

Effective 5/10/2016

58-9-602 Determination of control of disposition.

The right and duty to control the disposition of a deceased person, which may include cremation as well as the location, manner and conditions of the disposition, and arrangements for funeral goods and services to be provided, vests in the following degrees of relationship in the order named, provided the person is at least 18 and is mentally competent:

- (1) the person designated:
 - (a) in a written instrument, excluding a power of attorney that terminates at death under Section 75-9-110, if the written instrument is acknowledged before a Notary Public or executed with the same formalities required of a will under Section 75-2-502; or
 - (b) by a service member while serving in a branch of the United States Armed Forces as defined in 10 U.S.C. Sec. 1481 in a federal Record of Emergency Data, DD Form 93 or subsequent form;
- (2) the surviving, legally recognized spouse of the decedent, unless a personal representative was nominated by the decedent subsequent to the marriage, in which case the personal representative shall take priority over the spouse;
- (3) the person nominated to serve as the personal representative of the decedent's estate in a will executed with the formalities required in Section 75-2-502;
- (4)
 - (a) the sole surviving child of the decedent, or if there is more than one child of the decedent, the majority of the surviving children;
 - (b) less than one-half of the surviving children are vested with the rights of this section if they have used reasonable efforts to notify all other surviving children of their instructions and are not aware of any opposition to those instructions on the part of more than one-half of all surviving children;
- (5) the surviving parent or parents of the decedent, however:
 - (a) if one of the surviving parents is absent, the remaining parent is vested with the rights and duties of this section after reasonable efforts have been unsuccessful in locating the absent surviving parent; or
 - (b) if the parents are divorced or separated and the decedent was an incapacitated adult, the parent who was designated as the guardian of the decedent is vested with the rights and duties of this section;
- (6)
 - (a) the surviving brother or sister of the decedent, or if there is more than one sibling of the decedent, the majority of the surviving siblings;
 - (b) less than the majority of surviving siblings, if they have used reasonable efforts to notify all other surviving siblings of their instructions and are not aware of any opposition to those instructions on the part of more than one-half of all surviving siblings;
- (7) the person in the classes of the next degree of kinship, in descending order, under the laws of descent and distribution to inherit the estate of the decedent, and if there is more than one person of the same degree, any person of that degree may exercise the right of disposition;
- (8) in the absence of any person under Subsections (1) through (7), the person who was the decedent's guardian at the time of death;
- (9) any public official charged with arranging the disposition of deceased persons; and
- (10) in the absence of any person under Subsections (1) through (9), any other person willing to assume the responsibilities to act and arrange the final disposition of the decedent's remains, including the personal representative of the decedent's estate or the funeral service director

with custody of the body, after attesting in writing that a good faith effort has been made to no avail to contact the individuals referred to in Subsections (1) through (9).

Amended by Chapter 256, 2016 General Session