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LAW/RWH

P.L.2013, CHAPTER 268, *approved January 17, 2014*  
Assembly, No. 3620 (*Second Reprint*)

1 AN ACT concerning the disposition of the remains of active duty  
2 service members of the Armed Forces of the United States under  
3 certain circumstances and amending P.L.2003, c.261.  
4

5 **BE IT ENACTED** by the Senate and General Assembly of the State  
6 of New Jersey:  
7

8 1. Section 22 of P.L.2003, c.261 (C.45:27-22) is amended to  
9 read as follows:

10 22. a. If a decedent, in a will as defined in N.J.S.3B:1-2,  
11 appoints a person to control the funeral and disposition of the  
12 human remains, the funeral and disposition shall be in accordance  
13 with the instructions of the person so appointed. A person so  
14 appointed shall not have to be executor of the will. The funeral and  
15 disposition may occur prior to probate of the will, in accordance  
16 with section 40 of P.L.2003, c.261 (C.3B:10-21.1).

17 In the case of an active duty service member who died while on  
18 active duty in any branch or component of the United States Armed  
19 Forces, including the New Jersey National Guard called to federal  
20 active duty, the person designated by the decedent as authorized to  
21 direct disposition, as listed on the decedent's United States  
22 Department of Defense Record of Emergency Data, DD Form 93, or  
23 its successor form, shall be the person appointed to control the  
24 funeral and disposition of the remains of the decedent<sup>2</sup> **[**if the form  
25 is the most recent document executed by the service member. If the  
26 service member]<sup>2</sup> <sup>1</sup>**[**executed a will after the filing of a DD Form  
27 93, or its successor form, the relevant portion of the will shall  
28 control] <sup>2</sup>**[**, in a will as defined in N.J.S.3B:1-2, appoints a person  
29 to control the funeral and disposition of the human remains after the  
30 filing of a DD Form 93, or its successor form, the funeral and  
31 disposition shall be in accordance with the instructions of the  
32 person so appointed in the will<sup>1</sup>]<sup>2</sup>.

33 If the decedent has not left a will appointing a person to control  
34 the funeral and disposition of the remains or the United States  
35 Department of Defense Record of Emergency Data, DD Form 93, or  
36 its successor form, is not applicable, the right to control the funeral  
37 and disposition of the human remains shall be in the following  
38 order, unless other directions have been given by a court of  
39 competent jurisdiction:

**EXPLANATION** – Matter enclosed in bold-faced brackets **[ thus ]** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup>Assembly floor amendments adopted February 14, 2013.

<sup>2</sup>Senate floor amendments adopted November 18, 2013.

1 (1) The surviving spouse of the decedent or the surviving civil  
2 union or domestic partner; except that if the decedent had a  
3 temporary or permanent restraining order issued pursuant to  
4 P.L.1991, c.261 (C.2C:25-17 et seq.) against the surviving spouse  
5 or civil union or domestic partner, or the surviving spouse or civil  
6 union or domestic partner is charged with the intentional killing of  
7 the decedent, the right to control the funeral and disposition of the  
8 remains shall be granted to the next available priority class as  
9 provided in this subsection.

10 (2) A majority of the surviving adult children of the decedent.

11 (3) The surviving parent or parents of the decedent.

12 (4) A majority of the brothers and sisters of the decedent.

13 (5) Other next of kin of the decedent according to the degree of  
14 consanguinity.

15 (6) If there are no known living relatives, a cemetery may rely  
16 on the written authorization of any other person acting on behalf of  
17 the decedent.

18 For purposes of this subsection "domestic partner" means a  
19 domestic partner as defined in section 3 of P.L.2003, c.246  
20 (C.26:8A-3).

21 b. A cemetery may permit the disposition of human remains on  
22 the authorization of a funeral director handling arrangements for the  
23 decedent, or on the written authorization of a person who claims to  
24 be, and is believed to be, a person who has the right to control the  
25 disposition. The cemetery shall not be liable for disposition  
26 pursuant to this authorization unless it had reasonable notice that  
27 the person did not have the right to control the disposition.

28 c. A cemetery shall not bury human remains of more than one  
29 person in a grave unless:

30 (1) directions have been given for the burials in accordance with  
31 this section on behalf of all persons so buried; or

32 (2) the rights to be buried in the grave were sold by the  
33 cemetery with explicit provision allowing separate sales of rights to  
34 burial at different depths in the grave.

35 d. A person who signs an authorization for the funeral and  
36 disposition of human remains warrants the truth of the facts stated,  
37 the identity of the person whose remains are disposed and the  
38 authority to order the disposition. The person shall be liable for  
39 damages caused by a false statement or breach of warranty. A  
40 cemetery or funeral director shall not be liable for disposition in  
41 accordance with the authorization unless it had reasonable notice  
42 that the representations were untrue or that the person lacked the  
43 right to control the disposition.

44 e. An action against a cemetery company relating to the  
45 disposition of human remains left in its temporary custody may not  
46 be brought more than one year from the date of delivery of the  
47 remains to the cemetery company unless otherwise provided by a

1 written contract.

2 (cf: P.L.2009, c.290, s.1)

3

4 2. This act shall take effect immediately.

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9 Requires disposition of remains of active duty service member of  
10 Armed Forces of United States pursuant to Department of Defense  
11 form completed by service member.

# ASSEMBLY, No. 3620

## STATE OF NEW JERSEY 215th LEGISLATURE

INTRODUCED DECEMBER 17, 2012

**Sponsored by:**

**Assemblyman PATRICK J. DIEGNAN, JR.**

**District 18 (Middlesex)**

**Assemblywoman CLEOPATRA G. TUCKER**

**District 28 (Essex)**

**SYNOPSIS**

Requires disposition of remains of active duty service member of Armed Forces of United States by most recently executed document.

**CURRENT VERSION OF TEXT**

As introduced.



(Sponsorship Updated As Of: 2/8/2013)

1 AN ACT concerning the disposition of the remains of active duty  
2 service members of the Armed Forces of the United States under  
3 certain circumstances and amending P.L.2003, c.261.

4  
5 **BE IT ENACTED** by the Senate and General Assembly of the State  
6 of New Jersey:

7  
8 1. Section 22 of P.L.2003, c.261 (C.45:27-22) is amended to  
9 read as follows:

10 22. a. If a decedent, in a will as defined in N.J.S.3B:1-2,  
11 appoints a person to control the funeral and disposition of the  
12 human remains, the funeral and disposition shall be in accordance  
13 with the instructions of the person so appointed. A person so  
14 appointed shall not have to be executor of the will. The funeral and  
15 disposition may occur prior to probate of the will, in accordance  
16 with section 40 of P.L.2003, c.261 (C.3B:10-21.1).

17 In the case of an active duty service member who died while on  
18 active duty in any branch or component of the United States Armed  
19 Forces, including the New Jersey National Guard called to federal  
20 active duty, the person designated by the decedent as authorized to  
21 direct disposition, as listed on the decedent's United States  
22 Department of Defense Record of Emergency Data, DD Form 93, or  
23 its successor form, shall be the person appointed to control the  
24 funeral and disposition of the remains of the decedent, if the form is  
25 the most recent document executed by the service member. If the  
26 service member executed a will after the filing of a DD Form 93, or  
27 its successor form, the relevant portion of the will shall control.

28 If the decedent has not left a will appointing a person to control  
29 the funeral and disposition of the remains or the United States  
30 Department of Defense Record of Emergency Data, DD Form 93, or  
31 its successor form, is not applicable, the right to control the funeral  
32 and disposition of the human remains shall be in the following  
33 order, unless other directions have been given by a court of  
34 competent jurisdiction:

35 (1) The surviving spouse of the decedent or the surviving civil  
36 union or domestic partner; except that if the decedent had a  
37 temporary or permanent restraining order issued pursuant to  
38 P.L.1991, c.261 (C.2C:25-17 et seq.) against the surviving spouse  
39 or civil union or domestic partner, or the surviving spouse or civil  
40 union or domestic partner is charged with the intentional killing of  
41 the decedent, the right to control the funeral and disposition of the  
42 remains shall be granted to the next available priority class as  
43 provided in this subsection.

44 (2) A majority of the surviving adult children of the decedent.

45 (3) The surviving parent or parents of the decedent.

**EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.**

**Matter underlined thus is new matter.**

1 (4) A majority of the brothers and sisters of the decedent.

2 (5) Other next of kin of the decedent according to the degree of  
3 consanguinity.

4 (6) If there are no known living relatives, a cemetery may rely  
5 on the written authorization of any other person acting on behalf of  
6 the decedent.

7 For purposes of this subsection "domestic partner" means a  
8 domestic partner as defined in section 3 of P.L.2003, c.246  
9 (C.26:8A-3).

10 b. A cemetery may permit the disposition of human remains on  
11 the authorization of a funeral director handling arrangements for the  
12 decedent, or on the written authorization of a person who claims to  
13 be, and is believed to be, a person who has the right to control the  
14 disposition. The cemetery shall not be liable for disposition  
15 pursuant to this authorization unless it had reasonable notice that  
16 the person did not have the right to control the disposition.

17 c. A cemetery shall not bury human remains of more than one  
18 person in a grave unless:

19 (1) directions have been given for the burials in accordance with  
20 this section on behalf of all persons so buried; or

21 (2) the rights to be buried in the grave were sold by the  
22 cemetery with explicit provision allowing separate sales of rights to  
23 burial at different depths in the grave.

24 d. A person who signs an authorization for the funeral and  
25 disposition of human remains warrants the truth of the facts stated,  
26 the identity of the person whose remains are disposed and the  
27 authority to order the disposition. The person shall be liable for  
28 damages caused by a false statement or breach of warranty. A  
29 cemetery or funeral director shall not be liable for disposition in  
30 accordance with the authorization unless it had reasonable notice  
31 that the representations were untrue or that the person lacked the  
32 right to control the disposition.

33 e. An action against a cemetery company relating to the  
34 disposition of human remains left in its temporary custody may not  
35 be brought more than one year from the date of delivery of the  
36 remains to the cemetery company unless otherwise provided by a  
37 written contract.

38 (cf: P.L.2009, c.290, s.1)

39

40 2. This act shall take effect immediately.

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#### STATEMENT

44

45 Under this bill, when an active duty service member dies while  
46 on active duty in any branch or component of the United States  
47 Armed Forces, including the New Jersey National Guard called to  
48 federal active duty, the person designated by the decedent on the



**A3620 DIEGNAN, TUCKER**

4

1 United States Department of Defense Record of Emergency Data,  
2 DD Form 93, (DD Form 93) will be the one authorized to control  
3 the funeral and disposition of the remains of the decedent, if that  
4 form has not been superseded by a will.

5 When a person does not leave a will appointing someone, current  
6 law dictates a prescribed order of persons who have the right to  
7 direct the funeral and disposition of the decedent's remains, starting  
8 with a surviving spouse, followed by adult children and parents.  
9 Current law does not address the existence of the DD Form 93 that  
10 designates a person authorized to direct disposition of human  
11 remains. Because current law does not recognize the federal form,  
12 there have been instances of civil actions between family members  
13 over the ultimate disposition of a fallen service member's remains.  
14 Recognizing the DD Form 93 as an alternate authoritative written  
15 instrument for service members should reduce the potential for  
16 family conflict at a time of bereavement.

ASSEMBLY MILITARY AND VETERANS' AFFAIRS  
COMMITTEE

STATEMENT TO

**ASSEMBLY, No. 3620**

**STATE OF NEW JERSEY**

DATED: FEBRUARY 11, 2013

The Assembly Military and Veterans' Affairs Committee reports favorably Assembly Bill No. 3620.

Under this bill, when an active duty service member dies while on active duty in any branch or component of the United States Armed Forces, including the New Jersey National Guard called to federal active duty, the person designated by the decedent on the United States Department of Defense Record of Emergency Data, DD Form 93, (DD Form 93) will be the one authorized to control the funeral and disposition of the remains of the decedent, if that form has not been superseded by a will.

When a person does not leave a will appointing someone, current law dictates a prescribed order of persons who have the right to direct the funeral and disposition of the decedent's remains, starting with a surviving spouse, followed by adult children and parents. Current law does not address the existence of the DD Form 93 that designates a person authorized to direct disposition of human remains. Because current law does not recognize the federal form, there have been instances of civil actions between family members over the ultimate disposition of a fallen service member's remains. Recognizing the DD Form 93 as an alternate authoritative written instrument for service members should reduce the potential for family conflict at a time of bereavement.

STATEMENT TO  
**ASSEMBLY, No. 3620**

with Assembly Floor Amendments  
(Proposed by Assemblyman DIEGNAN)

ADOPTED: FEBRUARY 14, 2013

This Assembly floor amendment clarifies that if a service member appoints a person to control the funeral and disposition of the member's remains in a will after the filing of a DD Form 93, the person appointed by the decedent's will has the right to control the funeral and disposition of the member's remains.

SENATE MILITARY AND VETERANS' AFFAIRS  
COMMITTEE

STATEMENT TO

[First Reprint]  
**ASSEMBLY, No. 3620**

**STATE OF NEW JERSEY**

DATED: JUNE 6, 2013

The Senate Military and Veterans' Affairs Committee reports favorably Assembly, No. 3620 (1R).

Under this bill, when an active duty service member dies while on active duty in any branch or component of the United States Armed Forces, including the New Jersey National Guard called to federal active duty, the person designated by the decedent on the United States Department of Defense Record of Emergency Data, DD Form 93, (DD Form 93) will be the one authorized to control the funeral and disposition of the remains of the decedent, if that form has not been superseded by a will.

When a person does not leave a will appointing someone, current law dictates a prescribed order of persons who have the right to direct the funeral and disposition of the decedent's remains, starting with a surviving spouse, followed by adult children and parents. Current law does not address the existence of the DD Form 93 that designates a person authorized to direct disposition of human remains. Because current law does not recognize the federal form, there have been instances of civil actions between family members over the ultimate disposition of a fallen service member's remains. Recognizing the DD Form 93 as an alternate authoritative written instrument for service members should reduce the potential for family conflict at a time of bereavement.

This bill is identical to Senate Bill No. 2826 of 2012-2013.

STATEMENT TO  
[First Reprint]  
**ASSEMBLY, No. 3620**

with Senate Floor Amendments  
(Proposed by Senator NORCROSS)

ADOPTED: NOVEMBER 18, 2013

This Senate floor amendment changes the controlling document regarding the disposition of human remains for active duty military service members who die while on active duty to the federal DD Form 93. The bill currently provides that the controlling document be either the DD Form 93 or a will, whichever document was most recently executed by the service member. As amended, the DD Form 93 will be the controlling document.

**SENATE, No. 2826**

**STATE OF NEW JERSEY**  
**215th LEGISLATURE**

INTRODUCED MAY 30, 2013

**Sponsored by:**

**Senator DONALD NORCROSS**  
**District 5 (Camden and Gloucester)**  
**Senator JAMES BEACH**  
**District 6 (Burlington and Camden)**

**Co-Sponsored by:**

**Senator Gordon**

**SYNOPSIS**

Requires disposition of remains of active duty service member of Armed Forces of United States by most recently executed document.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 6/14/2013)**

S2826 NORCROSS, BEACH

2

1 AN ACT concerning the disposition of the remains of active duty  
2 service members of the Armed Forces of the United States under  
3 certain circumstances and amending P.L.2003, c.261.

4

5 **BE IT ENACTED** *by the Senate and General Assembly of the State*  
6 *of New Jersey:*

7

8 1. Section 22 of P.L.2003, c.261 (C.45:27-22) is amended to  
9 read as follows:

10 22. a. If a decedent, in a will as defined in N.J.S.3B:1-2,  
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12 human remains, the funeral and disposition shall be in accordance  
13 with the instructions of the person so appointed. A person so  
14 appointed shall not have to be executor of the will. The funeral and  
15 disposition may occur prior to probate of the will, in accordance  
16 with section 40 of P.L.2003, c.261 (C.3B:10-21.1).

17 In the case of an active duty service member who died while on  
18 active duty in any branch or component of the United States Armed  
19 Forces, including the New Jersey National Guard called to federal  
20 active duty, the person designated by the decedent as authorized to  
21 direct disposition, as listed on the decedent's United States  
22 Department of Defense Record of Emergency Data, DD Form 93, or  
23 its successor form, shall be the person appointed to control the  
24 funeral and disposition of the remains of the decedent, if the form is  
25 the most recent document executed by the service member. If the  
26 service member, in a will as defined in N.J.S.3B:1-2, appoints a  
27 person to control the funeral and disposition of the human remains  
28 after the filing of a DD Form 93, or its successor form, the funeral  
29 and disposition shall be in accordance with the instructions of the  
30 person so appointed in the will.

31 If the decedent has not left a will appointing a person to control  
32 the funeral and disposition of the remains or the United States  
33 Department of Defense Record of Emergency Data, DD Form 93, or  
34 its successor form, is not applicable, the right to control the funeral  
35 and disposition of the human remains shall be in the following  
36 order, unless other directions have been given by a court of  
37 competent jurisdiction:

38 (1) The surviving spouse of the decedent or the surviving civil  
39 union or domestic partner; except that if the decedent had a  
40 temporary or permanent restraining order issued pursuant to  
41 P.L.1991, c.261 (C.2C:25-17 et seq.) against the surviving spouse  
42 or civil union or domestic partner, or the surviving spouse or civil  
43 union or domestic partner is charged with the intentional killing of  
44 the decedent, the right to control the funeral and disposition of the

**EXPLANATION** – Matter enclosed in bold-faced brackets **[thus]** in the above bill is  
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

S2826 NORCROSS, BEACH

1 remains shall be granted to the next available priority class as  
2 provided in this subsection.

3 (2) A majority of the surviving adult children of the decedent.

4 (3) The surviving parent or parents of the decedent.

5 (4) A majority of the brothers and sisters of the decedent.

6 (5) Other next of kin of the decedent according to the degree of  
7 consanguinity.

8 (6) If there are no known living relatives, a cemetery may rely  
9 on the written authorization of any other person acting on behalf of  
10 the decedent.

11 For purposes of this subsection "domestic partner" means a  
12 domestic partner as defined in section 3 of P.L.2003, c.246  
13 (C.26:8A-3).

14 b. A cemetery may permit the disposition of human remains on  
15 the authorization of a funeral director handling arrangements for the  
16 decedent, or on the written authorization of a person who claims to  
17 be, and is believed to be, a person who has the right to control the  
18 disposition. The cemetery shall not be liable for disposition  
19 pursuant to this authorization unless it had reasonable notice that  
20 the person did not have the right to control the disposition.

21 c. A cemetery shall not bury human remains of more than one  
22 person in a grave unless:

23 (1) directions have been given for the burials in accordance with  
24 this section on behalf of all persons so buried; or

25 (2) the rights to be buried in the grave were sold by the  
26 cemetery with explicit provision allowing separate sales of rights to  
27 burial at different depths in the grave.

28 d. A person who signs an authorization for the funeral and  
29 disposition of human remains warrants the truth of the facts stated,  
30 the identity of the person whose remains are disposed and the  
31 authority to order the disposition. The person shall be liable for  
32 damages caused by a false statement or breach of warranty. A  
33 cemetery or funeral director shall not be liable for disposition in  
34 accordance with the authorization unless it had reasonable notice  
35 that the representations were untrue or that the person lacked the  
36 right to control the disposition.

37 e. An action against a cemetery company relating to the  
38 disposition of human remains left in its temporary custody may not  
39 be brought more than one year from the date of delivery of the  
40 remains to the cemetery company unless otherwise provided by a  
41 written contract.

42 (cf: P.L.2009, c.290, s.1)

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44 2. This act shall take effect immediately.



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STATEMENT

Under this bill, when an active duty service member dies while on active duty in any branch or component of the United States Armed Forces, including the New Jersey National Guard called to federal active duty, the person designated by the decedent on the United States Department of Defense Record of Emergency Data, DD Form 93, (DD Form 93) will be the one authorized to control the funeral and disposition of the remains of the decedent, if that form has not been superseded by a will.

When a person does not leave a will appointing someone, current law dictates a prescribed order of persons who have the right to direct the funeral and disposition of the decedent's remains, starting with a surviving spouse, followed by adult children and parents. Current law does not address the existence of the DD Form 93 that designates a person authorized to direct disposition of human remains. Because current law does not recognize the federal form, there have been instances of civil actions between family members over the ultimate disposition of a fallen service member's remains. Recognizing the DD Form 93 as an alternate authoritative written instrument for service members should reduce the potential for family conflict at a time of bereavement.

SENATE MILITARY AND VETERANS' AFFAIRS  
COMMITTEE

STATEMENT TO

**SENATE, No. 2826**

**STATE OF NEW JERSEY**

DATED: JUNE 6, 2013

The Senate Military and Veterans' Affairs Committee reports favorably Senate, No. 2826.

Under this bill, when an active duty service member dies while on active duty in any branch or component of the United States Armed Forces, including the New Jersey National Guard called to federal active duty, the person designated by the decedent on the United States Department of Defense Record of Emergency Data, DD Form 93, (DD Form 93) will be the one authorized to control the funeral and disposition of the remains of the decedent, if that form has not been superseded by a will.

When a person does not leave a will appointing someone, current law dictates a prescribed order of persons who have the right to direct the funeral and disposition of the decedent's remains, starting with a surviving spouse, followed by adult children and parents. Current law does not address the existence of the DD Form 93 that designates a person authorized to direct disposition of human remains. Because current law does not recognize the federal form, there have been instances of civil actions between family members over the ultimate disposition of a fallen service member's remains. Recognizing the DD Form 93 as an alternate authoritative written instrument for service members should reduce the potential for family conflict at a time of bereavement.

This bill is identical to Assembly Bill No. 3620 (1R) of 2012-2013.

STATEMENT TO

**SENATE, No. 2826**

with Senate Floor Amendments  
(Proposed by Senator NORCROSS)

ADOPTED: NOVEMBER 18, 2013

This Senate floor amendment changes the controlling document regarding the disposition of human remains for active duty military service members who die while on active duty to the federal DD Form 93. The bill currently provides that the controlling document be either the DD Form 93 or a will, whichever document was most recently executed by the service member. As amended, the DD Form 93 will be the controlling document.