



Substitute Senate Bill No. 1124

Public Act No. 05-197

AN ACT CONCERNING THE CUSTODY OF REMAINS OF DECEASED PERSONS AND ANNUAL MEETINGS AND FINANCIAL STATEMENTS OF CEMETERY ASSOCIATIONS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. Section 45a-318 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2005*):

(a) Any person eighteen years of age or older, and of sound mind, may execute in advance of such person's death a [cremation authorization on a form authorized by the Department of Public Health for the incineration or cremation of such person's body upon the death of such person. Any such document shall be signed and dated by the maker, and attested in writing by two witnesses that the maker was of sound mind and capacity at the time of execution of the authorization. The maker shall include on the form authorized by the Department of Public Health the name, residence address and residence telephone number for the spouse or if there is no surviving spouse, then the next of kin or designated person, duly acknowledged in writing, who shall be notified within the forty-eight-hour waiting period prior to a cremation upon the death of such person. If the spouse, next of kin or designated person is unavailable at the time of death of such person, the funeral director shall refer this matter to the

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Court of Probate for the district of the domicile or residence of the deceased to grant custody and control to some suitable person] written document, subscribed by such person and attested by two witnesses, either: (1) Directing the disposition of such person's body upon the death of such person, which document may also designate an individual to have custody and control of such person's body and to act as agent to carry out such directions; or (2) if there are no directions for disposition, designating an individual to have custody and control of the disposition of such person's body upon the death of such person. Such disposition shall include, but not be limited to, cremation, incineration, disposition of cremains, burial, method of interment and cryogenic preservation. Any such document may designate an alternate to an individual designated under subdivision (1) or (2) of this subsection.

[(b) The custody and control of the remains of deceased residents of this state shall belong to the surviving spouse of the deceased. If the surviving spouse had abandoned, and at the time of death was living apart from, the deceased, or if there is no spouse surviving, then such custody and control shall belong to the next of kin, unless the decedent, in a duly acknowledged writing, designated another person to have custody and control of the remains of the decedent. The court of probate for the district of the domicile of the deceased may at any time, upon the petition of any of the kin or such person, award such custody and control to that person who seems to the court most fit to have the same. If a deceased resident of the state leaves no spouse, next of kin or designated person surviving, or if the spouse, next of kin or designated person cannot be contacted after due diligence to assume custody and control of the remains of such decedent as provided in this section, or if the spouse, next of kin or designated person refuses to assume such custody and control, the court of probate for the district of the domicile or residence of the deceased may, upon the petition of a selectman or chief officer of such town, a licensed funeral

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director or the director of health of such town, grant such custody and control to some suitable person. If a person has executed a cremation authorization for the incineration or cremation of such person's body upon death on a form authorized by the Department of Public Health, as described in subsection (a) of this section, and a good faith effort has been made to notify the spouse, next of kin or designated person, or an order from the Probate Court has been obtained, then such instructions may be relied upon by any person acting reasonably and in good faith in reliance upon such written instructions and shall permit any licensed funeral director to obtain a cremation certificate, a cremation permit and carry out the cremation, in accordance with the provisions of section 19a-323. If the funeral director's decision and conduct in the performance of a cremation was reasonable and warranted under the circumstances, then no person may challenge the funeral director's decision to obtain a cremation certificate, a cremation permit and the carrying out of such cremation.

(c) This section shall not apply to the disposition of a body of a deceased person under the provisions of sections 19a-270 and 54-102; nor shall it affect the powers and duties of the Chief Medical Examiner under the provisions of sections 19a-406 to 19a-408, inclusive.]

(b) No person may challenge a funeral director's decision to carry out the directions for disposition contained in a document executed for the purposes of subsection (a) of this section if the funeral director's decision and conduct in carrying out such directions for disposition in reliance on such document was reasonable and warranted under the circumstances.

(c) In the absence of a written designation of an individual pursuant to subsection (a) of this section, or in the event that an individual and any alternate designated pursuant to subsection (a) of this section declines to act or cannot be located within forty-eight hours after the time of death or the discovery of the body, the following individuals,

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in the priority listed, shall have the right to custody and control of the disposition of a person's body upon the death of such person, subject to any directions for disposition made by such person pursuant to subdivision (1) of subsection (a) of this section:

(1) The deceased person's spouse, unless such spouse abandoned the deceased person prior to the deceased person's death or has been adjudged incapable by a court of competent jurisdiction;

(2) The deceased person's surviving adult children;

(3) The deceased person's surviving parents;

(4) The deceased person's surviving siblings;

(5) Any adult person in the next degree of kinship in the order named by law to inherit the deceased person's estate, provided such adult person shall be of the third degree of kinship or higher;

(6) Such adult person as the Probate Court shall determine.

(d) A document executed by a person for the purposes of subsection (a) of this section shall revoke any document previously executed by such person for the purposes of said subsection or any prior cremation authorization or other authorization for the disposition of remains executed by such person and may be in substantially the following form, but the use of such form shall not preclude the use of any other form:

DISPOSITION OF REMAINS AND

APPOINTMENT OF AGENT

I, ..., of ..., being of sound mind, make known that upon my death my body shall be disposed of in the following manner:

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(Insert desired disposition directions)

I appoint ..., having an address and telephone number of ..., to have custody and control of my body to act as my agent to carry out the disposition directions expressed in this document, and in the absence of disposition directions, to have custody and control of my body and to determine the disposition of my body. If ... shall decline to act or cannot be located within forty-eight hours of my death or the discovery of my body, then ..., having an address and telephone number of ..., shall act in that person's place and stead.

Executed at (insert location of execution), Connecticut on (insert date of execution).

...

(Signature)

Signed in our presence by ... who, at the time of the execution of this document, appeared to be of sound mind and over eighteen years old.

... of ...

...

(Signature of witness)

... of ...

...

(Signature of witness)

(e) The court of probate for the district of the domicile or residence of a deceased person shall have jurisdiction to hear and decide any issue regarding the custody, control or disposition of the deceased

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person's body, upon the petition of any individual designated by the deceased person pursuant to subsection (a) of this section, the individual entitled to custody and control under subsection (c) of this section if no designation is made pursuant to subsection (a) of this section, the first selectman, chief executive officer or director of health of the town in which the deceased person's body is being held, or the funeral director or any other person or institution holding the deceased person's body, and upon such notice to interested parties as the court shall determine.

(f) This section shall not (1) apply to the disposition of the body of a deceased person under the provisions of sections 19a-270 and 54-102, (2) affect the powers and duties of the Chief Medical Examiner under the provisions of sections 19a-406 to 19a-408, inclusive, or (3) affect the making of anatomical gifts under the provisions of sections 19a-279a to 19a-279l, inclusive.

Sec. 2. Section 19a-296 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2005*):

(a) Cemetery associations shall be organized in accordance with the provisions of sections 33-1025 to 33-1047, inclusive, and shall not be conducted for the purposes of speculation in cemetery lots and property, or for private gain, either directly or indirectly, to any of the members of any such association; and land for the enlargement of a cemetery may be taken in accordance with the provisions of section 48-18.

(b) The board of directors or board of trustees of any cemetery association shall hold an annual meeting of the association. At such annual meeting, the board shall accept an annual financial statement that shall contain an accounting of income and expenses of the cemetery association for the preceding fiscal year and an accounting of assets owned by the association. Such financial statement shall be

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included in the minutes of the annual meeting at which such financial statement was accepted. The board shall retain the minutes of such annual meeting for a period of not less than twenty years after such meeting.

(c) No officer, director or trustee of a cemetery association may serve as an officer, director or trustee of any company that manages or operates any aspect of the cemetery.

(d) Any interested party may petition the probate court for the district within which the cemetery owned or controlled by a cemetery association is located to require disclosure of the minutes of an annual meeting of the cemetery association including any financial statement required to be included in such minutes. The court may, after hearing, with notice to all interested parties, grant the petition and require disclosure of such minutes for such periods of time as it determines are reasonable and necessary on finding that: (1) The petitioner has an interest in the minutes sufficient to warrant disclosure, and (2) the petition is not for the purpose of harassment.

Approved July 1, 2005