

# STATE OF NEW YORK

3647

2021-2022 Regular Sessions

## IN SENATE

January 30, 2021

Introduced by Sen. ORTT -- 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) an active duty  
4 member of the United States army, navy, air force, marines, coast guard,  
5 army national guard, air national guard and/or reserves thereof; or (ii)  
6 a member of the New York guard or the New York naval militia called up  
7 to active duty.

8 § 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 as described in section 1481 of  
15 title 10 of the United States Code, then the individual designated, if  
16 any, by the decedent on the decedent's United States department of  
17 defense record of emergency data, DD Form 93, or its successor form, so  
18 long as the written instrument was completed in accordance with federal  
19 law;

20 [~~(i)~~] (ii) the person designated in a written instrument executed  
21 pursuant to the provisions of this section;

22 [~~(ii)~~] (iii) the decedent's surviving spouse;

23 [~~(ii-a)~~] (iv) the decedent's surviving domestic partner;

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

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