

HB5678



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

HB5678

Introduced 2/9/2010, by Rep. Robert W. Pritchard

SYNOPSIS AS INTRODUCED:

755 ILCS 65/5

Amends the Disposition of Remains Act. Provides that notwithstanding provisions to the contrary, in the case of decedents who die while serving as members of the United States Armed Forces, the Illinois National Guard, or the United States Reserved Forces, and who have executed the required U.S. Department of Defense Record of Emergency Data Form (DD Form 93), or successor form, the person designated in such form to direct disposition of the decedent's remains shall have the right to control the disposition, including cremation, of the decedent's remains. Effective immediately.

LRB096 17049 KTG 35895 b

A BILL FOR

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 5 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;

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

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

17 (6) the surviving competent adult person or persons
18 respectively in the next degrees of kindred or, if there is
19 more than one surviving competent adult person of the same
20 degree of kindred, the majority of those persons; less than
21 the majority of surviving competent adult persons of the
22 same degree of kindred shall be vested with the rights and
23 duties of this Act if those persons have used reasonable
24 efforts to notify all other surviving competent adult
25 persons of the same degree of kindred of their instructions
26 and are not aware of any opposition to those instructions

1 on the part of one-half or more of all surviving competent
2 adult persons of the same degree of kindred;

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

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

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

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

20 Notwithstanding provisions to the contrary, in the case of
21 decedents who die while serving as members of the United States
22 Armed Forces, the Illinois National Guard, or the United States
23 Reserved Forces, as defined in Section 1481 of Title 10 of the
24 United States Code, and who have executed the required U.S.
25 Department of Defense Record of Emergency Data Form (DD Form
26 93), or successor form, the person designated in such form to

1 direct disposition of the decedent's remains shall have the
2 right to control the disposition, including cremation, of the
3 decedent's remains.

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

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