

65-1734. Order of priority of persons authorized to dispose of decedent's remains; immunity of funeral directors, funeral establishments and crematories. (a) The following persons, in order of priority stated, may order any lawful manner of final disposition of a decedent's remains including burial, cremation, entombment or anatomical donation:

- (1) The agent for health care decisions established by a durable power of attorney for health care decisions pursuant to K.S.A. 58-625 et seq., and amendments thereto, if such power of attorney conveys to the agent the authority to make decisions concerning disposition of the decedent's remains;
 - (2) the spouse of the decedent;
 - (3) the decedent's surviving adult children. If there is more than one adult child, any adult child who confirms in writing the notification of all other adult children, may direct the manner of disposition unless the funeral establishment or crematory authority receives written objection to the manner of disposition from another adult child;
 - (4) the decedent's surviving parents;
 - (5) the persons in the next degree of kinship under the laws of descent and distribution to inherit the estate of the decedent. If there is more than one person of the same degree, any person of that degree may direct the manner of disposition;
 - (6) a guardian of the person of the decedent at the time of such person's death;
 - (7) the personal representative of the decedent; or
 - (8) in the case of indigents or any other individuals whose final disposition is the responsibility of the state or county, the public official charged with arranging the final disposition pursuant to K.S.A. 22a-215, and amendments thereto.
- (b) If the decedent died during active military service, as provided in 10 U.S.C. § 1481(a)(1) through (8), in any branch of the United States armed forces, United States reserve forces or national guard, the person authorized by the decedent to direct disposition pursuant to public law 109-163, § 564, as listed on the decedent's United States department of defense record of emergency data, DD Form 93, or its successor form, shall take priority over all other persons described in subsection (a).
- (c) A funeral director, funeral establishment or crematory shall not be subject to criminal prosecution or civil liability for carrying out the otherwise lawful instructions of the person or persons under subsection (a) if the funeral director reasonably believes such person is entitled to control final disposition.

History: L. 2000, ch. 122, § 2; L. 2011, ch. 33, § 1; July 1.