

SENATE AMENDMENT NO. _____

Offered by _____ Of _____

Amend SCS/HCS/House Bill No. 447, Page 1, Section title, Line 3,

2 of the title, by striking "coroners" and inserting in lieu
3 thereof the following: "the deceased"; and

4 Further amend said bill, page 12, section 193.145, line 22
5 by inserting immediately after "193.265." an opening bracket "[";
6 and further amend line 28, by inserting at the end of said line a
7 closing bracket "]""; and

8 Further amend said bill and section, page 13, line 48, by
9 inserting immediately after "certification" the following: "and
10 attestation"; and further amend line 49, by inserting immediately
11 after "certification" the following: "and attestation"; and

12 Further amend said bill and section, page 14, line 68, by
13 inserting immediately after "information" the following: "and
14 attestation"; and further amend line 71, by inserting immediately
15 after "data" the following: "and attestation"; and further amend
16 line 73, by inserting immediately after "certification" the
17 following: "and attestation"; and

18 Further amend said bill and section, page 15, line 111, by
19 striking "(1)"; and further amend lines 116-122, by striking all
20 of said lines; and

21 Further amend said bill, page 17, section 193.265, line 72,
22 by inserting immediately after "records." the following: "In the
23 event that it is determined by the state registrar that any
24 required information from any data provider was missing or

1 incomplete on records or documentation that were filed with or
2 submitted to the local registrar and then sent to the state
3 registrar, the state registrar shall return the records or
4 documentation to the local registrar so that the data provider,
5 funeral director, or person in charge of the final disposition,
6 can provide the missing or incomplete information. Nothing in
7 this subsection removes any requirement in any statute or
8 regulation as to when an affidavit or court order is necessary to
9 amend a death certificate that has been issued."; and

10 Further amend said bill, page 18, section 193.265, line 74,
11 by inserting after all of said line the following:

12 "194.119. 1. As used in this section, the term "right of
13 sepulcher" means the right to choose and control the burial,
14 cremation, or other final disposition of a dead human body.

15 2. For purposes of this chapter and chapters 193, 333, and
16 436, and in all cases relating to the custody, control, and
17 disposition of deceased human remains, including the common law
18 right of sepulcher, where not otherwise defined, the term
19 "next-of-kin" means the following persons in the priority listed
20 if such person is eighteen years of age or older, is mentally
21 competent, and is willing to assume responsibility for the costs
22 of disposition:

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

26 (2) For a decedent who was on active duty in the United
27 States military at the time of death, the person designated by
28 such decedent in the written instrument known as the United
29 States Department of Defense Form 93, Record of Emergency Data,

1 in accordance with [P.L. 109-163, Section 564,] 10 U.S.C. Section
2 1482;

3 (3) The surviving spouse, unless an action for the
4 dissolution of the marriage has been filed and is pending in a
5 court of competent jurisdiction;

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

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

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

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

21 (6) Any surviving sibling of the deceased;

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

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

27 (9) The county coroner or medical examiner; provided
28 however that such assumption of responsibility shall not make the
29 coroner, medical examiner, the county, or the state financially

1 responsible for the cost of disposition.

2 3. The next-of-kin of the deceased shall be entitled to
3 control the final disposition of the remains of any dead human
4 being consistent with all applicable laws, including all
5 applicable health codes. The next-of-kin may delegate the
6 control of the final disposition of the remains of any dead human
7 being to an agent through either a specific or general grant of
8 power in accordance with section 404.710 if, at the time of
9 delegation, the next-of-kin was eighteen years of age or older
10 and mentally competent and the principal or agent is taking
11 financial responsibility for the disposition.

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

22 5. Any person who desires to exercise the right of
23 sepulcher and who has knowledge of an individual or individuals
24 with a superior right to control disposition shall notify such
25 individual or individuals prior to making final arrangements.

26 6. If an individual with a superior claim is [personally
27 served with written notice from] notified in person or by written
28 notice with delivery confirmation to such person's last known
29 address by a person with an inferior claim that such person

1 desires to exercise the right of sepulcher and the individual so
2 served does not object within forty-eight hours of [receipt] such
3 notice, such individual shall be deemed to have waived such
4 right. An individual with a superior right may also waive such
5 right at any time if such waiver is in writing and dated.

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

18 8. For purposes of conducting a majority vote under
19 subsection 7 of this section, the funeral director shall allow
20 voting by proxy using a written authorization or instrument.";
21 and

22 Further amend the title and enacting clause accordingly.