

DISPOSITION OF THE REMAINS OF A
DECEASED MILITARY SERVICE MEMBER

2010 GENERAL SESSION

STATE OF UTAH

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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 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:

32 None

33 **Utah Code Sections Affected:**

34 AMENDS:

35 **58-9-602**, as last amended by Laws of Utah 2007, Chapter 144



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

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

39 **58-9-602. Determination of control of disposition.**

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

44 (1) a person designated [~~in~~]:

45 (a) in a written instrument, excluding a power of attorney that terminates at death
46 under Sections 75-5-501 and 75-5-502, if the written instrument contains:

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

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

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

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

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

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

56 (b) by a service member while serving in a branch of the United States Armed Forces
57 as defined in 10 U.S.C. Sec. 1481 in a federal Record of Emergency Data, DD Form 93 or
58 subsequent form;

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

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

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

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

69 (5) (a) the surviving brother or sister of the decedent, or if there is more than one
70 sibling of the decedent, the majority of the surviving siblings;

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

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

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

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