



January 29, 2010

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## SENATE BILL No. 102

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DIGEST OF SB 102 (Updated January 26, 2010 12:59 pm - DI 71)

**Citations Affected:** IC 23-14; IC 25-15; IC 29-2; IC 30-2.

**Synopsis:** Interment of service members' remains. Provides that a person granted the authority to direct the disposition of remains of a service member in a certain United States Department of Defense form is second (after the person designated in a funeral planning directive) in the priority of individuals who may authorize the cremation of another person's remains and who may authorize the owner of a cemetery to inter, entomb, or inurn the body or cremated remains of a deceased human.

**Effective:** Upon passage.

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### Wyss, Charbonneau

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January 5, 2010, read first time and referred to Committee on Homeland Security,  
Transportation & Veterans Affairs.  
January 28, 2010, amended, reported favorably — Do Pass.

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SB 102—LS 6384/DI 116+



January 29, 2010

Second Regular Session 116th General Assembly (2010)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2009 Regular and Special Sessions of the General Assembly.

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## SENATE BILL No. 102



A BILL FOR AN ACT to amend the Indiana Code concerning trade regulation.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 23-14-31-26, AS AMENDED BY P.L.143-2009,  
2 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 UPON PASSAGE]: Sec. 26. (a) Except as provided in subsection (c),  
4 the following persons, in the priority listed, have the right to serve as  
5 an authorizing agent:

6 (1) **An individual granted the authority to serve in a funeral**  
7 **planning declaration executed by the decedent under**  
8 **IC 29-2-19, or the person named in a United States**  
9 **Department of Defense form "Record of Emergency Data"**  
10 **(DD Form 93) or a successor form adopted by the United**  
11 **States Department of Defense, if the decedent died while**  
12 **serving in any branch of the United States Armed Forces (as**  
13 **defined in 10 U.S.C. 1481) and completed the form.**

14 (†) ~~An individual granted the authority to serve in a funeral~~  
15 ~~planning declaration executed by the decedent under IC 29-2-19.~~

16 (2) ~~An individual granted the authority to serve in a health care~~  
17 ~~power of attorney executed by the decedent under IC 30-5-5-16.~~

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- 1 (3) The individual who was the spouse of the decedent at the time
- 2 of the decedent's death.
- 3 (4) The decedent's surviving adult children. If more than one (1)
- 4 adult child is surviving, any adult child who confirms in writing
- 5 that the other adult children have been notified, unless the
- 6 crematory authority receives a written objection to the cremation
- 7 from another adult child.
- 8 (5) The decedent's surviving parent. If the decedent is survived by
- 9 both parents, either parent may serve as the authorizing agent
- 10 unless the crematory authority receives a written objection to the
- 11 cremation from the other parent.
- 12 (6) The individual in the next degree of kinship under IC 29-1-2-1
- 13 to inherit the estate of the decedent. If more than one (1)
- 14 individual of the same degree is surviving, any person of that
- 15 degree may serve as the authorizing agent unless the crematory
- 16 authority receives a written objection to the cremation from one
- 17 (1) or more persons of the same degree.
- 18 (7) In the case of an indigent or other individual whose final
- 19 disposition is the responsibility of the state or township, the
- 20 following may serve as the authorizing agent:
- 21 (A) If none of the persons identified in subdivisions (1)
- 22 through (6) are available:
- 23 (i) a public administrator, including a responsible township
- 24 trustee or the trustee's designee; or
- 25 (ii) the coroner.
- 26 (B) A state appointed guardian.
- 27 However, an indigent decedent may not be cremated if a
- 28 surviving family member objects to the cremation or if cremation
- 29 would be contrary to the religious practices of the deceased
- 30 individual as expressed by the individual or the individual's
- 31 family.
- 32 (8) In the absence of any person under subdivisions (1) through
- 33 (7), any person willing to assume the responsibility as the
- 34 authorizing agent, as specified in this article.
- 35 (b) When a body part of a nondeceased individual is to be cremated,
- 36 a representative of the institution that has arranged with the crematory
- 37 authority to cremate the body part may serve as the authorizing agent.
- 38 (c) If:
- 39 (1) the death of the decedent appears to have been the result of:
- 40 (A) murder (IC 35-42-1-1);
- 41 (B) voluntary manslaughter (IC 35-42-1-3); or
- 42 (C) another criminal act, if the death does not result from the

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1 operation of a vehicle; and  
 2 (2) the coroner, in consultation with the law enforcement agency  
 3 investigating the death of the decedent, determines that there is a  
 4 reasonable suspicion that a person described in subsection (a)  
 5 committed the offense;  
 6 the person referred to in subdivision (2) may not serve as the  
 7 authorizing agent.

8 (d) The coroner, in consultation with the law enforcement agency  
 9 investigating the death of the decedent, shall inform the crematory  
 10 authority of the determination referred to in subsection (c)(2).

11 SECTION 2. IC 23-14-55-2, AS AMENDED BY P.L.143-2009,  
 12 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 13 UPON PASSAGE]: Sec. 2. (a) Except as provided in subsection (d),  
 14 the owner of a cemetery is authorized to inter, entomb, or inurn the  
 15 body or cremated remains of a deceased human upon the receipt of a  
 16 written authorization of an individual who professes either of the  
 17 following:

- 18 (1) To be (in the priority listed) one (1) of the following:
- 19 (A) **An individual granted the authority to serve in a**  
 20 **funeral planning declaration executed by the decedent**  
 21 **under IC 29-2-19, or the person named in a United States**  
 22 **Department of Defense form "Record of Emergency Data"**  
 23 **(DD Form 93) or a successor form adopted by the United**  
 24 **States Department of Defense, if the decedent died while**  
 25 **serving in any branch of the United States Armed Forces**  
 26 **(as defined in 10 U.S.C. 1481) and completed the form.**  
 27 ~~(A) An individual granted the authority in a funeral planning~~  
 28 ~~declaration executed by the decedent under IC 29-2-19.~~
  - 29 (B) An individual granted the authority in a health care power  
 30 of attorney executed by the decedent under IC 30-5-5-16.
  - 31 (C) The individual who was the spouse of the decedent at the  
 32 time of the decedent's death.
  - 33 (D) The decedent's surviving adult child. If more than one (1)  
 34 adult child is surviving, any adult child who confirms in  
 35 writing that the other adult children have been notified, unless  
 36 the owner of the cemetery receives a written objection to the  
 37 disposition from another adult child.
  - 38 (E) The decedent's surviving parent. If the decedent is  
 39 survived by both parents, either parent unless the cemetery  
 40 owner receives a written objection to the disposition from the  
 41 other parent.
  - 42 (F) The individual in the next degree of kinship under

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1 IC 29-1-2-1 to inherit the estate of the decedent. If more than  
2 one (1) individual of the same degree of kinship is surviving,  
3 any person of that degree unless the cemetery owner receives  
4 a written objection to the disposition from one (1) or more  
5 persons of the same degree of kinship.

6 (2) To have acquired by court order the right to control the  
7 disposition of the deceased human body or cremated remains.

8 The owner of a cemetery may accept the authorization of an individual  
9 only if all other individuals of the same priority or a higher priority  
10 (according to the priority listing in this subsection) are deceased, are  
11 barred from authorizing the disposition of the deceased human body or  
12 cremated remains under subsection (d), or are physically or mentally  
13 incapacitated from exercising the authorization, and the incapacity is  
14 certified to by a qualified medical doctor.

15 (b) A cemetery owner is not liable in any action for making an  
16 interment, entombment, or inurnment under a written authorization  
17 described in subsection (a) unless the cemetery owner had actual notice  
18 that the representation made under subsection (a) by the individual who  
19 issued the written authorization was untrue.

20 (c) An action may not be brought against the owner of a cemetery  
21 relating to the remains of a human that have been left in the possession  
22 of the cemetery owner without permanent interment, entombment, or  
23 inurnment for a period of three (3) years, unless the cemetery owner  
24 has entered into a written contract for the care of the remains.

25 (d) If:  
26 (1) the death of the decedent appears to have been the result of:  
27 (A) murder (IC 35-42-1-1);  
28 (B) voluntary manslaughter (IC 35-42-1-3); or  
29 (C) another criminal act, if the death does not result from the  
30 operation of a vehicle; and

31 (2) the coroner, in consultation with the law enforcement agency  
32 investigating the death of the decedent, determines that there is a  
33 reasonable suspicion that a person described in subsection (a)  
34 committed the offense;

35 the person referred to in subdivision (2) may not authorize the  
36 disposition of the decedent's body or cremated remains.

37 (e) The coroner, in consultation with the law enforcement agency  
38 investigating the death of the decedent, shall inform the cemetery  
39 owner of the determination referred to in subsection (d)(2).

40 SECTION 3. IC 25-15-9-18, AS AMENDED BY P.L.143-2009,  
41 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
42 UPON PASSAGE]: Sec. 18. (a) Except as provided in subsection (b),

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1 the following persons, in the order of priority indicated, have the  
2 authority to designate the manner, type, and selection of the final  
3 disposition and interment of human remains:

4 **(1) An individual granted the authority to serve in a funeral**  
5 **planning declaration executed by the decedent under**  
6 **IC 29-2-19, or the person named in a United States**  
7 **Department of Defense form "Record of Emergency Data"**  
8 **(DD Form 93) or a successor form adopted by the United**  
9 **States Department of Defense, if the decedent died while**  
10 **serving in any branch of the United States Armed Forces (as**  
11 **defined in 10 U.S.C. 1481) and completed the form.**

12 ~~(1) An individual granted the authority in a funeral planning~~  
13 ~~declaration executed by the decedent under IC 29-2-19.~~

14 (2) An individual granted the authority in a health care power of  
15 attorney executed by the decedent under IC 30-5-5-16.

16 (3) The individual who was the spouse of the decedent at the time  
17 of the decedent's death.

18 (4) The decedent's surviving adult child. If more than one (1)  
19 adult child is surviving, any adult child who confirms in writing  
20 that the other adult children have been notified, unless the  
21 licensed funeral director or licensed funeral home receives a  
22 written objection from another adult child.

23 (5) The decedent's surviving parent. If the decedent is survived by  
24 both parents, either parent has the authority unless the licensed  
25 funeral director or licensed funeral home receives a written  
26 objection from the other parent.

27 (6) The individual in the next degree of kinship under IC 29-1-2-1  
28 to inherit the estate of the decedent. If more than one (1)  
29 individual of the same degree survives, any person of that degree  
30 has the authority unless the licensed funeral director or licensed  
31 funeral home receives a written objection from one (1) or more  
32 persons of the same degree.

33 (7) In the case of an indigent or other individual whose final  
34 disposition is the responsibility of the state or township, the  
35 following:

36 (A) If none of the persons identified in subdivisions (1)  
37 through (6) is available:

- 38 (i) a public administrator, including a responsible township  
39 trustee or the trustee's designee; or
- 40 (ii) the coroner.

41 (B) A state appointed guardian.

42 (b) If:

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1 (1) the death of the decedent appears to have been the result of:  
 2 (A) murder (IC 35-42-1-1);  
 3 (B) voluntary manslaughter (IC 35-42-1-3); or  
 4 (C) another criminal act, if the death does not result from the  
 5 operation of a vehicle; and  
 6 (2) the coroner, in consultation with the law enforcement agency  
 7 investigating the death of the decedent, determines that there is a  
 8 reasonable suspicion that a person described in subsection (a)  
 9 committed the offense;  
 10 the person referred to in subdivision (2) may not authorize or designate  
 11 the manner, type, or selection of the final disposition and internment of  
 12 human remains.

13 (c) The coroner, in consultation with the law enforcement agency  
 14 investigating the death of the decedent, shall inform the cemetery  
 15 owner or crematory authority of the determination under subsection  
 16 (b)(2).

17 SECTION 4. IC 29-2-19-17, AS ADDED BY P.L.143-2009,  
 18 SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 19 UPON PASSAGE]: Sec. 17. The right to control the disposition of a  
 20 decedent's body, to make arrangements for funeral services, and to  
 21 make other ceremonial arrangements after an individual's death  
 22 devolves on the following, in the priority listed:

23 **(1) An individual granted the authority to serve in a funeral**  
 24 **planning declaration executed by the decedent under**  
 25 **IC 29-2-19, or the person named in a United States**  
 26 **Department of Defense form "Record of Emergency Data"**  
 27 **(DD Form 93) or a successor form adopted by the United**  
 28 **States Department of Defense, if the decedent died while**  
 29 **serving in any branch of the United States Armed Forces (as**  
 30 **defined in 10 U.S.C. 1481) and completed the form.**

31 ~~(1) An individual granted the authority in a funeral planning~~  
 32 ~~declaration executed by the decedent under this chapter.~~

33 (2) An individual granted the authority in a health care power of  
 34 attorney executed by the decedent under IC 30-5-5-16.

35 (3) The decedent's surviving spouse.

36 (4) A surviving adult child of the decedent.

37 (5) A surviving parent of the decedent.

38 (6) An individual in the next degree of kinship under IC 29-1-2-1  
 39 to inherit the estate of the decedent.

40 SECTION 5. IC 30-2-13-9, AS AMENDED BY P.L.143-2009,  
 41 SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 42 UPON PASSAGE]: Sec. 9. (a) Except as provided in subsection (b), as

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1 used in this chapter, "purchaser" means a person or firm contracting  
2 with a seller for services or merchandise to be provided or delivered for  
3 a named individual.

4 (b) As used in section 13(b) of this chapter, "purchaser" means:  
5 **(1) the person named in a United States Department of**  
6 **Defense form "Record of Emergency Data" (DD Form 93) or**  
7 **a successor form adopted by the United States Department of**  
8 **Defense, if the decedent died while serving in any branch of**  
9 **the United States Armed Forces (as defined in 10 U.S.C. 1481)**  
10 **and completed the form.**

11 ~~(1)~~ **(2)** an individual granted the authority in a funeral planning  
12 declaration executed by the decedent under IC 29-2-19;

13 ~~(2)~~ **(3)** an individual described in subsection (a);

14 ~~(3)~~ **(4)** the attorney in fact, appointed under IC 30-5, of an  
15 individual described in subsection (a);

16 ~~(4)~~ **(5)** the guardian, appointed under IC 29-3, of an individual  
17 described in subsection (a); or

18 ~~(5)~~ **(6)** if an individual described in subsection (a) is deceased:

19 (A) the surviving spouse of the individual;

20 (B) if there is no surviving spouse, the adult children of the  
21 individual;

22 (C) if there is no surviving spouse or surviving adult child, the  
23 surviving parent or parents of the individual; or

24 (D) if there is neither a surviving spouse nor adult children,  
25 nor a surviving parent, the personal representative (as defined  
26 in IC 29-1-1-3) of the individual.

27 **SECTION 6. An emergency is declared for this act.**

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## COMMITTEE REPORT

Madam President: The Senate Committee on Homeland Security, Transportation and Veterans Affairs, to which was referred Senate Bill No. 102, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, line 6, delete "direct the" and insert "**serve in a funeral planning declaration executed by the decedent under IC 29-2-19, or the person named**".

Page 1, line 7, delete "disposition of remains of a service member".

Page 1, line 9, delete "99)" and insert "93)".

Page 1, line 10, delete "Defense." and insert "**Defense, if the decedent died while serving in any branch of the United States Armed Forces (as defined in 10 U.S.C. 1481) and completed the form.**".

Page 1, line 11, delete "(2)".

Page 1, line 11, strike "An individual granted the authority to serve in a funeral".

Page 1, strike line 12.

Page 1, line 13, reset in roman "(2)".

Page 1, line 13, delete "(3)".

Page 1, line 16, reset in roman "(3)".

Page 1, line 16, delete "(4)".

Page 2, line 1, reset in roman "(4)".

Page 2, line 1, delete "(5)".

Page 2, line 6, reset in roman "(5)".

Page 2, line 6, delete "(6)".

Page 2, line 10, reset in roman "(6)".

Page 2, line 10, delete "(7)".

Page 2, line 16, reset in roman "(7)".

Page 2, line 16, delete "(8)".

Page 2, line 20, reset in roman "(6)".

Page 2, line 20, delete "(7)".

Page 2, line 30, reset in roman "(8)".

Page 2, line 30, delete "(9)".

Page 2, line 31, reset in roman "(7),".

Page 2, line 31, delete "(8),".

Page 3, line 17, delete "direct the" and insert "**serve in a funeral planning declaration executed by the decedent under IC 29-2-19, or the person named**".

Page 3, line 18, delete "disposition of remains of a service member".

Page 3, line 20, delete "99)" and insert "93)".

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Page 3, line 21, delete "Defense." and insert "**Defense, if the decedent died while serving in any branch of the United States Armed Forces (as defined in 10 U.S.C. 1481) and completed the form.**".

Page 3, line 22, delete "(B)".

Page 3, line 22, strike "An individual granted the authority in a funeral".

Page 3, strike lines 23 through 24.

Page 3, line 25, reset in roman "(B)".

Page 3, line 25, delete "(C)".

Page 3, line 28, reset in roman "(C)".

Page 3, line 28, delete "(D)".

Page 3, line 30, reset in roman "(D)".

Page 3, line 30, delete "(E)".

Page 3, line 35, reset in roman "(E)".

Page 3, line 35, delete "(F)".

Page 3, line 39, reset in roman "(F)".

Page 3, line 39, delete "(G)".

Page 5, line 1, delete "direct the" and insert "**serve in a funeral planning declaration executed by the decedent under IC 29-2-19, or the person named**".

Page 5, line 2, delete "disposition of remains of a service member".

Page 5, line 4, delete "99)" and insert "**93**".

Page 5, line 5, delete "Defense." and insert "**Defense, if the decedent died while serving in any branch of the United States Armed Forces (as defined in 10 U.S.C. 1481) and completed the form.**".

Page 5, line 6, delete "(2)".

Page 5, line 6, strike "An individual granted the authority in a funeral planning".

Page 5, strike line 7.

Page 5, line 8, reset in roman "(2)".

Page 5, line 8, delete "(3)".

Page 5, line 10, reset in roman "(3)".

Page 5, line 10, delete "(4)".

Page 5, line 12, reset in roman "(4)".

Page 5, line 12, delete "(5)".

Page 5, line 17, reset in roman "(5)".

Page 5, line 17, delete "(6)".

Page 5 line 21, reset in roman "(6)".

Page 5, line 21, delete "(7)".

Page 5, line 27, reset in roman "(7)".

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Page 5, line 27, delete "(8)".

Page 5, line 31, reset in roman "(6)".

Page 5, line 31, delete "(7)".

Page 6, line 17, delete "direct the" and insert "**serve in a funeral planning declaration executed by the decedent under IC 29-2-19, or the person named**".

Page 6, line 18, delete "disposition of remains of a service member".

Page 6, line 20, delete "99)" and insert "**93**".

Page 6, line 21, delete "Defense." and insert "**Defense, if the decedent died while serving in any branch of the United States Armed Forces (as defined in 10 U.S.C. 1481) and completed the form.**".

Page 6, line 22, delete "(2)".

Page 6, line 22, strike "An individual granted the authority in a funeral planning".

Page 6, strike line 23.

Page 6, line 24, reset in roman "(2)".

Page 6, line 24, delete "(3)".

Page 6, line 26, reset in roman "(3)".

Page 6, line 26, delete "(4)".

Page 6, line 27, reset in roman "(4)".

Page 6, line 27, delete "(5)".

Page 6, line 28, reset in roman "(5)".

Page 6, line 28, delete "(6)".

Page 6, line 29, reset in roman "(6)".

Page 6, line 29, delete "(7)".

Page 6, line 38, delete "an individual granted the authority to direct the".

Page 6, line 39, delete "disposition of remains of a service member" and insert "**the person named**".

Page 6, line 41, delete "99)" and insert "**93**".

Page 6, line 42, delete "Defense;" and insert "**Defense, if the decedent died while serving in any branch of the United States Armed Forces (as defined in 10 U.S.C. 1481) and completed the form.**".

and when so amended that said bill do pass.

(Reference is to SB 102 as introduced.)

WYSS, Chairperson

Committee Vote: Yeas 8, Nays 0.

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