

1.1 A bill for an act

1.2 relating to burials; changing provisions for advance directives or written  
1.3 directives for decedent's final disposition and right to control final disposition;  
1.4 amending Minnesota Statutes 2008, section 149A.80, subdivisions 1, 2.

1.5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.6 Section 1. Minnesota Statutes 2008, section 149A.80, subdivision 1, is amended to  
1.7 read:

1.8 Subdivision 1. **Advance directives and will of decedent.** A person may direct  
1.9 the preparation for, type, or place of that person's final disposition, as well as the type  
1.10 of conveyance to be used to transport the body to the place of final disposition, ~~either~~  
1.11 ~~by oral or~~ written instructions. Arrangements made in advance of need ~~with a funeral~~  
1.12 ~~establishment~~ must be in writing and dated, signed, and ~~notarized~~ witnessed. The person  
1.13 or persons otherwise entitled to control the final disposition under this chapter shall  
1.14 faithfully carry out the reasonable and otherwise lawful directions of the decedent to  
1.15 the extent that the decedent has provided resources for the purpose of carrying out the  
1.16 directions. If the instructions are contained in a will, they shall be immediately carried  
1.17 out, regardless of the validity of the will in other respects or of the fact that the will may  
1.18 not be offered for or admitted to probate until a later date, subject to other provisions of  
1.19 this chapter or any other law of this state. This subdivision shall be administered and  
1.20 construed so that the reasonable and lawful instructions of the decedent or the person  
1.21 entitled to control the final disposition shall be faithfully and promptly performed.

1.22 Sec. 2. Minnesota Statutes 2008, section 149A.80, subdivision 2, is amended to read:

2.1 Subd. 2. **Determination of right to control and duty of disposition.** The right to  
2.2 control the disposition of the remains of a deceased person, including the location and  
2.3 conditions of final disposition, unless other directions have been given by the decedent  
2.4 pursuant to subdivision 1, vests in, and the duty of final disposition of the body devolves  
2.5 upon, the following in the order of priority listed:

2.6 (1) the person or persons appointed in a dated and witnessed written instrument  
2.7 signed by the decedent. Written instrument includes, but is not limited to, a health care  
2.8 directive executed under chapter 145C. Written instrument does not include a durable or  
2.9 nondurable power of attorney which terminates on the death of the principal pursuant  
2.10 to sections 523.08 and 523.09;

2.11 (2) the spouse of the decedent;

2.12 (3) the adult child or the majority of the adult children of the decedent, provided  
2.13 that, in the absence of actual knowledge to the contrary, a funeral director or mortician  
2.14 may rely on instructions given by the child or children who represent that they are the sole  
2.15 surviving child, or that they constitute a majority of the surviving children;

2.16 (4) the surviving parent or parents of the decedent, each having equal authority;

2.17 (5) the adult sibling or the majority of the adult siblings of the decedent, provided  
2.18 that, in the absence of actual knowledge to the contrary, a funeral director or mortician  
2.19 may rely on instructions given by the sibling or siblings who represent that they are the  
2.20 sole surviving sibling, or that they constitute a majority of the surviving siblings;

2.21 (6) the adult grandchild or the majority of the adult grandchildren of the decedent,  
2.22 provided that, in the absence of actual knowledge to the contrary, a funeral director or  
2.23 mortician may rely on instructions given by a grandchild or grandchildren who represent  
2.24 that they are the only grandchild or grandchildren reasonably available to control final  
2.25 disposition of the decedent's remains or represent a majority of grandchildren reasonably  
2.26 available to control final disposition of the decedent's remains;

2.27 (7) the grandparent or the grandparents of the decedent, each having equal authority;

2.28 (8) the adult nieces and nephews of the decedent, or a majority of them, provided  
2.29 that, in the absence of actual knowledge to the contrary, a funeral director or mortician  
2.30 may rely on instructions given by a niece, nephew, or nieces and nephews who represent  
2.31 that they are the only niece, nephew, or nieces and nephews reasonably available to control  
2.32 final disposition of the decedent's remains or represent a majority of nieces and nephews  
2.33 reasonably available to control final disposition of the decedent's remains;

2.34 (9) the person or persons who were acting as the guardians of the decedent with  
2.35 authority to make health care decisions for the decedent at the time of death;

2.36 (10) an adult who exhibited special care and concern for the decedent;

3.1            (11) the person or persons respectively in the next degree of kinship in the order  
3.2 named by law to inherit the estate of the decedent; and

3.3            ~~(7)~~ (12) the appropriate public or court authority, as required by law.

3.4            For purposes of this subdivision, the appropriate public or court authority includes  
3.5 the county board of the county in which the death occurred if the person dies without  
3.6 apparent financial means to provide for final disposition or the district court in the county  
3.7 in which the death occurred.