

SECOND REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR

HOUSE BILL NO. 1696

103RD GENERAL ASSEMBLY

3999S.03C

KRISTINA MARTIN, Secretary

AN ACT

To repeal section 194.119, RSMo, and to enact in lieu thereof one new section relating to the right of sepulcher.

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Section A. Section 194.119, RSMo, is repealed and one new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

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

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

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

EXPLANATION-Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

17 (2) For a decedent who was on active duty in the
18 United States military at the time of death, the person
19 designated by such decedent in the written instrument known
20 as the United States Department of Defense Form 93, Record
21 of Emergency Data, in accordance with 10 U.S.C. Section 1482;

22 (3) The surviving spouse, unless an action for the
23 dissolution of the marriage has been filed and is pending in
24 a court of competent jurisdiction;

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

35 (5) (a) **If the deceased is not a minor**, any surviving
36 parent of the deceased; or

37 (b) **If the deceased is a minor with a court-appointed**
38 **guardian, the court-appointed guardian at the time of the**
39 **minor's death unless the guardian is being criminally**
40 **investigated for his or her role in the minor's death. If**
41 **the court appointed coguardians, the guardian specifically**
42 **granted the right of sepulcher by the court shall have the**
43 **superior claim. If the court did not specifically grant the**
44 **right of sepulcher to one guardian when appointing**
45 **coguardians, the guardian whose residence is the minor**
46 **child's residence for purposes of mailing and education**
47 **shall have the superior claim. A court-appointed guardian**
48 **may opt out of becoming the designated next of kin, provided**

49 that such opt-out shall occur during the court proceedings
50 determining which individual shall become the court-
51 appointed guardian. Any authority granted to a court-
52 appointed guardian under this section shall exist only
53 during the pendency of the guardianship and shall
54 automatically terminate upon expiration, revocation, or
55 termination of the guardianship by the court; or

56 (c) If the deceased is a minor without a court-
57 appointed guardian who was granted the right of sepulcher, a
58 surviving parent who has custody of the minor; or

59 [(c)] (d) If the deceased is a minor without a court-
60 appointed guardian who was granted the right of sepulcher
61 and the deceased's parents have joint custody, the parent
62 whose residence is the minor child's residence for purposes
63 of mailing and education;

64 (6) Any surviving sibling of the deceased;

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

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

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

74 3. The next-of-kin of the deceased shall be entitled
75 to control the final disposition of the remains of any dead
76 human being consistent with all applicable laws, including
77 all applicable health codes. The next-of-kin may delegate
78 the control of the final disposition of the remains of any
79 dead human being to an agent through either a specific or
80 general grant of power in accordance with section 404.710

81 if, at the time of delegation, the next-of-kin was eighteen
82 years of age or older and mentally competent and the
83 principal or agent is taking financial responsibility for
84 the disposition.

85 4. A funeral director or establishment is entitled to
86 rely on and act according to the lawful instructions of any
87 person claiming to be the next-of-kin of the deceased;
88 provided however, in any civil cause of action against a
89 funeral director or establishment licensed pursuant to this
90 chapter for actions taken regarding the funeral arrangements
91 for a deceased person in the director's or establishment's
92 care, the relative fault, if any, of such funeral director
93 or establishment may be reduced if such actions are taken in
94 reliance upon a person's claim to be the deceased person's
95 next-of-kin.

96 5. Any person who desires to exercise the right of
97 sepulcher and who has knowledge of an individual or
98 individuals with a superior right to control disposition
99 shall notify such individual or individuals prior to making
100 final arrangements.

101 6. If an individual with a superior claim is notified
102 in person or by written notice with delivery confirmation to
103 such person's last known address by a person with an
104 inferior claim that such person desires to exercise the
105 right of sepulcher and the individual so served does not
106 object within forty-eight hours of such notice, such
107 individual shall be deemed to have waived such right. An
108 individual with a superior right may also waive such right
109 at any time if such waiver is in writing and dated.

110 7. If there is more than one person in a class who are
111 equal in priority and the funeral director has no knowledge
112 of any objection by other members of such class, the funeral

113 director or establishment shall be entitled to rely on and
114 act according to the instructions of the first such person
115 in the class to make arrangements; provided that such person
116 assumes responsibility for the costs of disposition and no
117 other person in such class provides written notice of his or
118 her objection. If the funeral director has knowledge that
119 there is more than one person in a class who are equal in
120 priority and who do not agree on the disposition, the
121 decision of the majority of the members of such class shall
122 control the disposition.

123 8. For purposes of conducting a majority vote under
124 subsection 7 of this section, the funeral director shall
125 allow voting by proxy using a written authorization or
126 instrument.

127 **9. Religious, cultural, family, and individual beliefs**
128 **of the deceased person shall be considered when disposing of**
129 **any human remains.**

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