

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas  
2 84th General Assembly  
3 Regular Session, 2003

# A Bill

HOUSE BILL 1733

4  
5 By: Representative Jackson  
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## For An Act To Be Entitled

8  
9 AN ACT TO AMEND THE ARKANSAS FINAL DISPOSITION  
10 RIGHTS ACT TO CREATE CIVIL LIABILITY FOR ANYONE  
11 WHO KNOWINGLY DISREGARDS A PERSON'S FINAL  
12 DECLARATION OF DISPOSITION AT DEATH AND TO  
13 PROVIDE FOR AN ANTE-MORTEM ADJUDICATION OF THE  
14 DECLARATION; AND FOR OTHER PURPOSES.

## Subtitle

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17 TO AMEND THE FINAL DISPOSITION RIGHTS  
18 ACT TO CREATE CIVIL LIABILITY FOR ANYONE  
19 WHO KNOWINGLY DISREGARDS A PERSON'S  
20 FINAL DECLARATION OF DISPOSITION AT  
21 DEATH.  
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23

24 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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26 SECTION 1. Arkansas Code § 20-17-102 is amended to read as follows:

27 20-17-102. Arkansas Final Disposition Rights Act.

28 (a) This section may be cited as the "Arkansas Final Disposition  
29 Rights Act".

30 (b) An individual of sound mind and eighteen (18) or more years of age  
31 may execute at any time a declaration governing the final disposition of  
32 their bodily remains at their death provided such is in accordance with  
33 existing laws, rules, and practices for disposing of human remains. The  
34 declaration shall be signed by the declarant, or another at the declarant's  
35 direction, and shall be witnessed by two (2) individuals.

36 (c) (1) No person having possession, charge, or control of the



1 declarant’s human remains following the death of a person who has executed a  
2 declaration of final disposition shall knowingly dispose of the body in a  
3 manner inconsistent with such declaration.

4 (2) A person who had possession, charge, or control of the  
5 declarant’s human remains following the death and who knowingly disposed of  
6 the body in a manner inconsistent with the declaration shall be civilly  
7 liable in an amount of five thousand dollars (\$5,000) to the declarant’s  
8 estate for the wrongs done to the declarant’s body after the declarant’s  
9 death.

10 (3) A legal action by a declarant’s estate shall be maintained  
11 against any liable person who had possession, charge, or control of the  
12 declarant’s human remains following the death and who knowingly disposed of  
13 the body in a manner inconsistent with the declaration.

14 (d) Nothing in this section shall be construed to affect, repeal, or  
15 replace the provisions and procedures set forth in the Arkansas Anatomical  
16 Gift Act, § 20-17-601 et seq.

17 (e)(1) An individual who executes a declaration governing the final  
18 disposition of the person’s bodily remains at death may institute an action  
19 in the probate division of circuit court of the appropriate county of this  
20 state for a declaratory judgment establishing the validity of the  
21 declaration.

22 (2) A declarant may specify certain persons to be named parties  
23 to the action and service of process shall be as in other declaratory  
24 judgment actions.

25 (3) If the court finds that the declaration is properly  
26 executed, that the declarant had the requisite capacity and freedom from  
27 undue influence at the time of execution, and that the declaration is  
28 otherwise valid under this section, it shall judge the declaration valid and  
29 order it placed on file with the court.

30 (4) A finding of validity under this section shall constitute an  
31 adjudication of liability on the part of any person who was made a party to  
32 the proceedings and who subsequently disposes of the body in a manner  
33 inconsistent with the declaration.

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