

House Bill 2507

Sponsored by COMMITTEE ON JUDICIARY

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Makes person arrested for or charged with criminal homicide or aggravated murder of individual ineligible to direct disposition of decedent's remains.

A BILL FOR AN ACT

Relating to disposition of human remains; amending ORS 97.130.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 97.130 is amended to read:

97.130. (1) Any individual of sound mind who is 18 years of age or older, by completion of a written signed instrument or by preparing or prearranging with any funeral service practitioner licensed under ORS chapter 692, may direct any lawful manner of disposition of the individual's remains. Except as provided under subsection (6) of this section, disposition directions or disposition prearrangements that are prepaid or that are filed with a funeral service practitioner licensed under ORS chapter 692 shall not be subject to cancellation or substantial revision.

(2) A person within the first applicable listed class among the following listed classes that is available at the time of death or, in the absence of actual notice of a contrary direction by the decedent as described under subsection (1) of this section or actual notice of opposition by completion of a written instrument by a member of the same class or a member of a prior class, may direct any lawful manner of disposition of a decedent's remains by completion of a written instrument:

(a) The spouse of the decedent.

(b) A son or daughter of the decedent 18 years of age or older.

(c) Either parent of the decedent.

(d) A brother or sister of the decedent 18 years of age or older.

(e) A guardian of the decedent at the time of death.

(f) A person in the next degree of kindred to the decedent.

(g) The personal representative of the estate of the decedent.

(h) The person nominated as the personal representative of the decedent in the decedent's last will.

(i) A public health officer.

(3) The decedent or any person authorized in subsection (2) of this section to direct the manner of disposition of the decedent's remains may delegate such authority to any person 18 years of age or older. Such delegation shall be made by completion of the written instrument described in subsection (7) of this section. The person to whom the authority is delegated shall have the same authority under subsection (2) of this section as the person delegating the authority.

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 (4) If a decedent or the decedent's designee issues more than one authorization or direction for
2 the disposal of the decedent's remains, only the most recent authorization or direction shall be
3 binding.

4 (5) A donation of anatomical gifts under ORS 97.952 or 97.954 shall take priority over directions
5 for the disposition of a decedent's remains under this section only if the person making the donation
6 is of a priority under subsection (1) or (2) of this section the same as or higher than the priority
7 of the person directing the disposition of the remains.

8 (6) If the decedent directs a disposition under subsection (1) of this section and those financially
9 responsible for the disposition are without sufficient funds to pay for such disposition or the estate
10 of the decedent has insufficient funds to pay for the disposition, or if the direction is unlawful, the
11 direction shall be void and disposition shall be in accordance with the direction provided by those
12 persons given priority in subsection (2) of this section and who agree to be financially responsible.

13 (7) The signature of the individual shall be required for the completion of the written instrument
14 required in subsection (3) of this section. The following form or a form substantially similar shall
15 be used by all individuals:

16 _____

17
18 APPOINTMENT OF PERSON
19 TO MAKE DECISIONS
20 CONCERNING DISPOSITION
21 OF REMAINS

22 I, _____, appoint _____, whose address is
23 _____ and whose telephone number is (____) _____, as the person
24 to make all decisions regarding the disposition of my remains upon my death for my burial or
25 cremation. In the event _____ is unable to act, I appoint _____,
26 whose address is _____ and whose telephone number is (____)
27 _____, as my alternate person to make all decisions regarding the disposition of my re-
28 mains upon my death for my burial or cremation.

29 It is my intent that this Appointment of Person to Make Decisions Concerning Disposition of
30 Remains act as and be accepted as the written authorization presently required by ORS 97.130 (or
31 its corresponding future provisions) or any other provision of Oregon Law, authorizing me to name
32 a person to have authority to dispose of my remains.

33 DATED this ____ day of _____, _____.

34 _____
35 (Signature)

36
37 DECLARATION OF WITNESSES

38 We declare that _____ is personally known to us, that he/she signed this Ap-
39 pointment of Person to Make Decisions Concerning Disposition of Remains in our presence, that
40 he/she appeared to be of sound mind and not acting under duress, fraud or undue influence, and that
41 neither of us is the person so appointed by this document.

42
43 Witnessed By:

44 _____ Date: _____

45 Witnessed By:

1 _____ Date: _____

2 _____

3

4 (8) Subject to the provisions of ORS 97.950 to 97.964, if disposition of the remains of a decedent
5 has not been directed and authorized under this section within 10 days after the date of the death
6 of the decedent, a public health officer may direct and authorize disposition of the remains.

7 **(9) Notwithstanding subsection (2) of this section, a person arrested for or charged with**
8 **criminal homicide or aggravated murder by reason of the death of the decedent may not di-**
9 **rect the disposition of the decedent's remains. The disposition of the decedent's remains**
10 **shall be made in accordance with the directions of an eligible person within the first appli-**
11 **cable class established under subsection (2) of this section.**

12 _____