

Disposition of Remains

Who may control disposition

36(1) In this section,

- (a) “living with the deceased” includes a situation where
 - (i) the deceased resided before death in a care facility for health reasons and the spouse or adult interdependent partner continued to provide the usual support customarily associated with couples intending to continue a relationship, or
 - (ii) the deceased and the spouse or adult interdependent partner were living apart at the time of death due only to circumstances other than a breakdown of their relationship;
- (b) “parent” means, if the deceased is a minor, the parent who had legal custody of the deceased at the time of death.

(2) Subject to an order of the Court, the right to control the disposition of human remains or cremated remains vests in and devolves on persons in the following order of priority:

- (a) the personal representative designated in the will of the deceased;
- (b) the spouse or adult interdependent partner of the deceased if the spouse or adult interdependent partner was living with the deceased at the time of death;
- (c) an adult child of the deceased;
- (d) a parent of the deceased;
- (e) a guardian of the deceased under the *Adult Guardianship and Trusteeship Act* or, if the deceased is a minor, under the *Child, Youth and Family Enhancement Act* or the *Family Law Act*;
- (f) an adult grandchild of the deceased;
- (g) an adult brother or sister of the deceased;
- (h) an adult nephew or niece of the deceased;
- (i) an adult next of kin of the deceased determined on the basis provided by sections 67 and 68 of the *Wills and Succession Act*;
- (j) the Public Trustee;

- (k) an adult person having some relationship with the deceased not based on blood ties or affinity;
- (l) the Minister of Human Services.

(3) If, under subsection (2)(c) to (h), the right to control the disposition of human remains or cremated remains passes to persons of equal rank, in the absence of agreement between or among them, the order of priority begins with the eldest person in that rank and descends in order of age.

(4) If the person who, under this section, has the right to control the disposition of human remains or cremated remains is not available or is unwilling to give instructions, that right passes to the next available qualified person.

AR 226/98 s36;206/2001;145/2003;8/2005;212/2005;
35/2007;68/2008;168/2010;152/2011;31/2012