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1 AMENDMENT TO SENATE BILL 2673

2 AMENDMENT NO. _____. Amend Senate Bill 2673 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Disposition of Remains Act is amended by
5 changing Sections 5, 10, 15, and 40 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;

24 (4) the sole surviving competent adult child of the

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

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

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

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

34 (8) in the case of individuals who have donated their

1 bodies to science, or whose death occurred in a nursing
 2 home or other private institution, who have executed
 3 cremation authorization forms under Section 65 of the
 4 Crematory Regulation Act and the institution is charged
 5 with making arrangements for the final disposition of the
 6 decedent, a representative of the institution; or

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

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

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

12 (755 ILCS 65/10)

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

16 "APPOINTMENT OF AGENT TO CONTROL DISPOSITION OF REMAINS

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

26 SPECIAL DIRECTIONS:

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

29

1
2

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

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

8 () I wish to allow only the survivors I have designated below
9 the option of canceling my cremation and selecting alternative
10 arrangements, if they deem a change to be appropriate:

11
12
13

14 ASSUMPTION:

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

22 AGENT:

23 Name:

24 Address:

25 Telephone Number:

26 Signature Indicating Acceptance of Appointment:

27

28 ~~Signature of Agent:~~

1 Date of Signature:

2 SUCCESSORS:

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

8 1. First Successor

9 Name:

10 Address:

11 Telephone Number:

12 Signature Indicating Acceptance of Appointment:

13 Date of Signature:

14 2. Second Successor

15 Name:

16 Address:

17 Telephone Number:

18 Signature Indicating Acceptance of Appointment:

19 Date of Signature:

20 DURATION:

21 This appointment becomes effective upon my death.

22 PRIOR APPOINTMENTS REVOKED:

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

25 RELIANCE:

26 I hereby agree that any cemetery organization,

1 business operating a crematory or columbarium or both,
 2 funeral director or embalmer, or funeral establishment who
 3 receives a copy of this document may act under it. Any
 4 modification or revocation of this document is not
 5 effective as to any such party until that party receives
 6 actual notice of the modification or revocation. No such
 7 party shall be liable because of reliance on a copy of this
 8 document.

9 ~~ASSUMPTION.~~

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

13 Signed this day of,

14

15 STATE OF

16 COUNTY OF

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

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

25

1 Printed Name:

2 Notary Public, State of

3 My Commission Expires:

4".

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

6 (755 ILCS 65/15)

7 Sec. 15. Requirements for written instrument under
8 paragraph (1) of Section 5 of this Act. A written instrument is
9 legally sufficient under paragraph (1) of Section 5 if the
10 wording of the instrument complies substantially with Section
11 10, the instrument is properly completed, the instrument is
12 signed by the decedent and, the agent, ~~and each successor~~
13 ~~agent,~~ and the signature of the decedent is notarized. The
14 agent may sign at any time, but the agent's authority to act is
15 not effective until the agent signs the instrument. The written
16 instrument may be modified or revoked only by a subsequent
17 written instrument that complies with this Section.

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

19 (755 ILCS 65/40)

20 Sec. 40. Directions by decedent.

21 (a) A person may provide written directions for the
22 disposition or designate an agent to direct the disposition,
23 including cremation, of the person's remains in a will, a
24 prepaid funeral or burial contract, a power of attorney that
25 satisfies the provisions of Article IV-Powers of Attorney for
26 Health Care of the Illinois Power of Attorney Act and contains
27 a power to direct the disposition of remains, a cremation
28 authorization form that complies with the Crematory Regulation
29 Act, or in a written instrument that satisfies the provisions
30 of Sections 10 and 15 and that is signed by the person and

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

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

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

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

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