

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 88th General Assembly
3 Regular Session, 2011
4

A Bill

HOUSE BILL 1141

5 By: Representative Stewart
6

For An Act To Be Entitled

8 AN ACT TO CLARIFY THE ARKANSAS FINAL DISPOSITION
9 RIGHTS ACT OF 2009 REGARDING MEMBERS OF THE UNITED
10 STATES ARMED FORCES, THE NATIONAL GUARD, AND RESERVE
11 COMPONENTS; AND FOR OTHER PURPOSES.
12

Subtitle

13 TO CLARIFY THE ARKANSAS FINAL DISPOSITION
14 RIGHTS ACT OF 2009 REGARDING MEMBERS OF
15 THE UNITED STATES ARMED FORCES, THE
16 NATIONAL GUARD, AND RESERVE COMPONENTS.
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20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
21

22 SECTION 1. Arkansas Code § 20-17-102(a)-(c), regarding the Arkansas
23 Final Disposition Rights Act of 2009, is amended to read as follows:

24 (a)(1) This section may be cited as the "Arkansas Final Disposition
25 Rights Act of 2009".

26 (2) ~~For purposes of~~ As used in this section:

27 (A) "DD Form 93" means a United States Department of
28 Defense Record of Emergency Data or its successor form;

29 (B) "Died while serving" means the death of a person in a
30 capacity when the secretary of the military service has the authority to
31 provide for the recovery, care, and disposition of the remains of the person
32 as provided under 10 U.S.C. § 1481(a)(1)-(8) as in effect on January 1, 2011;
33 and

34 (C) ~~"final disposition"~~ "Final disposition" means the
35 burial, interment, cremation, removal from Arkansas, or other authorized
36 disposition of a dead body or fetus.



1 (b)(1)(A) ~~As~~ Except as provided under subdivision (b)(2) of this
 2 section, an individual of sound mind and eighteen (18) or more years of age
 3 may execute at any time a declaration specifying the final disposition of his
 4 or her bodily remains at his or her death, provided the disposition is in
 5 accordance with existing laws, rules, and practices for disposing of human
 6 remains.

7 ~~(2)(B)~~ The declaration of final disposition executed under
 8 this section shall be signed by the declarant or another at the declarant's
 9 direction and shall be witnessed by two (2) individuals.

10 ~~(3)(C)~~ ~~No additional~~ Additional consent of any other
 11 person is not required if the declaration of final disposition contains a
 12 disposition authorized under this section and is otherwise valid under this
 13 section.

14 (2) Notwithstanding any other declaration made under this
 15 section or any other law, if the decedent died while serving in any branch of
 16 the armed forces of the United States, the National Guard, or a reserve
 17 component of the armed forces, the decisions regarding the final disposition
 18 for the decedent shall be made by the person authorized to direct disposition
 19 on the DD Form 93 completed by the decedent prior to death.

20 (c) ~~No~~ Except as provided under subdivision (b)(2) of this section, a
 21 person having possession, charge, or control of the declarant's human remains
 22 following the death of a person who has executed a declaration of final
 23 disposition shall not knowingly dispose of the body in a manner inconsistent
 24 with the declaration.

25
 26 SECTION 2. Arkansas Code § 20-17-102(d)(1), regarding the Arkansas
 27 Final Disposition Rights Act of 2009, is amended to read as follows:

28 (d)(1) The right to control the disposition of the remains of a
 29 deceased person, the location, manner, and conditions of disposition, and
 30 arrangements for funeral goods and services to be provided vests in the
 31 following in the order named, provided such person is eighteen (18) years of
 32 age or older and is of sound mind:

33 (A) First, if the decedent died while serving in any
 34 branch of the armed forces of the United States, the National Guard, or a
 35 reserve component of the armed forces, the decisions regarding the final
 36 disposition for the decedent shall be made by the person authorized to direct

1 disposition on the DD Form 93 completed by the decedent prior to death;

2 ~~(A)~~(B) ~~First~~ Second, a person appointed by the decedent in
3 the decedent's declaration of final disposition executed before his or her
4 death, in accordance with this section;

5 ~~(B)~~(C) ~~Second~~ Third, the surviving spouse;

6 ~~(C)~~(D) ~~Third~~ Fourth, the sole surviving child of the
7 decedent or if there is more than one (1) child of the decedent, the majority
8 of the surviving children;

9 ~~(D)~~(i)~~(E)~~(i) ~~Fourth~~ Fifth, the surviving parent or parents
10 of the decedent.

11 (ii) If one (1) of the surviving parents is absent,
12 the remaining parent shall be vested with the rights and duties of this
13 section after reasonable efforts have been unsuccessful in locating the
14 absent surviving parent;

15 ~~(E)~~(F) ~~Fifth~~ Sixth, the surviving brother or sister of the
16 decedent or if there is more than one (1) sibling of the decedent, the
17 majority of the surviving siblings;

18 ~~(F)~~(G) ~~Sixth~~ Seventh, the surviving grandparent of the
19 decedent or if there is more than one (1) surviving grandparent, the majority
20 of the grandparents;

21 ~~(G)~~(H) ~~Seventh~~ Eighth, the surviving grandchild of the
22 decedent or if there is more than one (1) surviving grandchild, the majority
23 of the grandchildren;

24 ~~(H)~~(I) ~~Eighth~~ Ninth, the guardian of the person of the
25 decedent at the time of the decedent's death, if one had been appointed;

26 ~~(I)~~(i)~~(J)~~(i) ~~Ninth~~ Tenth, the person in the classes of the
27 next degree of kinship, in descending order, under the laws of descent and
28 distribution to inherit the estate of the decedent.

29 (ii) If there is more than one (1) person of the
30 same degree, any person of that degree may exercise the right of disposition;

31 ~~(J)~~(K) ~~Tenth~~ Eleventh, any representative of state
32 government or a political subdivision thereof that has the statutory
33 obligation to provide for the disposition of the remains of the decedent,
34 including but not limited to any entity authorized to take possession of the
35 remains under § 20-17-701 et seq.; and

36 ~~(K)~~(L) In the absence of any person under this subsection,

1 any other person willing to assume the responsibilities to act and arrange
2 the final disposition of the decedent's remains, including without limitation
3 the personal representative of the decedent's estate or the funeral director
4 with custody of the body, after attesting in writing that a good faith effort
5 has been made to no avail to contact the individuals under this subsection.

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