

**DISPOSITION OF THE REMAINS OF A
DECEASED MILITARY SERVICE MEMBER**

2010 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Jennifer M. Seelig

Senate Sponsor: Curtis S. Bramble

LONG TITLE

General Description:

This bill amends a provision of the Funeral Services Licensing Act dealing with the disposition of the remains of deceased persons.

Highlighted Provisions:

This bill:

- ▶ provides that a person designated ~~§~~ [by] ~~§~~ ~~§~~ [an active duty military service member in a federal DD Form 93, Record of Emergency Data,] ~~§~~ in a federal Record of Emergency Data, DD Form 93 or subsequent form by ~~§~~ a service member while serving in a branch of the United States Armed Forces as defined in 10 U.S.C. Sec. 1481 ~~§~~ is a first priority person in determining the disposition of the remains of the military service member upon the service member's death; and

- ▶ makes certain technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

58-9-602, as last amended by Laws of Utah 2007, Chapter 144

Be it enacted by the Legislature of the state of Utah:

H.B. 208



28 Section 1. Section **58-9-602** is amended to read:

29 **58-9-602. Determination of control of disposition.**

30 The right and duty to control the disposition of a deceased person, including the
31 location, manner and conditions of the disposition, and arrangements for funeral goods and
32 services to be provided vest in the following degrees of relationship in the order named,
33 provided the person is at least 18 and is mentally competent:

34 (1) a person designated ~~H~~→ [in] ←~~H~~ :

35 (a) ~~H~~→ in ←~~H~~ a written instrument, excluding a power of attorney that terminates at death
35a under

36 Sections 75-5-501 and 75-5-502, if the written instrument contains:

37 [~~a~~] (i) the name and address of the decedent;

38 [~~b~~] (ii) the name and address of the person designated under this Subsection (1)(a);

39 [~~c~~] (iii) directions that the person designated in this Subsection (1) is authorized to
40 carry out the disposition of the decedent's remains;

41 [~~d~~] (iv) the signature of the decedent;

42 [~~e~~] (v) the signatures of at least two unrelated individuals who are not the person
43 designated under this Subsection (1), each of whom signed within a reasonable time after
44 witnessing the signing of the form by the decedent; and

45 [~~f~~] (vi) the date or dates the written instrument was prepared and signed; or

46 (b) ~~H~~→ [~~a federal DD Form 93, Record of Emergency Data;~~] ←~~H~~ by a
46a ~~H~~→ [military] ←~~H~~ service member
47 ~~H~~→ [~~on active duty~~] while serving in a branch of the United States Armed Forces as defined in
47a 10 U.S.C. Sec. 1481 ←~~H~~ ~~S~~→ in a federal Record of Emergency Data, DD Form 93 or
47b subsequent form ←~~S~~ :

48 (2) the surviving, legally recognized spouse of the decedent;

49 (3) (a) the sole surviving child of the decedent, or if there is more than one child of the
50 decedent, the majority of the surviving children;

51 (b) less than one-half of the surviving children are vested with the rights of this section
52 if they have used reasonable efforts to notify all other surviving children of their instructions
53 and are not aware of any opposition to those instructions on the part of more than one-half of
54 all surviving children;

55 (4) the surviving parent or parents of the decedent, and if one of the surviving parents
56 is absent, the remaining parent is vested with the rights and duties of this section after
57 reasonable efforts have been unsuccessful in locating the absent surviving parent;

58 (5) (a) the surviving brother or sister of the decedent, or if there is more than one

59 sibling of the decedent, the majority of the surviving siblings;

60 (b) less than the majority of surviving siblings are vested with the rights and duties of
61 this section if they have used reasonable efforts to notify all other surviving siblings of their
62 instructions and are not aware of any opposition to those instructions on the part of more than
63 one-half of all surviving siblings;

64 (6) the person in the classes of the next degree of kinship, in descending order, under
65 the laws of descent and distribution to inherit the estate of the decedent, and if there is more
66 than one person of the same degree, any person of that degree may exercise the right of
67 disposition;

68 (7) any public official charged with arranging the disposition of deceased persons; and

69 (8) in the absence of any person under Subsections (1) through (7), any other person
70 willing to assume the responsibilities to act and arrange the final disposition of the decedent's
71 remains, including the personal representative of the decedent's estate or the funeral service
72 director with custody of the body, after attesting in writing that a good faith effort has been
73 made to no avail to contact the individuals referred to in Subsections (1) through (7).

Legislative Review Note

as of 12-22-09 9:23 AM

Office of Legislative Research and General Counsel

H.B. 208 - Disposition of the Remains of a Deceased Military Service Member

Fiscal Note

2010 General Session

State of Utah

State Impact

Enactment of this bill will not require additional appropriations.

Individual, Business and/or Local Impact

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals, businesses, or local governments.
