

Requested by SENATE COMMITTEE ON EDUCATION

**PROPOSED AMENDMENTS TO RESOLVE CONFLICTS TO
A-ENGROSSED HOUSE BILL 2030**

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**
3 **2019 Act (amending ORS 97.130) is repealed and ORS 97.130, as amended**
4 **by section 1, chapter 83, Oregon Laws 2019 (Enrolled House Bill 2043),**
5 **is amended to read:**

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

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

21 “(a) The spouse of the decedent.

1 “(b) A son or daughter of the decedent 18 years of age or older.
2 “(c) Either parent of the decedent.
3 “(d) A brother or sister of the decedent 18 years of age or older.
4 “(e) A guardian of the decedent at the time of death.
5 “(f) A person in the next degree of kindred to the decedent.
6 “(g) The personal representative of the estate of the decedent.
7 “(h) The person nominated as the personal representative of the decedent
8 in the decedent’s last will.
9 “(i) A public health officer.
10 “(3)(a) The decedent or any person authorized in subsection (2) of this
11 section to direct the manner of disposition of the decedent’s remains may
12 delegate such authority to any person 18 years of age or older.
13 “(b) Delegation of the authority to direct the manner of disposition of
14 remains must be made by completion of:
15 “(A) The written instrument described in subsection (8) of this section;
16 or
17 “(B) The form described in subsection (4) of this section.
18 “(c) The person to whom the authority is delegated has the same author-
19 ity under subsection (2) of this section as the person delegating the author-
20 ity.
21 “(4)(a) A Record of Emergency Data, DD Form 93, or a successor form
22 recognized by the Armed Forces of the United States, as that term is defined
23 in ORS [348.282] **366.931**, completed by a member of the Armed Forces of the
24 United States serves as a valid written instrument for purposes of subsection
25 (3) of this section.
26 “(b) In accordance with United States Department of Defense Instruction
27 1300.18, a member of the Armed Forces of the United States shall complete
28 the form described in this subsection and shall verify the accuracy of the
29 form at least annually.
30 “(c) The form described in this subsection, regardless of the date on which

1 the form was signed, supersedes any other written instrument that directs
2 the disposition of the decedent's remains.

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

7 “(6) A donation of anatomical gifts under ORS 97.951 to 97.982 takes pri-
8 ority over directions for the disposition of a decedent's remains under this
9 section only if the person making the donation is of a priority under sub-
10 section (1) or (2) of this section the same as or higher than the priority of
11 the person directing the disposition of the remains.

12 “(7) If the decedent directs a disposition under subsection (1) of this sec-
13 tion and those financially responsible for the disposition are without suffi-
14 cient funds to pay for such disposition or the estate of the decedent has
15 insufficient funds to pay for the disposition, or if the direction is unlawful,
16 the direction is void and disposition shall be in accordance with the direc-
17 tion provided by the person given priority in subsection (2) of this section
18 and who agrees to be financially responsible.

19 “(8) The signature of the individual delegating the authority to direct the
20 manner of disposition is required for the completion of the written instru-
21 ment required in subsection (3)(b)(A) of this section. The following form or
22 a form substantially similar shall be used by all individuals:

23 “ _____

24 APPOINTMENT OF PERSON
25 TO MAKE DECISIONS
26 CONCERNING DISPOSITION
27 OF REMAINS

28
29 I, _____, appoint _____, whose ad-
30 dress is _____ and whose telephone number is (____)

1 _____, as the person to make all decisions regarding the disposition
2 of my remains upon my death for my burial or cremation. In the event
3 _____ is unable to act, I appoint _____, whose address
4 is _____ and whose telephone number is (____)
5 _____, as my alternate person to make all decisions regarding the
6 disposition of my remains upon my death for my burial or cremation.

7 It is my intent that this Appointment of Person to Make Decisions Con-
8 cerning Disposition of Remains act as and be accepted as the written au-
9 thorization presently required by ORS 97.130 (or its corresponding future
10 provisions) or any other provision of Oregon Law, authorizing me to name
11 a person to have authority to dispose of my remains.

12

13 DATED this ____ day of _____, _____.

14

15

(Signature)

16

17

DECLARATION OF WITNESSES

18

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

24

25

26 Witnessed By:

27 _____ Date: _____

28 Witnessed By:

29 _____ Date: _____

30

“ _____

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

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

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

17
