

2009 -- S 0195

LC00823

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2009

A N A C T

RELATING TO BUSINESSES AND PROFESSIONS -- FUNERAL DIRECTOR/EMBALMER
FUNERAL SERVICE ESTABLISHMENTS

Introduced By: Senators Perry, Jabour, Miller, C Levesque, and Pichardo

Date Introduced: February 04, 2009

Referred To: Senate Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 5-33.2-24 of the General Laws in Chapter 5-33.2 entitled "Funeral
2 Director/Embalmer Funeral Service Establishments" is hereby amended to read as follows:

3 **5-33.2-24. Proper authority for funeral arrangements and disposition of human**
4 **remains.** -- Every licensed funeral director/embalmer, licensed funeral establishment, licensed
5 crematory, and cemetery shall comply with the following rules with respect to proper authority
6 for funeral arrangements and disposition of human remains:

7 (1) If a licensed funeral establishment is a party to a funeral services contract, as defined
8 in section 5-33.1-2, for the benefit of a deceased person, only when executed by the principal,
9 him or herself and the contract is still in effect at the time of that person's death, the terms of that
10 contract shall control the nature of the funeral goods and services to be provided, the manner in
11 which funeral services are to be conducted for the deceased, and the final disposition of the
12 deceased person's remains to the full extent provided in that contract. When the contract is
13 executed by the principal, him or herself, and specifies cremation as the chosen disposition, the
14 contract is considered sufficient legal authorization for cremation. No licensed funeral
15 establishment, licensed crematory, or cemetery nor any of its agents or employees, may cancel or
16 materially alter any of the arrangements specified in that contract, even if requested to do so by a
17 member of the deceased person's family or a funeral planning agent designated pursuant to
18 chapter 33.3 of this title unless compliance with the terms of the original contract would result in

1 a violation of any applicable federal, state or local law or regulation, notwithstanding the
2 provisions of this chapter.

3 (2) To the extent that there is no funeral services contract in effect at the time of death
4 for the benefit of the deceased person, indicating the wishes of the deceased person with respect
5 to the nature of the funeral goods and services to be provided, the manner in which funeral
6 services are to be conducted, or the final disposition of the deceased person's remains, then the
7 funeral establishment and its agents or employees shall follow the directions of the deceased
8 person's survivors, in the following order of priority:

- 9 (i) An agent designated pursuant to chapter 33.3 of this title, if any;
- 10 (ii) The surviving spouse or domestic partner of the deceased;
- 11 (iii) The surviving adult children of the deceased;
- 12 (iv) The surviving parent(s) of the deceased;
- 13 (v) The surviving brother(s) or sister(s) of the deceased;
- 14 (vi) The surviving adult grandchildren of the deceased;
- 15 (vii) The surviving adult niece(s) or nephew(s) of the deceased;
- 16 (viii) The guardian of the person of the deceased at the time of his or her death.

17 (3) All licensed funeral directors/embalmers, licensed funeral establishments, licensed
18 crematories, cemeteries, and all their agents and employees shall be held harmless, and shall not
19 be subject to civil suit, either as individual(s), partnership(s), or corporation(s) for complying with
20 the provisions of this chapter.

21 (4) For the purpose of this chapter, "domestic partner" shall be defined as a person who,
22 prior to the decedent's death, was in an exclusive, intimate and committed relationship with the
23 decedent, and who certifies by affidavit that their relationship met the following qualifications:

24 (i) Both partners were at least eighteen (18) years of age and were mentally competent to
25 contract;

26 (ii) Neither partner is married to anyone else;

27 (iii) Partners were not related by blood to a degree which would prohibit marriage in the
28 state of Rhode Island;

29 (iv) Partners resided together and had resided together for at least one year at the time of
30 death; and

31 (v) Partners were financially interdependent as evidenced by at least two (2) of the
32 following:

33 (A) Domestic partnership agreement or relationship contract;

34 (B) Joint mortgage or joint ownership of primary residence;

- 1 (C) Two (2) of the following:
- 2 (I) Joint ownership of motor vehicle;
- 3 (II) Joint checking account;
- 4 (III) Joint credit account;
- 5 (IV) Joint lease; and/or
- 6 (D) The domestic partner had been designated as a beneficiary for the decedent's will,
- 7 retirement contract or life insurance.

8 SECTION 2. Section 23-4-10 of the General Laws in Chapter 23-4 entitled "Office of
9 State Medical Examiners" is hereby amended to read as follows:

10 **23-4-10. Disposition of deceased bodies.** – (a) The office of state medical examiners
11 shall, after any postmortem examination or any autopsy, promptly release the deceased body to
12 the relatives ~~or~~, representatives or domestic partners of the deceased. The cost of transporting the
13 deceased body to a mortuary within the state of the relatives' or domestic partner's choice shall be
14 borne by the state if the autopsy was required to be performed as provided in this chapter. If there
15 are no known relatives ~~or~~, representatives or domestic partners, the office of state medical
16 examiners, after reasonable public notices, shall cause the body of the deceased person to be
17 buried. The general treasurer of the state shall have first priority in recovering the expenses of
18 burial from the estate of the deceased person.

19 (b) For the purpose of this chapter, "domestic partner" shall be defined as a person who,
20 prior to the decedent's death, was in an exclusive, intimate and committed relationship with the
21 decedent, and who certifies by affidavit that their relationship met the following qualifications:

22 (1) Both partners were at least eighteen (18) years of age and were mentally competent to
23 contract;

24 (2) Neither partner is married to anyone else;

25 (3) Partners were not related by blood to a degree which would prohibit marriage in the
26 state of Rhode Island;

27 (4) Partners resided together and had resided together for at least one year at the time of
28 death; and

29 (5) Partners were financially interdependent as evidenced by at least two (2) of the
30 following:

31 (i) Domestic partnership agreement or relationship contract;

32 (ii) Joint mortgage or joint ownership of primary residence;

33 (iii) Two (2) of the following:

34 (A) Joint ownership of motor vehicle;

- 1 (B) Joint checking account;
- 2 (C) Joint credit account;
- 3 (D) Joint lease; and/or
- 4 (iv) The domestic partner had been designated as a beneficiary for the decedent's will,
- 5 retirement contract or life insurance.
- 6 SECTION 3. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
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RELATING TO BUSINESSES AND PROFESSIONS -- FUNERAL DIRECTOR/EMBALMER
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- 1 This act would define "domestic partner" for the purpose of granting authority to
- 2 domestic partners of deceased for funeral arrangements of deceased.
- 3 This act would take effect upon passage.

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