

AN ACT concerning civil law.

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

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

(755 ILCS 65/5)

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

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

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

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

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

than one-half of all surviving competent adult children;

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

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

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

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

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

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

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

(755 ILCS 65/10)

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

"APPOINTMENT OF AGENT TO CONTROL DISPOSITION OF REMAINS

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

SPECIAL DIRECTIONS:

Set forth below are any special directions limiting the power granted to my agent:

.....
.....
.....

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

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

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

arrangements, if they deem a change to be appropriate:

.....
.....
.....

ASSUMPTION:

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

AGENT:

Name:

Address:

Telephone Number:

Signature Indicating Acceptance of Appointment:

.....

~~Signature of Agent:~~

Date of Signature:

SUCCESSORS:

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

1. First Successor

Name:

Address:

Telephone Number:

Signature Indicating Acceptance of Appointment:
Date of Signature:

2. Second Successor

Name:
Address:
Telephone Number:
Signature Indicating Acceptance of Appointment:
Date of Signature:

DURATION:

This appointment becomes effective upon my death.

PRIOR APPOINTMENTS REVOKED:

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

RELIANCE:

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

~~ASSUMPTION:~~

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

Signed this day of,

.....

STATE OF

COUNTY OF

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

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

.....

Printed Name:

Notary Public, State of

My Commission Expires:
....."

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

(755 ILCS 65/15)

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

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

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

(755 ILCS 65/40)

Sec. 40. Directions by decedent.

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

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

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

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

Public Act 094-1051

SB2673 Enrolled

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