

5077

2015-2016 Regular Sessions

I N S E N A T E

April 30, 2015

Introduced by Sen. CROCI -- read twice and ordered printed, and when printed to be committed to the Committee on Health

AN ACT to amend the public health law, in relation to the priority of persons with responsibility to determine the disposition of human remains

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

- 1 Section 1. Subdivision 1 of section 4201 of the public health law is
2 amended by adding a new paragraph (e) to read as follows:
3 (E) "MEMBER OF THE MILITARY OR RESERVES" MEANS (I) A MEMBER OF THE
4 UNITED STATES ARMY, NAVY, AIR FORCE, MARINES, COAST GUARD, ARMY NATIONAL
5 GUARD, AIR NATIONAL GUARD AND/OR RESERVES THEREOF; OR (II) A MEMBER OF
6 THE NEW YORK GUARD OR THE NEW YORK NAVAL MILITIA CALLED UP TO ACTIVE
7 DUTY.
8 S 2. Paragraph (a) of subdivision 2 of section 4201 of the public
9 health law, as amended by chapter 401 of the laws of 2007, is amended to
10 read as follows:
11 (a) The following persons in descending priority shall have the right
12 to control the disposition of the remains of such decedent:
13 (I) IF THE DECEDENT IS A MEMBER OF THE MILITARY OR RESERVES, WHO DIED
14 IN THE COURSE OF THEIR DUTIES THEREIN, THEN THE INDIVIDUAL DESIGNATED,
15 IF ANY, BY THE DECEDENT ON THE DECEDENT'S DD FORM 93, SO LONG AS THE
16 INSTRUMENT WAS COMPLETED IN ACCORDANCE WITH FEDERAL LAW;
17 [(i)] (II) the person designated in a written instrument executed
18 pursuant to the provisions of this section;
19 [(ii)] (III) the decedent's surviving spouse OR DOMESTIC PARTNER;
20 [(ii-a) the decedent's surviving domestic partner;]
21 [(iii)] (IV) any of the decedent's surviving children eighteen years
22 of age or older;
23 (iv) (V) either of the decedent's surviving parents;

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets [] is old law to be omitted.

LBD10407-03-5

1 (v) (VI) any of the decedent's surviving siblings eighteen years of
2 age or older;
3 (vi) (VII) a guardian appointed pursuant to article seventeen or
4 seventeen-A of the surrogate's court procedure act or article eighty-one
5 of the mental hygiene law;
6 (vii) (VIII) any person eighteen years of age or older who would be
7 entitled to share in the estate of the decedent as specified in section
8 4-1.1 of the estates, powers and trusts law, with the person closest in
9 relationship having the highest priority;
10 (viii) (IX) a duly appointed fiduciary of the estate of the decedent;
11 (ix) (X) a close friend or relative who is reasonably familiar with
12 the decedent's wishes, including the decedent's religious or moral
13 beliefs, when no one higher on this list is reasonably available, will-
14 ing, or competent to act, provided that such person has executed a writ-
15 ten statement pursuant to subdivision seven of this section; or
16 (x) (XI) a chief fiscal officer of a county or a public administrator
17 appointed pursuant to article twelve or thirteen of the surrogate's
18 court procedure act, or any other person acting on behalf of the dece-
19 dent, provided that such person has executed a written statement pursu-
20 ant to subdivision seven of this section.
21 S 3. This act shall take effect immediately.