

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 Section 40 as follows:

6 (755 ILCS 65/40)

7 Sec. 40. Directions by decedent.

8 (a) A person may provide written directions for the
9 disposition or designate an agent to direct the disposition,
10 including cremation, of the person's remains in a will, a
11 prepaid funeral or burial contract, a power of attorney that
12 satisfies the provisions of Article IV-Powers of Attorney for
13 Health Care of the Illinois Power of Attorney Act and contains
14 a power to direct the disposition of remains, a cremation
15 authorization form that complies with the Crematory Regulation
16 Act, or in a written instrument that satisfies the provisions
17 of Sections 10 and 15 and that is signed by the person and
18 notarized. The directions may include instructions regarding
19 gender identity, including, but not limited to, instructions
20 with respect to appearance, chosen name, and gender pronouns,
21 regardless of whether the person has obtained a court-ordered
22 name change, changed the gender marker on any identification
23 document, or undergone any transition-related medical

1 treatment. The directions may be modified or revoked only by a
2 subsequent writing signed by the person. The person otherwise
3 entitled to control the disposition of a decedent's remains
4 under this Act shall faithfully carry out the directions of the
5 decedent to the extent that the decedent's estate or the person
6 controlling the disposition are financially able to do so.

7 The changes made by this amendatory Act of the 94th General
8 Assembly shall also apply to any written instrument that: (i)
9 satisfies the provision of Article IV-Powers of Attorney for
10 Health Care of the Illinois Power of Attorney Act; (ii)
11 contains a power to direct the disposition of remains; and
12 (iii) was created before the effective date of this amendatory
13 Act.

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

19 (Source: P.A. 94-561, eff. 1-1-06; 94-1051, eff. 7-24-06.)