

House _____ Amendment NO. _____

Offered By _____

1 AMEND House Committee Substitute for Senate Bill No. 125, Page 1, Section A, Line 2, by
2 inserting after all of said line the following:

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4 "194.119. 1. As used in this section, the term "right of sepulcher" means the right to choose
5 and control the burial, cremation, or other final disposition of a dead human body.

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

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

13 (2) For a decedent who was on active duty in the United States military at the time of death,
14 the person designated by such decedent in the written instrument known as the United States
15 Department of Defense Form 93, Record of Emergency Data, in accordance with [P.L. 109-163,
16 Section 564,] 10 U.S.C. Section 1482;

17 (3) The surviving spouse;

18 (4) Any surviving child of the deceased. If a surviving child is less than eighteen years of
19 age and has a legal or natural guardian, such child shall not be disqualified on the basis of the child's
20 age and such child's legal or natural guardian, if any, shall be entitled to serve in the place of the
21 child unless such child's legal or natural guardian was subject to an action in dissolution from the
22 deceased. In such event the person or persons who may serve as next-of-kin shall serve in the order
23 provided in subdivisions (5) to (9) of this subsection;

24 (5) (a) Any surviving parent of the deceased; or

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

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

28 (6) Any surviving sibling of the deceased;

29 (7) The next nearest surviving relative of the deceased by consanguinity or affinity;

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

32 (9) The county coroner or medical examiner; provided however that such assumption of
33 responsibility shall not make the coroner, medical examiner, the county, or the state financially
34 responsible for the cost of disposition.

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

Action Taken _____ Date _____

1 codes. The next-of-kin may delegate the control of the final disposition of the remains of any dead
2 human being to an agent through either a specific or general grant of power in accordance with
3 section 404.710 if, at the time of delegation, the next-of-kin was eighteen years of age or older and
4 mentally competent and the principal or agent is taking financial responsibility for the disposition.

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

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

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

20 7. If there is more than one person in a class who are equal in priority and the funeral
21 director has no knowledge of any objection by other members of such class, the funeral director or
22 establishment shall be entitled to rely on and act according to the instructions of the first such
23 person in the class to make arrangements; provided that such person assumes responsibility for the
24 costs of disposition and no other person in such class provides written notice of his or her objection.
25 If the funeral director has knowledge that there is more than one person in a class who are equal in
26 priority and who do not agree on the disposition, the decision of the majority of the members of
27 such class shall control the disposition.

28 8. For purposes of conducting a majority vote under subsection 7 of this section, the funeral
29 director shall allow voting by proxy using a written authorization or instrument."; and
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31 Further amend said bill by amending the title, enacting clause, and intersectional references
32 accordingly.