



General Assembly

January Session, 2013

Raised Bill No. 6675

LCO No. 5050



Referred to Committee on JUDICIARY

Introduced by:
(JUD)

AN ACT CONCERNING THE PLANNING OF FUNERALS WHEN ONE SPOUSE HAS COMMITTED CRIMINAL ACTS AGAINST HIS OR HER SPOUSE OR A MINOR CHILD.

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

1 Section 1. Section 45a-318 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2013*):

3 (a) Any person eighteen years of age or older, and of sound mind,
4 may execute in advance of such person's death a written document,
5 subscribed by such person and attested by two witnesses, either: (1)
6 Directing the disposition of such person's body upon the death of such
7 person, which document may also designate an individual to have
8 custody and control of such person's body and to act as agent to carry
9 out such directions; or (2) if there are no directions for disposition,
10 designating an individual to have custody and control of the
11 disposition of such person's body upon the death of such person. Such
12 disposition shall include, but not be limited to, cremation, incineration,
13 disposition of cremains, burial, method of interment and cryogenic
14 preservation. Any such document may designate an alternate to an

15 individual designated under subdivision (1) or (2) of this subsection.

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

22 (c) In the absence of a written designation of an individual pursuant
23 to subsection (a) of this section, or in the event that an individual and
24 any alternate designated pursuant to subsection (a) of this section
25 decline to act or cannot be located within forty-eight hours after the
26 time of death or the discovery of the body, the following individuals,
27 in the priority listed, shall have the right to custody and control of the
28 disposition of a person's body upon the death of such person, subject
29 to any directions for disposition made by such person pursuant to
30 subdivision (1) of subsection (a) of this section:

31 (1) The deceased person's spouse, unless such spouse: [abandoned]

32 (A) Has been charged with a crime under section 53a-54a, 53a-54b,
33 53a-54c, 53a-54d, 53a-55 or 53a-55a in connection with the death of the
34 deceased person, provided (i) the existence of the criminal charges is
35 known to the funeral director, and (ii) the criminal charges are pending
36 or the spouse has been found guilty of one of the specified crimes;

37 (B) Has been charged with a crime under section 53a-54a, 53a-54b,
38 53a-54c, 53a-54d, 53a-55 or 53a-55a in connection with the death of his
39 or her minor child or a minor child of the deceased person, provided
40 (i) the existence of the criminal charges is known to the funeral
41 director, and (ii) the criminal charges are pending or the spouse has
42 been found guilty of one of the specified crimes;

43 (C) Has been charged with the commission of a sexual offense
44 under subdivision (2) of section 53-21 or part VI of chapter 952 and the

45 victim of the sexual offense is a minor child of the deceased person,
46 provided (i) the existence of the criminal charges is known to the
47 funeral director, and (ii) the criminal charges are pending or the person
48 has been found guilty of one of the specified crimes;

49 (D) Abandoned the deceased person prior to the deceased person's
50 death; or [has]

51 (E) Has been adjudged incapable by a court of competent
52 jurisdiction;

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

54 (3) The deceased person's surviving parents;

55 (4) The deceased person's surviving siblings;

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

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

60 (d) A document executed by a person for the purposes of subsection
61 (a) or (f) of this section shall revoke any document previously executed
62 by such person for the purposes of said subsection or any prior
63 cremation authorization or other authorization for the disposition of
64 remains executed by such person.

65 (e) A document executed by a person for the purposes of subsection
66 (a) of this section may be in substantially the following form, but the
67 use of such form shall not preclude the use of any other form:

68 DISPOSITION OF REMAINS AND
69 APPOINTMENT OF AGENT

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

72 (Insert desired disposition directions)

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

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

83 ...

84 (Signature)

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

88 ... of ...

89 ...

90 (Signature of witness)

91 ... of ...

92 ...

93 (Signature of witness)

94 (f) A DD Form 93, "Record of Emergency Data", executed by a
95 member of the armed forces of the state or the United States shall be
96 given the same legal effect as a document executed for the purposes of
97 subsection (a) of this section.

98 (g) The court of probate for the district of the domicile or residence
 99 of a deceased person shall have jurisdiction to hear and decide any
 100 issue regarding the custody, control or disposition of the deceased
 101 person's body, upon the petition of any individual designated by the
 102 deceased person pursuant to subsection (a) or (f) of this section, the
 103 individual entitled to custody and control under subsection (c) of this
 104 section if no designation is made pursuant to subsection (a) of this
 105 section, the first selectman, chief executive officer or director of health
 106 of the town in which the deceased person's body is being held, or the
 107 funeral director or any other person or institution holding the
 108 deceased person's body, and upon such notice to interested parties as
 109 the court shall determine.

110 (h) This section shall not (1) apply to the disposition of the body of a
 111 deceased person under the provisions of sections 19a-270 and 54-102,
 112 (2) affect the powers and duties of the Chief Medical Examiner under
 113 the provisions of sections 19a-406 to 19a-408, inclusive, or (3) affect the
 114 making of anatomical gifts under the provisions of sections 14-42 and
 115 19a-289 to 19a-289v, inclusive.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2013	45a-318

Statement of Purpose:

To specify that the commission of certain heinous criminal acts by one spouse against the other, or against a minor child, shall result in the spouse who committed such acts losing his or her rights to participate in decision making related to the funeral arrangements for a decedent spouse.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]