

**Sixty-fifth Legislative Assembly of North Dakota  
In Regular Session Commencing Tuesday, January 3, 2017**

HOUSE BILL NO. 1338  
(Representatives Seibel, Kreidt, Nathe, Porter)  
(Senators Klein, D. Larson, J. Lee)

AN ACT to amend and reenact section 23-06-03 of the North Dakota Century Code, relating to indigent burial.

**BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

**SECTION 1. AMENDMENT.** Section 23-06-03 of the North Dakota Century Code is amended and reenacted as follows:

**23-06-03. Duty of burial - Indigent burial - Decedent's instructions.**

1. The duty of ~~burying~~disposition of the body of a deceased individual devolves upon the following individual in the order of priority:
  - a. Any legally competent adult given the duty of final disposition by the deceased individual in a statement conforming with section 23-06-31, except the legally competent adult specified in the statement conforming with section 23-06-31 may decline the duty of final disposition unless the individual would otherwise have the duty of final disposition under this section;
  - b. The surviving husband or wife~~spouse~~ if the deceased was married ~~or, if;~~
  - c. If the deceased was not married but left kindred, upon one or more individuals in the same degree, of adult age, nearest of kin to the deceased and possessed of sufficient means to defray the necessary expenses the majority of the adult children of the decedent; however, in the absence of actual knowledge to the contrary, a funeral director or mortician may rely on instructions given by the child who represents to be the sole surviving child or the children who represent to constitute a majority of the surviving children;
  - d. The surviving parent or parents of the decedent, each having equal authority;
  - e. The adult sibling or the majority of the adult siblings of the decedent; however, in the absence of actual knowledge to the contrary, a funeral director or mortician may rely on instructions given by the sibling who represents to be the sole surviving sibling or the siblings who represent to constitute a majority of the surviving siblings;
  - f. The adult grandchild or the majority of the adult grandchildren of the decedent; however, in the absence of actual knowledge to the contrary, a funeral director or mortician may rely on instructions given by a grandchild who represents to be the only grandchild reasonably available to control final disposition of the decedent's remains or the grandchildren who represent to constitute a majority of grandchildren reasonably available to control final disposition of the decedent's remains;
  - g. The grandparent or the grandparents of the decedent, each having equal authority;
  - h. The adult nieces and nephews of the decedent or a majority of the adult nieces and nephews; however, in the absence of actual knowledge to the contrary, a funeral director or mortician may rely on instructions given by a niece or nephew, who represents to be the only niece or nephew reasonably available to control final disposition of the decedent's remains or the nieces and nephews who represent to constitute a majority of



identified for financial responsibility within the county's general assistance policy, within fifteen days of application for services the county social service board of the county in which the deceased had residence for county general assistance purposes or, if residence cannot be established, within fifteen days of application for assistance the county social service board of the county in which the death occurs shall employ ~~some~~ a person to arrange for and supervise the ~~burial or cremation~~ final disposition. If the deceased was a resident or inmate of a public institution, within fifteen days of application for assistance the county in which the deceased was a resident for county general assistance purposes immediately before entering the institution shall employ a person to arrange for and supervise the burial or cremation.

- b. Each board of county commissioners may negotiate with the interested funeral directors or funeral homes regarding cremation expenses and burial expenses but the total charges for burial services, including transportation of the deceased to the place of burial, the grave box or vault, grave space, and grave opening and closing expenses, may not be less than one thousand five hundred dollars.
- c. The county social services board may provide for the use of a military casket or urn, if the deceased was a veteran as defined in section 37-01-40, unless the additional cost exceeds the negotiated expenses of this section or a surviving spouse or the nearest of kin of the deceased elects a nonmilitary casket.
- d. The county social service board shall pay the charge for funeral expenses as negotiated by the board of county commissioners, ~~less any~~. The county social service board may not decrease the county payment due to a nominal amount left by the deceased or contributed by kin or any other party to defray the expenses of burial or cremation. Funds adequate to allow for burial instead of cremation are considered nominal under this section.

4-7. If the individual with the duty of ~~burial~~ final disposition under this section, or the personal representative of the decedent's estate, if any, is aware of the decedent's instructions regarding the disposition of the remains, that person shall honor those instructions, to the extent reasonable and possible, to the extent the instructions do not impose an economic or emotional hardship. A decedent's instructions may be reflected in a variety of methods, including pre-need funeral arrangements a deceased articulated and funded in a pre-need funeral service contract, a health care directive, a durable power of attorney for health care, a power of attorney, a will, a document created under section 23-06-31, or a document of gift for an anatomical gift.

5-8. If the decedent died while serving in any branch of the United States armed forces, the United States reserve forces, or the national guard, as provided by 10 U.S.C. 1481 section (a)(1) through (8) as effective through December 2001, and completed a United States department of defense record of emergency data, DD form 93, or its successor form or its equivalent branch's form, the duty to bury or cremate the decedent or to provide other funeral and disposition arrangements for the decedent devolves on the person authorized by the decedent pursuant to that form.

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Speaker of the House

\_\_\_\_\_  
President of the Senate

\_\_\_\_\_  
Chief Clerk of the House

\_\_\_\_\_  
Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Sixty-fifth Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1338.

House Vote:      Yeas 89              Nays 0              Absent 5

Senate Vote:      Yeas 30              Nays 16              Absent 1

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Chief Clerk of the House

Received by the Governor at \_\_\_\_\_ M. on \_\_\_\_\_, 2017.

Approved at \_\_\_\_\_ M. on \_\_\_\_\_, 2017.

\_\_\_\_\_  
Governor

Filed in this office this \_\_\_\_\_ day of \_\_\_\_\_, 2017,

at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

\_\_\_\_\_  
Secretary of State