

1 HB367
2 116602-1
3 By Representative McLaughlin
4 RFD: Judiciary
5 First Read: 19-JAN-10

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8 SYNOPSIS: Existing law provides a list of persons who
9 may serve as authorizing agents for funerals to
10 decide the final disposition of the human remains
11 of a deceased person.

12 This bill would provide first priority to a
13 person designated on a Department of Defense Record
14 of Emergency Data form completed by persons serving
15 on active duty in any branch of the United States
16 Armed Forces, the United States Reserve Forces, or
17 the National Guard.

18
19 A BILL
20 TO BE ENTITLED
21 AN ACT

22
23 To amend Section 34-13-11 of the Code of Alabama
24 1975, relating to funerals and the priority of persons
25 authorized to serve as the authorizing agent for the human
26 remains of a decedent; to provide priority to a person
27 designated on a Department of Defense Record of Emergency Data

1 form completed by persons serving on active duty in any branch
2 of the United States Armed Forces, the United States Reserve
3 Forces, or the National Guard.

4 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

5 Section 1. Section 34-13-11 of the Code of Alabama
6 1975, is amended to read as follows:

7 "§34-13-11.

8 "The following persons, in the priority listed
9 herein, may serve as an authorizing agent:

10 "(1) The person designated by the decedent as
11 authorized to direct disposition pursuant to Public Law No.
12 109-163, Section 564, as listed on the decedent's United
13 States Department of Defense Record of Emergency Data, DD Form
14 93, or its successor form, if the decedent died while serving
15 on active duty in any branch of the United States Armed
16 Forces, United States Reserve Forces, or National Guard.

17 "~~(1)~~(2) The decedent's spouse at the time of the
18 decedent's death.

19 "~~(2)~~(3) The decedent's surviving children. If there
20 is more than one child who qualifies as an authorizing agent,
21 any such child may serve as the authorizing agent except, in
22 the case of a cremation, such child must submit by affidavit
23 the consent of all other surviving children to serve as
24 authorizing agent. If any surviving child is unable to be
25 notified of a pending cremation, the remaining children may
26 select the authorizing agent by submission of legal
27 documentation of the inability to notify the absent child or

1 children. If the funeral director receives written objection
2 to such cremation from any child before cremation, no
3 cremation shall be performed except upon the written
4 withdrawal of the objection or upon the order of a court of
5 competent jurisdiction.

6 ~~"(3)~~ (4) The decedent's surviving parents. If the
7 decedent is survived by two parents, either parent may serve
8 as the authorizing agent except, in the case of a cremation,
9 such parent must submit by affidavit the consent of the other
10 surviving parent to serve as authorizing agent. If the other
11 surviving parent is unable to be notified of a pending
12 cremation, a parent may serve as the authorizing agent by
13 submission of legal documentation of the inability to notify
14 the absent parent. If the funeral director receives written
15 objection to such cremation from either parent before
16 cremation, no cremation shall be performed except upon the
17 written withdrawal of the objection or upon the order of a
18 court of competent jurisdiction.

19 ~~"(4)~~ (5) The decedent's surviving siblings. If there
20 is more than one sibling who qualifies as an authorizing
21 agent, any sibling may serve as the authorizing agent except,
22 in the case of a cremation, such sibling must submit by
23 affidavit the consent of all other surviving siblings to serve
24 as authorizing agent. If any surviving sibling is unable to be
25 notified of a pending cremation, the remaining siblings may
26 select the authorizing agent by submission of legal
27 documentation of the inability to notify the absent sibling or

1 siblings. If the funeral director receives written objection
2 to such cremation from any sibling before cremation, no
3 cremation shall be performed except upon the written
4 withdrawal of the objection or upon the order of a court of
5 competent jurisdiction.

6 "~~(5)~~ (6) Any person acting on the decedent's signed
7 written instructions regarding final disposition contained in
8 a preneed funeral contract and, in the case of cremation, a
9 cremation authorization form signed by the decedent.

10 "~~(6)~~ (7) Any person serving as executor or legal
11 representative of a decedent's estate and acting on the
12 decedent's signed, written instructions contained in a will or
13 other writing, regardless of whether the will has been
14 probated.

15 "~~(7)~~ (8) The person in the next degree of kinship
16 under the laws of descent and distribution to inherit the
17 decedent's estate. If there is more than one person of the
18 same degree, any such person may serve as the authorizing
19 agent.

20 "~~(8)~~ (9) In the case of indigents or any other
21 individuals whose final disposition is the responsibility of
22 the state or any of its subdivisions or agencies, a public
23 administrator, medical examiner, coroner, or any other public
24 official charged with arranging the final disposition shall
25 serve as the authorizing agent in the absence or refusal of
26 any person described in subdivisions ~~(1)~~ (2) to ~~(7)~~ (8) ,
27 inclusive.

1 "~~(9)~~(10) In the absence or refusal of any person
2 described in subdivisions ~~(1)~~ (2) to ~~(7)~~ (8), inclusive, any
3 person willing to assume the responsibility as authorizing
4 agent."

5 Section 2. This act shall become effective on the
6 first day of the third month following its passage and
7 approval by the Governor, or its otherwise becoming law.