

DISABLED ADULT GUARDIANSHIP AMENDMENTS

2015 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Rebecca P. Edwards

Senate Sponsor: J. Stuart Adams

LONG TITLE

General Description:

This bill provides for the disposition of the remains of a decedent when the decedent was a disabled adult residing with a guardian.

Highlighted Provisions:

This bill:

- ▶ allows for situations where a parent caring for a disabled adult child is divorced or separated from the other parent and the disabled adult dies; and
- ▶ provides for a person who was a guardian of an incapacitated adult to direct the disposition of the decedent's remains if there is no other person.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

58-9-602, as last amended by Laws of Utah 2013, Chapter 364

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

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

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



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

33 (1) the person designated:

34 (a) in a written instrument, excluding a power of attorney that terminates at death under
35 Sections 75-5-501 and 75-5-502, if the written instrument is acknowledged before a Notary
36 Public or executed with the same formalities required of a will under Section 75-2-502; or

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

40 (2) the surviving, legally recognized spouse of the decedent, unless a personal
41 representative was nominated by the decedent subsequent to the marriage, in which case the
42 personal representative shall take priority over the spouse;

43 (3) the person nominated to serve as the personal representative of the decedent's estate
44 in a will executed with the formalities required in Section 75-2-502;

45 (4) (a) the sole surviving child of the decedent, or if there is more than one child of the
46 decedent, the majority of the surviving children;

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

51 (5) the surviving parent or parents of the decedent, [~~and~~] however:

52 (a) if one of the surviving parents is absent, the remaining parent is vested with the
53 rights and duties of this section after reasonable efforts have been unsuccessful in locating the
54 absent surviving parent; or

55 (b) if the parents are divorced or separated and the decedent was an incapacitated adult,
56 the parent who was designated as the guardian of the decedent is vested with the rights and
57 duties of this section;

58 (6) (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 (7) 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 (8) in the absence of any person under Subsections (1) through (7), the person who was
69 the decedent's guardian at the time of death;

70 [~~(8)~~] (9) any public official charged with arranging the disposition of deceased persons;
71 and

72 [~~(9)~~] (10) in the absence of any person under Subsections (1) through [~~(8)~~] (9), any
73 other person willing to assume the responsibilities to act and arrange the final disposition of the
74 decedent's remains, including the personal representative of the decedent's estate or the funeral
75 service director with custody of the body, after attesting in writing that a good faith effort has
76 been made to no avail to contact the individuals referred to in Subsections (1) through [~~(8)~~] (9).

Legislative Review Note
as of 2-20-15 8:49 AM

Office of Legislative Research and General Counsel