

AMENDMENTS TO LB 420

Introduced by Health and Human Services

1           1. Strike the original sections and insert the following  
2 new sections:

3           Section 1. Section 38-1425, Reissue Revised Statutes of  
4 Nebraska, is amended to read:

5           38-1425 (1) Except as otherwise provided in subsection  
6 (2) of this section or section 71-20,121, the right to control the  
7 disposition of the remains of a deceased person, except in the case  
8 of a minor subject to section 23-1824 and unless other directions  
9 have been given by the decedent in the form of a testamentary  
10 disposition or a pre-need contract, vests in the following persons  
11 in the order named:

12           (a) Any person authorized to direct the disposition of  
13 the decedent's body pursuant to a notarized affidavit authorizing  
14 such disposition and signed and sworn to by the decedent. Such  
15 an affidavit shall be sufficient legal authority for authorizing  
16 disposition without additional authorization from the decedent, the  
17 decedent's family, or the decedent's estate. Such person shall not  
18 be considered an attorney in fact pursuant to sections 30-3401 to  
19 30-3432;

20           (b) The surviving spouse of the decedent;

21           (c) If the surviving spouse is incompetent or not  
22 available or if there is no surviving spouse, the decedent's  
23 surviving adult children. If there is more than one adult child,

1 any adult child, after confirmation in writing of the notification  
2 of all other adult children, may direct the manner of disposition  
3 unless the funeral establishment or crematory authority receives  
4 written objection to the manner of disposition from another adult  
5 child;

6 (d) The decedent's surviving parents;

7 (e) The persons in the next degree of kinship under the  
8 laws of descent and distribution to inherit the estate of the  
9 decedent. If there is more than one person of the same degree, any  
10 person of that degree may direct the manner of disposition;

11 (f) A guardian of the person of the decedent at the time  
12 of such person's death;

13 (g) The personal representative of the decedent;

14 (h) The State Anatomical Board or county board in the  
15 case of an indigent person or any other person the disposition of  
16 whose remains is the responsibility of the state or county; or

17 (i) A representative of an entity described in section  
18 38-1426 that has arranged with the funeral establishment or  
19 crematory authority to cremate a body part in the case of body  
20 parts received from such entity described in section 38-1426.

21 (2) If the decedent died during active military service,  
22 as provided in 10 U.S.C. 1481 (a)(1) through (8), in any branch  
23 of the United States armed forces, United States reserve forces,  
24 or national guard, the person authorized by the decedent to direct  
25 disposition pursuant to section 564 of Public Law 109-163, as  
26 listed on the decedent's United States Department of Defense record  
27 of emergency data, DD Form 93, or its successor form, shall take

1 priority over all other persons described in subsection (1) of this  
2 section.

3           ~~(2)~~ (3) A funeral director, funeral establishment,  
4 crematory authority, or crematory operator shall not be subject  
5 to criminal prosecution or civil liability for carrying out the  
6 otherwise lawful instructions of the person or persons described  
7 in this section if the funeral director or crematory authority or  
8 operator reasonably believes such person is entitled to control the  
9 final disposition of the remains of the deceased person.

10           ~~(3)~~ (4) The liability for the reasonable cost of the  
11 final disposition of the remains of the deceased person devolves  
12 jointly and severally upon all kin of the decedent in the same  
13 degree of kindred and upon the estate of the decedent and, in cases  
14 when the county board has the right to control disposition of the  
15 remains under subdivision (1)(h) of this section, upon the county  
16 in which death occurred from funds available for such purpose.

17           Sec. 2. Original section 38-1425, Reissue Revised  
18 Statutes of Nebraska, is repealed.

19           Sec. 3. Since an emergency exists, this act takes effect  
20 when passed and approved according to law.