

1 AN ACT concerning civil law.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Disposition of Remains Act is amended by  
5 changing Sections 5, 10, 15, and 40 as follows:

6 (755 ILCS 65/5)

7 Sec. 5. Right to control disposition; priority. Unless a  
8 decedent has left directions in writing for the disposition or  
9 designated an agent to direct the disposition of the decedent's  
10 remains as provided in Section 65 of the Crematory Regulation  
11 Act or in subsection (a) of Section 40 of this Act, the  
12 following persons, in the priority listed, have the right to  
13 control the disposition, including cremation, of the  
14 decedent's remains and are liable for the reasonable costs of  
15 the disposition:

16 (1) the person designated in a written instrument that  
17 satisfies the provisions of Sections 10 and 15 of this Act;

18 (2) any person serving as executor or legal  
19 representative of the decedent's estate and acting  
20 according to the decedent's written instructions contained  
21 in the decedent's will;

22 (3) the individual who was the spouse of the decedent  
23 at the time of the decedent's death;

24 (4) the sole surviving competent adult child of the  
25 decedent, or if there is more than one surviving competent  
26 adult child of the decedent, the majority of the surviving  
27 competent adult children; however, less than one-half of  
28 the surviving adult children shall be vested with the  
29 rights and duties of this Section if they have used  
30 reasonable efforts to notify all other surviving competent  
31 adult children of their instructions and are not aware of  
32 any opposition to those instructions on the part of more

1 than one-half of all surviving competent adult children;

2 (5) the surviving competent parents of the decedent;  
3 if one of the surviving competent parents is absent, the  
4 remaining competent parent shall be vested with the rights  
5 and duties of this Act after reasonable efforts have been  
6 unsuccessful in locating the absent surviving competent  
7 parent;

8 (6) the surviving competent adult person or persons  
9 respectively in the next degrees of kindred or, if there is  
10 more than one surviving competent adult person of the same  
11 degree of kindred, the majority of those persons; less than  
12 the majority of surviving competent adult persons of the  
13 same degree of kindred shall be vested with the rights and  
14 duties of this Act if those persons have used reasonable  
15 efforts to notify all other surviving competent adult  
16 persons of the same degree of kindred of their instructions  
17 and are not aware of any opposition to those instructions  
18 on the part of one-half or more of all surviving competent  
19 adult persons of the same degree of kindred;

20 (7) in the case of indigents or any other individuals  
21 whose final disposition is the responsibility of the State  
22 or any of its instrumentalities, a public administrator,  
23 medical examiner, coroner, State appointed guardian, or  
24 any other public official charged with arranging the final  
25 disposition of the decedent;

26 (8) in the case of individuals who have donated their  
27 bodies to science, or whose death occurred in a nursing  
28 home or other private institution, who have executed  
29 cremation authorization forms under Section 65 of the  
30 Crematory Regulation Act and the institution is charged  
31 with making arrangements for the final disposition of the  
32 decedent, a representative of the institution; or

33 (9) any other person or organization that is willing  
34 to assume legal and financial responsibility.

35 As used in Section, "adult" means any individual who has  
36 reached his or her eighteenth birthday.

1 (Source: P.A. 94-561, eff. 1-1-06.)

2 (755 ILCS 65/10)

3 Sec. 10. Form. The written instrument authorizing the  
4 disposition of remains under paragraph (1) of Section 5 of this  
5 Act shall be in substantially the following form:

6 "APPOINTMENT OF AGENT TO CONTROL DISPOSITION OF REMAINS

7 I, ....., being of sound  
8 mind, willfully and voluntarily make known my desire that,  
9 upon my death, the disposition of my remains shall be  
10 controlled by ..... (name of agent first  
11 named below) and, with respect to that subject only, I  
12 hereby appoint such person as my agent (attorney-in-fact).  
13 All decisions made by my agent with respect to the  
14 disposition of my remains, including cremation, shall be  
15 binding.

16 SPECIAL DIRECTIONS:

17 Set forth below are any special directions limiting  
18 the power granted to my agent:  
19 .....  
20 .....  
21 .....

22 If the disposition of my remains is by cremation, then:

23 ( ) I do not wish to allow any of my survivors the option of  
24 canceling my cremation and selecting alternative arrangements,  
25 regardless of whether my survivors deem a change to be  
26 appropriate.

27 ( ) I wish to allow only the survivors I have designated below  
28 the option of canceling my cremation and selecting alternative

1 arrangements, if they deem a change to be appropriate:

2 .....  
3 .....  
4 .....

5 ASSUMPTION:

6 THE AGENT, AND EACH SUCCESSOR AGENT, BY ACCEPTING THIS  
7 APPOINTMENT, AGREES TO AND ASSUMES THE OBLIGATIONS  
8 PROVIDED HEREIN. AN AGENT MAY SIGN AT ANY TIME, BUT AN  
9 AGENT'S AUTHORITY TO ACT IS NOT EFFECTIVE UNTIL THE AGENT  
10 SIGNS BELOW TO INDICATE THE ACCEPTANCE OF APPOINTMENT. ANY  
11 NUMBER OF AGENTS MAY SIGN, BUT ONLY THE SIGNATURE OF THE  
12 AGENT ACTING AT ANY TIME IS REQUIRED.

13 AGENT:

14 Name: .....

15 Address: .....

16 Telephone Number: .....

17 Signature Indicating Acceptance of Appointment:

18 .....

19 ~~Signature of Agent: .....~~

20 Date of Signature: .....

21 SUCCESSORS:

22 If my agent dies, becomes legally disabled, resigns, or  
23 refuses to act, I hereby appoint the following persons  
24 (each to act alone and successively, in the order named) to  
25 serve as my agent (attorney-in-fact) to control the  
26 disposition of my remains as authorized by this document:

27 1. First Successor

28 Name: .....

29 Address: .....

30 Telephone Number: .....

1 Signature Indicating Acceptance of Appointment: .....  
2 Date of Signature: .....

3 2. Second Successor

4 Name: .....  
5 Address: .....  
6 Telephone Number: .....  
7 Signature Indicating Acceptance of Appointment: .....  
8 Date of Signature: .....

9 DURATION:

10 This appointment becomes effective upon my death.

11 PRIOR APPOINTMENTS REVOKED:

12 I hereby revoke any prior appointment of any person to  
13 control the disposition of my remains.

14 RELIANCE:

15 I hereby agree that any cemetery organization,  
16 business operating a crematory or columbarium or both,  
17 funeral director or embalmer, or funeral establishment who  
18 receives a copy of this document may act under it. Any  
19 modification or revocation of this document is not  
20 effective as to any such party until that party receives  
21 actual notice of the modification or revocation. No such  
22 party shall be liable because of reliance on a copy of this  
23 document.

24 ~~ASSUMPTION:~~

25 ~~THE AGENT, AND EACH SUCCESSOR AGENT, BY ACCEPTING THIS~~  
26 ~~APPOINTMENT, AGREES TO AND ASSUMES THE OBLIGATIONS~~  
27 ~~PROVIDED HEREIN.~~

28 Signed this ..... day of ....., .....

1 .....

2 STATE OF .....

3 COUNTY OF .....

4 BEFORE ME, the undersigned, a Notary Public, on this  
5 day personally appeared ....., proved to me  
6 on the basis of satisfactory evidence to be the person  
7 whose name is subscribed to the foregoing instrument and  
8 acknowledged to me that he/she executed the same for the  
9 purposes and consideration therein expressed.

10 GIVEN UNDER MY HAND AND SEAL OF OFFICE this ..... day  
11 of ....., 2.....

12 .....

13 Printed Name: .....

14 Notary Public, State of .....

15 My Commission Expires:

16 .....".

17 (Source: P.A. 94-561, eff. 1-1-06.)

18 (755 ILCS 65/15)

19 Sec. 15. Requirements for written instrument under  
20 paragraph (1) of Section 5 of this Act. A written instrument is  
21 legally sufficient under paragraph (1) of Section 5 if the  
22 wording of the instrument complies substantially with Section  
23 10, the instrument is properly completed, the instrument is  
24 signed by the decedent and, ~~the agent, and each successor~~  
25 ~~agent,~~ and the signature of the decedent is notarized. The  
26 agent may sign at any time, but the agent's authority to act is  
27 not effective until the agent signs the instrument. The written

1 instrument may be modified or revoked only by a subsequent  
2 written instrument that complies with this Section.

3 (Source: P.A. 94-561, eff. 1-1-06.)

4 (755 ILCS 65/40)

5 Sec. 40. Directions by decedent.

6 (a) A person may provide written directions for the  
7 disposition or designate an agent to direct the disposition,  
8 including cremation, of the person's remains in a will, a  
9 prepaid funeral or burial contract, a power of attorney that  
10 satisfies the provisions of Article IV-Powers of Attorney for  
11 Health Care of the Illinois Power of Attorney Act and contains  
12 a power to direct the disposition of remains, a cremation  
13 authorization form that complies with the Crematory Regulation  
14 Act, or in a written instrument that satisfies the provisions  
15 of Sections 10 and 15 and that is signed by the person and  
16 notarized. The directions may be modified or revoked only by a  
17 subsequent writing signed by the person, ~~and notarized.~~ The  
18 person otherwise entitled to control the disposition of a  
19 decedent's remains under this Act shall faithfully carry out  
20 the directions of the decedent to the extent that the  
21 decedent's estate or the person controlling the disposition are  
22 financially able to do so.

23 The changes made by this amendatory Act of the 94th General  
24 Assembly shall also apply to any written instrument that: (i)  
25 satisfies the provision of Article IV-Powers of Attorney for  
26 Health Care of the Illinois Power of Attorney Act; (ii)  
27 contains a power to direct the disposition of remains; and  
28 (iii) was created before the effective date of this amendatory  
29 Act.

30 (b) If the directions are in a will, they shall be carried  
31 out immediately without the necessity of probate. If the will  
32 is not probated or is declared invalid for testamentary  
33 purposes, the directions are valid to the extent to which they  
34 have been acted on in good faith.

35 (Source: P.A. 94-561, eff. 1-1-06.)

1           Section 99. Effective date. This Act takes effect upon  
2    becoming law.