

FIRST REGULAR SESSION

# SENATE BILL NO. 416

98TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR WASSON.

Read 1st time February 5, 2015, and ordered printed.

ADRIANE D. CROUSE, Secretary.

1903S.02I

## AN ACT

To repeal sections 194.119 and 214.208, RSMo, and to enact in lieu thereof two new sections relating to the disposition of dead bodies.

*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Sections 194.119 and 214.208, RSMo, are repealed and two new  
2 sections enacted in lieu thereof, to be known as sections 194.119 and 214.208, to  
3 read as follows:

194.119. 1. As used in this section, the term "right of sepulcher" means  
2 the right to choose and control the burial, cremation, or other final disposition of  
3 a dead human body.

4 2. For purposes of this chapter and chapters 193, 333, and 436, and in all  
5 cases relating to the custody, control, and disposition of deceased human remains,  
6 including the common law right of sepulcher, where not otherwise defined, the  
7 term "next-of-kin" means the following persons in the priority listed if such  
8 person is eighteen years of age or older, is mentally competent, and is willing to  
9 assume responsibility for the costs of disposition:

10 (1) An attorney in fact designated in a durable power of attorney wherein  
11 the deceased specifically granted the right of sepulcher over his or her body to  
12 such attorney in fact;

13 (2) For a decedent who was on active duty in the United States military  
14 at the time of death, the person designated by such decedent in the written  
15 instrument known as the United States Department of Defense Form 93, Record  
16 of Emergency Data, in accordance with P.L. 109-163, Section 564, 10 U.S.C.  
17 Section 1482;

18 (3) The surviving spouse;

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

19 (4) Any surviving child of the deceased. If a surviving child is less than  
20 eighteen years of age and has a legal or natural guardian, such child shall not be  
21 disqualified on the basis of the child's age and such child's legal or natural  
22 guardian, if any, shall be entitled to serve in the place of the child unless such  
23 child's legal or natural guardian was subject to an action in dissolution from the  
24 deceased. In such event the person or persons who may serve as next-of-kin shall  
25 serve in the order provided in subdivisions (5) to (9) of this subsection;

26 (5) (a) Any surviving parent of the deceased; or

27 (b) If the deceased is a minor, a surviving parent who has custody of the  
28 minor; or

29 (c) If the deceased is a minor and the deceased's parents have joint  
30 custody, the parent whose residence is the minor child's residence for purposes  
31 of mailing and education;

32 (6) Any surviving sibling of the deceased;

33 (7) The next nearest surviving relative of the deceased by consanguinity  
34 or affinity;

35 (8) Any person or friend who assumes financial responsibility for the  
36 disposition of the deceased's remains if no next-of-kin assumes such  
37 responsibility;

38 (9) The county coroner or medical examiner; provided however that such  
39 assumption of responsibility shall not make the coroner, medical examiner, the  
40 county, or the state financially responsible for the cost of disposition.

41 3. The next-of-kin of the deceased shall be entitled to control the final  
42 disposition of the remains of any dead human being consistent with all applicable  
43 laws, including all applicable health codes.

44 4. A funeral director or establishment is entitled to rely on and act  
45 according to the lawful instructions of any person claiming to be the next-of-kin  
46 of the deceased; provided however, in any civil cause of action against a funeral  
47 director or establishment licensed pursuant to this chapter for actions taken  
48 regarding the funeral arrangements for a deceased person in the director's or  
49 establishment's care, the relative fault, if any, of such funeral director or  
50 establishment may be reduced if such actions are taken in reliance upon a  
51 person's claim to be the deceased person's next-of-kin.

52 5. Any person who desires to exercise the right of sepulcher and who has  
53 knowledge of an individual or individuals with a superior right to control  
54 disposition shall notify such individual or individuals prior to making final

55 arrangements.

56           6. If an individual with a superior claim is personally served with written  
57 notice from a person with an inferior claim that such person desires to exercise  
58 the right of sepulcher and the individual so served does not object within  
59 forty-eight hours of receipt, such individual shall be deemed to have waived such  
60 right. An individual with a superior right may also waive such right at any time  
61 if such waiver is in writing and dated.

62           7. If there is more than one person in a class who are equal in priority  
63 and the funeral director has no knowledge of any objection by other members of  
64 such class, the funeral director or establishment shall be entitled to rely on and  
65 act according to the instructions of the first such person in the class to make  
66 arrangements; provided that such person assumes responsibility for the costs of  
67 disposition and no other person in such class provides written notice of his or her  
68 objection. **If the funeral director has knowledge that there is more than**  
69 **one person in a class who are equal in priority and who do not agree**  
70 **on the disposition, the decision of the majority of the members of such**  
71 **class shall control the disposition.**

214.208. 1. Every person or association which owns any cemetery in  
2 which dead human remains are buried or otherwise interred is authorized, at the  
3 cemetery owner's expense, to disinter individual remains and reinter or rebury  
4 the remains at another location within the cemetery in order to correct an error  
5 made in the original burial or interment of the remains.

6           2. Every person or association which owns any cemetery in which dead  
7 human remains are buried or otherwise interred is authorized to disinter  
8 individual remains and either to reinter or rebury the remains at another location  
9 within the cemetery or to deliver the remains to a carrier for transportation out  
10 of the cemetery, all pursuant to written instructions signed and acknowledged by  
11 **the next-of-kin at the time of death of the deceased person as set out in**  
12 **section 194.119. In the event that the next-of-kin at the time of death**  
13 **as set out in 194.119 is no longer living then** a majority of the following  
14 adult members of the deceased person's family who are then known and living:  
15 surviving spouse, children, and parents **may authorize the disinterment.** If  
16 none of the above family members survive the deceased, then the majority of the  
17 grandchildren, brothers and sisters of whole and half blood may authorize the  
18 disinterment, relocation or delivery of the remains of the deceased. The costs of  
19 such disinterment, relocation or delivery shall be paid by the deceased person's

20 family.

21           3. Every person or association which owns any cemetery in which dead  
22 human remains are buried or otherwise interred is authorized to disinter  
23 individual remains and either to reinter or rebury the remains at another location  
24 within the cemetery or to deliver the remains to a carrier for transportation out  
25 of the cemetery, all pursuant to a final order issued by the circuit court for the  
26 county in which the cemetery is located. The court may issue the order, in the  
27 court's discretion and upon such notice and hearing as the court shall deem  
28 appropriate, for good cause shown, including without limitation, the best interests  
29 of public health or safety, the best interests of the deceased person's family, or  
30 the reasonable requirements of the cemetery to facilitate the operation,  
31 maintenance, improvement or enlargement of the cemetery. The costs of such  
32 disinterment, relocation and delivery, and the related court proceedings, shall be  
33 paid by the persons so ordered by the court.

34           4. [The cemetery owner] **A person or association which owns a**  
35 **cemetery, cemetery operator, funeral director, funeral establishment,**  
36 **or any other person or entity involved in the process** shall not be liable  
37 to the deceased person's family or to any third party for a disinterment, relocation  
38 or delivery of deceased human remains made pursuant to this section.

✓

Copy