

SENATE AMENDMENTS TO RESOLVE CONFLICTS TO A-ENGROSSED HOUSE BILL 2030

By COMMITTEE ON EDUCATION

May 22

1 On page 12 of the printed A-engrossed bill, after line 9, insert:

2 **“SECTION 12a. If House Bill 2043 becomes law, section 12 of this 2019 Act (amending ORS**
3 **97.130) is repealed and ORS 97.130, as amended by section 1, chapter 83, Oregon Laws 2019**
4 **(Enrolled House Bill 2043), is amended to read:**

5 “97.130. (1) Any individual of sound mind who is 18 years of age or older, by completion of a
6 written signed instrument or by preparing or prearranging with any funeral service practitioner li-
7 censed under ORS chapter 692, may direct any lawful manner of disposition of the individual’s re-
8 mains. Except as provided under subsection (7) of this section, disposition directions or disposition
9 prearrangements that are prepaid or that are filed with a funeral service practitioner licensed under
10 ORS chapter 692 are not subject to cancellation or substantial revision.

11 “(2) A person within the first applicable listed class among the following listed classes that is
12 available at the time of death, in the absence of actual notice of a contrary direction by the
13 decedent as described under subsection (1) of this section or actual notice of opposition by com-
14 pletion of a written instrument by a member of the same class or a member of a prior class, may
15 direct any lawful manner of disposition of a decedent’s remains by completion of a written instru-
16 ment:

17 “(a) The spouse of the decedent.

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

19 “(c) Either parent of the decedent.

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

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

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

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

24 “(h) The person nominated as the personal representative of the decedent in the decedent’s last
25 will.

26 “(i) A public health officer.

27 “(3)(a) The decedent or any person authorized in subsection (2) of this section to direct the
28 manner of disposition of the decedent’s remains may delegate such authority to any person 18 years
29 of age or older.

30 “(b) Delegation of the authority to direct the manner of disposition of remains must be made by
31 completion of:

32 “(A) The written instrument described in subsection (8) of this section; or

33 “(B) The form described in subsection (4) of this section.

34 “(c) The person to whom the authority is delegated has the same authority under subsection (2)
35 of this section as the person delegating the authority.

1 “(4)(a) A Record of Emergency Data, DD Form 93, or a successor form recognized by the Armed
2 Forces of the United States, as that term is defined in ORS [348.282] **366.931**, completed by a member
3 of the Armed Forces of the United States serves as a valid written instrument for purposes of sub-
4 section (3) of this section.

5 “(b) In accordance with United States Department of Defense Instruction 1300.18, a member of
6 the Armed Forces of the United States shall complete the form described in this subsection and shall
7 verify the accuracy of the form at least annually.

8 “(c) The form described in this subsection, regardless of the date on which the form was signed,
9 supersedes any other written instrument that directs the disposition of the decedent’s remains.

10 “(5) Except as provided in subsection (4)(c) of this section, if a decedent or the decedent’s
11 designee issues more than one authorization or direction for the disposal of the decedent’s remains,
12 only the most recent authorization or direction is binding.

13 “(6) A donation of anatomical gifts under ORS 97.951 to 97.982 takes priority over directions for
14 the disposition of a decedent’s remains under this section only if the person making the donation is
15 of a priority under subsection (1) or (2) of this section the same as or higher than the priority of the
16 person directing the disposition of the remains.

17 “(7) If the decedent directs a disposition under subsection (1) of this section and those finan-
18 cially responsible for the disposition are without sufficient funds to pay for such disposition or the
19 estate of the decedent has insufficient funds to pay for the disposition, or if the direction is unlawful,
20 the direction is void and disposition shall be in accordance with the direction provided by the person
21 given priority in subsection (2) of this section and who agrees to be financially responsible.

22 “(8) The signature of the individual delegating the authority to direct the manner of disposition
23 is required for the completion of the written instrument required in subsection (3)(b)(A) of this sec-
24 tion. The following form or a form substantially similar shall be used by all individuals:

25 “ _____

26
27 APPOINTMENT OF PERSON
28 TO MAKE DECISIONS
29 CONCERNING DISPOSITION
30 OF REMAINS
31

32 I, _____, appoint _____, whose address is
33 _____ and whose telephone number is (____) _____, as the person
34 to make all decisions regarding the disposition of my remains upon my death for my burial or
35 cremation. In the event _____ is unable to act, I appoint _____,
36 whose address is _____ and whose telephone number is (____)
37 _____, as my alternate person to make all decisions regarding the disposition of my re-
38 mains upon my death for my burial or cremation.

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

43
44 DATED this ____ day of _____, _____.
45 _____

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

DECLARATION OF WITNESSES

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

Witnessed By: _____ Date: _____

Witnessed By: _____ Date: _____

“ _____

“(9) Subject to the provisions of ORS 97.951 to 97.982, if disposition of the remains of a decedent
has not been directed and authorized under this section within 10 days after the date of the death
of the decedent, a public health officer may direct and authorize disposition of the remains.

“(10) Notwithstanding subsection (2) of this section, a person arrested for or charged with
criminal homicide by reason of the death of the decedent may not direct the disposition of the
decedent’s remains. The disposition of the decedent’s remains shall be made in accordance with the
directions of an eligible person within the first applicable class established under subsection (2) of
this section.

“(11) Notwithstanding subsections (2) and (3) of this section, if the person who has the authority
to direct the manner of disposition of cremated remains pursuant to subsection (1) or (2) of this
section transfers any portion of the cremated remains to another person, the recipient of the
cremated remains has the authority to direct the manner of disposition of the cremated remains in
the recipient’s possession.”
