

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

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ENROLLED, An Act,

To amend Section 34-13-11 of the Code of Alabama 1975, relating to funerals and the priority of persons authorized to serve as the authorizing agent for the human remains of a decedent; to provide priority to a person designated on a Department of Defense Record of Emergency Data form completed by persons serving on active duty in any branch of the United States Armed Forces, the United States Reserve Forces, or the National Guard.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

"§34-13-11.

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

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

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

1 "~~(2)~~(3) The decedent's surviving children. If there
2 is more than one child who qualifies as an authorizing agent,
3 any such child may serve as the authorizing agent except, in
4 the case of a cremation, such child must submit by affidavit
5 the consent of all other surviving children to serve as
6 authorizing agent. If any surviving child is unable to be
7 notified of a pending cremation, the remaining children may
8 select the authorizing agent by submission of legal
9 documentation of the inability to notify the absent child or
10 children. If the funeral director receives written objection
11 to such cremation from any child before cremation, no
12 cremation shall be performed except upon the written
13 withdrawal of the objection or upon the order of a court of
14 competent jurisdiction.

15 "~~(3)~~(4) The decedent's surviving parents. If the
16 decedent is survived by two parents, either parent may serve
17 as the authorizing agent except, in the case of a cremation,
18 such parent must submit by affidavit the consent of the other
19 surviving parent to serve as authorizing agent. If the other
20 surviving parent is unable to be notified of a pending
21 cremation, a parent may serve as the authorizing agent by
22 submission of legal documentation of the inability to notify
23 the absent parent. If the funeral director receives written
24 objection to such cremation from either parent before
25 cremation, no cremation shall be performed except upon the

1 written withdrawal of the objection or upon the order of a
2 court of competent jurisdiction.

3 ~~"(4)~~ (5) The decedent's surviving siblings. If there
4 is more than one sibling who qualifies as an authorizing
5 agent, any sibling may serve as the authorizing agent except,
6 in the case of a cremation, such sibling must submit by
7 affidavit the consent of all other surviving siblings to serve
8 as authorizing agent. If any surviving sibling is unable to be
9 notified of a pending cremation, the remaining siblings may
10 select the authorizing agent by submission of legal
11 documentation of the inability to notify the absent sibling or
12 siblings. If the funeral director receives written objection
13 to such cremation from any sibling before cremation, no
14 cremation shall be performed except upon the written
15 withdrawal of the objection or upon the order of a court of
16 competent jurisdiction.

17 ~~"(5)~~ (6) Any person acting on the decedent's signed
18 written instructions regarding final disposition contained in
19 a preneed funeral contract and, in the case of cremation, a
20 cremation authorization form signed by the decedent.

21 ~~"(6)~~ (7) Any person serving as executor or legal
22 representative of a decedent's estate and acting on the
23 decedent's signed, written instructions contained in a will or
24 other writing, regardless of whether the will has been
25 probated.

1 "~~(7)~~(8) The person in the next degree of kinship
2 under the laws of descent and distribution to inherit the
3 decedent's estate. If there is more than one person of the
4 same degree, any such person may serve as the authorizing
5 agent.

6 "~~(8)~~(9) In the case of indigents or any other
7 individuals whose final disposition is the responsibility of
8 the state or any of its subdivisions or agencies, a public
9 administrator, medical examiner, coroner, or any other public
10 official charged with arranging the final disposition shall
11 serve as the authorizing agent in the absence or refusal of
12 any person described in subdivisions ~~(1)~~ (2) to ~~(7)~~ (8) ,
13 inclusive.

14 "~~(9)~~(10) In the absence or refusal of any person
15 described in subdivisions ~~(1)~~ (2) to ~~(7)~~ (8), inclusive, any
16 person willing to assume the responsibility as authorizing
17 agent."

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

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Speaker of the House of Representatives

President and Presiding Officer of the Senate

House of Representatives

I hereby certify that the within Act originated in
and was passed by the House 02-MAR-10.

Greg Pappas
Clerk

Senate

22-APR-10

Passed