of survivorship, are not affected by death of a party, but the amount to which the decedent, immediately before death, was beneficially entitled is transferred as part of the decedent's estate. A POD designation in a multiple-party account without right of survivorship is ineffective. For purposes of this section, designation of an account as a tenancy in common establishes that the account is without right of survivorship.

J. The ownership right of a surviving party or beneficiary, or of the decedent's estate, in sums on deposit is subject to requests for payment made by a party before the party's death, whether paid by the financial institution before or after death, or unpaid. The surviving party or beneficiary, or the decedent's estate, is liable to the payee of an unpaid request for payment. The liability is limited to a proportionate share of the amount transferred under this section, to the extent necessary to discharge the request for payment.

K. Rights at death of a party are determined by the terms of the account at the death of the party. A party may alter the terms of the account by a notice signed by the party and given to the financial institution to change the terms of the account or to stop or vary payment under the terms of the account. To be effective the notice must be received by the financial institution during the party's lifetime.

L. A deposit of community property in an account does not alter the community character of the property or community rights in the property, but a right of survivorship between parties married to each other arising from the express terms of the account may not be altered by will. This part does not affect the law governing tenancy by the entireties.

M. “Security account" means (i) a reinvestment account associated with a security, a securities account with a broker, a cash balance in a brokerage account, cash, interest, earnings, or dividends earned or declared on a security in an account, a reinvestment account, or a brokerage account, whether or not credited to the account before the owner's death, or (ii) a cash balance or other property held for or due to the owner of a security as a replacement for or product of an account security, whether or not credited to the account before the owner's death.

N. Only individuals whose registration of a security shows sole ownership by one individual or multiple ownership by two or more with right of survivorship, rather than as tenants in common, may obtain registration in beneficiary form. Multiple owners of a security registered in beneficiary form hold as joint tenants with right of survivorship, as tenants by the entireties, or as owners of community property held in survivorship form, and not as tenants in common.

O. A security may be registered in beneficiary form if the form is authorized by this or a similar statute of the state of organization of the issuer or registering entity, the location

of the registering entity's principal office, the office of its transfer agent or its office making the registration, or by this or a similar statute of the law of the state listed as the owner's address at the time of registration. A registration governed by the law of a jurisdiction in which this or similar legislation is not in force or was not in force when a registration in beneficiary form was made is nevertheless presumed to be valid and authorized as a matter of contract law. A security, whether evidenced by certificate or account, is registered in beneficiary form when the registration includes a designation of a beneficiary to take the ownership at the death of the owner or the deaths of all multiple owners. Registration in beneficiary form may be shown by the words "transfer on death" or the abbreviation "TOD," or by the words "pay on death" or the abbreviation "POD," after the name of the registered owner and before the name of a beneficiary. The designation of a TOD beneficiary on a registration in beneficiary form has no effect on ownership until the owner's death. A registration of a security in beneficiary form may be canceled or changed at any time by the sole owner or all then surviving owners without the consent of the beneficiary.

P. A registering entity is not required to offer or to accept a request for security registration in beneficiary form. If a registration in beneficiary form is offered by a registering entity, the owner requesting registration in beneficiary form assents to the protections given to the registering entity by this part. By accepting a request for registration of a security in beneficiary form, the registering entity agrees that the registration will be implemented on death of the deceased owner. "Good faith" is intended to mean "honesty in fact and the observance of reasonable commercial standards of fair dealing in the trade.

Q. A transfer on death resulting from a registration in beneficiary form is effective by reason of the contract regarding the registration between the owner and the registering entity and this Act and is not testamentary. A registering entity offering to accept registrations in beneficiary form may establish the terms and conditions under which it will receive requests (i) for registrations in beneficiary form, and (ii) for implementation of registrations in beneficiary form, including requests for cancellation of previously registered TOD beneficiary designations and requests for reregistration to effect a change of beneficiary.

§283 Non-perpetuation of Probate Trust Funds

A.The origin of the living trust is rooted in English Common Law. The English people used it to protect their assets from the crown. By placing their assets in a trust, the English king and the lords were prevented from unjustly taking property away from the general population. The English courts upheld the validity of the trust. Today the living trust is recognized in all fifty states as well as throughout the world.

B. Being a trustee is easy for a donor as well as the beneficiary. It is more difficult for an appointed trustee. Everything is subject to review and question by the beneficiaries. Investments, distributions, the timing of both, selling, buying, leasing, preparing and filing tax returns and trust accounts must be done fiduciary duty in mind. People who understand the responsibility and duties involved usually do not wish to act as trustee for

someone else unless they have considerable experience, and the time to do it. As a result more and more people are relying on those organizations that have the experience and time to give the trust the necessary attention, they are called corporate trustees. A corporate trustee is a bank or trust company charted by the state to accept funds from members of the public under s trust agreement. Most corporate trustees have been in the trust business for years and know how to manage a trust. They have a reputation to uphold and therefore, do not want bad press is they can avoid it. They have financial backing and stability, so the chances of them running off with your money are slim. Their fees are regulated by law of the Probate Court.

C. A trust must have terms that the trustee can follow. The lazy man's trust, the trustee bank account, for example, or the inadequate preprinted trust form, is little better than a joint bank account. The trustee bank account is a trust fund that, in effect, has no terms other than the trustee's absolute right to make deposits and withdrawals as he sees fit, and the right of the beneficiary, subject to easy interference to receive the funds on the trustee's death. The terms of a trust may be simple or they may be complicated, but in either case they must be clear. They should cover lifetime distributions of income and/or principal, the conditions or guidelines for distributions, and the possibility that a beneficiary may die. A very common and valuable provision in most family trusts and dynasty trusts is the spray or sprinkle provisions. Where there is more than one beneficiary, this provision allows the trustee to distribute, "spray", the income and/or principal among the beneficiaries (usually children) in varying proportions as the trustee feels appropriate, having in mind their individual needs and circumstances from time to time. One of the considerable advantages of a trust over a will is the ability of the trustee to hold the beneficiary's share over an extended period of time, and during that time to provide for the changing needs of the beneficiary through trust distributions. A discretionary trust should contain as little language as possible relating to the extent of its discretion. When a person establishes and funds a trust for himself, it is referred to as a "self-settled trust". A simple trust is one that is required by its terms to distribute all of its income each year, and may not make any charitable distributions presently or in the future. A complex trust is one that allows for discretionary distributions of income and/or principal.

D. There are two types of trusts – *inter vivos* and testamentary. The individual who creates a trust is known as the grantor. The grantor decides what property will be transferred into the trust, the purpose of the trust, who the trustee will be, whom the beneficiaries are, the terms of the trust and how the trust funds may be utilitized. The owner of the legal title to the property in the trust is the trustee. The trustee is responsible for the management of trust assets and entitled to a fee or commission, unless also a beneficiary. The beneficiary is the individual, or group of individuals, who receive the primary benefits from the trust property. The most common standard by which the investment decisions made by a trustee are evaluated is the "prudent man" rule. This rule requires that a trustee act in the same manner with trust property, as a person of prudence, discretion, and intelligence acts in the management of his or her own assets. The origin of this standard is Harvard College v. Armory 1830. The property that the grantor of the trust transfers to the trustee is known as the corpus or principal.

E. The costs of creating a living trust may exceed that of crating a will but should be substantially less than that arising from a probate proceeding. A living trust can take various forms. 1. A trust that is fully funded with assets, wherein the settlor retains full authority until your incapacity or death, at which time, its management is taken over by the successor trustee. 2. A trust that is fully funded with assets, wherein an additional or co-trustee is designated until incapacity or death, with full powers vested in the co-trustee. 3. A trust that is fully funded with assets, wherein sole authority is the right to amend or revoke the trust agreement. The trustee is a relative or the bank and is given the full discretion to pay or apply the income and principal to or for your benefit. 4. A trust that is totally unfunded, has no assets, sometimes called a stand-by-trust, with durable power of attorney authorizing the agent to transfer property to the trust in the event of incapacity or death.

F. Charitable Remainder Annuity Trust allows a person to split the benefit of a bequest between a charity and a beneficiary. A charitable remainder trust will pay income to the beneficiary for a certain period and the assets remaining in the trust will pass to a charitable organization. The Internal Revenue Code defines the charitable remainder trust as one which provides periodic distributions to one or more non-charitable income beneficiaries, for life or term of years, with the remainder interest distributed to one or more charities. To qualify the trust must be irrevocable. There are three types of charitable remainder trusts 1. Annuity trusts, 2 ordinary unitrusts and 3. income only unitrusts.

G. A charitable lead trust has the following features. 1.A charitable lead trust may be created by any taxpayer, individual or corporation for the purpose of distributing an income yield to a qualifying charitable beneficiary. 2. The trust may be created during the grantor's lifetime (inter vivos) or upon his or her death (testamentary) 3. The instrument must be irrevocable and contain a payout obligation based upon a fixed percentage of the annual fair market value of the trust ("unitrust") or a fixed dollar amount or percentage of the initial fair market value of the assets conveyed to the trust "annuity trust" 4. The trust may last for any specified duration. There is no minimum or maximum period, although tax consequences will vary with duration. 5. The charitable beneficiary may be designated in the instrument or be determined annually by the trustee or grantor. 6. The remainder interest may revert back to the grantor or pass to a non-charitable third party.

H. The rule against perpetuities, which is embodied in state law and varies from state to state, was designed to limit the time a trust may be operative. Usually the rule specified that a trust can last no longer than the life of a person alive at the time the trust is created, plus twenty-one years. That person, called the measuring life, does not need to be a beneficiary. However many states are eliminating the rule against perpetuities, which can permit longer-lasting and even perpetual trusts, called dynasty trusts. The Uniform Statutory Rule Against Perpetuities (USRAP or Uniform Statutory Rule) contains an optional section on honorary trusts and trusts for pets. The Uniform Statutory Rule reforms the common-law Rule Against Perpetuities by adding a simplified wait-and-see element and a deferred-reformation element. Wait-and-see is a two-step strategy. Step

One preserves the validating side of the common-law Rule. By satisfying the common-law Rule, a non-vested future interest in property is valid at the moment of its creation. Step Two is a salvage strategy for future interests that would have been invalid at common law. Rather than invalidating such interests at creation, wait-and-see allows a period of time, called the permissible vesting period, during which the non-vested interests are permitted to vest according to the trust's terms.

I.The traditional method of measuring the permissible vesting period has been by reference to lives in being at the creation of the interest (the measuring lives) plus 21 years. There are, however, various difficulties and costs associated with identifying and tracing a set of actual measuring lives to see which one is the survivor and when he or she dies. In addition, it has been documented that the use of actual measuring lives plus 21 years does not produce a period of time that self-adjusts to each disposition, extending dead-hand control no further than necessary in each case; rather, the use of actual measuring lives (plus 21 years) generates a permissible vesting period whose length almost always exceeds by some arbitrary margin the point of actual vesting in cases traditionally validated by the wait-and-see strategy. The actual-measuring-lives approach, therefore, performs a margin-of-safety function. Given this fact, and given the costs and difficulties associated with the actual-measuring-lives approach, the Uniform Statutory Rule forgoes the use of actual measuring lives and uses instead a permissible vesting period of a flat 90 years.

J. The philosophy behind the 90-year period is to fix a period of time that approximates the average period of time that would traditionally be allowed by the wait-and-see doctrine. The flat-period-of-years method was not used as a means of increasing permissible dead-hand control by lengthening the permissible vesting period beyond its traditional boundaries. In fact, the 90-year period falls substantially short of the absolute maximum period of time that could theoretically be achieved under the common-law Rule itself, by the so-called "twelve-healthy-babies ploy"- a ploy that would average out to a period of about 115 years, 25 years or 27.8% longer than the 90 years allowed by USRAP. The fact that the traditional period roughly averages out to a longish-sounding 90 years is a reflection of a quite different phenomenon: the dramatic increase in longevity that society as a whole has experienced in the course of the twentieth century.

K. Nearly all trusts (or other property arrangements) will terminate by their own terms long before the 90-year permissible vesting period expires. A non-vested property interest is invalid unless: (1) when the interest is created, it is certain to vest or terminate no later than 21 years after the death of an individual then alive; or (2) the interest either vests or terminates within 90 years after its creation.

L. A trust is for a specific lawful non-charitable purpose or for lawful non-charitable purposes may be performed by the trustee for [21] years but no longer, whether or not the terms of the trust contemplate a longer duration. A trust for the care of a designated domestic or pet animal is valid. The trust terminates when no living animal is covered by the trust. Except as expressly provided otherwise in the trust instrument, no portion of the principal or income may be converted to the use of the trustee or to any use other than for the trust's purposes or for the benefit of a covered animal. Upon termination, the trustee

shall transfer the unexpended trust property as directed in the trust instrument.

M. The relevance of trust procedures to those relating to settlement of decedents' estates is apparent in many situations. Many trusts are created by will. In a substantial number of states, statutes now extend probate Court control over decedents' estates to testamentary trustees, but the same procedures rarely apply to *inter vivos* trusts. For example, eleven states appear to require testamentary trustees to qualify and account in much the same manner as executors, though quite different requirements relate to trustees of *inter vivos* trusts in these same states. Twenty-four states impose some form of mandatory Court accountings on testamentary trustees, while only three seem to have comparable requirements for *inter vivos* trustees. Probate interference in trusts must be halted.

N. The various restrictions applicable to testamentary trusts have caused many planners to recommend use of revocable *inter vivos* trusts. The widely adopted Uniform Testamentary Addition to Trusts Act has accelerated this tendency by permitting testators to devise estates to trustees of previously established receptacle trusts which have and retain the characteristics *of inter vivos* trusts for purpose of procedural requirements. Modestly endowed persons who are turning to *inter vivos* trusts to avoid probate are of more immediate concern. Lawyers in all parts of the country are aware of the trend toward reliance on revocable trusts as total substitutes for wills which recent controversies about probate procedures have stimulated. There would be little need for concern about this development if it could be assumed also that the people involved are seeking and getting competent advice and fiduciary assistance. But there are indications that many people are neither seeking nor receiving adequate information about trusts they are using. Although not always informed of this fact, trusts must be registered with the very same Probate Court the donors are seeking to avoid. It would seem that the testator’s attempt to continue to dominate their fortune after their death with a trust is not charitable enough and it is holier not to continue to be the boss after death but instead the lawyer who pays lump sum death benefits.

O. Registration of trusts is a new concept and differs importantly from common arrangements for retained supervisory jurisdiction of Courts of probate over testamentary trusts. It applies alike *to inter vivos* and testamentary trusts, and is available to foreign-created trusts as well as those locally created. The place of registration is related not to the place where the trust was created, which may lose its significance to the parties concerned, but is related to the place where the trust is primarily administered. Unless otherwise designated in the trust instrument, the principal place of administration of a trust is the trustee's usual place of business where the records pertaining to the trust are kept, or at the trustee's residence if he has no such place of business.

1. Registration is accomplished by filing a statement indicating the name and address of the trustee in which it acknowledges the trusteeship. The statement shall indicate whether the trust has been registered elsewhere. The statement shall identify the trust: (a) in the case of a testamentary trust, by the name of the testator and the date and place of domiciliary probate; (b) in the case of a written *inter vivos* trust, by the name of each settlor and the original trustee and the date of the trust instrument; or (c) in the case of an

oral trust, by information identifying the settlor or other source of funds and describing the time and manner of the trust's creation and the terms of the trust, including the subject matter, beneficiaries and time of performance. If a trust has been registered elsewhere, registration in this state is ineffective until the earlier registration is released by order where prior registration occurred, or an instrument executed by the trustee and all beneficiaries, filed with the registration in this state.

2. A trustee who fails to register a trust in a proper place for purposes of any proceedings initiated by a beneficiary of the trust prior to registration, must do so if sued. In addition, any trustee who, within 30 days after receipt of a written demand by a settlor or beneficiary of the trust, fails to register a trust is subject to removal and denial of compensation or to surcharge as the adjudicator may direct. Under current law a provision in the terms of the trust purporting to excuse the trustee from the duty to register, or directing that the trust or trustee shall not be subject to the jurisdiction of the Court, is ineffective. Therefore this Act provides for alternative dispute resolution provisions to be immune from registration requirements of the Court without rendering them immune to due process in civil and criminal litigation.

S. Proceedings which may be maintained by registrants are those concerning the administration and distribution of trusts, the declaration of rights and the determination of other matters involving trustees and beneficiaries of trusts. These include, but are not limited to, proceedings to: (1)appoint or remove a trustee; (2) review trustees' fees and to review and settle interim or final accounts; (3) ascertain beneficiaries, determine any question arising in the administration or distribution of any trust including questions of construction of trust instruments, to instruct trustees, and determine the existence or nonexistence of any immunity, power, privilege, duty or right; and (4) release registration of a trust.

(a) The management and distribution of a trust estate, submission of accounts and reports to beneficiaries, payment of trustee's fees and other obligations of a trust, acceptance and change of trusteeship, and other aspects of the administration of a trust shall proceed expeditiously consistent with the terms of the trust, free of judicial intervention and without order, approval or other action of any court, subject to the jurisdiction of the Court as invoked by interested parties or as otherwise exercised as provided by law.

T. The trustee shall keep the beneficiaries of the trust reasonably informed of the trust and its administration. In addition: (a) Within 30 days after his acceptance of the trust, the trustee shall inform in writing the current beneficiaries and if possible, one or more persons who may represent beneficiaries with future interests, of the competent authority, in which the trust is registered and of his name and address. (b) Upon reasonable request, the trustee shall provide the beneficiary with a copy of the terms of the trust which describe or affect his interest and with relevant information about the assets of the trust and the particulars relating to the administration. (c)Upon reasonable request, a beneficiary is entitled to a statement of the accounts of the trust annually and on termination of the trust or change of the trustee.

U. There has been considerable interest in recent years in legislation giving trustees

extensive powers. The Uniform Trustees' Powers Act, approved by the National Conference in 1964 has been adopted in Idaho, Kansas, Mississippi and Wyoming. New York and New Jersey have adopted similar statutes which differ somewhat from the Uniform Trustees' Powers Act, and Arkansas, California, Colorado, Florida, Iowa, Louisiana, Oklahoma, Pennsylvania, Virginia and Washington have comprehensive legislation which differ in various respects from other models. A trustee need not provide bond to secure performance of his duties unless required by the terms of the trust. A trustee is under a continuing duty to administer the trust at a place appropriate to the purposes of the trust and to its sound, efficient management.

1. The question of liability as between the trust estate and the trustee individually may be determined in a proceeding for accounting, surcharge or indemnification or other appropriate proceeding. In most instances, the trustee will provide beneficiaries with copies of annual tax returns or tax statements that must be filed. Usually this will be accompanied by a narrative explanation by the trustee. In the case of the charitable trust, notice need be given only to the attorney general or other state officer supervising charitable trusts and in the event that the charitable trust has, as its primary beneficiary, a charitable corporation or institution, notice should be given to that charitable corporation or institution. It is not contemplated that all of the individuals who may receive some benefit as a result of a charitable trust be informed.

§284 Social Security Survivors

A.The Social Security Act of 1935 (P.L. 74-271), which created the Social Security program, did not include any provisions for monthly survivors benefits, but did include a lump-sum payment upon the death of a fully insured person over the age of 65. Monthly survivors benefits were established in the Social Security Amendments of 1939 (P.L. 76-379), including those for widows, parents, and children. A worker is fully insured for benefits if he or she has earned at least one credit for each year between age 21 and turning 62, dying, or becoming disabled; a worker is permanently insured if he or she has at least 40 credits (i.e., at least 10 years of work). In 2015, 87% of Americans over the age of 20 were fully insured. Survivor insurance provides for the spouse and dependent children should the beneficiary die. One month after an insured person dies a sum of not less than $255 is made payable to the widow or widower of the deceased. Should the deceased have been eligible or receiving disability or old age insurance and the spouse was not eligible but dependent upon the deceased income the surviving spouse and dependent children are eligible for 75% of normal benefits of the deceased. In 2017 5,994,280 Americans, nearly 6 million, received social security survivor benefits, 11.7% of 51.5 million OASI beneficiaries and 9.7% of OASDI beneficiaries. Since 2000 the number of widow-widowers receiving survivor benefits has gone down from 4.9 million in 2000 to 4.0 million in 2016 and is projected to go down further to 3.9 million in 2020. Due to the Bipartisan Budget Act of 2015, spouses who are insured will no longer be eligible to delay their retired-worker benefit while receiving an aged-spouse benefit. Surviving spouses are increasingly living until they are themselves quality for retirement.

Survivor Insurance Benefits, 2015

Type f Benefit	Total Beneficiaries	Average Monthly Benefit
All Old-Age, Survivors, and Disability Insurance (OASDI)	59,963,425	$1,228.12
All Survivors	6,083,561	$1,112.80
Non-disabled widow(er)	3,790,374	$1,286.26
Disabled widow(er)	259,331	$719.11
Widowed mothers and fathers	139,719	$939.94
Children of deceased workers	1,892,885	$832.14
Parents of deceased workers	1,252	$1,133.46

Source: Liou, Wayne. Analyst on Social Policy. Social Security Survivors Benefits. Congressional Research Service. February 8, 2017

1.Survivors benefits are determined using the same basic formula used to calculate Social Security retirement and disability benefits. Benefits are based on the average lifetime covered earnings of the worker who died, so survivors of higher earners tend to receive higher benefits than survivors of lower earners. Average monthly survivors benefits in December 2015 were $1,228.12. That month, 81.5% of survivors beneficiaries were women (including female children) and 31.1% of survivors beneficiaries were children. Surviving spouses receive 100% of the deceased worker's PIA if they begin to collect survivor benefits at their full retirement age (FRA).7 Widow(er)s may receive reduced widow(er)'s benefits if the benefit is claimed early. The earlier the benefit is claimed, the larger the reduction is. Reduced benefits range from 71.5% of the worker's PIA if the widow(er) claims at age 60 to 100% of the worker's PIA if the widow(er) claims at FRA. If the surviving spouse is receiving Social Security disability benefits, they may begin to receive reduced widow(er)'s benefits as early as age 50. Disabled widow(er)s receive 71.5% of the worker's PIA. Widow(er)'s benefits are not paid to spouses or former spouses who remarry before the age of 60 (or age 50 if disabled). Child, mother's and father's survivor benefits are 75% of the worker's PIA, and may be collected regardless of the age of the mother or father. The surviving parents of fully insured workers are eligible for parent's benefits if they are over the age of 62 and were receiving at least half of their support from the deceased worker.10 Parent's benefits are 82.5% of the worker's PIA if one parent is entitled to benefits and 75% of the worker's PIA (for each parent) if two parents are entitled to benefits. The total survivors benefits paid to an insured worker's family are capped regardless of the number of family members who qualify for benefits. The maximum family benefit is 150% to 188% of the worker's PIA,

B. Sec. 202(i) of the Social Security Act under 42USC§402(i) provides, upon the death, after August 1950, of an individual who died a fully or currently insured individual, an amount equal to three times such individual's primary insurance amount (as determined without regard to the amendments made by section 2201 of the Omnibus Budget

Reconciliation Act of 1981, relating to the repeal of the minimum benefit provisions), or an amount equal to $255, whichever is the smaller, shall be paid in a lump sum to the person, if any, determined by the Commissioner of Social Security to be the widow or widower of the deceased and to have been living in the same household with the deceased at the time of death. (g)(1) The surviving spouse and every surviving divorced parent of an individual who died a fully or currently insured individual. (h)(1) Every parent (as defined in this subsection) of an individual who died a fully insured individual, if such parent—(A)has attained age 62, (B)(i) was receiving at least one-half of his support from such individual at the time of such individual's death. The widow(er0 and every surviving divorced wife or husband, of an individual who died a fully insured individual, if such widow or such surviving divorced wife—(A) is not married, (B)(i) has attained age 60, or (ii) has attained age 50 but has not attained age 60 and is under a disability (as defined in section 223(d)) of the Social Security Act under 42USC§423(d) widow's insurance benefit for each month shall be equal to the primary insurance amount of such deceased individual at Sec. 202(e)(f)(1)(2) of the Social Security Act under 42USC§402(e)(f)(1)(2).

1. Members of the family of deceased insured individual may be eligible for survivors benefits, including widows, widowers (and divorced widows and widowers), children, and dependent parents. Other family members, such as a sister, must be *totally* dependent upon the deceased for their support in accordance with Regulations No. 10, 20CFR§ 410.380 pursuant to *Backiel v. Sec'y, Health, Education and Welfare*, USDC, M.D.PA., Civ. No. 74-837 (6/23/76). In *Ayuso-Morales v. Secretary of Health and Human Services*, 677 F.2d 146 (1st Cir. 1982) the court held that, depending on state law pertaining to common law marriage, concubines do not qualify for survivor benefits. Under a special rule, those who work for only one and one-half years in the three years just before death, pay benefits to children and spouse who is caring for the children. Widows and widowers may be able to get full benefits at full retirement age. The full retirement age for survivors is age 66 for people born in 1945-1956. And the full retirement age will gradually increase to age 67 for people born in 1962 or later. Widows and widowers can get reduced bene ts as early as age 60. If the surviving spouse is disabled, benefits can begin as early as age 50. A widow or widower can get benefits at any age if they take care of a child younger than age 16 or disabled, who's receiving Social Security benefits. Unmarried children, younger than age 18 (or up to age 19 if they're attending elementary or secondary school full time), can also get benefits. Children can get benefits at any age if they were disabled before age 22 and remain disabled. Under certain circumstances, we can also pay benefits to stepchildren, grandchildren, step-grandchildren, or adopted children. Dependent parents can get bene ts if they're age 62 or older, if the deceased provided at least half of their support. If divorced, former wife or husband age 60 or older (50-59 if disabled) can get benefits, if the marriage lasted at least 10 years. Usually, one can't get widow's or widower's benefits if remarrying before age 60. But remarriage after age 60 (or age 50 if disabled) won't prevent benefit payments based on **former** spouse's work. And at age 62 or older, get benefits on your new spouse's work, if those bene ts would be higher.

§284a Orphans

A. There are an estimated 100,000 orphans growing up in orphanages in the United States with no social insurance, legislation, allowance or property rights, and another 400,000 under retirement age adult orphans, many of whom are extremely poor, who might benefit if orphan were made a qualifying disability. 100,000 is 1.1% of 9 million SSI beneficiaries. 100,000 orphans should be enrolled in the first year and in the second year and third year low-income adult orphans would benefit. There are also an estimated 400,000 children passing through the foster-care system shifting from psychiatric exploitation to homeless youth with rich adoptive parents. There are 120,000 individuals age ≤19 years and about 300,000-500,000 individuals of all ages with insulin dependent diabetes mellitus (IDDM). Insulin prices need to be reduced to $50 a month for ten years as penalty for 30 years before adopting the 2.5% health annuity. IDDM needs to be made a qualifying disability. By expanding qualifying disabilities to IDDM and orphans 200,000 children and 800,000 would be eligible for SSI and DI depending on poverty and contributions. 100,000 orphans growing up in orphanages would be immediately paid and orphans and other children with IDDM growing up in poor families must be sure to receive child SSI benefit. SSI growth has been so low, for the past three years, calculated at 0.1% rather than the 1% reported in the Annual Report, not done in 2016, the United States owes the disabled 5% SSI growth.

1. An orphan is a child whose parents are dead or have abandoned them permanently. Adults can also be referred to as orphan, or adult orphans. However, those who reached adulthood before their parents died are normally not called orphans; the term is generally reserved for children whose parents have died while they are too young to support themselves. An orphan is a child whose parents are dead or have abandoned them permanently. They grow up in an orphanage. The United Nations estimates that the total number of orphans worldwide who have lost a parent while under the age of 18 is 140 million and those who have lost both their parents 15.1 million and the number of children on streets or in residential care 2-8 million. The 1940 US Census enumeration indicated the presence in the population of about 1.8 million children under age 18 liv- ing with a widowed mother and another 0.7 million living with a widowed father. By April 1949 the size of these two groups had declined to approximately 1.2 or 1.3 million living with a widowed mother and about 0.3 mil- lion living with a widowed father. In April 1949 there were perhaps 1.5 million non-married children under age 18 living with neither parent, including about 1 million in the home of a relative and 0.5 million living with non-family in either a family or non-family setting. A review of 1930-39 mortality rates in 1944 estimated there were 2.2 million paternal only orphans, 1.4 million maternal only orphans and 300,000 complete orphans. The final estimates of the SSA Division of the Actuary October 1949 was that there were a total of 3 million orphans, 6.3% of the under 18 population – 1.9 million paternal only 3.9%, 1.0 million maternal only 2.2% and 100,000 complete 0.2%. In October 1949 only about 3 in every 100 orphans under age 18 lived in an institution. Among orphans who had lost both parents about 8 in 10 were living with relatives and about 2 in 10 were living with unrelated persons, some of whom may have been foster parents. The population orphaned increased with the age of the child. About 1 in every 100 children under age 5 was an

orphan in October 1949. Among children aged 509, the rate was 5 per 100; among children aged 10-14, 10 per 100; among children aged 15-17, 16 per 100. For the total group of children under age 19, the proportion orphaned was 6 percent. About the same proportion of orphans aged 5-17 were enrolled in school as among children in that age class in the population as a whole. Orphaned children age 14-17 were found in the Census survey to be half as frequently in the labor force as all children of that age, possibly because several hundred thousand dollars were in receipt of benefits under social insurance or related programs or were receiving aid to dependent children and risked loss or reduction of benefits or assistance if they went to work. The proportion who were both at work and in school was substantially greater among all children aged 14-7 than among orphans in these ages.

2. Prior to the establishment of organized orphanages in the 1800s, children whose families could not care for them often were placed with relatives or neighbors informally and without the involvement of the court. In the mid-1800s, a reformer named Charles Brace founded the Children's Aid Society to address the issue of these overcrowded institutions. The Society was founded on the belief that children would do better placed in families than living on the streets or in crowded American orphanages. Traditional orphanages in the United States began closing following World War II, as public social services were on the rise. U.S. adoption policy and procedures, as well as child protection laws, began to take shape, leading to the demise of traditional American orphanages, which were replaced with individual and small group foster homes. By the 1950s, more children lived in foster homes than in orphanages in the United States, and by the 1960s, foster care had become a government-funded program. Since then, U.S. orphanages have gone extinct entirely. In their place are modern boarding schools, residential treatment centers and group homes, though foster care remains the most common form of support for children who are waiting for adoption or reunification with their families.

3. The United States does not legislate regarding orphanages and orphanages are in no rush to legislate that they are public institutions whose SSI beneficiaries are ineligible for benefits under Sec. 1611(e)(1) of the Social Security Act under 42USC§1382(e)(1). 100,000 orphans growing up in orphanages are due an SSI benefit. 7.6% of children are orphans, in Africa that number is estimated at 11% , in Asia 6.5% and Latin America and the Caribbean 7.4%, however the United Nations counts for children who have lost only one parent. The estimated 100,000 orphans in the United States comprise only about 0.2% of children in the United States. Supplemental Security Income (SSI) growth has been about 0.1% although it is advertised at 1% for the passed several years; SSA needs to make orphan a qualifying disability right away. Adults can also be referred to as orphan, or adult orphans. However, those who reached adulthood before their parents died are normally not called orphans; the term is generally reserved for children whose parents have died while they are too young to support themselves. Although the Economic Security Act of 1935 did not specifically provide for orphans it intended to insure aged persons, blind persons, dependent and crippled children, maternal and child welfare, public health, and the administration of their unemployment. Since 1996 the United States has seriously failed to provide for dependent and crippled children,

maternal and child welfare. SSA must respect that children are disabled workers and pay orphans as a qualifying disability.

4. Do not take advantage of a widow or an orphan (Old Testament, Exodus 22:22). Leave your orphans; I will protect their lives. Your widows too can trust in me (Old Testament, Jeremiah 49:11). Religion that God our Father accepts as pure and faultless is this: to look after orphans and widows in their distress and to keep oneself from being polluted by the world (New Testament, James 1:27). And they feed, for the love of God, the indigent, the orphan, and the captive (The Human: 8). Therefore, treat not the orphan with harshness (The Quran, The Morning Hours: 9). Be good to orphans and the very poor. And speak good words to people (The Quran, The Heifer: 83). Give orphans their property, and do not substitute bad things for good. Do not assimilate their property into your own. Doing that is a serious crime (The Quran, The Women: 2). To make sure that orphans are treated fairly they must be immediately given full SSI benefits – it is expected the child will keep two-thirds of the full benefit for candy, car, computer and college and might pay one-third of their income as rent to the orphanage under Housing and Urban Development (HUD) guidelines or might keep it all, depending on the orphanage. Adult orphans and IDDM patients are affordable at the necessary 2.2% rate of DI taxation in the intermediate term, to sustain normal welfare program growth, without taxing the rich that is needed to instantly pay 24 million poor children SSI benefits and end poverty by 2020. In 2011, of the 73.7 million children under the age of 18, 28% (20.6 million) lived with one parent, and 4% of children lived with no parent. Approximately more than half of the children living with no parents were living with grandparents.

B. The Adoption and Safe Families Act of 1997 (PL-105-89) is a federal law which was established to promote the safety, permanence, and adoption of children in foster care. Foster care maintenance payments is provided in accordance with section 472 removal and foster care placement are in accordance with a voluntary placement agreement entered into by a parent or legal guardian of the child or a judicial determination to the effect that continuation in the home from which removed would be contrary to the welfare of the child and that reasonable efforts for a child have been made under Sec. 472 of the Social Security Act under 42USC§402. Under any adoption assistance agreement entered into by a State with parents who adopt a child with special needs, the State shall make payments of nonrecurring adoption expenses incurred by or on behalf of such parents in connection with the adoption of such child, directly through the State agency or through another public or nonprofit private agency, The child at the time of initiation of adoption proceedings was in the care of a public or licensed private child placement agency or Indian tribal organization pursuant to an involuntary removal of the child from the home in accordance with a judicial determination to the effect that continuation in the home would be contrary to the welfare of the child; or a voluntary placement agreement or voluntary relinquishment; and meets all medical or disability requirements of title XVI with respect to eligibility for supplemental security income benefits; or was residing in a foster family home or child care institution under Sec. 473 of the Social Security Act under 42USC§403.

1. There are an estimated 428,000 children in foster care in the United States in 2015 and that number is growing. 269,000 children entered foster care and 243,000 exited. 55% are planned to be reunified with parents or principal caregiver, 3% live with other relative, 26% are adopted, 3% stay in long term foster care, 4% are emancipated, 3% guardianship, and 5% have not established a case plan. 135,000 children are adopted in the United States each year, 54,000 with child welfare agency involvement. Of the 111,000 waiting to be adopted, 62,000 had their parental rights terminated that year. The circumstances associated with the child's removal was neglect 61%, drub abuse (parent) 34%, caretaker inability to cope 14%, physical abuse 12%, child behavior problem 11%, housing 10%, parent incarceration 8%, alcohol abuse (parent) 6%, abandonment 5%, sexual abuse 4%, drug abuse (child) 2%, child disability 2%, relinquishment 1%, parent death 1%. and alcohol abuse (child) 0% The reason for the discharge of 248,496 children is reunification with parents or primary caregiver 51%, living with other relative 7%, adoption 23%, emancipation 8%, transfer to another agency 2%, runaway 0.4%, death of child 0.1%.

2. More than 60% of children in foster care spend 2-5 years before being adopted. Some never get adopted. In 2015 over 670,000 children spent time in U.S foster care. There are 1.5 million adopted children in the United States, and 2% of Americans have adopted. Around 7 million Americans are adopted. Around 140,000 children are adopted by American families each year. The average child waits for an adoptive family for more than three years. The average age for an adoptive family is 8. US citizens completed 19,942 international adoptions in 2007, which declined to 9,319 in 2011 as international adoptions became more restrictive. Only 4% of women with unwanted pregnancies place their children through adoption. Every year there are about 1.3 million abortions. Of the over 400,000 children in foster care in the U.S., 114,556 cannot be returned to their families and are waiting to be adopted. There are 107,918 foster children eligible for and waiting to be adopted. In 2014, 50,644 foster kids were adopted — a number that has stayed roughly consistent for the past five years. Of non-stepparent adoptions, about 59% are from the child welfare (or foster) system, 26% are from other countries, and 15% are voluntarily relinquished American babies. Among these children, males outnumber females, African American children are disproportionately represented, and over half are 6 years old or older. State and federal expenditures for foster care administrative costs (placing and monitoring children in foster care) totaled $4.3 billion. The number of children entering foster care or in care totaled $679,191. Thus, the average administrative cost per child served per year was $6,675.

Art. 3 Family Law

§285 Intestate Estate

A.Three out of four Americans die without a will. If a person dies intestate, without a will, decisions will be made by the local probate court under state law with likely unacceptable consequences as everything is divided between creditors and heirs at law. A personal representative appointed by the court in the absence of a will is entitled to a

fee and must pay an annual bonding fee. It is therefore highly advisable to have a written testamentary instrument and appointed executor to dispose of the effects of the deceased.

B. An estate includes all property less all liabilities. Not only is the identity of assets important but where they are located can be just as significant. An inventory should be prepared containing the following information 1. The description and location of the property 2. The ownership (individual, tenancy in common, joint or shared) and the percentage owned. 3. The cost and fair market value of each asset 4. Liabilities and debts 5. Beneficiary designations.6 whether any assets are subject to any agreements (corporate or partnership interests) and 7. whether it is community or separate property.

C. Any part of a decedent's estate not effectively disposed of by will passes by intestate succession to the decedent's heirs. A decedent by will may expressly exclude or limit the right of an individual or class to succeed to property of the decedent passing by intestate succession. Whether or not in an individual case the decedent's will has excluded or limited the right of an individual or class to take a share of the decedent's intestate estate is a question of construction. A clear case would be one in which the decedent's will expressly states that an individual is to receive none of the decedent's estate. Relatives of the half blood inherit the same share they would inherit if they were of the whole blood.

1. If the decedent leaves no surviving descendants but does leave a surviving parent, the decedent's surviving spouse receives the first $200,000 plus three-fourths of the balance of the intestate estate.

2. If the decedent leaves surviving descendants and if the surviving spouse (but not the decedent) has other descendants, and thus the decedent's descendants are unlikely to be the *exclusive* beneficiaries of the surviving spouse's estate, the surviving spouse receives the first $150,000 plus one-half of the balance of the intestate estate. The purpose is to assure the decedent's own descendants of a share in the decedent's intestate estate when the estate exceeds $150,000.

3. If the decedent has other descendants, the surviving spouse receives $100,000 plus one-half of the balance. In this type of case, the decedent's descendants who are not descendants of the surviving spouse are not natural objects of the bounty of the surviving spouse. The division is exactly the same in community property states.

D. An individual who fails to survive the decedent by 120 hours is deemed to have predeceased the decedent for purposes of homestead allowance, exempt property, and intestate succession, and the decedent's heirs are determined accordingly. This is not to be applied if its application would result in a taking of intestate estate by the state. The 120-hour period will not delay the administration of a decedent's estate because informal issuance of letters is prevented for a period of five days from death. An individual in gestation at a particular time is treated as living at that time if the individual lives 120 hours or more after birth.

E. If there is no taker the intestate estate passes to the state.

§286 Partnership Theory of Marriage

A.The economic partnership theory of marriage is already implemented under the equitable-distribution system applied in both the common-law and community-property states when a marriage ends in divorce. When a marriage ends in death, that theory is also already implemented under the community-property system and under the system promulgated in the Uniform Marital Property Act. In community property states (Arizona, California, Idaho, Louisiana, Nevada, New Mexico, Texas and Washington) all property acquired by the spouses during their marriage is regards as owned in equal shares by the spouses during their marriage. At the death of one spouse therefore only one-half of the community property and all of the separately acquired property is included in that spouse's gross estate.

B. The general effect of implementing the partnership theory in elective-share law is to increase the entitlement of a surviving spouse in a long-term marriage in cases in which the marital assets were disproportionately titled in the decedent's name; and to decrease or even eliminate the entitlement of a surviving spouse in a long-term marriage in cases in which the marital assets were more or less equally titled or disproportionately titled in the surviving spouse's name. A further general effect is to decrease or even eliminate the entitlement of a surviving spouse in a short-term, later-in-life marriage in which neither spouse contributed much, if anything, to the acquisition of the other's wealth, except that a special supplemental elective-share amount is provided in cases in which the surviving spouse would otherwise be left without sufficient funds for support.

C. The partnership theory of marriage, sometimes also called the marital-sharing theory, is stated in various ways. Sometimes it is thought of "as an expression of the presumed intent of husbands and wives to pool their fortunes on an equal basis, share and share alike." Under this approach, the economic rights of each spouse are seen as deriving from an unspoken marital bargain under which the partners agree that each is to enjoy a half interest in the fruits of the marriage, i.e., in the property nominally acquired by and titled in the sole name of either partner during the marriage (other than in property acquired by gift or inheritance). A decedent who disinherits his or her surviving spouse is seen as having reneged on the bargain. Sometimes the theory is expressed in restitutionary terms, a return-of-contribution notion. Under this approach, the law grants each spouse an entitlement to compensation for non-monetary contributions to the marital enterprise, as "a recognition of the activity of one spouse in the home and to compensate not only for this activity but for opportunities lost."

D. The common-law states, however, also give effect or purport to give effect to the partnership theory when a marriage is dissolved by divorce. If the marriage ends in divorce, a spouse who sacrificed his or her financial-earning opportunities to contribute so-called domestic services to the marital enterprise (such as child-rearing and homemaking) stands to be recompensed. All states now follow the equitable-distribution system upon divorce, under which "broad discretion [is given to] trial Courts to assign to either spouse property acquired during the marriage, irrespective of title, taking into account the circumstances of the particular case and recognizing the value of the

contributions of a nonworking spouse or homemaker to the acquisition of that property. Simply stated, the system of equitable distribution views marriage as essentially a shared enterprise or joint undertaking in the nature of a partnership to which both spouses contribute-directly and indirectly, financially and nonfinancially - the fruits of which are distributable at divorce."

E. The other situation in which spousal property rights figure prominently is disinheritance at death. Statutes provide the spouse a so-called forced share. The forced share is expressed as an option that the survivor can elect or let lapse during the administration of the decedent's estate, hence in the UPC the forced share is termed the "elective" share. Under the accrual-type elective share, there is no need to identify which of the couple's property was earned during the marriage and which was acquired prior to the marriage or acquired during the marriage by gift or inheritance. The accrual-type elective share is implemented by adjusting the surviving spouse's ultimate entitlement to the length of the marriage. The longer the marriage, the larger the "elective-share percentage." The sliding scale starts low, during the first year of marriage there is a right to “supplemental elective share” and increases annually according to a graduated schedule until it levels off at fifty percent after 15 years of marriage. The elective-share percentage determined is required to be applied to the value of the "augmented estate" that equals the value of the couple's *combined* assets, not merely to the value of the assets nominally titled in the decedent's name.

F. In the long-term marriage the effect of implementing a partnership theory is to increase the entitlement of the surviving spouse. In the short-term, later-in-life marriage the effect of implementing a partnership theory is to decrease or even eliminate the entitlement of the surviving spouse because in such a marriage neither spouse is likely to have contributed much, if anything, to the acquisition of the other's wealth. Put differently, the effect is to deny a windfall to the survivor who contributed little to decedent's wealth, and ultimately to deny a windfall to the survivor's children by a prior marriage at the expense of the decedent's children by a prior marriage. Bear in mind that in such a marriage, which produces no children, a decedent who disinherits or largely disinherits the surviving spouse may not be acting so much from malice or spite toward the surviving spouse, but from a natural instinct to want to leave most or all of his or her property to the children of his or her former, long-term marriage. In hardship cases, however, as explained later, a special supplemental elective-share amount is provided when the surviving spouse would otherwise be left without sufficient funds for support.

G. The partnership/marital-sharing theory is not the only driving force behind elective-share law. Another theoretical basis for elective-share law is that the spouses' mutual duties of support during their joint lifetimes should be continued in some form after death in favor of the survivor, as a claim on the decedent's estate. Current elective-share law implements this theory poorly. The fixed fraction, whether it is the typical one-third or some other fraction, disregards the survivor's actual need. A one-third share may be inadequate to the surviving spouse's needs, especially in a modest estate. On the other hand, in a very large estate, it may go far beyond the survivor's needs. In either a modest or a large estate, the survivor may or may not have ample independent means, and this factor, too, is disregarded in conventional elective-share law. The redesigned elective

share system implements the support theory by granting the survivor a supplemental elective-share amount related to the survivor's actual needs. In implementing a support rationale, the length of the marriage is quite irrelevant. Because the duty of support is founded upon status, it arises at the time of the marriage.

H. The surviving spouse of a decedent who dies domiciled in this state has a right of election, to take an elective-share amount equal to the value of the elective-share percentage of the augmented estate, determined by the length of time the spouse and the decedent were married to each other, in accordance with the following schedule:

Elective Share of Spouse

If the decedent and the spouse were married to each other:	The elective-share percentage is:
Less than 1 year……	,,,,Supplemental Amount Only.
1 year but less than 2 years……	..3% of the augmented estate.
2 years but less than 3 years……	6% of the augmented estate.
3 years but less than 4 years……	9% of the augmented estate.
4 years but less than 5 years……	...12% of the augmented estate.
5 years but less than 6 years……	...15% of the augmented estate.
6 years but less than 7 years……	...18% of the augmented estate.
7 years but less than 8 years……	...21% of the augmented estate.
8 years but less than 9 years……	...24% of the augmented estate.
9 years but less than 10 years……	..27% of the augmented estate.
10 years but less than 11 years……	30% of the augmented estate.
11 years but less than 12 years……	34% of the augmented estate.
12 years but less than 13 years……	38% of the augmented estate.
13 years but less than 14 years……	42% of the augmented estate.
14 years but less than 15 years……	46% of the augmented estate.
15 years or more……	..50% of the augmented estate.

Source: Uniform Probate Code

§286b Care of Minor Children and Incapacitated Persons

A.A will should make provisions for the guardianship of minor children. A probate court will appoint a guardian if a will fails to provide for one. Minor children may not be legally enrolled in school or consent to medical treatment except through an adult guardian. In all states a child reaching the age of fourteen has the right to veto the parent's choice in guardian and to nominate a substitute, if the probate judge agrees the substitution is in the best interest of the child. The cost of rearing a child from infancy to college is $190,000. The person selected to distribute money from a trust for immediate expenses is called a conservator.

B. Many parents fear that their children will be unable to make decisions regarding their personal affairs, or will be unable to protect their own legal and civil rights without help.

They, therefore, consider guardianship. Guardianship however results in either a total or partial loss of rights and decision-making power for the handicapped individual. Guardianship is a most serious measure for safeguarding a disabled person's welfare and should be resorted to only when no less drastic option (such as informal guidance and advice, a special bank account a trust, or a representative payee) will work. Guardians are appointed by a court, and state law prescribes the standards which must be satisfied before a guardian is appointed. Guardianships may be total or limited. A limited guardian has powers only in the areas specified by the court's guardianship order. In order to properly limit the guardian's role, the court first determines where the disabled person needs help and then empowers the guardian to make decisions for the ward in those areas.

C. An individual is the child of his [or her] natural parents, regardless of their marital status. The parent and child relationship may be established under the Uniform Parentage Act. An adopted individual is the child of his [or her] adopting parent or parents and not of his [or her] natural parents, but adoption of a child by the spouse of either natural parent has no effect on (i) the relationship between the child and that natural parent or (ii) the right of the child or a descendant of the child to inherit from or through the other natural parent.

D. If a testator fails to provide in his [or her] will for any of his [or her] children born or adopted after the execution of the will, the omitted, after-born or after-adopted child receives a share in the estate. If the testator had no child living when he [or she] executed the will, an omitted after-born or after-adopted child receives a share in the estate equal in value to that which the child would have received had the testator died intestate. If a child is omitted although others are included that heir is entitled to a lesser share or nothing.

E. Significant developments in the areas of guardianship and conservatorship occurred in the late 1980s and early 1990s, as states revised their guardianship and conservatorship statutes. The 1982 Uniform Guardianship and Protected Property Act, with its emphasis on limited guardianship and conservatorship, was groundbreaking in its support of autonomy. The 1997 revision builds on this and on developments occurring in the states, by providing that guardianship and conservatorship should be viewed as a last resort, that limited guardianships or conservatorships should be used whenever possible, and that the guardian or conservator should consult with the ward or protected person, to the extent feasible, when making decisions.

F. A parent or spouse may appoint a guardian to take office immediately upon the need. The addition of these provisions was spurred by the increasing number of single-parent families in the United States as well as by the recognition that adults are living longer and may need assistance in their later lives. The standby provisions are available in a wide variety of situations where there is a need for a guardian to step in immediately upon the occurrence of an event, without seeking prior agency approval. The appointment may be used by all parents of minor children as well as for the spouse of an incapacitated adult or the parent of an adult disabled child. A guardian or a conservator should be appointed only if there are no other lesser restrictive alternatives that will meet the respondent's

needs. The Social Work Agency may not appoint a guardian for an incapacitated person unless the agency makes a finding that the respondent's needs cannot be met by any less restrictive means. The visitor appointed by the agency to investigate the appropriateness of the guardianship or conservatorship requested for an adult, must investigate whether alternatives are available and report this to the court. Monitoring of guardianships and conservatorships is critical. Guardians must present a written report to the court within thirty days of appointment and annually thereafter

G. Within 30 days after appointment, a guardian shall report to the court in writing on the condition of the ward and account for money and other assets in the guardian's possession or subject to the guardian's control. A guardian shall report at least annually thereafter and whenever ordered by the agency. A report must state or contain: the current mental, physical, and social condition of the ward; the living arrangements for all addresses of the ward during the reporting period; the medical, educational, vocational, and other services provided to the ward and the guardian's opinion as to the adequacy of the ward's care; a summary of the guardian's visits with the ward and activities on the ward's behalf and the extent to which the ward has participated in decision-making; if the ward is institutionalized, whether the guardian considers the current plan for care, treatment, or habilitation to be in the ward's best interest; plans for future care; and a recommendation as to the need for continued guardianship and any recommended changes in the scope of the guardianship.

H. At any stage of a proceeding, an agency may appoint a guardian ad litem if the court determines that representation of the interest otherwise would be inadequate. If not precluded by a conflict of interest, a guardian ad litem may be appointed to represent several individuals or interests. The court shall state on the record the duties of the guardian ad litem and its reasons for the appointment. If the respondent is currently represented, the attorney representing the respondent should not be appointed as the guardian ad litem because of the conflict of interest, since there is a distinct difference between the role of the attorney as an advocate and as a guardian ad litem. It is important that the Court, when appointing a guardian ad litem, advise the guardian ad litem of his or her role.

I. A person becomes a guardian of a minor by parental appointment or upon appointment by the Social Work Agency. The guardianship continues until terminated, without regard to the location of the guardian or minor ward. A guardian may be appointed by will or other signed writing by a parent for any minor child the parent has or may have in the future. The appointment may specify the desired limitations on the powers to be given to the guardian. The appointment of a guardian becomes effective upon the appointing parent's death, an adjudication that the parent is an incapacitated person, or a written determination by a physician who has examined the parent that the parent is no longer able to care for the child, whichever first occurs. The guardian becomes eligible to act upon the filing of an acceptance of appointment, which must be filed within 30 days after the guardian's appointment becomes effective.

J. Except as otherwise limited by the court, a guardian of a minor ward has the duties and responsibilities of a parent regarding the ward's support, care, education, health, and

welfare. A guardian shall act at all times in the ward's best interest and exercise reasonable care, diligence, and prudence. A guardian shall: become or remain personally acquainted with the ward and maintain sufficient contact with the ward to know of the ward's capacities, limitations, needs, opportunities, and physical and mental health; take reasonable care of the ward's personal effects and bring a protective proceeding if necessary to protect other property of the ward; expend money of the ward which has been received by the guardian for the ward's current needs for support, care, education, health, and welfare; conserve any excess money of the ward for the ward's future needs, but if a conservator has been appointed for the estate of the ward, the guardian shall pay the money at least quarterly to the conservator to be conserved for the ward's future needs; report the condition of the ward and account for money and other assets in the guardian's possession or subject to the guardian's control, as ordered by the court on application of any person interested in the ward's welfare or as required by court rule; and inform the court of any change in the ward's custodial dwelling or address.

K. A guardian is more than a caretaker. To properly perform the office of guardian, it is essential that the guardian, become or remain personally acquainted with the ward and maintain sufficient contact with the ward to know of the capacities, limitations, needs, opportunities, and physical and mental health of the ward. Such contact is also essential if the guardian is to act in the best interest of the ward. To develop the self-reliance of the minor, whether the guardianship for the minor ward is limited or unlimited, it is essential that the minor be involved in decision making, that the guardian ascertain the minor's views and that the guardian, whenever appropriate, make decisions in line with the minor's expressed preferences. In line with this philosophy, the guardian, if reasonable under all of the circumstances, to delegate to the ward certain responsibilities for decisions affecting the ward's well-being.

L. A guardian may apply for and receive money for the support of the ward otherwise payable to the ward's parent, guardian, or custodian under the terms of any statutory system of benefits or insurance or any private contract, devise, trust, conservatorship, or custodianship; consent to medical or other care, treatment, or service for the ward; A guardian may ordinarily consent to elective surgery for the ward, but the guardian is strongly advised to consider seeking prior court authorization before consenting to experimental medical treatment. For example, a guardian may not place a minor ward in a mental health care facility or consent to electroconvulsive therapy (ECT) or other types of shock therapy; consent to the marriage of the ward; and if reasonable under all of the circumstances, delegate to the ward certain responsibilities for decisions affecting the ward's well-being.

M. A guardian is entitled to reasonable compensation for services as guardian and to reimbursement for room, board, and clothing provided by the guardian to the ward, but only as approved by the court. If a conservator, other than the guardian or a person who is affiliated with the guardian, has been appointed for the estate of the ward, reasonable compensation and reimbursement to the guardian may be approved and paid by the conservator without order of the court. A guardian need not use the guardian's personal funds for the ward's expenses. A guardian is not liable to a third person for acts of the ward solely by reason of the guardianship. A guardian is not liable for injury to the ward

resulting from the negligence or act of a third person providing medical or other care, treatment, or service for the ward except to the extent that a parent would be liable under the circumstances.

N. Any transaction involving the conservatorship estate which is affected by a substantial conflict between the conservator's fiduciary and personal interests is voidable unless the transaction is expressly authorized by the court after notice to interested persons. A conservator, acting reasonably and in an effort to accomplish the purpose of the appointment, may: collect, hold, and retain assets of the estate, including assets in which the conservator has a personal interest and real property in another State, until the conservator considers that disposition of an asset should be made; receive additions to the estate; continue or participate in the operation of any business or other enterprise; acquire an undivided interest in an asset of the estate in which the conservator, in any fiduciary capacity, holds an undivided interest; invest assets of the estate as though the conservator were a trustee; deposit money of the estate in a financial institution, including one operated by the conservator; acquire or dispose of an asset of the estate, including real property in another state, for cash or on credit, at public or private sale, and manage, develop, improve, exchange, partition, change the character of, or abandon an asset of the estate; prosecute or defend actions, claims, or proceedings in any jurisdiction for the protection of assets of the estate and of the conservator in the performance of fiduciary duties; and execute and deliver all instruments that will accomplish or facilitate the exercise of the powers vested in the conservator.

O. If the election is exercised on behalf of a surviving spouse who is an incapacitated person, that portion of the elective-share and supplemental elective-share amounts due from the decedent's probate estate and recipients of the decedent's non-probate transfers to others must be placed in a custodial trust for the benefit of the surviving spouse under the provisions of the Uniform Custodial Trust Act. The Uniform Custodial Trust requires that neither an incapacitated beneficiary nor anyone acting on behalf of an incapacitated beneficiary has a power to terminate the custodial trust; but if the beneficiary regains capacity, the beneficiary then acquires the power to terminate the custodial trust by delivering to the custodial trustee a writing signed by the beneficiary declaring the termination. If not previously terminated, the custodial trust terminates on the death of the beneficiary.

P. If the beneficiary is incapacitated, the custodial trustee shall expend so much or all of the custodial trust property as the custodial trustee considers advisable for the use and benefit of the beneficiary and individuals who were supported by the beneficiary when the beneficiary became incapacitated, or who are legally entitled to support by the beneficiary. Expenditures may be made in the manner, when, and to the extent that the custodial trustee determines suitable and proper, without court order but with regard to other support, income, and property of the beneficiary, benefits of medical or other forms of assistance from any state or federal government or governmental agency for which the beneficiary must qualify on the basis of need. Upon the beneficiary's death, the custodial trustee shall transfer the unexpended custodial trust property under the residuary clause, if any, to the heirs of the will of the beneficiary's predeceased spouse against whom the

elective share was taken.

§286 Disclaimer of Inheritance

A.Most states permit someone to disclaim, renounce or refuse an inheritance or benefit. The Uniform Probate Code provides detailed plans for the killing of descendents ostensibly for the multiply married spouses to eliminate the witnesses before the coup de grace. Estranged children with troubled relations with their parents or step-parents, should not be mentioned in the will, particularly those who have ever been alleged mentally ill in the Probate Court, or are seeing a psychiatrist, to prevent conflict of interest. Rich health professionals, lawyers and anyone who poisons or spies should be disinherited. Poverty is not a crime but the poor are likely to be victimized by the estate, if gross income inequalities existed in the living family. College students present a serious problem because they honor the poison factory and either don't know it or do, the cost of college education might be life itself to the family. The Internal Revenue Code describes how a beneficiary may disclaim an interest in an estate for estate tax purposes under 26USC§2518. State law also defines how to disclaim for purposes of state death taxes, usually the two standards are the same. Once a gift is disclaimed, the law generally acts as if the person died before the testator insofar as the gift is concerned.

B. The Uniform Disclaimer of Property Interests Act of 1999 replaces three Uniform Acts promulgated in 1978 (Uniform Disclaimer of Property Interests Act, Uniform Disclaimer of Transfers by Will, Intestacy or Appointment Act, and Uniform Disclaimer of Transfers under Nontestatmentary Instruments Act). The new Act is designed to allow every sort of disclaimer, including those that are useful for tax planning purposes. Courts have repeatedly held that a surviving joint tenant may disclaim that portion of the jointly held property to which the survivor succeeds by operation of law on the death of the other joint tenant so long as the joint tenancy was severable during the life of the joint tenants (*Kennedy v. Commissioner*, 804 F.2d 1332 (7th Cir. 1986), *McDonald v. Commissioner*, 853 F.2d 1494 (9th Cir. 1988), *Dancy v. Commissioner*, 872 F.2d 84 (4th Cir. 1989).) If a trustee disclaims an interest in property that otherwise would have become trust property, the interest does not become trust property.

C. Marriage presents an obstacle to disinheritance and except as provided by the express terms of a governing instrument, a Court Order, or a contract relating to the division of the marital estate made between the divorced individuals before or after the marriage, divorce, or annulment, the divorce or annulment of a marriage: revokes any (i) disposition or appointment of property made by a divorced individual to his [or her] former spouse in a governing instrument and any disposition or appointment created by law or in a governing instrument to a relative of the divorced individual's former spouse, (ii) provision in a governing instrument conferring a general or nongeneral power of appointment on the divorced individual's former spouse or on a relative of the divorced individual's former spouse, and (iii) nomination in a governing instrument, nominating a divorced individual's former spouse or a relative of the divorced individual's former spouse to serve in any fiduciary or representative capacity, including a personal representative, executor, trustee, conservator, agent, or guardian; and severs the interests of the former spouses in property held by them at the time of the divorce or annulment as

joint tenants with the right of survivorship transforming the interests of the former spouses into equal tenancies in common.

D. Written notice of the divorce, annulment, or remarriage must be mailed to the payor's or other third party's main office or home by registered or certified mail, return receipt requested, or served upon the payor or other third party in the same manner as a summons in a civil action. Upon receipt of written notice of the divorce, annulment, or remarriage, a payor or other third party may pay any amount owed or transfer or deposit any item of property held by it to or with the court having jurisdiction of the probate proceedings relating to the decedent's estate or, if no proceedings have been commenced, to or with the court having jurisdiction of probate proceedings relating to decedents' estates located in the county of the decedent's residence. The court shall hold the funds or item of property and, upon its determination under this section, shall order disbursement or transfer in accordance with the determination. Payments, transfers, or deposits made to or with the court discharge the payor or other third party from all claims for the value of amounts paid to or items of property transferred to or deposited with the Court.

E. The legal consequence of intentional and felonious killing or attempted killers on the right of the killer to take as heir and under wills and revocable *inter-vivos* transfers, such as revocable trusts and life-insurance beneficiary designations are the same as the consequences of a divorce on the right of the former spouse (and relatives of the former spouse) to take under wills and revocable inter-vivos transfers, such as revocable trusts and life-insurance beneficiary designations. An individual who is divorced from the decedent or whose marriage to the decedent has been annulled is not a surviving spouse unless, by virtue of a subsequent marriage, he [or she] is married to the decedent at the time of death. A decree of separation that does not terminate the status of husband and wife is not a divorce for purposes of the law.

F. An individual who feloniously and intentionally kills the decedent forfeits all benefits with respect to the decedent's estate, including an intestate share, an elective share, an omitted spouse's or child's share, a homestead allowance, exempt property, and a family allowance. If the decedent died intestate, the decedent's intestate estate passes as if the killer disclaimed his [or her] intestate share. The felonious and intentional killing of the decedent revokes any revocable (i) disposition or appointment of property made by the decedent to the killer in a governing instrument, (ii) provision in a governing instrument conferring a general or nongeneral power of appointment on the killer, and (iii) nomination of the killer in a governing instrument, nominating or appointing the killer to serve in any fiduciary or representative capacity, including a personal representative, executor, trustee, or agent; and (iv) severs the interests of the decedent and killer in property held by them at the time of the killing as joint tenants with the right of survivorship transforming the interests of the decedent and killer into equal tenancies in common.

G. A wrongful acquisition of property or interest by a killer must be treated in accordance with the principle that a killer cannot profit from his [or her] wrong. After all right to appeal has been exhausted, a judgment of conviction establishing criminal accountability for the felonious and intentional killing of the decedent conclusively establishes the

convicted individual as the decedent's killer. In the absence of a conviction, the court, upon the petition of an interested person, must determine whether, under the preponderance of evidence standard, the individual would be found criminally accountable for the felonious and intentional killing of the decedent. If the court determines that, under that standard, the individual would be found criminally accountable for the felonious and intentional killing of the decedent, the determination conclusively establishes that individual as the decedent's killer.

H. A killing can be "felonious and intentional," whether or not the killer has actually been convicted in a criminal prosecution. After all right to appeal has been exhausted, a judgment of conviction establishing criminal accountability for the felonious and intentional killing of the decedent conclusively establishes the convicted individual as the decedent's killer. Acquittal, however, does not preclude the acquitted individual from being regarded as the decedent's killer. This is because different considerations as well as a different burden of proof enter into the finding of criminal accountability in the criminal prosecution. Hence it is possible that the defendant on a murder charge may be found not guilty and acquitted, but if the same person claims as an heir, devisee, or beneficiary of a revocable beneficiary designation, etc. of the decedent, the probate Court, upon the petition of an interested person, may find that, under a preponderance of the evidence standard, he or she would be found criminally accountable for the felonious and intentional killing of the decedent and thus be barred from sharing in the affected property. In fact, in many of the cases arising there may be no criminal prosecution.

I.It is now well accepted that the matter dealt with is not exclusively criminal in nature but is also a proper matter for probate Courts. The concept that a wrongdoer may not profit by his or her own wrong is a civil concept, and the probate Court is the proper forum to determine the effect of killing on succession to the decedent's property. There are numerous situations where the same conduct gives rise to both criminal and civil consequences. A killing may result in criminal prosecution for murder and civil litigation by the decedent's family under wrongful death statutes. Another analogy exists in the tax field, where a taxpayer may be acquitted of tax fraud in a criminal prosecution but found to have committed the fraud in a civil proceeding. The phrases "criminal accountability" and "criminally accountable" for the felonious and intentional killing of the decedent not only include criminal accountability as an actor or direct perpetrator, but also as an accomplice or co-conspirator. In *Mendez-Bellido v. Board of Trustees,* 709 F.Supp. 329 (E.D.N.Y.1989), the Court applied the New York "slayer-rule" against an ERISA preemption claim, reasoning that "state laws prohibiting murderers from receiving death benefits are relatively uniform and therefore there is little threat of creating a 'patchwork scheme of regulations' " that ERISA sought to avoid.

Art. 4 Probate Code

§288 Probate

A.The administration of estates is supervised by a county court, usually called a probate court but in some states referred to as a surrogate, orphan’s or chancery court. The Court has full power to make orders, judgments and decrees and take all other action necessary

and proper to administer justice in the matters which come before it. The Court has jurisdiction over protective proceedings and guardianship proceedings. The Court is fatally corrupted by the adjudication and institutionalization of the mentally ill. Where a proceeding could be maintained in more than one place, the Court in which the proceeding is first commenced has the exclusive right to proceed. If a Court finds that in the interest of justice a proceeding or a file should be located in another Court, the Court making the finding may transfer the proceeding or file to the other Court. The rules of civil procedure including the rules concerning vacation of orders and appellate review govern formal proceedings under the Probate Code.

B. If duly demanded, a party is entitled to trial by jury in [a formal testacy proceeding and] any proceeding in which any controverted question of fact arises as to which any party has a constitutional right to trial by jury. If there is no right to trial by jury under subsection (a) or the right is waived, the Court in its discretion may call a jury to decide any issue of fact, in which case the verdict is advisory only. The acts and orders performable by the Registrar may be performed either by a judge of the Court or by a person, including the clerk, designated by the Court by a written order filed and recorded in the office of the Court.

C. Judicial review of the decisions of a funeral director's court may be performed in the first instance by any Court of General Jurisdiction. Appellate review, including the right to appellate review, interlocutory appeal, provisions as to time, manner, notice, appeal bond, stays, scope of review, record on appeal, briefs, arguments and power of the appellate court, is governed by the rules applicable to the appeals to the [Supreme Court] in equity cases from the [court of general jurisdiction], except that in proceedings where jury trial has been had as a matter of right, the rules applicable to the scope of review in jury cases apply. A judge must have the same qualifications as a judge of the [court of general jurisdiction].

D. Whenever fraud has been perpetrated in connection with any proceeding or in any statement or if fraud is used to avoid or circumvent the provisions or purposes of this Code, any person injured thereby may obtain appropriate relief against the perpetrator of the fraud or restitution from any person (other than a bona fide purchaser) benefitting from the fraud, whether innocent or not. Any proceeding must be commenced within 2 years after the discovery of the fraud, but no proceeding may be brought against one not a perpetrator of the fraud later than 5 years after the time of commission of the fraud. This section has no bearing on remedies relating to fraud practiced on a decedent during his lifetime which affects the succession of his estate. The burden should not be on the heirs and devisees to check on the honesty of the other interested persons or the fiduciary.

E. If notice of a hearing on any petition is required and except for specific notice requirements as otherwise provided, the petitioner shall cause notice of the time and place of hearing of any petition to be given to any interested person or his attorney if he has appeared by attorney or requested that notice be sent to his attorney. Notice shall be given by mailing a copy thereof at least 14 days before the time set for the hearing by certified, registered or ordinary first class mail addressed to the person being notified at the post

office address given in his demand for notice, if any, or at his office or place of residence, if known. If the address, or identity of any person is not known and cannot be ascertained with reasonable diligence, by publishing at least once a week for 3 consecutive weeks, a copy thereof in a newspaper having general circulation in the county where the hearing is to be held, the last publication of which is to be at least 10 days before the time set for the hearing. The Court for good cause shown may provide for a different method or time of giving notice for any hearing. To the extent there is no conflict of interest a person is bound by an order.

§288a Probate of Wills and Administration

A.The basic purpose of the probate process is to ensure that all assets belonging to the deceased are distributed properly. That the people names in the will, or the heirs designated by law if there is no will, that all death taxes are paid, and that the deceased's creditors collect their lawful debts. If a person dies owning property in their name, the will has to be probated. The probate process can be torturous, agonizing, costly frustrating and time consuming. The value of an estate will usually determine whether a formal probate proceeding is required. In most state, if the value of the assets in the name of the decedent is less than ten thousand dollars, an informal proceeding, usually by affidavit, is permitted to pass title to property. If the property is tied in living trusts the estate can be settled in a matter of hours as opposed to a matter of years. Avoiding the probate process is in most instances the most significant reason to establish a living trust. There are a few instances when probate is mandatory. 1. To designate guardians (persons and property for minor children which can only be designated in a will). 2. To distribute property not transferred during one's lifetime to probate probate avoidance devices. This is usually accomplished by a simple pour-over will which provides that any property not transferred during one's lifetime be transferred to a trust or other device to be held an distributed in accordance with its terms. 3. If the decedent was involved in litigation. 4. If the decedent was heavily in debt, the probate process is a great forum to settle those matters and cut of creditors claims.

B. An estate may have to undergo the full probate-administration process if the value of the probatable assets exceeds the state maximum for affidavit transfer or "small estate" transfer procedures. Small estate probate administration or transfer by affidavit occurs when probatable assets and liabilities that most people leave when they die are relatively low in value and simple in nature. All state have adopted various simplified transfer procedures that are inexpensive, informal and relatively speedy. The legally specified maximums vary from one state to another, from a low of $500 to a high of $140,000, usually exclusive of the value of any motor vehicles.

C. During probate proceedings a deceased person's will is brought to the local court. Proof must be shown that the will is authentic and was properly signed, with all the formalities required by the state law. If there is no valid will the court determines who, under state law, stands to inherit the deceased's property. The deceased person's property is inventoried and appraised, relatives and creditors are notified and a notice is published in the local newspaper. Creditors make their claims and debts are paid. Eventually, commonly, about a year later, the remaining property is distributed to the

inheritors. Often probate takes a year or two, during which time the beneficiaries generally get nothing unless the judge allows the immediate family a “family allowance”.

D. To initiate proceedings some interested party must petition the court to appoint a personal representative. Once appointed the personal representative must send to each interested party, including creditors, written notification of his appointment, including his name and address and location of the probate court where the will and all other documents relating to the estate are filed. The personal representative is responsible for preparing and filing the deceased’s final federal, state and local income tax returns, as well as tax returns on behalf of the estate itself. If a joint return was customary the final return may also be joint. Once all, debts, taxes and other liabilities of the estate have been discharged, the personal representative is ready to submit to the court a final accounting of actions and to distribute the remaining assets to the beneficiaries or the heirs. After the distribution has been completed the personal representative files with the probate court a closing statement certifying all responsibilities have been discharged, and send a copy of the closing statement to all interested parties. Upon approval of the closing statement, the probate court issues to the personal representative an order discharging him from his position and relieving him of all further responsibilities. At this point the estate is closed.

E. Post-mortem probate of a will must occur to make a will effective and appointment of a personal representative by a public official after the decedent's death is required in order to create the duties and powers attending the office of personal representative. Estates descend at death to successors identified by any probated will, or to heirs if no will is probated, subject to rights which may be implemented through administration.

F. Two methods of securing probate of wills which include a non-adjudicative determination (informal probate) on the one hand, and a judicial determination after notice to all interested persons (formal probate) on the other, are provided.

G. Two methods of securing appointment of a personal representative which include appointment without notice and without final adjudication of matters relevant to priority for appointment (informal appointment), on the one hand, and appointment by judicial order after notice to interested persons (formal appointment) on the other, are provided.

H. Unless supervised administration is sought and ordered, persons interested in estates (including personal representatives, whether appointed informally or after notice) may use an "in and out" relationship to the Court so that any question or assumption relating to the estate, including the status of an estate as testate or intestate, matters relating to one or more claims, disputed titles, accounts of personal representatives, and distribution, may be resolved or established by adjudication after notice without necessarily subjecting the estate to the necessity of judicial orders in regard to other or further questions or assumptions.

I.To be effective to prove the transfer of any property or to nominate an executor, a will must be declared to be valid by an order of informal probate by the Registrar**,** or an adjudication of probate by the Court. An informally probated will cannot be questioned

after the later of three years from the decedent's death or one year from the probate whether or not an executor was appointed, or, if an executor was appointed, without regard to whether the estate has been distributed. If the decedent is believed to have died without a will, the running of three years from death bars probate of a late-discovered will and so makes the assumption of intestacy conclusive.

J. To acquire the powers and undertake the duties and liabilities of a personal representative of a decedent, a person must be appointed by order of the Court or Registrar**,** qualify and be issued letters. Administration of an estate is commenced by the issuance of letters. No proceeding to enforce a claim against the estate of a decedent or his successors may be revived or commenced before the appointment of a personal representative.

K. Persons interested in decedents' estates may apply to the Registrar for determination in the informal proceedings and may petition the Court for orders in formal proceedings within the Court's jurisdiction. The Court has exclusive jurisdiction of formal proceedings to determine how decedents' estates, subject to the laws of this state, are to be administered, expended and distributed. The Court has concurrent jurisdiction of any other action or proceeding concerning a succession or to which an estate, through a personal representative, may be a party, including actions to determine title to property alleged to belong to the estate, and of any action or proceeding in which property distributed by a personal representative or its value is sought to be subjected to rights of creditors or successors of the decedent.

L. No statute of limitation running on a cause of action belonging to a decedent which had not been barred as of the date of his death, shall apply to bar a cause of action surviving the decedent's death sooner than four months after death. A cause of action which, but for this section, would have been barred less than four months after death, is barred after four months unless tolled.

M. Whether testate or intestate, succession should follow the presumed wishes of the decedent whenever possible. Unless a decedent leaves a separate will for the portion of his estate located in each different state, it is highly unlikely that he would want different portions of his estate subject to different rules simply because courts reach conflicting conclusions concerning his domicile. Where a court learns that parties before it are also parties to previously initiated litigation involving a common question, traditional judicial reluctance to deciding unnecessary questions, as well as considerations of comity, are likely to lead it to delay the local proceedings to await the result in the other court. A somewhat more troublesome question is involved when one of the parties before the local court manifests a determination not to appear personally in the prior initiated proceedings so that he can preserve his ability to litigate contested points in a more friendly, or convenient, forum.

§288b Personal Representatives

A.A personal representative, executor, will upon death see that the deceased assets are collected and inventoried, legitimate debts paid, assets distributed and estate closed.

Large estates might prefer a personal representative with considerable experience in estate management, a bank, trust company or a lawyer, these professionals are entitled to a fee from 1 to 5 percent of the value of the estate, they are bonded to protect against fraud, embezzlement or negligence. For a simple estate a trusted friend or family member, even a beneficiary if you foresee no conflict of interest with the other beneficiaries. Such person should be younger and possess good judgment and reasonable competence in ordinary business transactions.

B. A personal representative may need to petition the probate court to be appointed but this does not necessarily commit one to a full probate administration of the estate and allows a personal representative to manage or liquidate the deceased's property, have access to a safe-deposit box and conduct most transactions. The quality most desired in an executor is perseverance in paying bills. The executor cannot be a minor, a convicted felon or a non-US citizen. Bonding requirement vary from state to state, but all states require some type of bond unless the will directs the probate court to waive it. The purpose of the bond is to protect the estate and the heirs if the executor decides to run off with the assets of the estate. If this should happen, the bonding company would reimburse the estate and then pursue the executor for restitutions. A bond, however, can be expensive, running into the thousands of dollars for a large estate. If an executor is trustworthy, or if the executor is a beneficiary of a significant portion of the estate (and has no interest in stealing from it, the will should waive the bond requirement).

C. Except as otherwise provided by a decedent's will, every personal representative has a right to, and shall take possession or control of, the decedent's property, except that any real property or tangible personal property may be left with or surrendered to the person presumptively entitled thereto unless or until, in the judgment of the personal representative, possession of the property by him will be necessary for purposes of administration. The request by a personal representative for delivery of any property possessed by an heir or devisee is conclusive evidence, in any action against the heir or devisee for possession thereof, that the possession of the property by the personal representative is necessary for purposes of administration. The personal representative shall pay taxes on, and take all steps reasonably necessary for the management, protection and preservation of, the estate in his possession. He may maintain an action to recover possession of property or to determine the title thereto.

D. A personal representative is entitled to reasonable compensation for his services. If a will provides for compensation of the personal representative and there is no contract with the decedent regarding compensation, he may renounce the provision before qualifying and be entitled to reasonable compensation. A personal representative also may renounce his right to all or any part of the compensation. A written renunciation of fee may be filed with the Court. If any personal representative or person nominated as personal representative defends or prosecutes any proceeding in good faith, whether successful or not he is entitled to receive from the estate his necessary expenses and disbursements including reasonable attorneys' fees incurred.

E. Any person apparently having an interest in the estate worth in excess of [$1000], or any creditor having a claim in excess of [$1000], may make a written demand that a personal representative give bond. The demand must be filed with the Registrar and a copy mailed to the personal representative, if appointment and qualification have occurred. Thereupon, bond is required, but the requirement ceases if the person demanding bond ceases to be interested in the estate, or if bond is excused. After he has received notice and until the filing of the bond or cessation of the requirement of bond, the personal representative shall refrain from exercising any powers of his office except as necessary to preserve the estate. Failure of the personal representative to meet a requirement of bond by giving suitable bond within 30 days after receipt of notice is cause for his removal and appointment of a successor personal representative.

F. An interested person has two principal remedies to forestall a personal representative from committing a breach of fiduciary duty. (1) He may apply to the Court for an order restraining the personal representative from performing any specified act or from exercising any power in the course of administration. (2) He may petition the Court for an order removing the personal representative.

G. An objection to an appointment can be made only in formal proceedings. Any person aged 18 and over may renounce his right to nominate or to an appointment by appropriate writing filed with the Court. When two or more persons share a priority, those of them who do not renounce must concur in nominating another to act for them, or in applying for appointment.

H. The informal probate of a will is permitted if, from a simple attestation clause, appears to have been executed properly. It is not necessary that the will be notarized as is the case with "pre-proved" wills in some states. If a will is "pre-proved", it will, of course, "appear" to be well executed and include the recital necessary for easy probate here. If the instrument does not contain a proper recital by attesting witnesses, it may be probated informally on the strength of an affidavit by a person who can say what occurred at the time of execution. Except where probate or its equivalent has occurred previously in another state, informal probate is available only where an original will exists and is available to be filed. Lost or destroyed wills must be established in formal proceedings. Pendency of formal testacy proceedings blocks informal probate or appointment proceedings. The Registrar handles the informal proceeding, but is required to decline applications in certain cases where circumstances suggest that formal probate would provide desirable safeguards. If an informal probate is granted, within 30 days thereafter the applicant shall give written information of the probate to the heirs and devisees. The information shall include the name and address of the applicant, the name and location of the Court granting the informal probate, and the date of the probate.

I.The concept of succession without administration is drawn from the civil law and is a variation of the method which is followed largely on the Continent in Europe, in Louisiana and in Quebec. The heirs of an intestate or the residuary devisees under a will, excluding minors and incapacitated, protected, or unascertained persons, may become universal successors to the decedent's estate by assuming personal liability for (1) taxes, (2) debts of the decedent, (3) claims against the decedent or the estate, and (4)

distributions due other heirs, devisees, and persons entitled to property of the decedent. Upon the [Registrar's] issuance of a statement of universal succession: Not later than thirty days after issuance of the statement of universal succession, each universal successor shall inform the heirs and devisees who did not join in the application of the succession without administration. If a personal representative is subsequently appointed, universal successors are personally liable for restitution of any property of the estate to which they are not entitled as heirs or devisees of the decedent.

J. If the decedent's will directs supervised administration, it shall be ordered unless the Court finds that circumstances bearing on the need for supervised administration have changed since the execution of the will and that there is no necessity for supervised administration. If the decedent's will directs unsupervised administration, supervised administration shall be ordered only upon a finding that it is necessary for protection of persons interested in the estate; or in other cases if the Court finds that supervised administration is necessary under the circumstances.

K. Removal of an executor is always an adverse proceeding, where the executor and the parties seeking removal each have their own counsel. Once the executor is chosen by the testator and appointed by the court, the creditors and beneficiaries of the estate are usually struck with him unless he dies or becomes incompetent, or unless they can prove serious misbehavior on his part.

L. Because of the special relation of attorney and client, the law permits the termination of that relationship in a manner not recognized with respect to other contracts. The client has absolute right to discharge the attorney and terminate the relation at any time with or without cause, no matter how arbitrary his action may seem. The provision of a will directing the executor to hire an attorney is not binding. It is merely advisory, even though the language used frequently sounds mandatory. The executor is not bound to accept an attorney whom he does not select.

§288c Formal Testacy

A.It has been estimated that one out of three wills are contested. A formal testacy proceeding is litigation to determine whether a decedent left a valid will. A formal testacy proceeding may be commenced by an interested person filing a petition in which he requests that the Court, after notice and hearing, enter an order probating a will, or a petition to set aside an informal probate of a will or to prevent informal probate of a will which is the subject of a pending application, or a petition in accordance for an order that the decedent died intestate. A petition may seek formal probate of a will without regard to whether the same or a conflicting will has been informally probated. A formal testacy proceeding may, but need not, involve a request for appointment of a personal representative. During the pendency of a formal testacy proceeding, the Registrar shall not act upon any application for informal probate of any will of the decedent or any application for informal appointment of a personal representative of the decedent.

B. Legal grounds to contest a will, which if supported by the evidence, would cause the will to be rejected by the Probate Court, briefly include,

1. Lack of testamentary capacity- the testator was insane or incompetent at the time the will was signed.
2. Improper execution-there were not enough witnesses, or for some other reason the will was not properly signed.
3. Undue influence-someone took advantage of the testator's susceptibility and caused him to make out a will different from what he would have made on his own.
4. Fraud or mistake-the testator was induced to sign the will as a result of fraud, deceit, or a mistake.
5. Revocation-the will was canceled or revoked by the testator.
6. Bogus will- the will offered for probate was not the will of the decedent (inc. forgery)

C. The word "testacy" is used to refer to the general status of a decedent in regard to wills. Thus, it embraces the possibility that he left no will, any question of which of several instruments is his valid will, and the possibility that he died intestate as to a part of his estate, and testate as to the balance. The formal proceedings described by this section may be: (i) an original proceeding to secure "solemn form" probate of a will; (ii) a proceeding to secure "solemn form" probate to corroborate a previous informal probate; (iii) a proceeding to block a pending application for informal probate, or to prevent an informal application from occurring thereafter; (iv) a proceeding to contradict a previous order of informal probate; (v) a proceeding to secure a declaratory judgment of intestacy and a determination of heirs in a case where no will has been offered. If a pending informal application for probate is blocked by a formal proceeding, the applicant may withdraw his application and avoid the obligation of going forward with prima facie proof of due execution. The petitioner in the formal proceedings may be content to let matters stop there, or he can frame his petition, or amend, so that he may secure an adjudication of intestacy which would prevent further activity concerning the will.

D. If a personal representative has been appointed prior to the commencement of a formal testacy proceeding, the petitioner must request confirmation of the appointment to indicate that he does not want the testacy proceeding to have any effect on the duties of the personal representative, or refrain from seeking confirmation, in which case, the proceeding suspends the distributive power of the previously appointed representative.

E. Notice shall be given to the following persons: the surviving spouse, children, and other heirs of the decedent, the devisees and executors named in any will that is being, or has been, probated, or offered for informal or formal probate in the [county], or that is known by the petitioner to have been probated, or offered for informal or formal probate elsewhere, and any personal representative of the decedent whose appointment has not been terminated. Notice may be given to other persons. In addition, the petitioner shall give notice by publication to all unknown persons and to all known persons whose addresses are unknown who have any interest in the matters being litigated.

F. If it appears by the petition or otherwise that the fact of the death of the alleged decedent may be in doubt, or on the written demand of any interested person, a copy of the notice of the hearing on said petition shall be sent by registered mail to the alleged decedent at his last known address. The Court shall direct the petitioner to report the

results of, or make and report back concerning, a reasonably diligent search for the alleged decedent in any manner that may seem advisable including any or all of the following methods: (1) by inserting in one or more suitable periodicals a notice requesting information from any person having knowledge of the whereabouts of the alleged decedent; (2) by notifying law enforcement officials and public welfare agencies in appropriate locations of the disappearance of the alleged decedent; (3) by engaging the services of an investigator. (4) The costs of any search so directed shall be paid by the petitioner if there is no administration or by the estate of the decedent in case there is administration.

G. Any party to a formal proceeding who opposes the probate of a will for any reason shall state in his pleadings his objections to probate of the will. Any will found to be valid and unrevoked shall be formally probated. If the Court is not satisfied that the alleged decedent is dead, it may permit amendment of the proceeding so that it would become a proceeding to protect the estate of a missing and therefore "disabled" person. For good cause shown, an order in a formal testacy proceeding may be modified or vacated within the time allowed for appeal.

H. A personal representative or any interested person may petition for an order of complete settlement of the estate. The petition may request the Court to determine testacy, if not previously determined, to consider the final account or compel or approve an accounting and distribution, to construe any will or determine heirs and adjudicate the final settlement and distribution of the estate. After notice to all interested persons and hearing the Court may enter an order or orders, on appropriate conditions, determining the persons entitled to distribution of the estate, and, as circumstances require, approving settlement and directing or approving distribution of the estate and discharging the personal representative from further claim or demand of any interested person.

I. Unless prohibited by order of the Court and except for estates being administered by supervised personal representatives, a personal representative may close an estate by filing with the Court, at any time after disbursement and distribution of the estate, a verified statement stating that: (1) to the best knowledge of the personal representative, the value of the entire estate, less liens and encumbrances, did not exceed homestead allowance, exempt property, family allowance, costs and expenses of administration, reasonable funeral expenses, and reasonable, necessary medical and hospital expenses of the last illness of the decedent; (2) the personal representative has fully administered the estate by disbursing and distributing it to the persons entitled thereto; and (3) the personal representative has sent a copy of the closing statement to all distributees of the estate and to all creditors or other claimants of whom he is aware whose claims are neither paid nor barred and has furnished a full account in writing of his administration to the distributees whose interests are affected. (b) If no actions or proceedings involving the personal representative are pending in the Court one year after the closing statement is filed, the appointment of the personal representative terminates.

J. If other property of the estate is discovered after an estate has been settled and the personal representative discharged or after one year after a closing statement has been filed, the Court upon petition of any interested person and upon notice as it directs may

appoint the same or a successor personal representative to administer the subsequently discovered estate. If a new appointment is made, unless the Court orders otherwise, the provisions of this Code apply as appropriate; but no claim previously barred may be asserted in the subsequent administration.

§288d Claims of Creditors

A.The need for uniformity of law regarding creditors' claims against estates is especially strong. Commercial and consumer credit depends upon efficient collection procedures. The sections which follow facilitate collection of claims against decedents in several ways. First, a simple written statement mailed to the personal representative is a sufficient "claim." Allowance of claims is handled by the personal representative and is assumed if a claimant is not advised of disallowance. Also, a personal representative may pay any just claims without presentation and at any time, if he is willing to assume risks which will be minimal in many cases. The period of uncertainty regarding possible claims is only four months from first publication. This should expedite settlement and distribution of estates.

B. A personal representative may give written notice by mail or other delivery to a creditor, notifying the creditor to present his [or her] claim within four months after the published notice. The personal representative is not liable to a creditor or to a successor of the decedent for giving or failing to give notice under this section. If a state elects to make publication of notice to creditors a duty for personal representatives, failure to advertise for claims would involve a breach of duty on the part of the personal representative.

C. All claims against a decedent's estate which arose before the death of the decedent, including claims of the State and any political subdivision thereof, whether due or to become due, absolute or contingent, liquidated or unliquidated, founded on, if not barred earlier by another statute, contract, tort, or other legal basis of limitations or non-claim statute, are barred against the estate, the personal representative, the heirs and devisees and non-probate transferees of the decedent, unless presented within the earlier of the following: (1) one year after the decedent's death; or four months after the personal representative's notice.

D. The new one-year from death limitation (which applies without regard to whether or when an estate is opened for administration) is designed to prevent concerns stemming from the possible applicability to this Code of *Tulsa Professional Collection Services v. Pope,* 108 S. Ct. 1340, 485 U.S. 478 (1988) from unduly prolonging estate settlements and closings.

E. If the applicable assets of the estate are insufficient to pay all claims in full, the personal representative shall make payment in the following order: (1) costs and expenses of administration; (2) reasonable funeral expenses; (3) debts and taxes with preference under federal law; (4) reasonable and necessary medical and hospital expenses of the last illness of the decedent, including compensation of persons attending him; (5) debts and taxes with preference under other laws of this state; (6) all other claims.

Chapter V National Estate Law Organizations

§289 American Academy of Estate Planning Attorneys

The American Academy of Estate Planning Attorneys (AAEPA) is an exclusive, membership organization that has been serving the needs of estate planning attorneys and law firms nationwide since 1993. The Academy serves law firms in over 130 geographic areas in forty-five states, and its members include some of the most widely recognized experts in the estate planning field. Excellence in estate planning is promoted by providing member attorneys with comprehensive document creation software, up-to-date research on estate and tax planning matters and exceptional educational training materials.

Academy attorneys are held to a high educational standard. The Academy expects each attorney to complete at least 36 hours of legal education each year specifically in estate, tax, probate and/or elder law subjects. To ensure this goal is met, the Academy provides over 40 hours of continuing legal education each year.

§289a American College of Trust and Estate Counsel

The American College of Trust and Estate Counsel (ACTEC) is a nonprofit association of lawyers established in 1949. Its 2,600 members are elected to the College by nomination of the fellows and are subjected to a careful review by the state and national membership selection committees. Applications from the Bar are not accepted. Members advise clients or teach – panning for the orderly and tax efficient transfer of wealth during life and after death and preparing all related estate planning documents, administering trusts, decedent's estates, guardianships, conservatorships and other family entities, planning of the incapacity of elders concerns, planning for employee benefits; Planning charitable gifts and advising exempt organizations and handling tax controversy and fiduciary litigation.

One of the central purposes of ACTEC is to study and improve trust, estate and tax laws, procedures and professional responsibility. ACTEC and its Fellows file amicus briefs in appropriate cases, testify before Congress, provide in-depth analysis of administrative positions to the Internal Revenue Service, assist in the development of best practices for trust and estate lawyers, and participate actively in the development of the recommendations being promulgated by the international Financial Action Task Force.

§289b National Academy of Elder Law Attorneys

The National Academy of Elder Law Attorneys, Inc. (NAELA) is a non-profit association that assists lawyers, bar organizations and others who work with older clients and their families. Established in 1987, the Academy provides a resource of information, education, networking and assistance to those who deal with the many specialized issues involved with legal services to seniors and people with special needs.

The mission of the National Academy of Elder Law Attorneys is to establish members as the premier providers of legal advocacy, guidance and services to enhance the lives of people with special needs and as they age.

§289c National Association of Financial and Estate Planning

The National Association of Financial and Estate Planning (NAFEP ®) is a privately held, for profit organization based in Salt Lake City, Utah. The company was formally launched on April 15, 1993. The original founder, Mike Janko, is President and Executive Director of NAFEP's Board of Directors and separate Advisory Board and continues to contribute significant legal, estate, tax and business planning expertise to the organization. The primary business of NAFEP is two fold:

First, provision of estate planning consultation and documents through a nationwide network of professional sales associates Second, a training and certification program for professionals known as Certified Estate Advisor®(CEA®). NAFEP professional sales associates are either attorneys, CPAs or financial planners who have completed the CEA®.

§289d National College of Probate Judges

A.The National College of Probate Judges was organized in 1968 to improve the administration of justice in courts with probate jurisdiction. The College was established in response to public concern with the time and costs involved in estate administration. It is the only national organization exclusively dedicated to improving probate law and probate courts.

B. Probate Courts are responsible for equitably handling many kinds of problems in our society. Though they deal primarily with the estates of deceased persons, probate courts also play an important role in protecting the rights of people with special needs -- the mentally ill, alcoholics, orphaned children, the aged, and developmentally disabled persons.

C. Only those holding Regular Membership, including those in the subcategories of Regular Membership, may vote or hold office in the NCPJ; Professional and Associate Members may serve on Committees by appointment.

1. Regular Membership - any judge, former judge, retired judge, judge-elect, surrogate, registrar, chief clerk, or any duly appointed referee, magistrate, commissioner, chief administrative officer or other designated judicial officer exercising probate jurisdiction; includes Group Memberships, Life Memberships, Judicial Position Memberships, and Honorary Memberships. Effective January 1, 2008, Regular Membership dues are $150 annually.

2. Professional Membership - any attorney, law professor, financial advisor, conference exhibitor and/or sponsor, law firm, corporation, trust, bank or trust company officer, foundation or association. Professional Membership dues are $150 annually.

3. Associate Membership - court personnel, staff and others having an interest in probate matters. Associate Membership dues are $75 annually.

D. The major purposes of the College: To promote efficient, fair and just judicial administration in the probate courts and To provide opportunities for continuing judicial education for probate judges and related personnel. These twin purposes are accomplished through a number of national and regional programs and projects, including conferences, publications and other materials.

§289e National Conference of Commissioners on Uniform State Law

A.The National Conference of Commissioners on Uniform State Laws (NCCUSL), founded in 1892. It is a non-profit unincorporated association, comprised of state commissions on uniform laws from each state, the District of Columbia, the Commonwealth of Puerto Rico, and the U.S. Virgin Islands. Each jurisdiction determines the method of appointment and the number of commissioners actually appointed. Most jurisdictions provide for their commission by statute.

1. There is only one fundamental requirement for the more than 300 uniform law commissioners: that they be members of the bar. While some commissioners serve as state legislators, most are practitioners, judges, and law professors. They serve for specific terms, and receive no salaries or fees for their work with the Conference.

B. Since its organization, the Conference has drafted more than 200 uniform laws on numerous subjects and in various fields of law, setting patterns for uniformity across the nation. Uniform acts include the Uniform Probate Code, the Uniform Child Custody Jurisdiction Act, the Uniform Partnership Act, the Uniform Anatomical Gift Act, the Uniform Limited Partnership Act, the Uniform Interstate Family Support Act and most significant, the Uniform Commercial Code that took ten years to complete in partnership with the American Law Institute and another 14 years before it was enacted across the country. It remains the signature product of the Conference and is required for most state Bar exams.

1. Each uniform act is years in the making. The process starts with the Scope and Program Committee, which initiates the agenda of the Conference. It investigates each proposed act, and then reports to the Executive Committee whether a subject is one in which it is desirable and feasible to draft a uniform law. If the Executive Committee approves a recommendation, a drafting committee of commissioners is appointed. Drafting committees meet throughout the year. Tentative drafts are not submitted to the entire Conference until they have received extensive committee consideration.

2. Draft acts are then submitted for initial debate of the entire Conference at an annual meeting. Each act must be considered section by section, at no less than two annual meetings by all commissioners sitting as a Committee of the Whole. With hundreds of trained eyes probing every concept and word, it is a rare draft that leaves an annual meeting in the same form it was initially presented.

3. Once the Committee of the Whole approves an act, its final test is a vote by states—one vote per state. A majority of the states present, and no less than 20 states, must approve an act before it can be officially adopted as a Uniform or Model Act.

Art. 6 National Mortuary Organizations

§290 National Cemetery Administration

A. Within the Department of Veteran's Affairs there is established a National Cemetery Administration responsible for the interment of deceased service members and veterans under 38USC§2400. These cemeteries include all cemeteries under the responsibility of the Veteran's Administration and transferred from the Department of the Army under the National Cemetery Act of 1973. 1. All national and other veterans' cemeteries under the control of the National Cemetery Administration shall be considered national shrines as a tribute to our gallant dead. 2. The largest of the 130 national cemeteries is the Calverton National Cemetery, on Long Island, near Riverhead, N.Y, that conducts more than 7,000 burials each year.

B. The Secretary shall provide all necessary facilities including, as necessary, superintendents' lodges, chapels, crypts, mausoleums, and columbaria. Each grave in a national cemetery shall be marked with an appropriate marker. Such marker shall bear the name of the person buried, the number of the grave, and such other information as the Secretary shall by regulation prescribe.

1. The Secretary appoints an Advisory Committee on Cemeteries and Memorials to select cemetery sites, erect appropriate memorials and in regards to the adequacy of federal burial benefits. The Committee shall make periodic reports to the Secretary and Congress.

2. Internment in national cemeteries is reserved for veterans of the armed forces, the reserves and their spouses and minor children

3. The Secretary may set aside suitable areas in national cemeteries to honor the memory of members of the Armed Forces and veterans who are missing in action, whose remains have not been recovered or identified, whose remains were buried at sea, whose remains were donated to science, or whose remains were cremated and ashes scattered without internment.

C. The Secretary may transfer, with the consent of the agency concerned, any inactive cemetery, burial plot, memorial, or monument within the Secretary's control to the Department of the Interior for maintenance as a national monument or park, or to any other agency of the Government, federal or otherwise. 1. Any cemetery transferred to the Department of the Interior shall be administered by the Secretary of the Interior as a part of the National Park System. 2. The Secretary may provide for the removal of remains from a discontinued cemetery to any cemetery under the control of such Administration. The Secretary may also provide for the removal of the remains of any veteran from a

place of temporary interment, or from an abandoned grave or cemetery, to a national cemetery.

D. The Secretary may make grants to any State to assist such State in establishing, expanding, or improving veterans' cemeteries owned by such State. 1. The Secretary may accept gifts, devises, or bequests from legitimate societies and organizations or reputable individuals, made in any manner, which are made for the purpose of beautifying national cemeteries, or are determined to be beneficial to such cemetery. 2. As additional lands are needed for national cemeteries, they may be acquired by the Secretary by purchase, gift (including donations from States or political subdivisions thereof), condemnation, transfer from other Federal agencies, exchange, or otherwise, as the Secretary determines to be in the best interest of the United States.

E. A persons who has been convicted of a capital crime or sentenced to life in prison may not be interred in a cemetery of the National Cemetery Administration or Arlington National Cemetery.

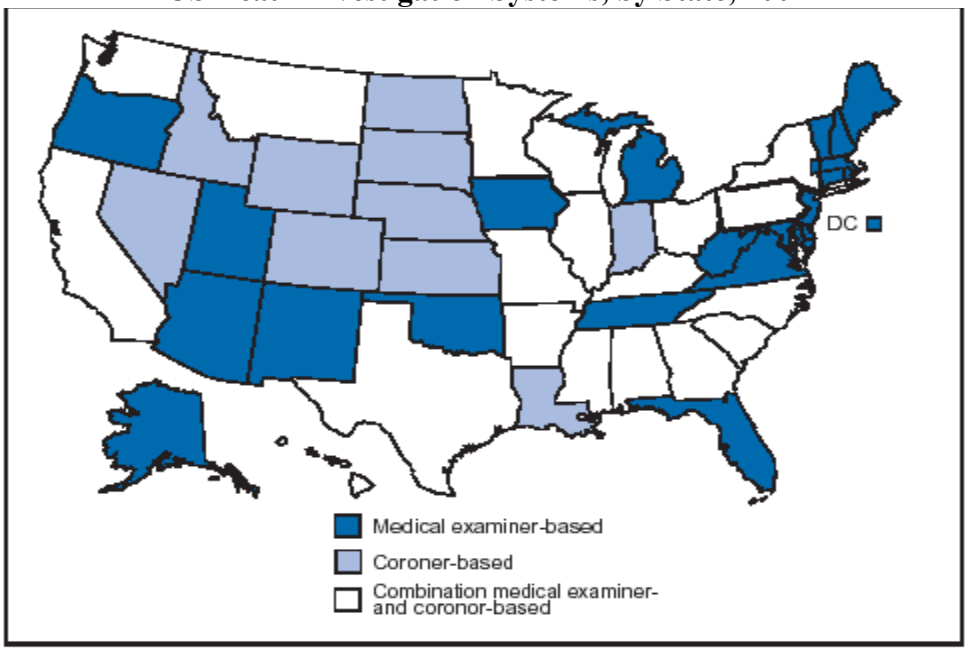
F. The Secretary may lease any undeveloped land and unused or underutilized buildings, or parts or parcels thereof, belonging to the United States and part of the National Cemetery Administration to any public or nonprofit organization. Before entering into such a lease the Secretary shall make public notice to the community.

1. There is established in the books of the Treasury a National Cemetery Administration Facilities Operations Fund consisting of proceeds from the sale of land, agricultural licenses on National Cemetery Administration land, any other amounts appropriated or otherwise authorized to the fund. The fund shall cover the costs incurred by the National Cemetery Administration in the operation and maintenance of their property.

§290a National Association of Medical Examiners

The National Association of Medical Examiners (NAME) is the national professional organization of physician medical examiners, medical death investigators and death investigation system administrators who perform the official duties of the medico-legal investigation of deaths of public interest in the United States. NAME was founded in 1966 with the dual purposes of fostering the professional growth of physician death investigators and disseminating the professional and technical information vital to the continuing improvement of the medical investigation of violent, suspicious and unusual deaths. Medical examiners and coroners (ME/Cs) are essential public health partners for identifying and responding to epidemics and terrorism.

US Death Investigation Systems, by State, 2001



§290b National Funeral Directors Association

A. The National Funeral Directors Association is the oldest and largest national funeral service organization in the world. The NFDA was founded on January 14, 1880, by a group of 26 Michigan undertakers who held the first meeting before establishing the organization in 1882. The NFDA currently serves 19,500 individual members who represent more than 10,000 funeral homes in the US and other countries.

1. Upon joining NFDA, members agree to abide by NFDA's Code of Professional Conduct. This code addresses the funeral director's obligations to the families they serve and the decedents, as well as the public, government and NFDA. The high ethical standards of the NFDA are ensured through the Code of Professional Conduct Enforcement Procedures.

2. Violations of the code may subject the member to disciplinary action in accordance with the NFDA Constitution and NFDA Bylaws.

§290c Funeral Consumer Alliance

The Funeral Consumers Alliance is a federation of nonprofit consumer information societies protecting a consumer's right to choose a meaningful, dignified, affordable funeral since 1963. The FCA has affiliates in nearly every state. The practice of group planning for funeral arrangements started early in the 1900s in the Farm Grange organization in the Northwestern United States; members formed burial co-ops. From there, the idea spread to cities, often under church leadership. The People's Memorial Association of Seattle, organized in 1939, was the first such urban group. Societies

spread gradually up and down the West Coast, then eastward across the United States and northward into Canada.

§290d Casket and Funeral Supply Association of America

The Casket & Funeral Supply Association of America was founded in 1913 as the Casket Manufacturers' Association of America. CFSA represents the interests of member suppliers to licensed funeral homes and licensed funeral directors. The Association's objective is to provide useful information and perspectives on the funeral industry and the funeral supply industry to support manufacturers and suppliers of funeral goods and/or services. CFSA also provides proprietary information to individual members via its sales statistics program.

§290e Association for Gravestone Studies

The Association for Gravestone Studies was founded in 1977 for the purpose of furthering the study and preservation of gravestones. AGS is an international organization with an interest in grave-markers of all periods and styles. Through its publications, conferences, workshops and exhibits, AGS promotes the study of gravestones from historical and artistic perspectives, expands public awareness of the significance of historic grave-markers, and encourages individuals and groups to record and preserve gravestones. At every opportunity, AGS cooperates with groups that have similar interests.

§290f Funeral Service Foundation

The Funeral Service Foundation is the charitable voice of the funeral services industry. The mission is to support the career and professional development or funeral service and allied professions, public awareness and education, and the improvement of children's lives. The Foundation was incorporated in 1945 as the National Foundation of Funeral Service (NFFS), it changed it name to the Funeral Service Education Foundation (FSEF) in 1996 and the Funeral Service Foundation (FSF) in 2002. More than 130 major donors, consisting of funeral directors and funeral service supply companies, have pledged over $4.2 million to FSF's endowment. Activities are overseen by a 15 member Board of Trustees.

§290g Funeral Ethics Association

The Funeral Ethics Association resolves problems for people who are having difficulty in getting a fair response from the funeral director who served them. The Funeral Ethics Association was chartered in 1994 to promote and to advance the ethical practice of funeral service. As stated in its Constitution, "The purpose of the Funeral Ethics Association is to provide the public and the profession with a balanced forum for resolving misunderstandings and to elevate the importance of ethical practices in all matters related to funeral service."

Art. 7 Funeral Direction

§291 American Funeral Traditions

A. Humans have performed burial rituals for their dead family members and pets since they were Neanderthals some of whose remains have been discovered covered in pollen indicating that they were covered with flowers in a death ritual intended to cover the stench of the rotting corpse. Various cultures have had different burial traditions. Vikings set their dead out to sea in burning ships. The natives of Papua New Guinea ate the victims of their wars. The most famous of death rituals are those of the ancient Egyptians whose embalming techniques have preserved mummies for thousands of years in enormous memorial pyramids that still stand to this day.

B. The American funeral industry emerged in the aftermath of the Civil War. Before then families would normally bury their own dead. The foundation of the new industry was embalming that permitted family to have a last look at their loved one that was legitimized in the cross country voyage of Abraham Lincoln's body from Washington DC to Springfield, Illinois. The United States and Canada are the only nations who regularly embalm their dead. 1. Since then funeral homes sprung up around the country. As funeral homes multiplied, so did a variety of professional associations organizing funeral directors at the national and state levels, trade publications exclusively catering to an emerging class of authorities of disposal, and educational institutions for the training of funeral directors. 2. In the early years of the industry, the reigning paradigm surrounding the professional duties of funeral directors was limited to his expertise in the area of embalming, running a successful business, and managing the funeral services. 3. In time, another area of expertise that dominated industry rhetoric related to the psychology of grief, and, more specifically, the psychological value of viewing a pleasant-looking body in repose.

C. Critics attacked modern American funeral traditions for a variety of reasons. The most obvious, and popular, line of attack was economic. Industry representatives argued that most Americans did not want to handle their own dead and get them ready for burial. Jessica Mitford's *The American Way of Death* revolutionized the death care industry in the 1960s. 1. The Federal Trade Commission began its own investigation of the industry in the late 1970s and issued a series of proclamations based on its findings, including the Funeral Trade Rule in 1984. Some of the regulations imposed on funeral directors included providing clients with a detailed price list of all goods and services, informing them that embalming is not required by law, and allowing families to plan alternative funerals that did not follow traditional patterns. 2. Although cremation had made its appearance on the American scene much earlier, it became a viable option in the late 1960s and grew in popularity in subsequent decades. Cremation rates at the turn of the twenty-first century rose to 25 percent.

D. Another significant trend to emerge in the closing decades of the twentieth century was the intrusion of multinational corporations into what has become known as "death care."

1. Inspired in part by the aging of the populous baby-boom generation, big corporations like Service Corporation International and the Loewen Group have been buying up independent, family-owned funeral homes.
2. Even though most funeral homes are independently owned and operated, these corporations will continue to play a major role in U.S. funerals well into the twenty-first century.

§291a Funeral home

A. Funeral homes arrange services in accordance with the wishes of families and the deceased. The funeral home often takes care of the necessary paperwork, permits, and other details, such as making arrangements with the cemetery, and providing obituaries to the news media. As used in this chapter, “funeral home” means a place licensed by the state where; 1. Human remains are prepared for a funeral or disposition; 2. Human remains are held for disposition; and 3. Funerals are conducted or provided.

B. Funeral homes have a “holding facility” that: 1. Is designated for the retention of human remains before cremation, including a cremation room; 2. Complies with all applicable public health laws and; 3. Protects the health and safety of the crematory authority personnel.

C. The funeral home shall be responsible for the ceremonial “scattering” and final disposition of cremated human remains. A “scattering area” means a designated area on a dedicated cemetery property where cremated remains that have been removed from their container can be mixed with or placed on top of the soil or ground cover.

D. When the deceased are brought to the funeral home, they are usually embalmed to delay decomposition. The embalming procedure involves removal of blood from the corpse and the use of makeup to make corpse look more lifelike. If the deceased was disfigured from an accident or illness, the embalmer can sometimes perform restorative services to make the corpse presentable for an open casket service. If the embalmer is unable, or if the family requests otherwise, the funeral home can perform a closed casket service or cremtion and scattering of ashes.

E. The funeral home often sets aside one or more large areas for families to gather at a wake. This area contains a space to display the deceased in their casket for visitors to pay their respects. Funeral services and memorial services may also take place at the funeral home. Funeral homes also offer prearrangement services for those who wish to prepare their own funeral services before death.

F. Some funeral homes are family owned and operated. Others are part of larger corporations; however, unlike those in other industries, these corporations often act anonymously to appear as if they are family owned.

§291b Memorial Service

A. A "funeral" service is with the body present and is usually planned within a few days of death, sometimes in great haste. A "memorial" service (without the body) can be delayed, to meet the convenience or needs of the family it is recommended to wait two to three weeks to allow people to schedule flights and make arrangements to attend. 1. Funeral directors can be useful in planning both the funeral and memorial service however they are only needed to care for the final disposition of the body of the deceased in the funeral service.

B. It is best to pre-plan funerals to make it easier and cheaper in the hasty moment when a loved on passes away. This is however not always possible. The consumer is confronted with two major options, cremation or burial. Cremations, 25% of funerals, are much cheaper but the poignant and traditional ritual of placing the body in the ground is more popular. 1. Cremation involves the burning of the corpse and placing of the ashes in an urn. The service usually involves the scattering of the ashes and placing of some ashes in an urn in the cemetery columbaria. The decision-making is limited to what urn consumers purchase, when and where to hold the scattering ceremony and where to place the urn. 2. Burial is far more complex and expensive. Consumers must make purchasing decisions regarding whether they want an open or closed casket funeral, which casket to purchase, whether they want the body embalmed, where the gravesite is for the hearse to bring the body after the service.

C. Funerals, in the US and Canada, can be divided into three parts: 1. Visitation, where the body is on display at the funeral home for viewing for a night or two before the funeral. The deceased is usually dressed in their best clothes. If the body is disfigured or someone is unwilling to view the body a closed casket. In Jewish funerals the body is never viewed and embalming is forbidden. Guests sign a book held by the descendants and exchange photographs. 2. Funeral Service, a memorial service that is often officiate by a clergy from the bereaved church or religion. Funerals are usually held three to five days after a person's death. The service usually involves prayers, reading from the Bible and words of comfort from the clergy. Family members and friends frequently give a eulogy to detail the happy memories and accomplishments in the life of the deceased. 3. Burial Service, is conducted at the site of the grave, tomb, mausoleum or crematorium at which the body of deceased is buried or cremated. The burial may take place immediately after the funeral whereupon a funeral procession will travel from the memorial service to the burial site or at a time when the burial site is ready. Flowers are often put on the coffin or in the case of the burial of the member of the Armed Forces the Secretary of Veteran's Affairs will provide an American flag to drape over the coffin under 38USC§2301

§291c Embalming

A. Embalming is the controversial practice of injecting chemicals in a corpse for the viewing of the body in an open casket funeral. The Federal Trade Commission and many state regulators require that funeral directors inform consumers that embalming is not required except in certain special cases. Embalming is required when crossing state lines from Alabama, Alaska, and New Jersey. Three other states — Idaho, Kansas, and Minnesota — require embalming when a body is shipped by common carrier. Embalming provides no public health benefit, according to the U.S. Centers for Disease Control and Canadian health authorities. Hawaii and Ontario forbid embalming if the person died of certain contagious diseases.

B. Embalming does not preserve the human body forever; it merely delays the inevitable and natural consequences of death. There is some variation in the rate of decomposition, depending on the strength of the chemicals and methods used, and the humidity and temperature of the final resting place. 1. Ambient temperature has more affect on the decomposition process than the time elapsed after death, whether or not a body has been embalmed. In a sealed casket in above-ground entombment in a warm climate, a body will decompose very rapidly. 2. Embalming is a physically invasive process in which special devices are implanted, and chemicals and techniques are used to give an appearance of restful repose. The normal waxy-white color of a dead body is replaced with a more life-like tone by the use of dyes in the embalming fluid. 3. Embalming chemicals are highly toxic. Embalmers are required by OSHA to wear a respirator and full-body covering while embalming. Funeral home effluent, however, is not regulated, and waste is flushed into the common sewer system or septic tank. 4. Refrigeration is an alternative to maintain a body while awaiting a funeral service or when there is a delay in making arrangements. Not all funeral homes have refrigeration facilities, but most hospitals do.

C. Embalming has no roots in Christian religion and is common only in the U.S. and Canada. Embalming is considered a desecration of the body by orthodox Jewish and Muslim religions. Hindus and Buddhists choosing cremation have no need for embalming. 1. Embalming gives funeral homes a sales opportunity to increase consumer spending (by as much as $3,000 or more) for additional body preparation, a more expensive casket with "protective" features perhaps, a more expensive outer burial container, and a more elaborate series of ceremonies.

D. The process of embalming involves, 1. Placing the body on stainless steel or porcelain table, then washed with a germicide-insecticide-olfactant. The insides of the nose and mouth are swabbed with the solution. 2. Rigor mortis (stiffness) is relieved by massage. (Rarely but sometimes, tendons and muscles are cut in order to place the body in a more natural pose if limbs are distorted by disease, e.g., arthritis.) 3. Massage cream is worked into the face and hands to keep the skin soft and pliable. 4. Facial features are set by putting cotton in the nose, eye caps below the eyelids, a mouth former in the mouth (cotton or gauze in the throat to absorb purging fluids). The mouth is then tied shut with wire or sutures. (Glue

may be used on the eyelids and lips to keep them closed in an appropriate pose.) Facial hair is shaved if necessary. 5. Arterial embalming is begun by injecting embalming fluid into an artery while the blood is drained from a nearby vein or from the heart. The two gallons or so needed is usually a mixture of formaldehyde or other chemical and water. In the case of certain cancers, some diabetic conditions, or because of the drugs used prior to death (where body deterioration has already begun), a stronger or "waterless" solution is likely to be used for better body preservation. Chemicals are also injected by syringe into other areas of the body. 6. The second part of the embalming process is called cavity embalming. A trocar — a long, pointed, metal tube attached to a suction hose — is inserted close to the navel. The embalmer uses it to puncture the stomach, bladder, large intestines, and lungs. Gas and fluids are withdrawn before "cavity fluid" (a stronger mix of formaldehyde) is injected into the torso. 7. The anus and vagina may be packed with cotton or gauze to prevent seepage if necessary. (A close-fitting plastic garment may also be used.) 8. Incisions and holes made in the body are sewn closed or filled with trocar "buttons." The body is washed again and dried. 9. Nails are manicured, any missing facial features are molded from wax, head hair is styled, and makeup is used on the face and hands. The body is dressed and placed in the casket (fingers are glued together if necessary).

§291c Operating crematories; registration application

A. A person, a corporation, a limited liability company, a partnership, or any other business entity that is registered under this section may erect, maintain, and operate a crematory.

B.. To register to erect, maintain, or operate a crematory, an applicant must complete an application for registration as a crematory authority on a form furnished by the board that contains the following information: 1. The name and address of the applicant. 2. The address and location of the crematory. 3. Any other information the board may reasonably require.

C. Licenses and permits; construction of crematories. 1. A crematory shall obtain all necessary licenses and permits from appropriate local, state, or federal agencies. 2. A crematory may be constructed on or adjacent to a cemetery, a funeral home, or another location if allowed by local zoning ordinances.

D. Annual report: 1. Each crematory authority shall file an annual report with the state board. The report must include any changes in the information or a statement indicating that no changes have occurred. 2. The annual report must be filed not later than ninety (90) days after the end of the fiscal year of the crematory authority. 3. If a crematory authority files a written request for an extension and demonstrates good cause for the extension, the board shall grant an extension of not more than sixty (60) days for filing the annual report. 4. If a crematory authority fails to submit an annual report to the board within the time specified the board may take action against the crematory. 5. Upon

reasonable notice, the board may inspect all records relating to the registration and annual report of the crematory authority.

Art. 8 Cemetery Financing

§292 Nature of Cemetery Funds

A. The accumulation and holding of funds for a cemetery are expressly permitted for the upkeep and maintenance of that cemetery and shall be considered to be for a charitable and eleemosynary purpose.

B. The funds and contributions are considered to be a provision: 1. For the discharge of a duty due from the person or persons contributing to the fund to the person or persons whose remains are or will be interred in the cemetery; and
2. For the benefit and protection of the public by preserving, beautifying, and keeping cemeteries from becoming places of reproach and desolation in the communities in which they are situated.

C. Payment in the form of gift, grant, bequest, will or other contribution to the fund: 1. Is not invalid by reason of any indefiniteness or uncertainty of the persons designated as beneficiaries in the instruments creating the fund; and
2. Is not invalid as violating any law against perpetuities or suspension of the power of alienation of title to property.

§292a Perpetual care

A. "Perpetual care" or "endowment care" pays for the maintenance of the cemetery grounds and graves in keeping with a properly maintained cemetery, including the following: 1. Cutting the grass on cemetery plots at reasonable intervals. 2. Raking and cleaning of cemetery plots at reasonable intervals. 3. Pruning of shrubs and trees.
4. Procuring, maintaining, and keeping in workable condition the machinery, tools, and equipment needed for maintenance purposes, and replacing the machinery, tools, and equipment when necessary. 5. Keeping in repair and preserving the drains, water lines, roads, buildings, fences, and other structures, including cemetery owned statues and embellishments of a general character applicable to the cemetery as a whole or a particular area.

B. The administration of the cemetery, including: 1. The payment of insurance premiums; 2. The payment of pensions; and 3. Maintaining the necessary records of lot ownership or holdership, burial right ownership or holdership, burials, and other necessary information, and making the records available to the public authorities and interested persons.

C. When used in connection with a mausoleum, garden crypt, columbarium, crematory, or other structure, the term "perpetual care" or "endowment care" means, in addition, 1. The general upkeep of the structure and the ground surrounding the structure; 2. The repair, replacement, and improvement of the structure; 3. The procuring, maintaining, and

keeping in reasonable condition the machinery, tools, and equipment.

D. The owner of each cemetery shall provide for the creation and establishment of an irrevocable perpetual care fund. The principal of a perpetual care fund established under this section shall permanently remain intact. 1. Fifty percent (50%) of any appreciation of the principal of the fund may be withdrawn annually not more than forty-five (45) days after the end of the fund's fiscal year. 2. Any income earned by the fund during the fiscal year may be withdrawn quarterly during the fund's fiscal year. 3. The income from a fund established under this section and any withdrawal of the appreciation of the principal shall be devoted to the perpetual care of the cemetery. 4. The fund established by this chapter is not subject to attachment by a creditor unless the underlying debt was incurred for the perpetual care or endowment care of the cemetery for which the fund was established.

E. A perpetual care fund shall be established with deposits as follows: 1. In the case of a cemetery for earth burials, by the application and payment to the perpetual care fund of an amount at least equal to: a. Fifteen percent (15%) of the sale price; or b. Eighty cents ($0.80) per square foot of area; of each burial plot sold or transferred, whichever is greater. 2. In the case of a community or public mausoleum, or community or public garden crypt, by the application and payment to the perpetual care fund of an amount at least equal to: a. Eight percent (8%) of the sale price; or b. One hundred dollars ($100) per crypt sold or transferred, whichever is greater. 3. In the case of a community columbarium, by the application and payment to the perpetual care fund of an amount at least equal to twenty dollars ($20) per niche sold or transferred.

F. A cemetery making its first burial shall cause to be deposited in a financial institution the sum of twenty-five thousand dollars ($25,000) in cash in the perpetual care fund or endowment care fund established under this chapter for the maintenance of the cemetery.

1. The cemetery owner shall designate the financial institution as trustee of the fund. The financial institution must execute an affidavit stating that it has accepted the trusteeship of the fund and that the twenty-five thousand dollars ($25,000) has been deposited in the fund. The cemetery shall: a. Exhibit the affidavit in the principal office of the cemetery; b. Keep the affidavit available at all times for examination; and c. Record the affidavit in the miscellaneous records in the office of the recorder in the county in which the cemetery is located. d. A perpetual care or endowment care fund may be increased by adding to the fund surplus money or property that the cemetery receives by will, deed, gift, or otherwise.

2. Not more than ninety (90) days after the end of the fiscal year of a cemetery to which this chapter applies, the custodian of the perpetual care fund of the cemetery shall prepare and file with the owner of the cemetery a detailed accounting and report of the perpetual care fund for the preceding fiscal year. The report: a. Must include, among other things, a properly itemized listing of the securities in which the funds are invested; and b. Shall be available for inspection and copying at all times by any owner of or holder of a burial

right in the cemetery at the usual place at which the regular business of the cemetery is transacted.

§292b Budget

A. During January of each year, or at such a time as prescribed by federal, state or local authorities, a cemetery board shall make a report. The report must: 1. Provide information on: a. The financial condition of the cemetery board; and b. The business done by the cemetery board during the previous year; and 2. Include a statement showing the receipts and expenditures of the cemetery board for the year. a. A cemetery board shall annually prepare a budget for the cemetery or cemeteries under its control in the same manner as other offices and departments of the locality prepare budgets. The budget of the cemetery board is subject to review under the budget statutes applying to that area. b. A cemetery board may not expend funds without prior appropriation or authorization. 3. If the revenues of the cemetery board are not sufficient to meet the: a. Current operating expenses; and b. Amounts to be paid for the purchase of cemetery lands or other property; i. Deficiency in the revenues may be resolved through an appropriation from the general fund of the state, local or federal government.

B. A public cemetery commission may request the levy of an annual tax for the purpose of restoring and maintaining one (1) or more cemeteries that are located in the county. The tax may not exceed fifty cents ($0.50) on each one hundred dollars ($100) of assessed valuation of property in the county.

§292c Eminent Domain

A. Eminent domain applies to cities; towns; townships; corporation or association; county; or state that owns or controls a public cemetery that has been in existence for at least thirty (30) years or desires to own a public cemetery or desires to expand the territory of a public cemetery or a private cemetery should become insolvent and needs to be transferred to the ownership of the state for its perpetual care.

B. If land has not been appropriated or set apart by the owners by platting for a public cemetery and it is necessary to purchase real estate for the cemetery: 1. The legislative body of the city or town; 2. The executive of the township; 3. The trustees or directors of the corporation or association; or 4. The other owners; have the power of eminent domain to condemn and appropriate the land for cemetery purposes under proceedings provided by statute that must grant just compensation to the previous owners of the land.

Art. 9 Cemetery Management

§293 Board of cemetery regents

A. The officers of a board of cemetery regents shall consist of licensed funeral directors acting as: 1. A president; 2. A vice president; and 3. A secretary; who shall be elected by

the board members composed of funeral home or cemetery employees at the first meeting of the board, arbitrarily in January, and in each subsequent year.

B. A vacancy on a board of cemetery regents shall be filled by appointment by the executive of the county, city or town. The person appointed serves until the expiration of the term of the member whom the appointee is appointed to replace.

C. Each member of a board of cemetery regents: 1. Must take and subscribe to the usual oath of office before beginning the duties of office; and 2. Shall be issued a certificate of appointment, upon which the member's oath of office must be endorsed.

D. A majority of the members of a board of cemetery regents constitutes a quorum. An action of the board is binding only if: 1. It is authorized by a vote taken at a regular or special meeting of the board; and 2. A majority of all the members of the board vote in favor of the action. 3. If there is a tie vote or equal division among the members of the board upon any motion, resolution, or action, the executive of the municipality is entitled to vote on the matter under consideration. 4. The people may, at any time, remove a member of the board from office upon filing the reasons for the removal in writing with the clerk or clerk-treasurer of the county or municipality and the council shall appoint a successor. 5. The legislative body may authorize compensation for actual expenses incurred by members of the cemetery board in performance of their official duties, including any additional compensation that the legislative body determines.

E. A cemetery board may: 1. Make all necessary rules and regulations for the management of the cemetery or cemeteries over which it has control and management; 2. Sell lots or parts of lots at prices that the board considers reasonable; and 3. Require payment for sales: in cash; or partly in cash and the balance in deferred payments spread over a time the board considers reasonable.

F. If a member of the Board of Cemetery Regents should die or become too sick to serve in their capacity as Trustee the Board shall select one or two candidates for the approval of an executive of the county, city or town.

§293a Power of Cemetery Owner to Make Rules and Regulations

A. The owner of a cemetery may make, adopt, and enforce rules and regulations in accordance with local, state and federal regulation: 1. For the use, care, control, management, restriction, and protection of all parts and subdivisions of the cemetery; 2. For restricting, limiting, and regulating the use of all property within the cemetery; 3. For regulating the care of plants or shrubs within the grounds and preventing the introduction of certain types of plants or shrubs; 4. For regulating the conduct of persons and preventing improper assemblages in the cemetery; and 5. For all other purposes considered necessary by the owner of the cemetery for the proper conduct of the business of the cemetery and the protection and safeguarding of the premises and the principles, plans, and ideals on which the cemetery was organized.

B. The cemetery owner may periodically amend, add to, revise, change, modify, or abolish the rules and regulations. The owner of a cemetery may: 1. Prescribe penalties for the violation of a rule or regulation; and 2. Recover penalties in a civil action.

C. Rules and regulations adopted by a cemetery shall be: 1. Plainly printed or typewritten; and 2. Kept available for inspection and copying at the usual place for transacting the regular business of the cemetery. 3. Laws that are to be generally enforceable for visitors to the cemetery must be clearly understood through the use of signs in public spaces.

E. A public notice, including a notice of nonpayment, may not be attached to any lot, grave, gravestone, marker, or memorial upon a lot for the purpose of enforcing a penalty for the nonpayment of perpetual care charges.

§293b Powers and duties of person in charge of cemetery

A. The sexton, superintendent, manager, director, or other person in charge of a cemetery has the same powers, functions, duties, and authority granted by law to a peace officer within the jurisdiction in which the cemetery is located for the purpose of: 1. Maintaining order; and enforcing: a. The rules and regulations of the cemetery; b. The laws of the state; and c. The ordinances of the city or town in which the cemetery is situated; within the cemetery and within an area immediately outside the cemetery as large as necessary to protect the property of the cemetery.

B. Because the owner of a cemetery is responsible for the performance of the care and maintenance of the cemetery, a cemetery owner has the exclusive right to: 1. Open and close a grave or grave space, burial space, crypt, or niche in the cemetery; set or install a: marker; monument; or any type of memorial in the cemetery; and install any kind of foundation or other type of base for the marker, monument, or any type of memorial in the cemetery. 2. The authorized representative of the owner of the cemetery may also exercise this exclusive right.

C. A cemetery owner has the right to establish reasonable rules and regulations regarding the: (1) type; (2) material; (3) design; (4) composition; and (5) finish; of any commodity to be used or installed in the cemetery.

D. A cemetery owner shall not prevent the use of or installation in the cemetery of any commodity purchased from any source if the commodity meets the rules and regulations 1. The fee that a cemetery owner charges for services in connection with the installation or use of commodities in the cemetery shall be the same to all regardless of who furnishes the commodities. 2. At the usual place for transacting the regular business of each cemetery, the cemetery owner shall maintain a complete schedule of all charges that the cemetery imposes for services in connection with the installation or use of commodities in the cemetery. The schedule must be, (a) plainly printed or typewritten; and (b) subject to inspection and copying.

§293c Improvements to approaches or roads

A. The officers, owners, or directors in charge of a public or private cemetery that is organized and incorporated in the United States may use any funds arising from the sale of; or assessments upon; lots in the cemetery to improve the approaches or roads to the cemetery. 1. The Secretary of Veteran's Affairs may convey right to approach or access roads to any national cemetery to the local authority if they promise to keep up that road. For the purpose of maintenance and road improvements the Secretary may make contributions, as funds are available, to the appropriate local authorities if it essential to ensure entrance and egress to the national cemetery under 38USC§2404(f)

B. A railroad, street, road, alley, pipeline, pole line, or other public thoroughfare or utility shall not be laid out through, over, or across any part of the cemetery within one hundred (100) feet of: 1. A space in which burial rights have been transferred; 2. A mausoleum in the cemetery; 3. A garden crypt in the cemetery; or 4. A columbarium in a cemetery; without the consent of the owner of the cemetery.

C. Upon the complaint of any person, a permanent injunction shall be issued to prevent any other person from locating or constructing a railroad, street, road, alley, pipeline, pole line, or other public thoroughfare or utility on any ground that is: held, used, or occupied as a cemetery; or held for cemetery purposes.

§293c Curfews to memorialize the dead

A county, city, or town may impose a curfew specific to cemeteries or other facilities used to memorialize the dead by posting signs on the fence that must completely surround the cemetery and be 8 feet tall.

Art. 10 Record Keeping

§294 Record Keeping

A. A cemetery owner shall keep a record of each interment, entombment, and inurnment in the cemetery. The record must show: 1. The date on which the body was received; 2. The date of interment, entombment, or inurnment; 3. The name and marital status of the person whose remains are interred, entombed, or inurned; and 4. The plot and the grave in which the interment or inurnment was made or the location within the building or structure in which the entombment or inurnment was made.

B. The cemetery in which an interment, entombment, or inurnment takes place shall permanently preserve the record required by this chapter either: 1. In the form of the original record; or 2. In alternative form such as microfilm, microfiche, computer disk, or compact disk.

C. The crematory authority shall furnish a receipt to the funeral director or the funeral director's representative who delivers human remains to the crematory authority.

1.A crematory authority shall maintain at the authority's place of business a permanent record of each cremation that took place at the facility. The record must contain the name of the decedent, the cause of death and the date of the cremation. 2. The crematory authority shall maintain a record of all cremated remains disposed of by the crematory authority. 3. Each cemetery shall maintain a record of all cremated remains: a. That are disposed of on the cemetery's property; b. That have been properly transferred to the cemetery columbaria; and c. For which the cemetery has issued a receipt acknowledging the transfer of the cremated remains.

§294a Authorizing agents

A. Whereas the deceased cannot represent themselves in funeral decision making all business is done through the signature of authorizing agents. The following persons, in the priority listed, have the right to serve as an authorizing agent to a funeral director: 1. The individual who was the spouse of the decedent at the time of the decedent's death. 2. The decedent's surviving adult children. If more than one (1) adult child is surviving, any adult child who confirms in writing that the other adult children have been notified, unless the funeral director receives a written objection to the cremation from another adult child. 3. The decedent's surviving parent. If the decedent is survived by both parents, either parent may serve as the authorizing agent unless the crematory authority receives a written objection to the cremation from the other parent. 4. The individual in the next degree of kinship to inherit the estate of the decedent. If more than one (1) individual of the same degree is surviving, any person of that degree may serve as the authorizing agent unless the crematory authority receives a written objection to the cremation from one (1) or more persons of the same degree. 5. In the case of an indigent or other individual whose final disposition is the responsibility of the state or township, the following may serve as the authorizing agent if none of the persons family or friends are available: a. A public administrator, including a responsible township trustee or the trustee's designee; or b. The coroner or medical examiner. c. A state appointed guardian.

B. However, an indigent decedent may not be cremated if a surviving family member objects to the cremation or if cremation would be contrary to the religious practices of the deceased individual as expressed by the individual or the individual's family.

C. When a body part of a non-deceased individual is to be cremated, a representative of the institution that has arranged with the crematory authority to cremate the body part may serve as the authorizing agent in the record.

§294b Time spent with human remains by Crematory Authority

A. Human remains shall not be cremated less than forty-eight (48) hours after the time of death as indicated on the Death Certificate. 1. A crematory authority may schedule the actual cremation to be performed at the authority's convenience at any time after the human remains have been delivered to the crematory authority. 2. A crematory authority shall not cremate human remains when the authority has actual knowledge that the human remains contain a pacemaker or other material or implant that may be potentially

hazardous to the individual performing the cremation. 3. When a crematory authority is unable to or unauthorized to cremate human remains immediately upon taking custody of the remains, the crematory authority shall place the human remains in a refrigerated holding facility.

B. After each cremation, all the recoverable residue of the cremation process that it is practical to recover must be removed from the cremation chamber. 1. A receptacle large enough to hold all the cremated remains must be selected. 2. Cremated remains may only be shipped by a method that has an internal tracing system that provides a receipt signed by the person accepting delivery. 3. A crematory authority shall maintain an identification system that ensures that the authority can identify the human remains in the authority's possession throughout all phases of the cremation process.

§294c Death Certificate Required

A. A crematory authority or cemetery shall not cremate or bury human remains until the County Coroner or reporting doctor has signed a Death Certificate: 1. A cremation authorization form provided by the crematory authority, signed by an county coroner or pronouncing doctor, containing the following information: a. The identity of the human remains and the time and date of death. b. The name of the funeral director who obtained the cremation authorization. c. The cause of death. d. A statement by the authorizing agent explaining how the authorizing agent is related to the decedent. e. A statement that the human remains do not contain a pacemaker or any other material or implant or radiation producing device that may be potentially hazardous or cause damage to the cremation chamber or the individual performing the cremation. f. The name of the cemetery authorized to receive cremated remains. g. The date and time of the viewing or service.

B. The crematory shall not hold the human remains for more than 30 days before placing them in a columbaria or scattering their ashes.

§294d Recording of survey and plat

A. Before granting or selling any burial right in any cemetery they must be platted. The owner of the cemetery shall cause to be recorded in the recorder's office of the county in which the cemetery is located an accurate survey and plat of that part of its property in which it proposes to grant or sell burial rights.

B. Each transfer of interment, entombment, or inurnment rights issued by the cemetery owner under this chapter must include a reference to the recorded plat.

1. The owner of a cemetery shall issue a deed, certificate, or license to each purchaser of a burial right in the cemetery. Each deed, certificate, or license issued under this section must be properly signed and acknowledged before a notary public.

C. A survey and plat recorded must: 1. Show all lots, walks, and drives in the cemetery, all with descriptive names and numbers; and 2. Include a proper instrument in writing, duly executed and acknowledged by the owner, dedicating the property to cemetery purposes. 3. The owner of property described in a survey and plat recorded under this chapter by an instrument properly executed, acknowledged, and recorded may vacate the recorded plat and make and file a new or altered plat and survey of the property described in a survey and plat; or a part of the property described in the survey and plat.

D. The vacation or alteration of a recorded plat is not valid if it affects burial rights previously granted in the property described in the plat, unless each owner of affected burial rights has consented to the vacation or alteration. 1. After recording the plat, the owner of the cemetery may sell and grant burial rights in the cemetery. 2. Every plat sold shall be duly recorded and notarized.

§294e Violations; offenses

A. If a crematory or cemetery authority: 1. Refuses to file or neglects to file an annual report; 2. Fails to comply with the registration requirements; or 3. Refuses to comply with record inspection. The board may maintain an injunctive action in the name of the state to enjoin the crematory authority from performing cremations until they comply if a first offence or permanently if the crematory authority has one or more priors.

B. Under Title 16 Commercial Practices under the Code Federal Regulation Part 453 Funeral Industry Practice prohibits unfair and deceptive practices as regulated by the Federal Trade Commission under 15USC§57a, §46 and §552. It is an unfair or deceptive act or practice for a funeral provider to fail to furnish accurate price information disclosing the cost to the purchaser for the total cost and each of the specific funeral goods and funeral services used in connection with the disposition of deceased human bodies, including at least the price of embalming, transportation of remains, use of facilities, caskets, outer burial containers, immediate burials, or direct cremations, to persons inquiring about the purchase of funerals.

1. The preventative requirements are to give telephone price disclosures, furnish printed casket and burial container price lists as well as a general price list for the prices of funeral goods and services such as the time of funeral directors, embalmers, the rental of the hearse for transportation and use of facilities for the viewing of the body. a. Some services such as embalming are not required if one does not wish for a open casket service and they must not be provided without prior approval. b. Funeral prices are often included in the cost of the casket, in which case this should noted in the bill to permit the family to provide their own casket. It is a deceptive practice to pretend that the law requires the purchase of certain goods and services under law when this is not the case. To prevent unfair and deceptive practice the funeral director must keep accurate records of the goods and services purchased that indicate they have been purchased in an informed fashion by the consumer.

§294f Common Errors

A. When a wrongful burial, entombment, inurnment, disinterment, disentombment, or dis-inurnment occurs, the cemetery owner shall: 1. at the expense of the cemetery owner, correct the wrongful burial, entombment, inurnment, disinterment, disentombment, or dis-inurnment as soon as practical after becoming aware of the error; and 2. notify: a. the person or persons who authorized the original burial of the deceased person whose remains were wrongfully buried, entombed, inurned, disinterred, disentombed, or dis-inurned, or whose outer burial container was wrongfully placed; b. the person or persons whose marker, monument, memorial, foundation, or base was wrongfully placed.

B. A cemetery owner or anyone acting on behalf of a cemetery owner is liable for any error made by placing an improper description, including an incorrect name or date, on: 1. a marker; 2. a monument; 3. any type of memorial; or 4. the container for cremated remains. a. the cemetery owner responsible for these common errors shall correct them and pay any compensation the court or competent tribunal deems sufficient.

Art. 11 Arlington National Cemetery

§295 Arlington National Cemetery

A. More than 300,000 people are buried at Arlington Cemetery. Arlington National Cemetery has the second-largest number of people buried of any national cemetery in the United States. The primary mission of Arlington National Cemetery is to function as the nation's premier military cemetery and shrine honoring those men and women who served in the Armed Forces. 1. The flags in Arlington National Cemetery are flown at half-staff from a half hour before the first funeral until a half hour after the last funeral each day. Funerals are normally conducted five days a week, excluding weekends. 2. Arlington National Cemetery conducts approximately 6,400 burials each year, an average of 28 per day. 3. Arlington National Cemetery and Soldiers Home National Cemetery are administered by the Department of the Army. All other National Cemeteries are administered by the Department of Veterans Affairs, or the National Park Service.

B. Since May of 1864 Arlington Memorial Cemetery has been fully operational. Arlington Mansion and 200 acres of ground immediately surrounding it were designated officially as a military cemetery June 15, 1864, by Secretary of War Edwin M. Stanton. 1. Veterans from all the nation's wars are buried in the cemetery, from the American Revolution through the Iraq and Afghanistan. 2. Pre-Civil War dead were re-interred after 1900. 3. The federal government dedicated a model community for freed slaves, Freedman's Village, near the current Memorial Amphitheater, Dec. 4, 1863. More than 1,100 freed slaves were given land by the government, where they farmed and lived during and after the Civil War. They were turned out in 1890 when the estate was repurchased by the government and dedicated as a military installation.

C. More than 4 million people visit the cemetery, which is located near Washington DC, every year. 1. The Tomb of the Unknowns is one of the more-visited sites at Arlington National Cemetery. 2. In Section 27, are buried more than 3,800 former slaves, called "Contrabands" during the Civil War. Their headstones are designated with the word

"Civilian" or "Citizen." 3. In addition to in-ground burial, Arlington National Cemetery also has one of the larger columbarium for cremated remains in the country. Seven courts are currently in use, with over 38,500 niches. When construction is complete, there will be nine courts with a total of over 60,000 niches; capacity for more than 100,000 remains.

D. Any honorably discharged veteran or active duty soldier is eligible for inurnment in the columbarium or in the ground. Also welcome are, 1. Elected and high level appointed federal officials. 2. Spouses and widows of eligible veterans and their minor and permanently dependent children. 3. Eligibility for inurnment in the columbarium is extended to certain commissioned officers in the National Oceanic and Atmospheric Administration and Public Health Service and Members of the Reserve Officers Training Corps.

E. Under this Act, subsequent to redressing as many as 6,600 errors misidentifying grave-markers and any compensation to bereaved families Congress deems fitting, Arlington National Cemetery shall simplify their record-keeping and keep an up to date internet plat on their website, noting the names, date of birth and death, location of burial and short biography of all people interred in their cemetery or columbaria. The biography may be linked to a website published by that deceased person that will be perpetually sustained by the Library of Congress.

§295a Arlington Memorial Amphitheater

A. Recommendations of the Secretary of Defense, or his designee, for memorials and entombments shall be sent to Congress in January of each year, his recommendations with respect to the memorials to be erected, and the remains of deceased members of the Armed Forces to be entombed, in the Arlington Memorial Amphitheater, Arlington National Cemetery, Virginia.

B. Specific authorization from Congress must be received before any memorial may be erected or any remains entombed in such amphitheater or cemetery.

C. The character, design, or location of any memorial authorized by Congress is subject to the approval of the Secretary of Defense or his designee.

Art. 12 Burial Rights

§296 Disposition of Dead Human Bodies

A. Subject to the rights of transportation and removal of dead human bodies or other disposition of dead human bodies, as provided by law, the remains of all individuals who die shall be deposited: 1. In the earth in an established cemetery; 2. In a mausoleum; 3. In a garden crypt; or 4. In a columbarium; within a reasonable time after death.

B. All dead human bodies interred in the earth shall have a cover of at least two (2) feet of earth at the shallowest point over the outer receptacle in which the body is placed. 1.

All private or family mausoleums shall be constructed in such manner as to admit proper ventilation. 2. The remains of dead human bodies that have been cremated may be deposited in mausoleums, garden crypts, or columbaria or deposited in or on the earth.

C. The owner of a cemetery is authorized to inter, entomb, or inurn the body or cremated remains of a deceased human upon the receipt of a written authorization of an individual who professes to be (in the priority listed) the: 1. Surviving spouse; or 2. Surviving child, parent, or next of kin of the decedent; or 3. To have acquired the right to control the disposition of the deceased human body or cremated remains.

§297 Burial Rights in Multi-Space Plots

A. The burial rights in a lot, plot, burial space, crypt, or niche granted to an individual are the sole and separate property of the individual named as descendent. If the descendent of a burial plot containing more than one (1) interment, entombment, or inurnment space is married at the time of the grant of the burial plot, the spouse of the decedent has a vested right of interment, entombment, or inurnment adjacent to the deceased that they must purchase beforehand to secure.

B. Any burial rights that are held in joint tenancy by two (2) or more persons who are not husband and wife are owned with the right of survivorship. 1. If the owners of burial rights held in joint tenancy are husband and wife, the title shall be recognized as a tenancy by the entirety, and the right of interment, entombment, or inurnment shall be vested and controlled equally by both while living, or, after the death by the surviving spouse or the surviving spouse's successor in interest.

C. In a family burial plot: 1. One (1) grave, crypt, or niche may be used for the record owner's interment, entombment, or inurnment; 2. After the record owner's interment, entombment, or inurnment, one (1) grave, crypt, or niche may be used for the surviving spouse of the record owner; and 3. In the spaces remaining, if any, the parents and children of the deceased record owner, in order of need, may be interred, entombed, or inurned without the consent of any person claiming an interest in the family burial plot. 4. If there is no parent or child who survives the deceased record owner, the right of interment, entombment, or inurnment in a family burial plot shall go: a. first, in order of need, to the spouse of any child of the deceased record owner; and b. second, in order of need, to the heirs at law of the deceased record owner, as specified by the statutes of descent; or the spouse of any heir at law of the deceased record owner.

D. An affidavit that sets forth: 1. The fact of the death of the record owner of the burial rights in a family burial plot; and 2. The name of the individual or individuals who are entitled to use the family burial plot in accordance with this chapter; is complete authority to the cemetery to permit the use of the unoccupied portions of the family burial plot by the individual or individuals who are shown by the affidavit to be entitled to use the family burial plot.

§298 Final Disposition of Cremated Remains

A. Cremated remains may be retained by the person having legal control over the remains or may be disposed of in any of the following manners: 1. Placing the remains in a grave, niche, or crypt. 2. Scattering the remains in a scattering area. 3. Disposing of the remains in any manner if: a. The remains are reduced to a particle size of one-eighth (1/8) inch or less; and b. The disposal is made on the property of a consenting owner, on uninhabited public land, or on a waterway.

B. Except with the express written permission of the authorizing agent, a person shall not do the following: 1. Dispose of cremated remains in a manner or location that commingles the cremated remains with the cremated remains of another individual. This prohibition does not apply to the scattering of cremated remains at sea or in the air. 2. Place the cremated remains of more than one (1) individual in the same temporary container or urn.

§299 Disinterment, Disentombment, and Disinurnment

A. As used in this section, "removed" refers to the disinterment, disentombment, or dis-inurnment of the remains of a deceased human. The remains of a deceased human interred, entombed, or inurned in a plot in a cemetery may be removed from the plot for the purpose of autopsy or reinterment, reentombment, or reinurnment in another cemetery with: 1. The consent of the owner of the cemetery; and 2. The written consent of: a. The surviving spouse, or descendents in the case of a deceased married person; or b. The surviving parents in the case of a deceased minor child. 3. Before any disinterment, disentombment, or dis-inurnment may take place, the reasonable costs and expenses of the funeral director and attorney's fees, must be paid by the person or persons applying for the disinterment, disentombment, or dis-inurnment.

B. Before issuing a written authorization the state department of health shall: 1. Obtain written evidence of the legal ownership of the property from which the remains will be removed. 2. Obtain written evidence that a licensed funeral director has agreed to: a. Be present at the removal and at the re-interment, re-entombment, or re-inurnment of the remains; and b. Cause the completed order to be recorded in the office of the county recorder of the county where the removal occurred. 3. Obtain written evidence that a notice of the proposed removal has been published at least five (5) days before in a newspaper of general circulation in the county where the removal will occur.

C. If a person fails to maintain a mausoleum, garden crypt, vault, or other burial structure in a good state of repair; and a court of competent jurisdiction or government authority declares the mausoleum, garden crypt, vault, or other burial structure to be a public nuisance. The deceased body or bodies interred in the mausoleum, garden crypt, vault, or other burial structure shall be removed and properly interred within thirty (30) days after the judgment declaring the mausoleum, garden crypt, vault, or other burial structure to be a nuisance, if the judgment is not appealed. 1. The mausoleum, garden crypt, vault, or other burial structure shall be removed within one hundred eighty (180) days after the judgment declaring the mausoleum, garden crypt, vault, or other burial structure to be a nuisance. 2. The cost of re-interring the bodies and removing the mausoleum, garden

crypt, vault, or other burial structure shall be paid: a. by the person who owns the mausoleum, garden crypt, vault, or other burial structure; or b. If the person who owns the mausoleum, garden crypt, vault, or other burial structure is not found, by the county in which the mausoleum, garden crypt, vault, or structure is located.

D. If the written consent of the spouse or descendents of the deceased; or the parents of the deceased in the case of a deceased minor; is not available, a person may petition the coroner to determine whether to waive the consent requirement. In determining whether to waive the requirement, the coroner shall consider the viewpoint of any issue of the deceased whereupon the written order of the coroner of the county in which the cemetery is situated. human remains can be exhumed from the cemetery.

CHAPTER 7—NATIONAL CEMETERIES

Transfer of Functions. Section 2 of Ex. Ord. No. 6166, June 10, 1933, as amended by Ex. Ord. No. 6229, July 27, 1934; Ex. Ord. No. 6614, Feb. 26, 1934; Ex. Ord. No. 6690, Apr. 25, 1934, set out as a note to section 901 of Title 5, Government Organization and Employees, transferred all functions of administrator of certain historical national cemeteries located within the continental limits of the United States, including certain cemeteries administered by the War Department to the Director of National Parks, Buildings, and Reservations in the Department of the Interior. By Ex. Ord. No. 6228, July 28, 1933, also set out as a note to section 901 of Title 5, the operation of Executive Order No. 6166 as to the transfer of the specified national cemeteries was postponed until further order, except with regard to the following cemeteries located within the continental limits of the United States:

National Military Parks

Chickamauga and Chattanooga National Military Park, Georgia and Tennessee.
Fort Donelson National Military Park, Tennessee.
Fredericksburg and Spotsylvania County Battle Fields, Memorial, Virginia.
Gettysburg National Military Park, Pennsylvania.
Guilford Courthouse National Military Park, North Carolina.
Kings Mountain National Military Park, South Carolina.
Moores Creek National Military Park, North Carolina.
Petersburg National Military Park, Virginia.

Shiloh National Military Park, Tennessee.
Stones River National Military Park, Tennessee.
Vicksburg National Military Park, Mississippi.

National Parks

Abraham Lincoln National Park (now Abraham Lincoln Birthplace National Historical Park), Kentucky.
Fort McHenry National Park, Maryland.

Battlefield Sites

Antietam Battlefield, Maryland.
Appomattox, Virginia.
Brices Cross Roads, Mississippi.
Chalmette Monument and Grounds, Louisiana.
Cowpens, South Carolina.
Fort Necessity, Wharton County, Pennsylvania.
Kenesaw Mountain, Georgia.
Monocacy, Maryland.
Tupelo, Mississippi.
White Plains, New York.

National Monuments

Big Hole Battlefield, Beaverhead County, Montana.
Cabrillo Monument, Ft. Rosecrans, California.
Castle Pinckney, Charleston, South Carolina.
Father Millet Cross, Fort Niagara, New York.
Fort Marion, St. Augustine, Florida.
Fort Matanzas, Florida.
Fort Pulaski, Georgia.
Meriwether Lewis, Hardin County, Tennessee.
Mound City Group, Chillicothe, Ohio.
Statue of Liberty, Fort Wood, New York.

Miscellaneous Memorials

Camp Blount Tablets, Lincoln County, Tennessee.
Kill Devil Hill Monument, Kitty Hawk, North Carolina.
New Echota Marker, Georgia.
Lee Mansion, Arlington National Cemetery, Virginia.

National Cemeteries

Battleground, District of Columbia.

Antietam, (Sharpsburg) Maryland.
Vicksburg, Mississippi.
Gettysburg, Pennsylvania.
Chattanooga, Tennessee.
Fort Donelson, (Dover) Tennessee.
Shiloh, (Pittsburg Landing) Tennessee.
Stones River, (Murfreesboro) Tennessee.
Fredericksburg, Virginia.
Poplar Grove, (Petersburg) Virginia.
Yorktown, Virginia.

Change of Name. Director of National Parks, Buildings and Reservations renamed Director of National Park Service by act Mar. 2, 1934, ch. 38, 48 Stat. 362.

National Cemeteries in Foreign Countries. The functions of administration pertaining to national cemeteries located in foreign countries, which were transferred to the Department of State, were revoked and the functions of administration pertaining to national cemeteries and memorials located in Europe, together with personnel, records, etc. were transferred to the American Battle Monuments Commission by Ex. Ord. No. 6614, Apr. 25, 1934, set out as a note under section 901 of Title 5, Government Organization and Employees.

§§271 to 276. Repealed. Pub. L. 93–43, §7(a)(1)–(3), (61), June 18, 1973, 87 Stat. 82, 88

Section 271, R.S. §4870, provided for manner of acquisition of lands.

Section 271a, act June 29, 1938, ch. 808, 52 Stat. 1233, related to State donations of land.

Section 272, R.S. §4871; act Mar. 3, 1911, ch. 231, §291, 36 Stat. 1167, provided for appraisement of real estate.

Section 273, R.S. §4872, provided for payment of appraised value.

Section 274, R.S. §4873, provided for superintendents of cemeteries.

Section 275, acts Mar. 24, 1948, ch. 143, §1, 62 Stat. 84; Aug. 30, 1961, Pub. L. 87–178, 75 Stat. 411, provided for selection of superintendents.

Section 276, R.S. §4875; act July 30, 1912, ch. 258, 37 Stat. 240, provided for fuel and quarters for superintendents. Subject matter is generally covered by section 2400 et seq. of Title 38, Veterans' Benefits. See sections 2404 and 2406 of Title 38.

Effective Date of Repeal. Repeal effective Sept. 1, 1973, or such earlier date as the President may prescribe and publish in the Federal Register, see section 10(c) of Pub. L. 93–43, set out as a note under section 2306 of Title 38, Veterans' Benefits.

Superintendents of National Cemeteries Under the Jurisdiction of the Secretary of the Army

Pub. L. 97–306, title IV, §405, Oct. 14, 1982, 96 Stat. 1443, provided that: "Notwithstanding section 7(b)(2) of the National Cemeteries Act of 1973 (87 Stat. 88) [section 7 of Pub. L. 93–43 set out below], the provisions of the Act entitled "An Act to provide for selection of superintendents of national cemeteries from meritorious and trustworthy members of the Armed Forces who have been disabled in the line of duty for active field service", approved March 24, 1948 [Act Mar. 24, 1948, ch. 143, 62 Stat. 84, which enacted former section 275 of this title], as in effect on the day before the effective date of section 7 of the National Cemeteries Act of 1973 [see section 10(c) of Pub. L. 93–43 set out as a note under section 2306 of Title 38, Veterans' Benefits], shall not apply with respect to the appointment of the superintendent of a national cemetery under the jurisdiction of the Secretary of the Army."

Matured Rights and Duties, Incurred Penalties, Liabilities, and Forfeitures, and Commenced Proceedings Excepted in Repeal of National Cemeteries Provisions Pub. L. 93–43, §7(a), June 18, 1973, 87 Stat. 82, provided in part that sections 271 to 276, 278 to 279d, 281 to 282, 286 to 290, and 296 of this title are repealed, except with respect to rights and duties that matured, penalties, liabilities, and forfeitures that were incurred, and proceedings that were begun before effective date of such section 7. Section 7 of Pub. L. 93–43 effective Sept. 1, 1973, or such earlier date as the President may prescribe and publish in the Federal Register, see section 10(c) of Pub. L. 93–43, set out as a note under section 2306 of Title 38, Veterans' Benefits.

Functions, Powers, and Duties of Secretaries Unaffected. Pub. L. 93–43, §7(b), June 18, 1973, 87 Stat. 88, provided that: "Nothing in this section [repealing sections 271 to 276, 278 to 279d, 281 to 282, 286 to 290, and 296 of this title and enacting provisions set out as a note under sections 271 to 276] shall be deemed to affect in any manner the functions, powers, and duties of— "(1) the Secretary of the Interior with respect to those cemeteries, memorials, or monuments under his jurisdiction on the effective date of this section [see note above], or "(2) the Secretary of the Army, the Secretary of the Navy, or the Secretary of the Air Force with respect to those cemeteries, memorials, or monuments under his jurisdiction to which the transfer provisions of section 6(a) of this Act [set out as a note under section 2404 of Title 38, Veterans' Benefits] do not apply."

§277. Repealed. Pub. L. 89–554, §8(a), Sept. 6, 1966, 80 Stat. 646

Section, acts Feb. 12, 1925, ch. 225, title II, 43 Stat. 926; Apr. 15, 1926, ch. 146, title II, 44 Stat. 288, provided for appointment and pay of a superintendent of Antietam Battlefield.

§§278 to 279d. Repealed. Pub. L. 93–43, §7(a)(1), (4), (5), (7), June 18, 1973, 87 Stat. 82

Section 278, acts July 24, 1876, ch. 226, §1, 19 Stat. 99; June 10, 1921, ch. 18, §§206, 215, 42 Stat. 21, 23; Sept. 12, 1950, ch. 946, title III, §301(96), 64 Stat. 844, provided for

care and maintenance of cemeteries. See section 2404(a), (e) of Title 38, Veterans' Benefits.

Section 279, R.S. §4877, related to inclosure, headstones, and registers. See section 2404(a), (c), (d) of Title 38.

Section 279a, acts July 1, 1948, ch. 791, §1, 62 Stat. 1215; Aug. 14, 1958, Pub. L. 85–644, §1(1), 72 Stat. 601; Aug. 28, 1958, Pub. L. 85–811, 72 Stat. 978; Sept. 1, 1970, Pub. L. 91–369, 84 Stat. 836, provided for headstones for unmarked graves of Civil War soldiers, members of armed forces, reserve components, National Guard, Air National Guard, and Reserve Officers Training Corps; compilation of list; and inscription of names on Memorial. See sections 2306 and 2403 of Title 38.

Section 279b, acts July 1, 1948, ch. 791, §2, 62 Stat. 1216; Aug. 14, 1958, Pub. L. 85–644, §1(2), 72 Stat. 602, authorized rules and regulations for the headstones, list, and inscription of names.

Section 279c, act July 1, 1948, ch. 791, §3, 62 Stat. 1216, related to preservation of records respecting the headstones, list, and inscription of names. See section 2404(d) of Title 38.

Section 279d, acts Aug. 27, 1954, ch. 1013, 68 Stat. 880; July 3, 1956, ch. 509, 70 Stat. 489, provided for markers to honor memory of certain Armed Forces personnel. See section 2403(a), (b) of Title 38.

Effective Date of Repeal. Repeal effective Sept. 1, 1973, or such earlier date as the President may prescribe and publish in the Federal Register, see section 10(c) of Pub. L. 93–43, set out as a note under section 2306 of Title 38, Veterans' Benefits. Matured Rights and Duties, Incurred Penalties, Liabilities, and Forfeitures, and Commenced. Proceedings Excepted in Repeal of National Cemeteries Provisions. Provisions repealed except with respect to rights and duties matured, penalties, liabilities, and forfeitures that were incurred, and proceedings that were begun before effective date of section 7 of Pub. L. 93–43, see section 7(a) of Pub. L. 93–43, set out as a note under sections 271 to 276 of this title.

§§280 to 280b. Repealed. July 1, 1948, ch. 791, §4, 62 Stat. 1216

Section 280, act Feb. 3, 1879, ch. 44, 20 Stat. 281, related to headstones in private cemeteries. See sections 2306 and 2400 et seq. of Title 38, Veterans' Benefits.

Section 280a, act Feb. 26, 1929, ch. 324, 45 Stat. 1307, related to headstones for Confederate soldiers. See sections 2306 and 2400 et seq. of Title 38.

Section 280b, act Apr. 18, 1940, ch. 109, 54 Stat. 142, related to standard headstones. See sections 2306 and 2400 et seq. of Title 38.

§§281 to 282. Repealed. Pub. L. 93–43, §7(a)(6), (8), (10)–(12), (60), June 18, 1973, 87 Stat. 82, 88

Section 281, acts May 14, 1948, ch. 289, §1, 62 Stat. 234; Sept. 14, 1959, Pub. L. 86–260, 73 Stat. 547, enumerated classes of persons eligible for burial in national cemeteries and provided for removal of remains. See section 2402 of Title 38, Veterans' Benefits.

Section 281a, act Aug. 4, 1947, ch. 467, §1, 61 Stat. 742, provided for utilization of surplus military real property for cemeteries.

Section 281b, act Aug. 4, 1947, ch. 467, §2, 61 Stat. 742, related to utilization of surplus military real property for expansion of existing cemeteries and limited the expanded national cemetery area to six hundred and forty acres.

Section 281c, act Aug. 4, 1947, ch. 467, §3, 61 Stat. 742, authorized regulations respecting utilization of surplus military real property for cemeteries.

Section 281d, act Mar. 10, 1950, ch. 52, §1, 64 Stat. 12, related to utilization of surplus military real property for cemeteries at Fort Logan, Colo.

Section 281e, act Mar. 10, 1950, ch. 52, §2, 64 Stat. 12, provided for selection of lands, care and maintenance, and limitation of area of national cemetery at Fort Logan, Colo.

Section 281f, act Mar. 10, 1950, ch. 52, §3, 64 Stat. 12, authorized Secretary of the Army to prescribe rules and regulations for administration of national cemetery at Fort Logan, Colo.

Section 281g, act Aug. 10, 1950, ch. 672, §§1, 2, 64 Stat. 434, provided for expansion of existing cemeteries at Rock Island National Cemetery, Rock Island, Illinois, Fort Leavenworth, National Cemetery, Fort Leavenworth, Kansas, and Barrancas National Cemetery, near Pensacola, Florida.

Section 282, act Aug. 24, 1912, ch. 355, §1, 37 Stat. 440, provided for burial of Confederate veterans.

Effective Date of Repeal. Repeal effective Sept. 1, 1973, or such earlier date as the President may prescribe and publish in the Federal Register, see section 10(c) of Pub. L. 93–43, set out as a note under section 2306 of Title 38, Veterans' Benefits.

Matured Rights and Duties, Incurred Penalties, Liabilities, and Forfeitures, and Commenced Proceedings Excepted in Repeal of National Cemeteries Provisions. Provisions repealed except with respect to rights and duties matured, penalties, liabilities, and forfeitures that were incurred, and proceedings that were begun before effective date of section 7 of Pub. L. 93–43, see section 7(a) of Pub. L. 93–43, set out as a note under sections 271 to 276 of this title.

§§283 to 285. Omitted

Codification, Section 283, R.S. §4879, related to the military cemetery near Mexico City. See section 2111 of Title 36, Patriotic and National Observances, Ceremonies, and Organizations.

Section 284, R.S. §4880, related to the regulations for the military cemetery near Mexico City, and is covered by Ex. Ord. No. 9873, July 17, 1947, 12 F.R. 4777, set out as a note under section 2111 of Title 36.

Section 285, acts Feb. 24, 1925, ch. 306, §2, 43 Stat. 970; May 10, 1928, ch. 515, 45 Stat. 494, which authorized the Secretary of War to accept the land comprising the burial place of President Zachary Taylor, and to establish a national cemetery thereon, has been omitted as executed.

§§286 to 290. Repealed. Pub. L. 93–43, §7(a)(1), (13)–(18), (42), (44)–(46), June 18, 1973, 87 Stat. 82, 83, 85

Section 286, R.S. §4881; act Mar. 3, 1911, ch. 231, §291, 36 Stat. 1167, provided penalty for defacing cemeteries. See section 901 of Title 38, Veterans' Benefits.

Section 287, R.S. §4882, related to jurisdiction of United States upon purchase of any national cemetery with consent of any State legislature.

Section 288, acts Feb. 12, 1925, ch. 225, title II, 43 Stat. 926; Apr. 15, 1926, ch. 146, title II, 44 Stat. 287; Feb. 23, 1927, ch. 167, title II, 44 Stat. 1138; Mar. 23, 1928, ch. 232, title II, 45 Stat. 354; Feb. 28, 1929, ch. 366, title II, 45 Stat. 1375; June 30, 1954, ch. 425, §101, 68 Stat. 331; July 15, 1955, ch. 370, title III, 69 Stat. 360; July 2, 1956, ch. 490, title III, 70 Stat. 479, prohibited expenditure of any appropriation for maintenance of more than a single approach to any national cemetery.

Section 289, act May 23, 1941, ch. 130, 55 Stat. 191, provided for conveyance to State or municipality of approach road to national cemetery. See section 2404(f) of Title 38, Veterans' Benefits.

Section 290, act July 27, 1953, ch. 245, §101, 67 Stat. 197, prohibited encroachment by railroad on rights of way. See section 2404 of Title 38.

Effective Date of Repeal. Repeal effective Sept. 1, 1973, or such earlier date as the President may prescribe and publish in the Federal Register, see section 10(c) of Pub. L. 93–43, set out as a note under section 2306 of Title 38, Veterans' Benefits.

Matured Rights and Duties, Incurred Penalties, Liabilities, and Forfeitures, and Commenced Proceedings Excepted in Repeal of National Cemeteries Provisions, Provisions repealed except with respect to rights and duties matured, penalties, liabilities, and forfeitures that were incurred, and proceedings that were begun before effective date

of section 7 of Pub. L. 93–43, see section 7(a) of Pub. L. 93–43, set out as a note under sections 271 to 276 of this title.

Conveyance to State or Municipality of Approach Road to National Cemetery. Provisions similar to those set out in former section 289 of this title relating to conveyance to State or municipality of approach road to national cemetery, were also repealed by Pub. L. 93–43, §7(a)(27) to (29), June 18, 1973, 67 Stat. 84. Subject matter was contained in the following prior appropriation acts: June 24, 1940, ch. 415, 54 Stat. 506. June 28, 1939, ch. 246, 53 Stat. 857. June 11, 1938, ch. 348, 52 Stat. 668.

Encroachment by Railroad on Rights of Way. Provisions similar to those set out in former section 290 of this title relating to encroachment by railroad on rights of way were also repealed by Pub. L. 93–43, §7(a)(19) to (41), (43), June 18, 1973, 87 Stat. 83 to 85. Subject matter was contained in the following prior appropriation acts: July 11, 1952, ch. 669, 66 Stat. 579. Oct. 24, 1951, ch. 556, 65 Stat. 617. Sept. 6, 1950, ch. 896, ch. IX, 64 Stat. 725. Oct. 13, 1949, ch. 688, 63 Stat. 846. June 25, 1948, ch. 655, 62 Stat. 1019. July 31, 1947, ch. 411, 61 Stat. 687. May 2, 1946, ch. 247, 60 Stat. 161. Mar. 31, 1945, ch. 45, 59 Stat. 39. June 26, 1944, ch. 275, 58 Stat. 327. June 2, 1943, ch. 115, 57 Stat. 94. Apr. 28, 1942, ch. 246, 56 Stat. 220. May 23, 1941, ch. 130, 55 Stat. 191. June 24, 1940, ch. 415, 54 Stat. 506. June 28, 1939, ch. 246, 53 Stat. 857. June 11, 1938, ch. 348, 52 Stat. 668. July 19, 1937, ch. 511, 50 Stat. 515. May 15, 1936, ch. 404, 49 Stat. 1305. Apr. 9, 1935, ch. 54, title II, 49 Stat. 145. Apr. 26, 1934, ch. 165, title II, 48 Stat. 639. Mar. 4, 1933, ch. 281, title II, 47 Stat. 1595. July 14, 1932, ch. 482, title II, 47 Stat. 689. Feb. 23, 1931, ch. 279, title II, 46 Stat. 1302. May 28, 1930, ch. 348, title II, 46 Stat. 458. Feb. 28, 1929, ch. 366, title II, 45 Stat. 1375. Mar. 23, 1928, ch. 232, title II, 45 Stat. 354. Feb. 23, 1927, ch. 167, title II, 44 Stat. 1138. Apr. 15, 1926, ch. 146, title II, 44 Stat. 287. Feb. 12, 1925, ch. 225, title II, 43 Stat. 926.

§§291 to 295. Repealed. Pub. L. 86–694, §2, Sept. 2, 1960, 74 Stat. 739

Section 291, act Mar. 4, 1921, ch. 169, §1, 41 Stat. 1440, established a commission to make recommendations for memorials and entombments for Arlington Memorial Amphitheater.

Section 292, act Mar. 4, 1921, ch. 169, §2, 41 Stat. 1440, provided for a chairman and disbursing officer.

Section 293, act Mar. 4, 1921, ch. 169, §3, 41 Stat. 1440, required specific Congressional authorization for erection of memorials and interments.

Section 294, act Mar. 4, 1921, ch. 169, §4, 41 Stat. 1440, related to restrictions on inscriptions and entombments.

Section 295, act Mar. 4, 1921, ch. 169, §5, 41 Stat. 1440, related to character of the inscription.
Sections are covered by section 295a of this title.

§295a. Arlington Memorial Amphitheater

(a) Recommendations of Secretary of Defense for memorials and entombments
The Secretary of Defense or his designee may send to Congress in January of each year, his recommendations with respect to the memorials to be erected, and the remains of deceased members of the Armed Forces to be entombed, in the Arlington Memorial Amphitheater, Arlington National Cemetery, Virginia.
(b) Specific authorization from Congress
No memorial may be erected and no remains may be entombed in such amphitheater unless specifically authorized by Congress.
(c) Character of memorials
The character, design, or location of any memorial authorized by Congress is subject to the approval of the Secretary of Defense or his designee.

(Pub. L. 86–694, §1, Sept. 2, 1960, 74 Stat. 739.)

Memorial to Veterans of Vietnam Conflict. Pub. L. 95–479, title III, §307, Oct. 18, 1978, 92 Stat. 1566, provided that: "The Secretary of Defense shall have placed in the Trophy Hall of the Memorial Amphitheater at Arlington National Cemetery a memorial plaque which shall bear the following inscription: 'The people of the United States of America pay tribute to those members of the Armed Forces of the United States who served honorably in Southeast Asia during the Vietnam conflict.' To further honor those members of the Armed Forces who lost their lives in hostile action in Southeast Asia during the Vietnam conflict, the Secretary of Defense shall have placed near such plaque in a suitable repository a display of the Purple Heart Medal and other medals, ribbons, and decorations associated with service in Southeast Asia during the Vietnam conflict."

Section, act July 1, 1947, ch. 187, 61 Stat. 234, related to preservation of historic graveyards in abandoned military posts and conveyance to grantees. See section 2405(b) of Title 38, Veterans' Benefits.

Effective Date of Repeal. Repeal effective Sept. 1, 1973, or such earlier date as the President may prescribe and publish in the Federal Register, see section 10(c) of Pub. L. 93–43, set out as a note under section 2306 of Title 38, Veterans' Benefits.

Matured Rights and Duties, Incurred Penalties, Liabilities, and Forfeitures, and Commenced. Proceedings Excepted in Repeal of National Cemeteries Provisions. Provisions repealed except with respect to rights and duties matured, penalties, liabilities, and forfeitures that were incurred, and proceedings that were begun before effective date of section 7 of Pub. L. 93–43, see section 7(a) of Pub. L. 93–43, set out as a note under sections 271 to 276 of this title.

§ 296. Repealed. Pub. L. 93–43, § 7(a)(9), June 18, 1973, 87 Stat. 82

Section 296, act July 1, 1947, ch. 187, 61 Stat. 234, related to preservation of historic graveyards in abandoned military posts and conveyance to grantees. See section 2405(b) of Title 38, Veterans' Benefits.

EFFECTIVE DATE OF REPEAL

Repeal effective Sept. 1, 1973, or such earlier date as the President may prescribe and publish in the Federal Register, see section 10(c) of Pub. L. 93–43, set out as a note under section 2306 of Title 38, Veterans' Benefits.

MATURED RIGHTS AND DUTIES, INCURRED PENALTIES, LIABILITIES, AND FORFEITURES, AND COMMENCED PRO- CEEDINGS EXCEPTED IN REPEAL OF NATIONAL CEME- TERIES PROVISIONS

Provisions repealed except with respect to rights and duties matured, penalties, liabilities, and forfeitures that were incurred, and proceedings that were begun before effective date of section 7 of Pub. L. 93–43, see section 7(a) of Pub. L. 93–43, set out as a note under sections 271 to 276 of this title.

CHAPTER 7A—PRIVATE AND COMMERCIAL CEMETERIES

§298. Repealed. Oct. 31, 1951, ch. 654, §1(47), 65 Stat. 703

Section, act June 20, 1939, ch. 220, 53 Stat. 843, related to disposal, by Secretary of War, of government lots in commercial cemeteries.

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