

SENATE SUBSTITUTE  
FOR  
SENATE COMMITTEE SUBSTITUTE  
FOR  
HOUSE COMMITTEE SUBSTITUTE  
FOR  
HOUSE BILL NO. 1696  
AN ACT

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

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*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Section A. Section 194.119, RSMo, is repealed and one new  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;

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 if the court specifically granted the right of  
40 sepulcher to the guardian unless the guardianship has been  
41 terminated under section 475.083, not including subdivision  
42 (5) of subsection 1 of section 475.083;

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

46           [(c)] (d) If the deceased is a minor without a court-  
47 appointed guardian who was granted the right of sepulcher  
48 and the deceased's parents have joint custody, the parent

49 whose residence is the minor child's residence for purposes  
50 of mailing and education;

51 (6) Any surviving sibling of the deceased;

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

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

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

61 3. The next-of-kin of the deceased shall be entitled  
62 to control the final disposition of the remains of any dead  
63 human being consistent with all applicable laws, including  
64 all applicable health codes. The next-of-kin may delegate  
65 the control of the final disposition of the remains of any  
66 dead human being to an agent through either a specific or  
67 general grant of power in accordance with section 404.710  
68 if, at the time of delegation, the next-of-kin was eighteen  
69 years of age or older and mentally competent and the  
70 principal or agent is taking financial responsibility for  
71 the disposition.

72 4. A funeral director or establishment is entitled to  
73 rely on and act according to the lawful instructions of any  
74 person claiming to be the next-of-kin of the deceased;  
75 provided however, in any civil cause of action against a  
76 funeral director or establishment licensed pursuant to this  
77 chapter for actions taken regarding the funeral arrangements  
78 for a deceased person in the director's or establishment's  
79 care, the relative fault, if any, of such funeral director  
80 or establishment may be reduced if such actions are taken in

81 reliance upon a person's claim to be the deceased person's  
82 next-of-kin.

83 5. Any person who desires to exercise the right of  
84 sepulcher and who has knowledge of an individual or  
85 individuals with a superior right to control disposition  
86 shall notify such individual or individuals prior to making  
87 final arrangements.

88 6. If an individual with a superior claim is notified  
89 in person or by written notice with delivery confirmation to  
90 such person's last known address by a person with an  
91 inferior claim that such person desires to exercise the  
92 right of sepulcher and the individual so served does not  
93 object within forty-eight hours of such notice, such  
94 individual shall be deemed to have waived such right. An  
95 individual with a superior right may also waive such right  
96 at any time if such waiver is in writing and dated.

97 7. If there is more than one person in a class who are  
98 equal in priority and the funeral director has no knowledge  
99 of any objection by other members of such class, the funeral  
100 director or establishment shall be entitled to rely on and  
101 act according to the instructions of the first such person  
102 in the class to make arrangements; provided that such person  
103 assumes responsibility for the costs of disposition and no  
104 other person in such class provides written notice of his or  
105 her objection. If the funeral director has knowledge that  
106 there is more than one person in a class who are equal in  
107 priority and who do not agree on the disposition, the  
108 decision of the majority of the members of such class shall  
109 control the disposition.

110 8. For purposes of conducting a majority vote under  
111 subsection 7 of this section, the funeral director shall  
112 allow voting by proxy using a written authorization or  
113 instrument.

114           9. Religious, cultural, family, and individual beliefs  
115 of the deceased person shall be considered by the next of  
116 kin when disposing of any human remains.