

HOUSE BILL No. 2403

By Committee on Federal and State Affairs

Requested by Representative Howerton

3-6

AN ACT concerning public health; relating to the disposal of a decedent's remains; establishing the order of priority of a decedent's surviving parents who cannot agree on the disposition of such decedent's remains; amending K.S.A. 65-1734 and repealing the existing section.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 65-1734 is hereby amended to read as follows: 65-1734. (a) The following persons, in order of priority stated, may order any lawful manner of final disposition of a decedent's remains including burial, cremation, entombment or anatomical donation:

(1) The agent for health care decisions established by a durable power of attorney for health care decisions pursuant to K.S.A. 58-625 et seq., and amendments thereto, if such power of attorney conveys to the agent the authority to make decisions concerning disposition of the decedent's remains;

(2) the spouse of the decedent;

(3) the decedent's surviving adult children. If there is more than one adult child, any adult child who confirms in writing the notification of all other adult children; may direct the manner of disposition unless the funeral establishment or crematory authority receives written objection to the manner of disposition from another adult child;

(4) the decedent's surviving parents, *subject to the following:*

(A) *If such surviving parents cannot agree on disposition of the remains within 60 days of the date of death, then the mother alone shall have first priority for a period of 30 days. If the mother does not order any lawful manner of final disposition of the remains within such 30-day period, then the father shall be given first priority; and*

(B) *any such parent who is incarcerated may sign a statement that has been notarized to authorize final disposition;*

(5) the persons in the next degree of kinship under the laws of descent and distribution to inherit the estate of the decedent. If there is more than one person of the same degree, any person of ~~that~~ *such* degree may direct the manner of disposition;

(6) a guardian of the person of the decedent at the time of such person's death;

1 (7) the personal representative of the decedent; or

2 (8) in the case of indigents or any other individuals whose final
3 disposition is the responsibility of the state or county, the public official
4 charged with arranging the final disposition pursuant to K.S.A. 22a-215,
5 and amendments thereto.

6 (b) If the decedent died during active military service, as provided in
7 10 U.S.C. § 1481(a)(1) through (8), in any branch of the United States
8 armed forces, United States reserve forces or national guard, the person
9 authorized by the decedent to direct disposition pursuant to public law
10 109-163, § 564, as listed on the decedent's United States department of
11 defense record of emergency data, DD form 93, or its successor form, shall
12 take priority over all other persons described in subsection (a).

13 (c) A funeral director, funeral establishment or crematory shall not be
14 subject to criminal prosecution or civil liability for carrying out the
15 otherwise lawful instructions of the person or persons under subsection (a)
16 if the funeral director reasonably believes *that* such person is entitled to
17 control final disposition.

18 Sec. 2. K.S.A. 65-1734 is hereby repealed.

19 Sec. 3. This act shall take effect and be in force from and after its
20 publication in the statute book.