

45:27-22
LEGISLATIVE HISTORY CHECKLIST
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LAWS OF: 2019 **CHAPTER:** 187

NJSA: 45:27-22 (Concerns appointment of person to control funeral and disposition of human remains.)

BILL NO: A1190 (Substituted for S1753)

SPONSOR(S) Patricia Egan Jones and others

DATE INTRODUCED: 1/9/2018

COMMITTEE: **ASSEMBLY:** Regulated Professions

SENATE: Commerce

AMENDED DURING PASSAGE: No

DATE OF PASSAGE: **ASSEMBLY:** 3/25/2019

SENATE: 5/30/2019

DATE OF APPROVAL: 7/19/2019

FOLLOWING ARE ATTACHED IF AVAILABLE:

FINAL TEXT OF BILL (Assembly Committee Substitute enacted) Yes

A1190

SPONSOR'S STATEMENT: (Begins on page 4 of introduced bill) Yes

COMMITTEE STATEMENT: **ASSEMBLY:** Yes

SENATE: No

(Audio archived recordings of the committee meetings, corresponding to the date of the committee statement, *may possibly* be found at www.njleg.state.nj.us)

FLOOR AMENDMENT STATEMENT: No

LEGISLATIVE FISCAL ESTIMATE: No

S1753

SPONSOR'S STATEMENT: (Begins on page 4 of introduced bill) Yes

COMMITTEE STATEMENT: **ASSEMBLY:** No

SENATE: Yes

(Audio archived recordings of the committee meetings, corresponding to the date of the committee statement, *may possibly* be found at www.njleg.state.nj.us)

FLOOR AMENDMENT STATEMENT: No

LEGISLATIVE FISCAL ESTIMATE: No

(continued)

VETO MESSAGE: No

GOVERNOR'S PRESS RELEASE ON SIGNING: Yes

FOLLOWING WERE PRINTED:

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REPORTS: No

HEARINGS: No

NEWSPAPER ARTICLES: No

RWH/CL

P.L. 2019, CHAPTER 187, *approved July 19, 2019*
Assembly Committee Substitute for
Assembly, No. 1190

1 AN ACT concerning funerals and the disposition of human remains
2 and amending P.L.2003, c.261.

3

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

6

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

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

16 On or after the effective date of P.L. , c. (C.) (pending
17 before the Legislature as this bill), a decedent may appoint a person
18 to control the funeral and disposition of the human remains in
19 writing, and if a decedent so appoints a person it shall be in the
20 presence of no less than two witnesses, on a form approved by the
21 board. The written form appointing a person to control the funeral
22 and disposition shall include the signatures of the decedent and
23 witnesses, and shall be notarized. Nothing in this section shall be
24 construed as prohibiting a decedent from appointing a person to
25 control the funeral and disposition on the form approved by the
26 board who is also named as the executor of the decedent's will.

27 The appointment of a person to control the funeral and
28 disposition of the human remains made in the most recently dated
29 and properly executed will as defined in N.J.S.3B:1-2 or board
30 approved form as provided by P.L. , c. (C.) (pending before
31 the Legislature as this bill) shall supersede any similar appointment
32 made in any previously executed document.

33 A person appointed or in a priority class with a right to control
34 the funeral and disposition of the human remains under this
35 subsection shall have the right to relinquish control of the funeral
36 and disposition. Whenever a person relinquishes control pursuant
37 to this subsection, the right to control the funeral and disposition of
38 the human remains shall transfer to the next available priority class
39 as enumerated in this subsection.

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 No officer, partner, member, shareholder, owner, representative,
2 or employee of the funeral home, cemetery, or crematory providing
3 any goods or services related to the decedent's funeral and
4 disposition of the human remains shall be the person appointed by
5 the decedent, under this subsection, to control the funeral and
6 disposition, unless that person is a relative of the decedent.

7 In the case of an active duty service member who died while on
8 active duty in any branch or component of the United States Armed
9 Forces, including the New Jersey National Guard called to federal
10 active duty, the person designated by the decedent as authorized to
11 direct disposition, as listed on the decedent's United States
12 Department of Defense Record of Emergency Data, DD Form 93, or
13 its successor form, shall be the person appointed to control the
14 funeral and disposition of the remains of the decedent.

15 If the decedent has not **【left a will appointing】** appointed
16 person to control the funeral and disposition of the remains, or the
17 United States Department of Defense Record of Emergency Data,
18 DD Form 93, or its successor form, is not applicable, the right to
19 control the funeral and disposition of the human remains shall be in
20 the following order of priority class, unless other directions have
21 been given by a court of competent jurisdiction:

22 (1) The surviving spouse of the decedent or the surviving civil
23 union or domestic partner**【**; except that if the decedent had a
24 temporary or permanent restraining order issued pursuant to
25 P.L.1991, c.261 (C.2C:25-17 et seq.) against the surviving spouse
26 or civil union or domestic partner, or the surviving spouse or civil
27 union or domestic partner is charged with the intentional killing of
28 the decedent, the right to control the funeral and disposition of the
29 remains shall be granted to the next available priority class as
30 provided in this subsection**】**.

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

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

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

34 (5) Other next of kin of the decedent according to the degree of
35 consanguinity.

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

39 The right to control the funeral and disposition of the remains
40 shall be granted to the next available priority class, as enumerated
41 in this subsection, if the decedent had a temporary or permanent
42 restraining order issued pursuant to P.L.1991, c.261 (C.2C:25-17 et
43 seq.) against the person or persons in the highest priority class, or
44 the person or persons in the highest priority class are charged with
45 the intentional killing of the decedent.

46 If the decedent has not appointed a person to control the funeral
47 and disposition of the human remains, or the United States

1 Department of Defense Record of Emergency Data, DD Form 93, or
2 its successor form, is not applicable, the person or persons in the
3 highest priority class of the right to control the funeral and
4 disposition shall exercise the right to control within 72 hours after
5 the decedent's death. If the person or persons in the highest priority
6 class fail to exercise the right to control within 72 hours after the
7 decedent's death, or if the person or persons in the highest priority
8 class are unable to be notified after a reasonable attempt to notify
9 within 72 hours after the decedent's death, the right to control the
10 funeral and disposition shall transfer to the person or persons in the
11 next highest priority class, as enumerated in this subsection. If the
12 person or persons who would otherwise retain the right to control
13 the funeral and disposition are deemed medically incapable or
14 medically incapacitated by a licensed physician, the right to control
15 shall transfer to the person or persons in the next highest priority
16 class, as enumerated in this subsection.

17 If more than one person is deemed to have equal right to control
18 the funeral and disposition of the human remains, a majority of the
19 persons with the equal right to control is required to authorize the
20 funeral and disposition. In instances where the parents of the
21 decedent retain the right to control the funeral and disposition, both
22 parents are required to authorize the funeral and disposition, if both
23 parents are living and both parents are able to be notified after a
24 reasonable attempt to notify. If only one parent is living or if only
25 one parent is notified after a reasonable attempt to notify both
26 parents, the authorization of one parent shall be sufficient to
27 proceed with a funeral and disposition.

28 Notwithstanding any law, rule, or regulation to the contrary, the
29 divorce, annulment, or dissolution of a marriage, civil union, or
30 domestic partnership shall remove the right of control of the funeral
31 and disposition of the human remains from the former spouse or
32 former partner of the decedent, unless the former spouse or partner
33 serves as an other interested party.

34 For purposes of this subsection ["domestic partner"] :

35 "Domestic partner" means a domestic partner as defined in
36 section 3 of P.L.2003, c.246 (C.26:8A-3).

37 "Reasonable attempt to notify" shall mean a good faith effort to
38 contact the person or persons with the right to control the funeral
39 and disposition via correspondence sent by registered mail or
40 electronic mail to his or her last known address, or a telephone call
41 placed to the last known telephone number, by a family member,
42 personal representative of the decedent, or any other interested
43 party. If a reasonable attempt to notify is unsuccessful, the person
44 or persons assuming the right to control the funeral and disposition
45 shall attest in writing that a good faith effort was made to contact
46 any person or persons with a higher priority right to control.

1 b. A cemetery may permit the disposition of human remains on
2 the authorization of a funeral director handling arrangements for the
3 decedent, or on the written authorization of a person who claims to
4 be, and is believed to be, a person who has the right to control the
5 disposition. The cemetery shall not be liable for disposition
6 pursuant to this authorization unless it had reasonable notice that
7 the person did not have the right to control the disposition.

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

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

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

15 d. A person who signs an authorization for the funeral and
16 disposition of human remains warrants the truth of the facts stated,
17 the identity of the person whose remains are disposed and the
18 authority to order the disposition. The person shall be liable for
19 damages caused by a false statement or breach of warranty. A
20 cemetery or funeral director shall not be liable for disposition in
21 accordance with the authorization unless it had reasonable notice
22 that the representations were untrue or that the person lacked the
23 right to control the disposition.

24 e. An action against a cemetery company relating to the
25 disposition of human remains left in its temporary custody may not
26 be brought more than one year from the date of delivery of the
27 remains to the cemetery company unless otherwise provided by a
28 written contract.

29 (cf: P.L.2013, c.268, s.1)

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31 2. This act shall take effect on the 60th day after the date of
32 enactment.

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37 Concerns appointment of person to control funeral and
38 disposition of human remains.

ASSEMBLY, No. 1190

STATE OF NEW JERSEY 218th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2018 SESSION

Sponsored by:

Assemblywoman PATRICIA EGAN JONES

District 5 (Camden and Gloucester)

Assemblyman THOMAS P. GIBLIN

District 34 (Essex and Passaic)

Assemblyman RAJ MUKHERJI

District 33 (Hudson)

Co-Sponsored by:

Assemblywoman Murphy

SYNOPSIS

Concerns appointment of person to control funeral and disposition of human remains.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



(Sponsorship Updated As Of: 12/4/2018)

1 AN ACT concerning funerals and the disposition of human remains
2 and amending P.L.2003, c.261.

3

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

6

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

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

16 On or after the effective date of P.L. , c. (C.) (pending
17 before the Legislature as this bill), if a decedent appoints a person
18 to control the funeral and disposition of the human remains in
19 writing, in the presence of no less than two witnesses, on a form
20 approved by the board, then the appointment of that person to
21 control the funeral and disposition shall supersede any similar
22 appointment made in the decedent's will. The written form
23 appointing a person to control the funeral and disposition shall
24 include the signatures of the decedent and witnesses, and shall be
25 notarized. Nothing in this section shall be construed as prohibiting
26 a decedent from appointing a person to control the funeral and
27 disposition on the form approved by the board who is also named as
28 the executor of the decedent's will.

29 In the case of an active duty service member who died while on
30 active duty in any branch or component of the United States Armed
31 Forces, including the New Jersey National Guard called to federal
32 active duty, the person designated by the decedent as authorized to
33 direct disposition, as listed on the decedent's United States
34 Department of Defense Record of Emergency Data, DD Form 93, or
35 its successor form, shall be the person appointed to control the
36 funeral and disposition of the remains of the decedent.

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

44 (1) The surviving spouse of the decedent or the surviving civil
45 union or domestic partner; except that if the decedent had a

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

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

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

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

11 (5) Other next of kin of the decedent according to the degree of
12 consanguinity.

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

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

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

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

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

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

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

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

47 (cf: P.L.2013, c.268, s.1)

1 2. This act shall take effect immediately.

2

3

4

STATEMENT

5

6 This bill provides that, on or after the effective date of the bill, if
7 a decedent appoints a person to control the funeral and disposition
8 of the human remains in writing, in the presence of no less than two
9 witnesses, on a form approved by the New Jersey Cemetery Board,
10 then the appointment of that person to control the funeral and
11 disposition will supersede any similar appointment made in the
12 decedent's will. The form must be signed by the decedent and
13 witnesses, and the form must be notarized. Nothing in the bill is to
14 be construed as prohibiting a decedent from appointing a person to
15 control the funeral and disposition on the form approved by the
16 board who is also named as the executor of the decedent's will.

ASSEMBLY REGULATED PROFESSIONS COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR

ASSEMBLY, No. 1190

STATE OF NEW JERSEY

DATED: DECEMBER 3, 2018

The Assembly Regulated Professions Committee reports favorably Assembly Committee Substitute for Assembly Bill No. 1190.

This committee substitute clarifies who controls a funeral and disposition of human remains.

On or after the bill's effective date, if a decedent appoints a person to control the funeral and disposition of the human remains in writing, in the presence of no less than two witnesses, on a form approved by the New Jersey Cemetery Board, then the appointment of that person to control the funeral and disposition will supersede any similar appointment made in the decedent's will. The form must be signed by the decedent and witnesses, and notarized. Nothing in the bill is to be construed as prohibiting a decedent from appointing a person to control the funeral and disposition on the form approved by the board who is also named as the executor of the decedent's will.

The appointment of a person to control the funeral and disposition of the human remains made in the most recently dated and properly executed will or board approved form would supersede any similar appointment made in any previously executed document.

A person appointed or in a priority class with a right to control the funeral and disposition of the human remains would have the right to relinquish control, after which the right to control the funeral and disposition of the human remains would transfer to the next available priority class.

The bill prohibits an officer, partner, member, shareholder, owner, representative, or employee of the funeral home, cemetery, or crematory providing any goods or services related to the decedent's funeral and disposition of the human remains from being appointed by the decedent to control the funeral and disposition, unless that person is a relative of the decedent.

Currently, if the decedent has not appointed a person to control the funeral and disposition of the remains, or the United States Department of Defense Record of Emergency Data, DD Form 93, is not applicable, the right to control the funeral and disposition of the human remains is established by law in the following order of priority

class, unless other directions have been given by a court of competent jurisdiction:

- (1) The surviving spouse or civil union or domestic partner.
- (2) A majority of the surviving adult children of the decedent.
- (3) The surviving parent or parents of the decedent.
- (4) A majority of the brothers and sisters of the decedent.
- (5) Other next of kin of the decedent according to the degree of consanguinity.
- (6) If there are no known living relatives, a cemetery may rely on the written authorization of any other person acting on behalf of the decedent.

The bill provides that the right to control the funeral and disposition of the remains is to be granted to the next available priority class if the decedent had a temporary or permanent restraining order against the person in the highest priority class, or the person in the highest priority class is charged with the intentional killing of the decedent. Under current law, this provision only applies to a surviving spouse or civil union or domestic partner, rather than a person in any priority class.

If the decedent has not appointed a person to control the funeral and disposition of the human remains, or the DD Form 93 is not applicable, the person in the highest priority class is to exercise the right to control within 72 hours after the decedent's death. If the person in the highest priority class fails to exercise the right to control within 72 hours after the decedent's death, or if the person in the highest priority class is unable to be notified after a reasonable attempt to notify within 72 hours after the decedent's death, the right to control the funeral and disposition transfers to the person in the next highest priority class. If the person who would otherwise retain the right to control the funeral and disposition is deemed medically incapable or medically incapacitated by a licensed physician, the right to control transfers to the person in the next highest priority class.

The bill provides that if more than one person is deemed to have equal right to control the funeral and disposition of the human remains, a majority of the persons with the equal right to control is required to authorize the funeral and disposition. In instances where the parents of the decedent retain the right to control the funeral and disposition, both parents are required to authorize the funeral and disposition if both parents are living and able to be notified after a reasonable attempt to notify. If only one parent is living or if only one parent is notified after a reasonable attempt to notify both parents, the authorization of one parent is sufficient to proceed with a funeral and disposition.

Unless the decedent's former spouse or partner serves as an interested party, the bill provides that the divorce, annulment, or dissolution of a marriage, civil union, or domestic partnership removes the right of control of the funeral and disposition of the human remains from the decedent's former spouse or former partner.

SENATE, No. 1753

STATE OF NEW JERSEY
218th LEGISLATURE

INTRODUCED FEBRUARY 5, 2018

Sponsored by:

Senator JAMES BEACH

District 6 (Burlington and Camden)

Senator NILSA CRUZ-PEREZ

District 5 (Camden and Gloucester)

SYNOPSIS

Concerns appointment of person to control funeral and disposition of human remains.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 2/1/2019)

1 AN ACT concerning funerals and the disposition of human remains
2 and amending P.L.2003, c.261.

3

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

6

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

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

16 On or after the effective date of P.L. , c. (C.) (pending
17 before the Legislature as this bill), if a decedent appoints a person
18 to control the funeral and disposition of the human remains in
19 writing, in the presence of no less than two witnesses, on a form
20 approved by the board, then the appointment of that person to
21 control the funeral and disposition shall supersede any similar
22 appointment made in the decedent's will. The written form
23 appointing a person to control the funeral and disposition shall
24 include the signatures of the decedent and witnesses, and shall be
25 notarized. Nothing in this section shall be construed as prohibiting
26 a decedent from appointing a person to control the funeral and
27 disposition on the form approved by the board who is also named as
28 the executor of the decedent's will.

29 In the case of an active duty service member who died while on
30 active duty in any branch or component of the United States Armed
31 Forces, including the New Jersey National Guard called to federal
32 active duty, the person designated by the decedent as authorized to
33 direct disposition, as listed on the decedent's United States
34 Department of Defense Record of Emergency Data, DD Form 93, or
35 its successor form, shall be the person appointed to control the
36 funeral and disposition of the remains of the decedent.

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

44 (1) The surviving spouse of the decedent or the surviving civil
45 union or domestic partner; except that if the decedent had a

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

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

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

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

11 (5) Other next of kin of the decedent according to the degree of
12 consanguinity.

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

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

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

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

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

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

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

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

47 (cf: P.L.2013, c.268, s.1)

1 2. This act shall take effect immediately.

2

3

4

STATEMENT

5

6 This bill provides that, on or after the effective date of the bill, if
7 a decedent appoints a person to control the funeral and disposition
8 of the human remains in writing, in the presence of no less than two
9 witnesses, on a form approved by the New Jersey Cemetery Board,
10 then the appointment of that person to control the funeral and
11 disposition will supersede any similar appointment made in the
12 decedent's will. The form must be signed by the decedent and
13 witnesses, and the form must be notarized. Nothing in the bill is to
14 be construed as prohibiting a decedent from appointing a person to
15 control the funeral and disposition on the form approved by the
16 board who is also named as the executor of the decedent's will.

SENATE COMMERCE COMMITTEE

STATEMENT TO

SENATE COMMITTEE SUBSTITUTE FOR **SENATE, No. 1753**

STATE OF NEW JERSEY

DATED: FEBRUARY 7, 2019

The Senate Commerce Committee reports favorably Senate Committee Substitute for Senate Bill No. 1753.

This committee substitute clarifies who controls a funeral and disposition of human remains.

On or after the bill's effective date, if a decedent appoints a person to control the funeral and disposition of the human remains in writing, in the presence of no less than two witnesses, on a form approved by the New Jersey Cemetery Board, then the appointment of that person to control the funeral and disposition will supersede any similar appointment made in the decedent's will. The form must be signed by the decedent and witnesses, and notarized. Nothing in the bill is to be construed as prohibiting a decedent from appointing a person to control the funeral and disposition on the form approved by the board who is also named as the executor of the decedent's will.

The appointment of a person to control the funeral and disposition of the human remains made in the most recently dated and properly executed will or board approved form would supersede any similar appointment made in any previously executed document.

A person appointed or in a priority class with a right to control the funeral and disposition of the human remains would have the right to relinquish control, after which the right to control the funeral and disposition of the human remains would transfer to the next available priority class.

The bill prohibits an officer, partner, member, shareholder, owner, representative, or employee of the funeral home, cemetery, or crematory providing any goods or services related to the decedent's funeral and disposition of the human remains from being appointed by the decedent to control the funeral and disposition, unless that person is a relative of the decedent.

Currently, if the decedent has not appointed a person to control the funeral and disposition of the remains, or the United States Department of Defense Record of Emergency Data, DD Form 93, is not applicable, the right to control the funeral and disposition of the human remains is established by law in the following order of priority class, unless other directions have been given by a court of competent jurisdiction:

- (1) The surviving spouse or civil union or domestic partner.

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

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

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

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

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

The bill provides that the right to control the funeral and disposition of the remains is to be granted to the next available priority class if the decedent had a temporary or permanent restraining order against the person in the highest priority class, or the person in the highest priority class is charged with the intentional killing of the decedent. Under current law, this provision only applies to a surviving spouse or civil union or domestic partner, rather than a person in any priority class.

If the decedent has not appointed a person to control the funeral and disposition of the human remains, or the DD Form 93 is not applicable, the person in the highest priority class is to exercise the right to control within 72 hours after the decedent's death. If the person in the highest priority class fails to exercise the right to control within 72 hours after the decedent's death, or if the person in the highest priority class is unable to be notified after a reasonable attempt to notify within 72 hours after the decedent's death, the right to control the funeral and disposition transfers to the person in the next highest priority class. If the person who would otherwise retain the right to control the funeral and disposition is deemed medically incapable or medically incapacitated by a licensed physician, the right to control transfers to the person in the next highest priority class.

The bill provides that if more than one person is deemed to have equal right to control the funeral and disposition of the human remains, a majority of the persons with the equal right to control is required to authorize the funeral and disposition. In instances where the parents of the decedent retain the right to control the funeral and disposition, both parents are required to authorize the funeral and disposition if both parents are living and able to be notified after a reasonable attempt to notify. If only one parent is living or if only one parent is notified after a reasonable attempt to notify both parents, the authorization of one parent is sufficient to proceed with a funeral and disposition.

Unless the decedent's former spouse or partner serves as an interested party, the bill provides that the divorce, annulment, or dissolution of a marriage, civil union, or domestic partnership removes the right of control of the funeral and disposition of the human remains from the decedent's former spouse or former partner.

This committee substitute is identical to the Assembly Committee Substitute for Assembly Bill No.1190.

Governor Murphy Takes Action on Legislation

07/19/2019

TRENTON – Today, Governor Phil Murphy signed the following bills and resolutions into law:

AJR26 (Downey, Houghtaling, Quijano, Mosquera, Vainieri Huttle, Benson, Jasey, McKnight/Pou, Codey) - Designates September of each year as "Youth Suicide Prevention Awareness Month" in New Jersey.

AJR87 (Murphy, Mosquera, Pinkin/Singleton, Addiego) - Designates January 11 of each year as "Alice Paul Day" in New Jersey.

A769 (Caputo, Giblin, Vainieri Huttle/A.R. Bucco, Ruiz) - Requires school districts to incorporate age-appropriate sexual abuse and assault awareness and prevention education in grades preschool through 12 as part of New Jersey Student Learning Standards in Comprehensive Health and Physical Education.

A1048 (Houghtaling, Downey, Mukherji, Holley/Turner, Stack) - Requires property tax bills to contain eligibility information on State tax relief programs.

A1190 (Jones, Giblin, Mukherji/Beach, Cruz-Perez) - Concerns appointment of person to control funeral and disposition of human remains.

A1369 (Kennedy, DeAngelo, Vainieri Huttle, Benson, Quijano/Greenstein, Addiego) - Allows for cancellation of certain service contracts without paying early termination fee if customer becomes deceased prior to end of service contract.

A1428 (McKnight, Chaparro, Chiaravalloti, Vainieri Huttle/Ruiz, Cunningham) - Requires Department of Education to develop guidelines for school districts concerning child trafficking awareness and prevention.

A3766 (Armato, Houghtaling, Murphy, Jones/Corrado) - Requires public officer or employee to forfeit pension upon conviction for corruption of public resources, sexual contact, lewdness, or sexual assault when offense involves or touches upon public office or employment.

A5162 (Speight, Reynolds-Jackson/Beach) - Permits county board of chosen freeholders to increase membership of county board of elections.

A5456 (Armato, Kennedy, Speight/Greenstein, Bateman) - Authorizes NJ Infrastructure Bank to expend certain sums to make loans for environmental infrastructure projects for FY2020.

A5457 (Danielsen, Swain, Milam/Codey) - Appropriates funds to DEP for environmental infrastructure projects for FY2020.

A5462 (Milam, Speight, Murphy/Smith) - Modifies powers and duties of New Jersey Infrastructure Bank.

S692 (Ruiz, Sarlo/Jasey, Caputo, Holley) - Prohibits the DOE from regulating maximum salary amount school district may pay its superintendent of schools and codifies standards for contract review.

S756 (Diegnan, Turner/Calabrese, Sumter, Pinkin) - Updates notice of elections requirements to include information for voter to obtain polling place locations.

S858 (Turner, Diegnan/Jasey, Caputo) - Requires teachers of health and physical education in grades kindergarten through six in public schools to possess appropriate endorsement to instructional certificate.

S954 (Vitale, Singleton, Madden/Conaway, Moriarty, Sumter, McKnight, Mukherji, Downey) - Enters New Jersey in enhanced multistate Nurse Licensure Compact.

S1373 (Andrzejczak/Land, Milam) - Expands option of governmental home health care agency to partner with non-governmental providers to deliver health care services.

S1707 (Oroho, Bateman, Andrzejczak/Space, Wirths) - Exempts governmental entities acquiring lands for open space located in a deed-authorized common interest community from paying community fees if, at time of acquisition, community has never been formed or has been dissolved or discontinued.

S1761 (Weinberg, Singleton/Pintor Marin, Lampitt, Pinkin, Munoz, McKeon) - Expands the Address Confidentiality Program to include victims of sexual assault and stalking; and reproductive health service patients and providers.

S1799 (A.R. Bucco/A.M. Bucco, Murphy, Caputo) - Increases membership of fire safety commission in DCA.

S2472 (Singleton, Murphy/Conaway, Timberlake) - Requires certain real estate licensees to complete courses of study concerning fair housing and housing discrimination.

S2489 (Cruz-Perez, Turner/Mosquera, Jones, Holley, McKnight, Downey) - Requires board of education to post information about child abuse hotline in each school.

S2575 (Diegnan, Greenstein/Karabinchak, Reynolds-Jackson) - Establishes task force to examine and make recommendations regarding implementation of "Anti-Bullying Bill of Rights Act."

S2944 (Ruiz, Cunningham/Pintor Marin, McKnight, Chiaravalloti) - Permits certain council members to appoint up to four fulltime equivalent aides; allows these aide positions to be divided into part-time positions.

S2994 (Ruiz/Freiman, McKeon, Schaer) – Concerns refunds following terminations or cancellations of guaranteed asset protection waivers.

S3043 (Madden, Oroho/Mosquera, Pintor Marin) - Clarifies that family day care providers or other persons who are subjects of criminal history record back checks have access to disqualifying information.

S3452 (Ruiz, Pou/Lopez, Holley, Schaer) - Requires certain consumer reporting agencies to make consumer reports available to consumers in Spanish and certain other languages.

S3899 (Ruiz/Burzichelli) - Allows TPAF retiree to be employed, without TPAF reenrollment, by school district as certificated superintendent or administrator for more than two years when in best interests of school district.