

## New Missouri law a victory for gay rights

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It's a minor section of the law, but it's one that can make a big difference to some couples at the end of their lives.

The Legislature this year passed a law that allows gay partners and others not legally married to designate whom they wish to decide their funeral and burial arrangements.

Under the old standard, anyone could complete the legal paperwork to designate a person to be in charge of what's known legally as the right of sepulcher. But the law established a priority list, with spouse, children, parents and siblings of the dead person ranking higher. The individual designated through paperwork came in fifth out of eight on the list.

With the new law, the person granted power of attorney for burial decisions is at the top of the list.

The change in law is important for family law attorneys to keep in mind as they advise clients, and to go back and check if end-of-life planning documents signed years ago should be updated to reflect the current law, advocates say.

For families who get along, the distinction may mean little. But for a gay couple whose parents don't accept their relationship, it can mean a nasty fight during what's already a traumatic time.

A.J. Bockelman, executive director of PROMO, a statewide gay rights group based in St. Louis, said many gay couples didn't realize the paperwork they had on file was not binding if a relative wanted to interfere.

"So many of our LGBT [lesbian, gay, bisexual and transgender] families, the immediate family members are not comfortable with their son or daughter being gay, they won't sign off on the documents and the family could've come in and challenged the power of attorney," he said.

Bockelman said he realized a few months back just how much of an impact this law could make. He met an elderly gay man close to tears over his situation. His partner had died, but the body sat in cold storage for months while officials tried to track down a brother with whom he hadn't spoken in 20 years.

"That really hit home how much damage this simple change had caused," he said.

He also said that while it's an important victory, this is just one small piece of the rights and privileges automatically granted to married couples. He estimated that for gay partners to complete the legal papers required to ensure about one-third of those rights can cost about \$30,000 in legal fees.

The new language was added as an amendment to a bill strengthening the law for those wishing to become organ donors upon death. Gov. Matt Blunt signed the legislation in July, and the new pecking order takes effect Aug. 28.

Sen. Jolie Justus, a Democrat and Kansas City attorney, added the amendment in committee and said no lawmakers expressed concern about the provision. She actually used the language from another bill filed by a Republican senator.

Justus also said that while the change in law is a benefit for gay and lesbian couples, they are far from the only people wanting the change. Many elderly people who are in a relationship with another person, but chose not to legally marry, also are upset to learn their children or siblings can come in and usurp the plans they made.

"I'm interested in all of the populations that are affected, and so are other senators," Justus said. "No one saw it as an LGBT issue. They saw it as an end-of-life issue."

Justus also heard a powerful tale that convinced her of the need to change the law. A woman in St. Louis set up a power of attorney so her partner could handle her funeral arrangements. Following Jewish tradition, she desired to be buried within 24 hours of her death.

But her closest "next of kin" was a sister in Israel, and under state law, the funeral home felt it had to clear the arrangements with that person before proceeding, even though she would not oppose the plan.

"That just seems a little bit outrageous to have to contact someone halfway across the world," Justus said. "This is a victory for those folks interested in making sure someone's wishes are carried out."

The priority list was established in state law in 2003. Justus was just elected in 2006, so she didn't know the reason for the original bill, and the sponsor has died.

However, according to a legislative summary at the time, it was a gray area of law and funeral homes were seeking clear guidance on whose wishes they were to follow when more than one person came forward to determine funeral and burial plans. No opposition was voiced during a House committee hearing on the bill.

This year's underlying legislation focused on changes in state law regarding organ and tissue donation. The main one moves Missouri's organ donor registry from an intent registry to a first- person consent registry. That means that once an individual signs the registry as desiring to be an organ donor, that decision is legally binding and no further permission is required.

Under current law, joining the registry only expresses an intent to donate organs upon death, but family members still must agree. Separately, Missouri residents already can sign the back of their driver's licenses to be organ donors, and if also signed by witnesses, that too becomes a binding legal document.

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