

FIRST REGULAR SESSION
[PERFECTED WITH PERFECTING AMENDMENT]
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 394
92ND GENERAL ASSEMBLY

Reported from the Committee on Judiciary March 10, 2003, with recommendation that the House Committee Substitute for House Bill No. 394 Do Pass by Consent.

Perfecting by Consent March 17, 2003.

STEPHEN S. DAVIS, Chief Clerk

1417L.02P

AN ACT

To amend chapter 194, RSMo, by adding thereto one new section relating to the designation of next-of-kin for deceased persons.

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

Section A. Chapter 194, RSMo, is amended by adding thereto one new section, 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) The surviving spouse;

(2) 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 dissolution from the deceased. In such event the person or persons who may

16 serve as next-of-kin shall serve in order provided in subdivision (3) of this subsection;

17 (3) (a) Any surviving parent of the deceased; or

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

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

22 (4) 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
27 of the deceased's remains if no next-of-kin assumes such responsibility;

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

31 3. The next-of-kin of the deceased shall be entitled to control the final disposition
32 of the remains of any dead human being consistent with all applicable laws, including all
33 applicable 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
37 pursuant to this chapter for actions taken regarding the funeral arrangements for a
38 deceased person in the director's or establishment's care, the relative fault, if any, of such
39 funeral director or establishment may be reduced if such actions are taken in reliance upon
40 a person's claim to be the deceased person's next-of-kin.

41 5. Any person who desires to exercise the right of sepulcher and who has knowledge
42 of 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
45 from a person with an inferior claim that such person desires to exercise the right of
46 sepulcher and the individual so served does not object within forty-eight hours of receipt,
47 such individual shall be deemed to have waived such right. An individual with a superior
48 right may also waive such right 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
50 funeral director has no knowledge of any objection by other members of such class, the
51 funeral director or establishment shall be entitled to rely on and act according to the

52 **instructions of the first such person in the class to make arrangements; provided that such**
53 **person assumes responsibility for the costs of disposition and no other person in such class**
54 **provides written notice of his or her 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,**
57 **dated, and verified. Such designation of right of sepulcher shall be witnessed by two**
58 **persons, and shall contain the names and last known address of each person entitled to be**
59 **next-of-kin but for the execution of the designation of right of sepulcher and who are**
60 **higher in priority than the person so designated.**