

SECOND REGULAR SESSION

HOUSE BILL NO. 1871

94TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE DEEKEN.

Read 1st time January 28, 2008 and copies ordered printed.

D. ADAM CRUMBLISS, Chief Clerk

4668L.01I

AN ACT

To repeal section 194.119, RSMo, and to enact in lieu thereof one new section relating to the final disposition of dead bodies.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Section 194.119, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 194.119, to read as follows:

194.119. 1. As used in this section, the term "right of sepulcher" means the right to choose and control the burial, cremation, or other final disposition of a dead human body.

2. For purposes of this chapter and chapters 193, 333, and 436, RSMo, and in all cases relating to the custody, control, and disposition of deceased human remains, including the common law right of sepulcher, where not otherwise defined, the term "next-of-kin" means the following persons in the priority listed if such person is eighteen years of age or older, is mentally competent, and is willing to assume responsibility for the costs of disposition:

(1) **An attorney-in-fact designated in a durable power of attorney wherein the deceased specifically granted the right of sepulcher over his or her body to such attorney-in-fact;**

(2) The surviving spouse;

[(2)] (3) Any surviving child of the deceased. If a surviving child is less than eighteen years of age and has a legal or natural guardian, such child shall not be disqualified on the basis of the child's age and such child's legal or natural guardian, if any, shall be entitled to serve in the place of the child unless such child's legal or natural guardian was subject to an action in

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

16 dissolution from the deceased. In such event the person or persons who may serve as next-of-kin
17 shall serve in the order provided in subdivisions [(3)] (4) to (8) of this subsection;

18 [(3)] (4) (a) Any surviving parent of the deceased; or

19 (b) If the deceased is a minor, a surviving parent who has custody of the minor; or

20 (c) If the deceased is a minor and the deceased's parents have joint custody, the parent
21 whose residence is the minor child's residence for purposes of mailing and education;

22 [(4)] (5) Any surviving sibling of the deceased;

23 [(5) Any person designated by the deceased to act as next-of-kin pursuant to a valid
24 designation of right of sepulcher as provided in subsection 8 of this section;]

25 (6) The next nearest surviving relative of the deceased by consanguinity or affinity;

26 (7) Any person or friend who assumes financial responsibility for the disposition of the
27 deceased's remains if no next-of-kin assumes such responsibility;

28 (8) The county coroner or medical examiner; provided however that such assumption
29 of responsibility shall not make the coroner, medical examiner, the county, or the state
30 financially responsible for the cost of disposition.

31 3. The next-of-kin of the deceased shall be entitled to control the final disposition of the
32 remains of any dead human being consistent with all applicable laws, including all applicable
33 health codes.

34 4. A funeral director or establishment is entitled to rely on and act according to the
35 lawful instructions of any person claiming to be the next-of-kin of the deceased; provided
36 however, in any civil cause of action against a funeral director or establishment licensed pursuant
37 to this chapter for actions taken regarding the funeral arrangements for a deceased person in the
38 director's or establishment's care, the relative fault, if any, of such funeral director or
39 establishment may be reduced if such actions are taken in reliance upon a person's claim to be
40 the deceased person's next-of-kin.

41 5. Any person who desires to exercise the right of sepulcher and who has knowledge of
42 an individual or individuals with a superior right to control disposition shall notify such
43 individual or individuals prior to making final arrangements.

44 6. If an individual with a superior claim is personally served with written notice from a
45 person with an inferior claim that such person desires to exercise the right of sepulcher and the
46 individual so served does not object within forty-eight hours of receipt, such individual shall be
47 deemed to have waived such right. An individual with a superior right may also waive such right
48 at any time if such waiver is in writing and dated.

49 7. If there is more than one person in a class who are equal in priority and the funeral
50 director has no knowledge of any objection by other members of such class, the funeral director
51 or establishment shall be entitled to rely on and act according to the instructions of the first such

52 person in the class to make arrangements; provided that such person assumes responsibility for
53 the costs of disposition and no other person in such class provides written notice of his or her
54 objection.

55 [8. Any person may designate an individual to be his or her closest next-of-kin,
56 regardless of blood or marital relationship, by means of a written instrument that is signed, dated,
57 and verified. Such designation of right of sepulcher shall be witnessed by two persons, and shall
58 contain the names and last known address of each person entitled to be next-of-kin but for the
59 execution of the designation of right of sepulcher and who are higher in priority than the person
60 so designated.]

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