

SENATE BILL No. 221

By Committee on Ways and Means

2-25

1 AN ACT concerning cremation; priority of decedents fully funded
2 prearranged cremation plan; amending K.S.A. 2012 Supp. 65-1734 and
3 repealing the existing section.
4

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

6 Section 1. K.S.A. 2012 Supp. 65-1734 is hereby amended to read as
7 follows: 65-1734. (a) *Except as set forth in subsection (d)*, the following
8 persons, in order of priority stated, may order any lawful manner of final
9 disposition of a decedent's remains including burial, cremation,
10 entombment or anatomical donation:

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

16 (2) the spouse of the decedent;

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

22 (4) the decedent's surviving parents;

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

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

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

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

34 (b) If the decedent died during active military service, as provided in
35 10 U.S.C. § 1481(a)(1) through (8), in any branch of the United States
36 armed forces, United States reserve forces or national guard, the person

1 authorized by the decedent to direct disposition pursuant to public law
2 109-163, § 564, as listed on the decedent's United States department of
3 defense record of emergency data, DD Form 93, or its successor form,
4 shall take priority over all other persons described in subsection (a).

5 (c) A funeral director, funeral establishment or crematory shall not be
6 subject to criminal prosecution or civil liability for carrying out the
7 otherwise lawful instructions of the person or persons under subsection (a)
8 if the funeral director reasonably believes such person is entitled to control
9 final disposition.

10 (d) *A notarized authorization of cremation of remains made by a*
11 *decedent with fully funded prearrangements will be honored and have*
12 *priority over the wishes of all other persons, including those persons listed*
13 *in subsection (a).*

14 Sec. 2. K.S.A. 2012 Supp. 65-1734 is hereby repealed.

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