

SENATE SUBSTITUTE
FOR
SENATE BILL NO. 416

AN ACT

To repeal sections 194.119 and 214.208, RSMo, and to enact in lieu thereof two new sections relating to the disposition of dead bodies.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF MISSOURI,
AS FOLLOWS:

1 Section A. Sections 194.119 and 214.208, RSMo, are repealed
2 and two new sections enacted in lieu thereof, to be known as
3 sections 194.119 and 214.208, to read as follows:

4 194.119. 1. As used in this section, the term "right of
5 sepulcher" means the right to choose and control the burial,
6 cremation, or other final disposition of a dead human body.

7 2. For purposes of this chapter and chapters 193, 333, and
8 436, and in all cases relating to the custody, control, and
9 disposition of deceased human remains, including the common law
10 right of sepulcher, where not otherwise defined, the term
11 "next-of-kin" means the following persons in the priority listed
12 if such person is eighteen years of age or older, is mentally
13 competent, and is willing to assume responsibility for the costs
14 of disposition:

15 (1) An attorney in fact designated in a durable power of
16 attorney wherein the deceased specifically granted the right of
17 sepulcher over his or her body to such attorney in fact;

18 (2) For a decedent who was on active duty in the United

1 States military at the time of death, the person designated by
2 such decedent in the written instrument known as the United
3 States Department of Defense Form 93, Record of Emergency Data,
4 in accordance with P.L. 109-163, Section 564, 10 U.S.C. Section
5 1482;

6 (3) The surviving spouse;

7 (4) Any surviving child of the deceased. If a surviving
8 child is less than eighteen years of age and has a legal or
9 natural guardian, such child shall not be disqualified on the
10 basis of the child's age and such child's legal or natural
11 guardian, if any, shall be entitled to serve in the place of the
12 child unless such child's legal or natural guardian was subject
13 to an action in dissolution from the deceased. In such event the
14 person or persons who may serve as next-of-kin shall serve in the
15 order provided in subdivisions (5) to (9) of this subsection;

16 (5) (a) Any surviving parent of the deceased; or

17 (b) If the deceased is a minor, a surviving parent who has
18 custody of the minor; or

19 (c) If the deceased is a minor and the deceased's parents
20 have joint custody, the parent whose residence is the minor
21 child's residence for purposes of mailing and education;

22 (6) Any surviving sibling of the deceased;

23 (7) The next nearest surviving relative of the deceased by
24 consanguinity or affinity;

25 (8) Any person or friend who assumes financial
26 responsibility for the disposition of the deceased's remains if
27 no next-of-kin assumes such responsibility;

28 (9) The county coroner or medical examiner; provided

1 however that such assumption of responsibility shall not make the
2 coroner, medical examiner, the county, or the state financially
3 responsible for the cost of disposition.

4 3. The next-of-kin of the deceased shall be entitled to
5 control the final disposition of the remains of any dead human
6 being consistent with all applicable laws, including all
7 applicable health codes.

8 4. A funeral director or establishment is entitled to rely
9 on and act according to the lawful instructions of any person
10 claiming to be the next-of-kin of the deceased; provided however,
11 in any civil cause of action against a funeral director or
12 establishment licensed pursuant to this chapter for actions taken
13 regarding the funeral arrangements for a deceased person in the
14 director's or establishment's care, the relative fault, if any,
15 of such funeral director or establishment may be reduced if such
16 actions are taken in reliance upon a person's claim to be the
17 deceased person's next-of-kin.

18 5. Any person who desires to exercise the right of
19 sepulcher and who has knowledge of an individual or individuals
20 with a superior right to control disposition shall notify such
21 individual or individuals prior to making final arrangements.

22 6. If an individual with a superior claim is personally
23 served with written notice from a person with an inferior claim
24 that such person desires to exercise the right of sepulcher and
25 the individual so served does not object within forty-eight hours
26 of receipt, such individual shall be deemed to have waived such
27 right. An individual with a superior right may also waive such
28 right at any time if such waiver is in writing and dated.

1 7. If there is more than one person in a class who are
2 equal in priority and the funeral director has no knowledge of
3 any objection by other members of such class, the funeral
4 director or establishment shall be entitled to rely on and act
5 according to the instructions of the first such person in the
6 class to make arrangements; provided that such person assumes
7 responsibility for the costs of disposition and no other person
8 in such class provides written notice of his or her objection.
9 If the funeral director has knowledge that there is more than one
10 person in a class who are equal in priority and who do not agree
11 on the disposition, the decision of the majority of the members
12 of such class shall control the disposition.

13 8. For purposes of conducting a majority vote under
14 subsection 7 of this section, the funeral director shall allow
15 voting by proxy using a written authorization or instrument.

16 214.208. 1. Every person or association which owns any
17 cemetery in which dead human remains are buried or otherwise
18 interred is authorized, at the cemetery owner's expense, to
19 disinter individual remains and reinter or rebury the remains at
20 another location within the cemetery in order to correct an error
21 made in the original burial or interment of the remains.

22 2. Every person or association which owns any cemetery in
23 which dead human remains are buried or otherwise interred is
24 authorized to disinter individual remains and either to reinter
25 or rebury the remains at another location within the cemetery or
26 to deliver the remains to a carrier for transportation out of the
27 cemetery, all pursuant to written instructions signed and
28 acknowledged by the next-of-kin at the time of death of the

1 deceased person as set out in section 194.119. If the next-of-
2 kin at the time of death as set out in section 194.119 is no
3 longer living, then a majority of the following adult members of
4 the deceased person's family who are then known and living:
5 surviving spouse, children, and parents may authorize the
6 disinterment. If none of the above family members survive the
7 deceased, then the majority of the grandchildren, brothers and
8 sisters of whole and half blood may authorize the disinterment,
9 relocation or delivery of the remains of the deceased. The costs
10 of such disinterment, relocation or delivery shall be paid by the
11 deceased person's family.

12 3. Every person or association which owns any cemetery in
13 which dead human remains are buried or otherwise interred is
14 authorized to disinter individual remains and either to reinter
15 or rebury the remains at another location within the cemetery or
16 to deliver the remains to a carrier for transportation out of the
17 cemetery, all pursuant to a final order issued by the circuit
18 court for the county in which the cemetery is located. The court
19 may issue the order, in the court's discretion and upon such
20 notice and hearing as the court shall deem appropriate, for good
21 cause shown, including without limitation, the best interests of
22 public health or safety, the best interests of the deceased
23 person's family, or the reasonable requirements of the cemetery
24 to facilitate the operation, maintenance, improvement or
25 enlargement of the cemetery. The costs of such disinterment,
26 relocation and delivery, and the related court proceedings, shall
27 be paid by the persons so ordered by the court.

28 4. The cemetery owner, cemetery operator, funeral director,

1 funeral establishment, or any other person or entity involved in
2 the process shall not be liable to the deceased person's family
3 or to any third party for a disinterment, relocation or delivery
4 of deceased human remains made pursuant to this section.

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