

As Amended by House Committee

Session of 2011

HOUSE BILL No. 2060

By Representative Sloan

1-24

1 AN ACT concerning disposal of decedents' remains; amending K.S.A.  
2 65-1734 and repealing the existing section.

3

4 *Be it enacted by the Legislature of the State of Kansas:*

5 Section 1. K.S.A. 65-1734 is hereby amended to read as follows:  
6 65-1734. (a) The following persons, in order of priority stated, may  
7 order any lawful manner of final disposition of a decedent's remains  
8 including burial, cremation, entombment or anatomical donation:

9 ~~(1) The person authorized by the decedent to direct disposition~~  
10 ~~pursuant to Public Law No. 109-163, § 564, as listed on the decedent's~~  
11 ~~United States department of defense record of emergency data, DD~~  
12 ~~Form 93, or its successor form, if the decedent died during military~~  
13 ~~service, as provided in 10 U.S.C. § 1481(a)(1) through (8), in any~~  
14 ~~branch of the United States armed forces, United States reserve forces,~~  
15 ~~or national guard.~~

16 ~~(1)~~ ~~(2)~~ **(1)** The agent for health care decisions established by a  
17 durable power of attorney for health care decisions pursuant to K.S.A.  
18 58-625, *et seq.*, and amendments thereto, if such power of attorney  
19 conveys to the agent the authority to make decisions concerning  
20 disposition of the decedent's remains;

21 ~~(2)~~ ~~(3)~~ **(2)** the spouse of the decedent;

22 ~~(3)~~ ~~(4)~~ **(3)** the decedent's surviving adult children. If there is more  
23 than one adult child, any adult child who confirms in writing the  
24 notification of all other adult children, may direct the manner of  
25 disposition unless the funeral establishment or crematory authority  
26 receives written objection to the manner of disposition from another  
27 adult child;

28 ~~(4)~~ ~~(5)~~ **(4)** the decedent's surviving parents;

29 ~~(5)~~ ~~(6)~~ **(5)** the persons in the next degree of kinship under the laws  
30 of descent and distribution to inherit the estate of the decedent. If there  
31 is more than one person of the same degree, any person of that degree  
32 may direct the manner of disposition;

33 ~~(6)~~ ~~(7)~~ **(6)** a guardian of the person of the decedent at the time of

1 such person's death;  
2 ~~(7)~~ ~~(8)~~(7) the personal representative of the decedent; or  
3 ~~(8)~~ ~~(9)~~(8) in the case of indigents or any other individuals whose  
4 final disposition is the responsibility of the state or county, the public  
5 official charged with arranging the final disposition pursuant to K.S.A.  
6 ~~2002 Supp.~~ 22a-215, and amendments thereto.  
7 **(b) If the decedent died during active military service, as**  
8 **provided in 10 U.S.C. § 1481(a)(1) through (8), in any branch of the**  
9 **United States armed forces, United States reserve forces or national**  
10 **guard, the person authorized by the decedent to direct disposition**  
11 **pursuant to Public Law No. 109-163, § 564, as listed on the**  
12 **decedent's United States department of defense record of**  
13 **emergency data, DD Form 93, or its successor form, shall take**  
14 **priority over all other persons described in subsection (a).**  
15 ~~(b)~~(c) A funeral director, funeral establishment or crematory shall  
16 not be subject to criminal prosecution or civil liability for carrying out  
17 the otherwise lawful instructions of the person or persons under  
18 subsection (a) if the funeral director reasonably believes such person is  
19 entitled to control final disposition.  
20 Sec. 2. K.S.A. 65-1734 is hereby repealed.  
21 Sec. 3. This act shall take effect and be in force from and after its  
22 publication in the statute book.