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LC004104/SUB A/2
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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2014

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A N A C T

RELATING TO BUSINESSES AND PROFESSIONS - FUNERAL SERVICE
ESTABLISHMENTS

Introduced By: Senator Roger Picard

Date Introduced: February 04, 2014

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 over the age of eighteen (18), or, if the
13 deceased is a minor, and there is a custody order relative to that child, the custodial parent, after
14 he or she signs an affidavit attesting that he or she does not know the whereabouts of the other
15 parent;

16 (v) The surviving brother(s) or sister(s) of the deceased;

17 (vi) The surviving adult grandchildren of the deceased;

18 (vii) The surviving adult niece(s) or nephew(s) of the deceased;

19 (viii) The guardian of the person of the deceased at the time of his or her death.

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

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

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

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

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

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

34 (v) Partners were financially interdependent as evidenced by at least two (2) of the

1 following:

2 (A) Domestic partnership agreement or relationship contract;

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

4 (C) Two (2) of the following:

5 (I) Joint ownership of motor vehicle;

6 (II) Joint checking account;

7 (III) Joint credit account;

8 (IV) Joint lease; and/or

9 (D) The domestic partner had been designated as a beneficiary for the decedent's will,
10 retirement contract or life insurance.

11 SECTION 2. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

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1 This act would specify that the surviving parent(s) of a deceased person over the age of
2 eighteen (18), or if a minor, would have the authority to make funeral arrangements for the
3 deceased minor in the event that no agent, surviving spouse, domestic partner or surviving adult
4 children are living at the time of death. In certain instances the parent would need to sign an
5 affidavit regarding the whereabouts of the other parent.

6 This act would take effect upon passage.

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