

COMMITTEE REPORT

MADAM PRESIDENT:

The Senate Committee on Corrections, Criminal, and Civil Matters, to which was referred House Bill No. 1432, 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:

- 1 Page 1, between the enacting clause and line 1, begin a new
2 paragraph and insert:
3 "SECTION 1. IC 23-14-31-26, AS AMENDED BY P.L.101-2010,
4 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
5 JULY 1, 2011]: Sec. 26. (a) Except as provided in subsection (c), the
6 following persons, in the priority listed, have the right to serve as an
7 authorizing agent:
8 (1) ~~An individual~~ **A person:**
9 (A) granted the authority to serve in a funeral planning
10 declaration executed by the decedent under IC 29-2-19; or ~~the~~
11 ~~person~~
12 (B) named in a United States Department of Defense form
13 "Record of Emergency Data" (DD Form 93) or a successor
14 form adopted by the United States Department of Defense, if
15 the decedent died while serving in any branch of the United
16 States Armed Forces (as defined in 10 U.S.C. 1481) and
17 completed the form.
18 (2) An individual **specifically** granted the authority to serve in a
19 **power of attorney or a health care power of attorney** executed by
20 the decedent under IC 30-5-5-16.
21 (3) The individual who was the spouse of the decedent at the time

- 1 of the decedent's death, **except when:**
- 2 **(A) a petition to dissolve the marriage or for legal**
 3 **separation of the decedent and spouse is pending with a**
 4 **court at the time of the decedent's death, unless a court**
 5 **finds that the decedent and spouse were reconciled before**
 6 **the decedent's death; or**
- 7 **(B) a court determines the decedent and spouse were**
 8 **physically and emotionally separated at the time of death**
 9 **and the separation was for an extended time that clearly**
 10 **demonstrates an absence of due affection, trust, and regard**
 11 **for the decedent.**
- 12 (4) The decedent's surviving adult ~~children:~~ **child or**, if more than
 13 one (1) adult child is surviving, ~~any adult child who confirms in~~
 14 ~~writing that the majority of the other adult children. have been~~
 15 ~~notified; unless the crematory authority receives a written~~
 16 ~~objection to the cremation from another adult child:~~ **However,**
 17 **one (1) or more surviving adult children of the decedent,**
 18 **although not constituting a majority of the decedent's**
 19 **surviving adult children, have the right to order the**
 20 **cremation and final disposition of the decedent's remains**
 21 **under this subdivision if those adult children have used**
 22 **reasonable efforts to notify the decedent's other surviving**
 23 **adult children of their intentions concerning cremation and**
 24 **final disposition of the decedent's remains and are not aware**
 25 **of any opposition to their intentions on the part of a majority**
 26 **of the decedent's surviving adult children.**
- 27 (5) The decedent's surviving parent **or parents.** If one (1) of the
 28 decedent is survived by both parents ~~either is absent, the parent~~
 29 ~~may serve as the authorizing agent unless the crematory authority~~
 30 ~~receives a written objection to the cremation from the other who~~
 31 **is present has authority under this subdivision if the parent**
 32 **who is present has used reasonable efforts to notify the absent**
 33 **parent.**
- 34 (6) The decedent's surviving sibling **or**, if more than one (1)
 35 **sibling is surviving, the majority of the surviving siblings.**
 36 **However, one (1) or more surviving siblings of the decedent,**
 37 **although not constituting a majority of the decedent's**
 38 **surviving siblings, have the right to order the cremation and**
 39 **final disposition of the decedent's remains under this**
 40 **subdivision if those siblings have used reasonable efforts to**
 41 **notify the decedent's other siblings of their intentions**
 42 **concerning cremation and final disposition of the decedent's**

1 **remains and are not aware of any opposition to their**
 2 **intentions on the part of a majority of the decedent's siblings.**

3 ~~(6)~~ (7) The individual in the next degree of kinship under
 4 IC 29-1-2-1 to inherit the estate of the decedent **or**, if more than
 5 one (1) individual of the same degree is surviving, **any person of**
 6 **that the majority of those who have the same degree. may serve**
 7 **as the authorizing agent unless the crematory authority receives**
 8 **a written objection to the cremation from one (1) or more persons**
 9 **of the same degree. However, one (1) or more individuals who**
 10 **have the same degree of kinship to inherit the decedent's**
 11 **estate, although not constituting a majority of the individuals**
 12 **having the same degree of kinship to inherit the decedent's**
 13 **estate, have the right to order the cremation and final**
 14 **disposition of the decedent's remains under this subdivision if**
 15 **those individuals have used reasonable efforts to notify the**
 16 **other individuals having the same degree of kinship to inherit**
 17 **the decedent's estate of their intentions concerning cremation**
 18 **and final disposition of the decedent's remains and are not**
 19 **aware of any opposition to their intentions on the part of a**
 20 **majority of the individuals having the same degree of kinship**
 21 **to inherit the decedent's estate.**

22 **(8) If none of the persons described in subdivisions (1)**
 23 **through (7) are available, any other person willing to act and**
 24 **arrange for the final disposition of the decedent's remains,**
 25 **including a funeral home that:**

26 **(A) has a valid prepaid funeral plan executed under**
 27 **IC 30-2-13 that makes arrangements for the disposition of**
 28 **the decedent; and**

29 **(B) attests in writing that a good faith effort has been made**
 30 **to contact any living individuals described in subdivisions**
 31 **(1) through (7).**

32 ~~(7)~~ (9) In the case of an indigent or other individual whose final
 33 disposition is the responsibility of the state or township, the
 34 following may serve as the authorizing agent:

35 (A) If none of the persons identified in subdivisions (1)
 36 through ~~(6)~~ (8) are available:

37 (i) a public administrator, including a responsible township
 38 trustee or the trustee's designee; or

39 (ii) the coroner.

40 (B) A state appointed guardian.

41 However, an indigent decedent may not be cremated if a
 42 surviving family member objects to the cremation or if cremation

1 would be contrary to the religious practices of the deceased
 2 individual as expressed by the individual or the individual's
 3 family.

4 ~~(8)~~ **(10)** In the absence of any person under subdivisions (1)
 5 through ~~(7)~~; **(9)**, any person willing to assume the responsibility
 6 as the authorizing agent, as specified in this article.

7 (b) When a body part of a nondeceased individual is to be cremated,
 8 a representative of the institution that has arranged with the crematory
 9 authority to cremate the body part may serve as the authorizing agent.

10 (c) If:

- 11 (1) the death of the decedent appears to have been the result of:
 12 (A) murder (IC 35-42-1-1);
 13 (B) voluntary manslaughter (IC 35-42-1-3); or
 14 (C) another criminal act, if the death does not result from the
 15 operation of a vehicle; and
 16 (2) the coroner, in consultation with the law enforcement agency
 17 investigating the death of the decedent, determines that there is a
 18 reasonable suspicion that a person described in subsection (a)
 19 committed the offense;

20 the person referred to in subdivision (2) may not serve as the
 21 authorizing agent.

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

25 **(e) If a person vested with the right to serve as authorizing agent**
 26 **under subsection (a) does not exercise that right not later than**
 27 **seventy-two (72) hours after the person receives notification of the**
 28 **death of the decedent, the person forfeits the person's right and the**
 29 **right to determine final disposition of the decedent's remains**
 30 **passes to the next person described in subsection (a).**

31 **(f) A crematory authority owner has the right to rely, in good**
 32 **faith, on the representations of a person listed in subsection (a) that**
 33 **any other individuals of the same degree of kinship have been**
 34 **notified of the person's instructions concerning the final disposition**
 35 **of the decedent's remains.**

36 **(g) If there is a dispute concerning the disposition of a decedent,**
 37 **a crematory authority is not liable for refusing to accept the**
 38 **remains of the decedent until the crematory authority receives:**

- 39 **(1) a court order; or**
 40 **(2) a written agreement signed by the disputing parties;**
 41 **that determines the final disposition of the decedent's remains. If**
 42 **a crematory authority agrees to shelter the remains of the decedent**

1 while the parties are in dispute, the crematory authority may
 2 collect any applicable fees for storing the remains, including legal
 3 fees that are incurred.

4 (h) Any cause of action filed under this section must be filed in
 5 the probate court in the county where the decedent resided, unless
 6 the decedent was not a resident of Indiana.

7 (i) A spouse seeking a judicial determination under subsection
 8 (a)(3)(A) that the decedent and spouse were reconciled before the
 9 decedent's death may petition the court having jurisdiction over
 10 the dissolution or separation proceeding to make this
 11 determination by filing the petition under the same cause number
 12 as the dissolution or separation proceeding. A spouse who files a
 13 petition under this subsection is not required to pay a filing fee.

14 SECTION 2. IC 23-14-55-1 IS AMENDED TO READ AS
 15 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 1. (a) An individual
 16 who signs an authorization for the **cremation**, interment, entombment,
 17 or inurnment of any human remains:

18 (1) is considered to warrant the truthfulness of:

19 (A) any fact set forth in the authorization;

20 (B) the identity of the person for whose remains **cremation**,
 21 interment, entombment, or inurnment is sought; and

22 (C) the individual's authority to order the **cremation**,
 23 interment, entombment, or inurnment; and

24 (2) is personally and individually liable to pay damages in
 25 compensation for harm that:

26 (A) is caused by; or

27 (B) results from;

28 the signing of the authorization for **cremation**, interment,
 29 entombment, or inurnment.

30 (b) A cemetery or crematory that relies in good faith on a signed
 31 authorization for the **cremation**, interment, entombment, or
 32 inurnment of human remains is not civilly or criminally liable or
 33 subject to disciplinary actions for carrying out the disposition of
 34 the decedent in accordance with the instructions in the
 35 authorization.

36 SECTION 3. IC 23-14-55-2, AS AMENDED BY P.L.101-2010,
 37 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 38 JULY 1, 2011]: Sec. 2. (a) Except as provided in subsection ~~(d)~~; (c),
 39 the owner of a cemetery is authorized to inter, entomb, or inurn the
 40 body or cremated remains of a deceased human upon the receipt of a
 41 written authorization of an individual who professes either of the
 42 following:

- 1 (1) To be (in the priority listed) one (1) of the following:
- 2 (A) An individual granted the authority to serve in a funeral
- 3 planning declaration executed by the decedent under
- 4 IC 29-2-19, or the person named in a United States
- 5 Department of Defense form "Record of Emergency Data"
- 6 (DD Form 93) or a successor form adopted by the United
- 7 States Department of Defense, if the decedent died while
- 8 serving in any branch of the United States Armed Forces (as
- 9 defined in 10 U.S.C. 1481) and completed the form.
- 10 (B) An individual **specifically** granted the authority in a
- 11 **power of attorney or a health care power of attorney**
- 12 **executed by the decedent under IC 30-5-5-16.**
- 13 (C) The individual who was the spouse of the decedent at the
- 14 time of the decedent's death, **except when:**
- 15 **(i) a petition to dissolve the marriage or for legal**
- 16 **separation of the decedent and spouse is pending with a**
- 17 **court at the time of the decedent's death, unless a court**
- 18 **finds that the decedent and spouse were reconciled**
- 19 **before the decedent's death; or**
- 20 **(ii) a court determines the decedent and spouse were**
- 21 **physically and emotionally separated at the time of death**
- 22 **and the separation was for an extended time that clearly**
- 23 **demonstrates an absence of due affection, trust, and**
- 24 **regard for the decedent.**
- 25 (D) The decedent's surviving adult child **or, if more than one**
- 26 **(1) adult child is surviving, any adult child who confirms in**
- 27 **writing that the majority of the other adult children have**
- 28 **been notified, unless the owner of the cemetery receives a**
- 29 **written objection to the disposition from another adult child.**
- 30 **However, one (1) or more surviving adult children of the**
- 31 **decedent, although not constituting a majority of the**
- 32 **decedent's surviving adult children, have the right to**
- 33 **authorize the interment, entombment, or inurnment of the**
- 34 **decedent's remains under this clause if those adult children**
- 35 **have used reasonable efforts to notify the decedent's other**
- 36 **surviving adult children of their intentions concerning the**
- 37 **interment, entombment, or inurnment of the decedent's**
- 38 **remains and are not aware of any opposition to their**
- 39 **intentions on the part of a majority of the decedent's**
- 40 **surviving adult children.**
- 41 (E) The decedent's surviving parent **or parents. If one (1) of**
- 42 **the decedent is survived by both parents either is absent, the**

1 parent unless the cemetery owner receives a written objection
 2 to the disposition from the other who is present has authority
 3 under this clause if the parent who is present has used
 4 reasonable efforts to notify the absent parent.

5 **(F) The decedent's surviving sibling or, if more than one**
 6 **(1) sibling is surviving, the majority of the surviving**
 7 **siblings. However, one (1) or more surviving siblings of the**
 8 **decedent, although not constituting a majority of the**
 9 **decedent's surviving siblings, have the right to authorize**
 10 **the interment, entombment, or inurnment of the decedent's**
 11 **remains under this clause if those siblings have used**
 12 **reasonable efforts to notify the decedent's other siblings of**
 13 **their intentions concerning the interment, entombment, or**
 14 **inurnment of the decedent's remains and are not aware of**
 15 **any opposition to their intentions on the part of a majority**
 16 **of the decedent's siblings.**

17 ~~(F)~~ **(G) The individual in the next degree of kinship under**
 18 **IC 29-1-2-1 to inherit the estate of the decedent or, if more**
 19 **than one (1) individual of the same degree of kinship is**
 20 **surviving, any person of that the majority of those who have**
 21 **the same degree. unless the cemetery owner receives a written**
 22 **objection to the disposition from one (1) or more persons of**
 23 **the same degree of kinship. However, one (1) or more**
 24 **individuals who have the same degree of kinship to inherit**
 25 **the decedent's estate, although not constituting a majority**
 26 **of the individuals having the same degree of kinship to**
 27 **inherit the decedent's estate, have the right to authorize the**
 28 **interment, entombment, or inurnment of the decedent's**
 29 **remains under this clause if those individuals have used**
 30 **reasonable efforts to notify the other individuals having**
 31 **the same degree of kinship to inherit the decedent's estate**
 32 **of their intentions concerning the interment, entombment,**
 33 **or inurnment of the decedent's remains and are not aware**
 34 **of any opposition to their intentions on the part of a**
 35 **majority of the individuals having the same degree of**
 36 **kinship to inherit the decedent's estate.**

37 **(H) If none of the persons described in clauses (A) through**
 38 **(G) are available, any other person willing to act and**
 39 **arrange for the final disposition of the decedent, including**
 40 **a funeral home that:**

41 **(i) has a valid prepaid funeral plan executed under**
 42 **IC 30-2-13 that makes arrangements for the disposition**

1 **of the decedent; and**
 2 **(ii) attests in writing that a good faith effort has been**
 3 **made to contact any living individuals described in**
 4 **clauses (A) through (G).**

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

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

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

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

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

41 **(e) If a person vested with the right to authorize the interment,**
 42 **entombment, or inurnment of the decedent's remains under**

1 subsection (a) does not exercise that right not less than seventy-two
 2 (72) hours after the person receives notification of the death of the
 3 decedent, the person forfeits the person's right and the right to
 4 authorize the interment, entombment, or inurnment of the
 5 decedent's remains passes to the next person described in
 6 subsection (a).

7 (f) A cemetery owner has the right to rely, in good faith, on the
 8 representations of a person listed in subsection (a) that any other
 9 individuals of the same degree of kinship have been notified of the
 10 person's instructions concerning the interment, entombment, or
 11 inurnment of the decedent's remains.

12 (g) If there is a dispute concerning the disposition of a
 13 decedent's remains, a cemetery owner is not liable for refusing to
 14 accept the remains of the decedent until the cemetery owner
 15 receives:

16 (1) a court order; or

17 (2) a written agreement signed by the disputing parties;

18 that determines the final disposition of the decedent's remains. If
 19 a cemetery agrees to shelter the remains of the decedent while the
 20 parties are in dispute, the cemetery may collect any applicable fees
 21 for storing the remains, including legal fees that are incurred.

22 (h) Any cause of action filed under this section must be filed in
 23 the probate court in the county where the decedent resided, unless
 24 the decedent was not a resident of Indiana.

25 (i) A spouse seeking a judicial determination under subsection
 26 (a)(1)(C)(i) that the decedent and spouse were reconciled before the
 27 decedent's death may petition the court having jurisdiction over
 28 the dissolution or separation proceeding to make this
 29 determination by filing the petition under the same cause number
 30 as the dissolution or separation proceeding. A spouse who files a
 31 petition under this subsection is not required to pay a filing fee."

32 Page 2, after line 1, begin a new paragraph and insert:

33 "SECTION 5. IC 25-15-9-18, AS AMENDED BY P.L.101-2010,
 34 SECTION 3, AND AS AMENDED BY P.L.94-2010, SECTION 8, IS
 35 CORRECTED AND AMENDED TO READ AS FOLLOWS
 36 [EFFECTIVE JULY 1, 2011]: Sec. 18. (a) Except as provided in
 37 subsection (b), the following persons, in the order of priority indicated,
 38 have the authority to designate the manner, type, and selection of the
 39 final disposition ~~and interment~~ of human remains, **to make**
 40 **arrangements for funeral services, and to make other ceremonial**
 41 **arrangements after an individual's death:**

42 (1) ~~An individual~~ **A person:**

1 (A) granted the authority to serve in a funeral planning
 2 declaration executed by the decedent under IC 29-2-19; or ~~the~~
 3 ~~person~~

4 (B) named in a United States Department of Defense form
 5 "Record of Emergency Data" (DD Form 93) or a successor
 6 form adopted by the United States Department of Defense, if
 7 the decedent died while serving in any branch of the United
 8 States Armed Forces (as defined in 10 U.S.C. 1481) and
 9 completed the form.

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

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

15 (3) The individual who was the spouse of the decedent at the time
 16 of the decedent's death, **except when:**

17 (A) **a petition to dissolve the marriage or for legal**
 18 **separation of the decedent and spouse is pending with a**
 19 **court at the time of the decedent's death, unless a court**
 20 **finds that the decedent and spouse were reconciled before**
 21 **the decedent's death; or**

22 (B) **a court determines the decedent and spouse were**
 23 **physically and emotionally separated at the time of death**
 24 **and the separation was for an extended time that clearly**
 25 **demonstrates an absence of due affection, trust, and regard**
 26 **for the decedent.**

27 (4) The decedent's surviving adult child **or, if more than one (1)**
 28 **adult child is surviving, any adult child who confirms in writing**
 29 **that the other majority of the adult children. have been notified;**
 30 **unless the licensed funeral director or licensed funeral home**
 31 **receives a written objection from another adult child. However,**
 32 **one (1) or more surviving adult children of the decedent,**
 33 **although not constituting a majority of the decedent's**
 34 **surviving adult children, have the authority to designate the**
 35 **manner, type, and selection of the final disposition of the**
 36 **decedent's remains, to make arrangements for funeral**
 37 **services, and to make other ceremonial arrangements under**
 38 **this subdivision if those adult children have used reasonable**
 39 **efforts to notify the decedent's other surviving adult children**
 40 **of their intentions concerning the final disposition and other**
 41 **arrangements and are not aware of any opposition to their**
 42 **intentions on the part of a majority of the decedent's**

1 **surviving adult children.**

2 (5) The decedent's surviving parent **or parents**. If **one (1)** of the
3 decedent is survived by both parents ~~either is absent, the parent~~
4 **who is present** has the authority unless the licensed funeral
5 director or licensed funeral home receives a written objection
6 from the ~~other~~ **rights under this subdivision if the parent who**
7 **is present has used reasonable efforts to notify the absent**
8 **parent.**

9 **(6) The decedent's surviving sibling or, if more than one (1)**
10 **sibling is surviving, the majority of the surviving siblings.**
11 **However, one (1) or more surviving siblings of the decedent,**
12 **although not constituting a majority of the decedent's**
13 **surviving siblings, have the right to designate the manner,**
14 **type, and selection of the final disposition of the decedent's**
15 **remains, to make arrangements for funeral services, and to**
16 **make other ceremonial arrangements under this subdivision**
17 **if those siblings have used reasonable efforts to notify the**
18 **decedent's other siblings of their intentions concerning the**
19 **final disposition and other arrangements and are not aware**
20 **of any opposition to their intentions on the part of a majority**
21 **of the decedent's siblings.**

22 ~~(6)~~ (7) The individual in the next degree of kinship under
23 IC 29-1-2-1 to inherit the estate of the decedent **or**, if more than
24 one (1) individual of the same degree survives, ~~any person of that~~
25 degree has the authority unless the licensed funeral director or
26 licensed funeral home receives a written objection from one ~~(1)~~
27 **or more persons of the same degree: the majority of those who**
28 **have the same degree of kinship. However, one (1) or more**
29 **individuals who have the same degree of kinship to inherit the**
30 **decedent's estate, although not constituting a majority of the**
31 **individuals having the same degree of kinship to inherit the**
32 **decedent's estate, have the right to designate the manner,**
33 **type, and selection of the final disposition of the decedent's**
34 **remains, to make arrangements for funeral services, and to**
35 **make other ceremonial arrangements under this subdivision**
36 **if those individuals have used reasonable efforts to notify the**
37 **other individuals having the same degree of kinship to inherit**
38 **the decedent's estate of their intentions concerning the final**
39 **disposition and other arrangements and are not aware of any**
40 **opposition to their intentions on the part of a majority of the**
41 **individuals having the same degree of kinship to inherit the**
42 **decedent's estate.**

1 **(8) If none of the persons identified in subdivisions (1) through**
 2 **(7) are available, any other person willing to act and arrange**
 3 **for the final disposition of the decedent's remains, including**
 4 **a funeral home that:**

5 **(A) has a valid prepaid funeral plan executed under**
 6 **IC 30-2-13 that makes arrangements for the disposition of**
 7 **the decedent; and**

8 **(B) attests in writing that a good faith effort has been made**
 9 **to contact any living individuals described in subdivisions**
 10 **(1) through (7).**

11 ~~(7)~~ **(9) In the case of an indigent or other individual whose final**
 12 **disposition is the responsibility of the state or township, the**
 13 **following:**

14 **(A) If none of the persons identified in subdivisions (1)**
 15 **through ~~(6)~~ (8) is available:**

16 (i) a public administrator, including a responsible township
 17 trustee or the trustee's designee; or

18 (ii) the coroner.

19 **(B) A state appointed guardian.**

20 **(b) If:**

21 **(1) the death of the decedent appears to have been the result of:**

22 **(A) murder (IC 35-42-1-1);**

23 **(B) voluntary manslaughter (IC 35-42-1-3); or**

24 **(C) another criminal act, if the death does not result from the**
 25 **operation of a vehicle; and**

26 **(2) the coroner, in consultation with the law enforcement agency**
 27 **investigating the death of the decedent, determines that there is a**
 28 **reasonable suspicion that a person described in subsection (a)**
 29 **committed the offense;**

30 **the person referred to in subdivision (2) may not authorize or designate**
 31 **the manner, type, or selection of the final disposition ~~and interment~~ of**
 32 **human remains.**

33 **(c) The coroner, in consultation with the law enforcement agency**
 34 **investigating the death of the decedent, shall inform the cemetery**
 35 **owner or crematory authority of the determination under subsection**
 36 **(b)(2).**

37 *(d) If the decedent had filed a protection order against a person*
 38 *described in subsection (a) and the protection order is currently in*
 39 *effect, the person described in subsection (a) may not authorize or*
 40 *designate the manner, type, or selection of the final disposition ~~and~~*
 41 *interment of human remains.*

42 *(e) A law enforcement agency shall determine if the protection*

1 *order is in effect. If the law enforcement agency cannot determine the*
 2 *existence of a protection order that is in effect, the law enforcement*
 3 *agency shall consult the protective order registry established under*
 4 *IC 5-2-9-5.5.*

5 **(f) If a person vested with the right under subsection (a) to**
 6 **designate the manner, type, and selection of the final disposition of**
 7 **the decedent's remains does not exercise that right not later than**
 8 **seventy-two (72) hours after the person receives notification of the**
 9 **death of the decedent, the person forfeits the person's right and the**
 10 **right to determine final disposition of the decedent's remains**
 11 **passes to the next person described in subsection (a).**

12 **(g) A funeral home has the right to rely, in good faith, on the**
 13 **representations of a person listed in subsection (a) that any other**
 14 **individuals of the same degree of kinship have been notified of the**
 15 **person's final disposition instructions.**

16 **(h) If there is a dispute concerning the disposition of a**
 17 **decedent's remains, a funeral home is not liable for refusing to**
 18 **accept the remains of the decedent until the funeral home receives:**

19 **(1) a court order; or**

20 **(2) a written agreement signed by the disputing parties;**

21 **that determines the final disposition of the decedent's remains. If**
 22 **a funeral home agrees to shelter the remains of the decedent while**
 23 **the parties are in dispute, the funeral home may collect any**
 24 **applicable fees for storing the remains, including legal fees that are**
 25 **incurred.**

26 **(i) Any cause of action filed under this section must be filed in**
 27 **the probate court in the county where the decedent resided, unless**
 28 **the decedent was not a resident of Indiana.**

29 **(j) A spouse seeking a judicial determination under subsection**
 30 **(a)(3)(A) that the decedent and spouse were reconciled before the**
 31 **decedent's death may petition the court having jurisdiction over**
 32 **the dissolution or separation proceeding to make this**
 33 **determination by filing the petition under the same cause number**
 34 **as the dissolution or separation proceeding. A spouse who files a**
 35 **petition under this subsection is not required to pay a filing fee.**

36 **SECTION 6. IC 25-15-9-19 IS ADDED TO THE INDIANA CODE**
 37 **AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY**
 38 **1, 2011]: Sec. 19. (a) An individual who signs an authorization for**
 39 **the cremation, interment, entombment, or inurnment of human**
 40 **remains:**

41 **(1) is considered to warrant the truthfulness of:**

42 **(A) any fact set forth in the authorization;**

- 1 **(B) the identity of the person for whose remains cremation,**
- 2 **interment, entombment, or inurnment is sought; and**
- 3 **(C) the individual's authority to order the cremation,**
- 4 **interment, entombment, or inurnment; and**
- 5 **(2) is personally and individually liable to pay damages in**
- 6 **compensation for harm that:**
- 7 **(A) is caused by; or**
- 8 **(B) results from;**
- 9 **the signing of the authorization for cremation, interment,**
- 10 **entombment, or inurnment.**

11 **(b) A funeral home that relies in good faith on a signed**
 12 **authorization for the cremation, interment, entombment, or**
 13 **inurnment of human remains is not civilly or criminally liable or**
 14 **subject to disciplinary actions for carrying out the disposition of**
 15 **the decedent in accordance with the instructions in the**
 16 **authorization.**

17 SECTION 7. IC 29-2-19-15, AS ADDED BY P.L.143-2009,
 18 SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 19 JULY 1, 2011]: Sec. 15. Except as otherwise expressly provided in a
 20 declaration, a subsequent:

- 21 (1) dissolution of marriage;
- 22 (2) annulment of marriage; or
- 23 (3) legal separation of the declarant and the declarant's spouse; or
- 24 **(4) court determination that the declarant and spouse were**
- 25 **physically and emotionally separated at the time of death and**
- 26 **the separation was for an extended time that clearly**
- 27 **demonstrates an absence of due affection, trust, and regard**
- 28 **for the declarant;**

29 automatically revokes a delegation of authority in a declaration to the
 30 declarant's spouse to direct the disposition of the declarant's body or to
 31 make all arrangements concerning funeral services and other
 32 ceremonies after the declarant's death.

33 SECTION 8. IC 29-2-19-17, AS AMENDED BY P.L.101-2010,
 34 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 35 JULY 1, 2011]: Sec. 17. The right to control the disposition of a
 36 decedent's body, to make arrangements for funeral services, and to
 37 make other ceremonial arrangements after an individual's death
 38 devolves on the following, in the priority listed:

- 39 (1) ~~An individual~~ **A person:**
- 40 **(A) granted the authority to serve in a funeral planning**
- 41 **declaration executed by the decedent under this chapter; or ~~the~~**
- 42 **person**

1 **(B)** named in a United States Department of Defense form
2 "Record of Emergency Data" (DD Form 93) or a successor
3 form adopted by the United States Department of Defense, if
4 the decedent died while serving in any branch of the United
5 States Armed Forces (as defined in 10 U.S.C. 1481) and
6 completed the form.

7 (2) An individual **specifically** granted the authority in a **power of**
8 **attorney or a** health care power of attorney executed by the
9 decedent under IC 30-5-5-16.

10 (3) The decedent's surviving spouse.

11 (4) A surviving adult child of the decedent **or, if more than one**
12 **(1) adult child is surviving, the majority of the other adult**
13 **children. However, one (1) or more surviving adult children**
14 **of the decedent, although not constituting a majority of the**
15 **decedent's surviving adult children, have the authority to**
16 **control the disposition of the decedent's body, to make**
17 **arrangements for funeral services, and to make other**
18 **ceremonial arrangements under this subdivision if those adult**
19 **children have used reasonable efforts to notify the decedent's**
20 **other surviving adult children of their intentions concerning**
21 **the final disposition and other arrangements and are not**
22 **aware of any opposition to their intentions on the part of a**
23 **majority of the decedent's surviving adult children.**

24 (5) ~~A~~ **The** surviving parent **or** parents of the decedent. **If one (1)**
25 **of the parents is absent, the parent who is present has the**
26 **rights under this subdivision if the parent who is present has**
27 **used reasonable efforts to notify the absent parent.**

28 (6) **The** decedent's surviving sibling **or, if more than one (1)**
29 **sibling is surviving, the majority of the surviving siblings.**
30 **However, one (1) or more surviving siblings of the decedent,**
31 **although not constituting a majority of the decedent's**
32 **surviving siblings, have the authority to control the**
33 **disposition of the decedent's body, to make arrangements for**
34 **funeral services, and to make other ceremonial arrangements**
35 **under this subdivision if those siblings have used reasonable**
36 **efforts to notify the decedent's other siblings of their**
37 **intentions concerning the final disposition and other**
38 **arrangements and are not aware of any opposition to their**
39 **intentions on the part of a majority of the decedent's siblings.**

40 ~~(6)~~ (7) An individual in the next degree of kinship under
41 IC 29-1-2-1 to inherit the estate of the decedent **or, if more than**
42 **one (1) individual of the same degree survives, the majority of**

1 **those who have the same degree of kinship. However, one (1)**
 2 **or more individuals who have the same degree of kinship to**
 3 **inherit the decedent's estate, although not constituting a**
 4 **majority of the individuals having the same degree of kinship**
 5 **to inherit the decedent's estate, have the authority to control**
 6 **the disposition of the decedent's body, to make arrangements**
 7 **for funeral services, and to make other ceremonial**
 8 **arrangements under this subdivision if those individuals have**
 9 **used reasonable efforts to notify the other individuals having**
 10 **the same degree of kinship to inherit the decedent's estate of**
 11 **their intentions concerning the final disposition and other**
 12 **arrangements and are not aware of any opposition to their**
 13 **intentions on the part of a majority of the individuals having**
 14 **the same degree of kinship to inherit the decedent's estate.**

15 **(8) If none of the persons described in subdivisions (1)**
 16 **through (7) are available, any other person willing to act and**
 17 **arrange for the final disposition of the decedent, including a**
 18 **funeral home that:**

19 **(A) has a valid prepaid funeral plan executed under**
 20 **IC 30-2-13 that makes arrangements for the disposition of**
 21 **the decedent; and**

22 **(B) attests in writing that a good faith effort has been made**
 23 **to contact any living individuals described in subdivisions**
 24 **(1) through (7).**

25 SECTION 9. IC 30-2-13-9, AS AMENDED BY P.L.101-2010,
 26 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 27 JULY 1, 2011]: Sec. 9. (a) Except as provided in subsection (b); As
 28 used in this chapter, "purchaser" means a person or firm contracting
 29 with a seller for services or merchandise to be provided or delivered for
 30 a named individual.

31 (b) As used in section 13(b) of this chapter, "purchaser" means:

32 (1) the person named in a United States Department of Defense
 33 form "Record of Emergency Data" (DD Form 93) or a successor
 34 form adopted by the United States Department of Defense, if the
 35 decedent died while serving in any branch of the United States
 36 Armed Forces (as defined in 10 U.S.C. 1481) and completed the
 37 form;

38 (2) an individual granted the authority in a funeral planning
 39 declaration executed by the decedent under IC 29-2-19;

40 (3) An individual described in subsection (a);

41 (4) The attorney in fact, appointed under IC 30-5, of an individual
 42 described in subsection (a);

- 1 (5) The guardian, appointed under IC 29-3, of an individual
 2 described in subsection (a); or
 3 (6) If an individual described in subsection (a) is deceased:
 4 (A) the surviving spouse of the individual;
 5 (B) if there is no surviving spouse, the adult children of the
 6 individual;
 7 (C) if there is no surviving spouse or surviving adult child, the
 8 surviving parent or parents of the individual; or
 9 (D) if there is neither a surviving spouse nor adult children;
 10 nor a surviving parent, the personal representative (as defined
 11 in IC 29-1-1-3) of the individual.

12 SECTION 10. IC 30-2-13-23, AS AMENDED BY P.L.102-2007,
 13 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 14 JULY 1, 2011]: Sec. 23. (a) A contract is invalid if the contract allows
 15 the purchaser the right to:

- 16 (1) convert, substitute, or exchange the purchase of burial rights
 17 for the purchase of services or merchandise;
 18 (2) free services or merchandise in exchange for the purchase of
 19 other services or merchandise; or
 20 (3) receive cash or gifts, other than burial rights and services and
 21 merchandise, with a value of more than fifty dollars (\$50) as an
 22 inducement to purchase a contract.
 23 (b) A contract is unenforceable if:
 24 (1) the contract obligates the seller to provide prepaid services or
 25 merchandise for a named individual in conjunction with the
 26 death, burial, or final disposition of the individual;
 27 (2) the purchaser under the contract is ~~described in section 9(b)(4)~~
 28 **of this chapter; the attorney in fact, appointed under IC 30-5,**
 29 **of the purchaser.**
 30 (3) the death of the named individual appears to have been the
 31 result of:
 32 (A) murder (IC 35-42-1-1);
 33 (B) voluntary manslaughter (IC 35-42-1-3); or
 34 (C) another criminal act, if the death does not result from the
 35 operation of a vehicle; and
 36 (4) the coroner, in consultation with the law enforcement agency
 37 investigating the death of the decedent, determines that there is a
 38 reasonable suspicion that the purchaser referred to in subdivision
 39 (2) committed the offense.
 40 The coroner, in consultation with the law enforcement agency
 41 investigating the death of the decedent, shall inform the seller of the
 42 determination of the purchaser described in subdivision (4).

1 SECTION 11. IC 34-30-2-91 IS AMENDED TO READ AS
 2 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 91. ~~IC 23-14-55-2~~
 3 **IC 23-14-55-1** (Concerning owners of cemeteries for **cremations and**
 4 **interments** made upon authorization of next of kin).

5 SECTION 12. IC 34-30-2-98.5 IS ADDED TO THE INDIANA
 6 CODE AS A **NEW SECTION** TO READ AS FOLLOWS
 7 [EFFECTIVE JULY 1, 2011]: **Sec. 98.5. IC 25-15-9-19 (Concerning**
 8 **a funeral home for actions taken in reliance on a signed**
 9 **authorization for cremation, interment, entombment, or**
 10 **inurnment).**

11 SECTION 13. IC 36-2-14-6, AS AMENDED BY P.L.225-2007,
 12 SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 13 JULY 1, 2011]: Sec. 6. (a) Whenever the coroner is notified that a
 14 person in the county:

- 15 (1) has died from violence;
- 16 (2) has died by casualty;
- 17 (3) has died when apparently in good health;
- 18 (4) has died in an apparently suspicious, unusual, or unnatural
- 19 manner; or
- 20 (5) has been found dead;

21 the coroner shall, before the scene of the death is disturbed, notify a
 22 law enforcement agency having jurisdiction in that area. The agency
 23 shall assist the coroner in conducting an investigation of how the
 24 person died and a medical investigation of the cause of death. The
 25 coroner may hold the remains of the decedent until the investigation of
 26 how the person died and the medical investigation of the cause of death
 27 are concluded.

28 (b) The coroner:

- 29 (1) shall file a certificate of death with the county health
- 30 department, or, if applicable, a multiple county health department,
- 31 of the county in which the individual died, within seventy-two
- 32 (72) hours after the completion of the death investigation;
- 33 (2) shall complete the certificate of death utilizing all verifiable
- 34 information establishing the time and date of death; and
- 35 (3) may file a pending investigation certificate of death before
- 36 completing the certificate of death, if necessary.

37 (c) If this section applies, the body and the scene of death may not
 38 be disturbed until:

- 39 (1) the coroner has photographed them in the manner that most
- 40 fully discloses how the person died; and
- 41 (2) law enforcement and the coroner have finished their initial
- 42 assessment of the scene of death.

1 However, a coroner or law enforcement officer may order a body to be
 2 moved before photographs are taken if the position or location of the
 3 body unduly interferes with activities carried on where the body is
 4 found, but the body may not be moved from the immediate area and
 5 must be moved without substantially destroying or altering the
 6 evidence present.

7 (d) When acting under this section, if the coroner considers it
 8 necessary to have an autopsy performed, is required to perform an
 9 autopsy under subsection (f), or is requested by the prosecuting
 10 attorney of the county to perform an autopsy, the coroner shall employ

11 a:

- 12 (1) physician certified by the American Board of Pathology; or
 13 (2) pathology resident acting under the direct supervision of a
 14 physician certified in anatomic pathology by the American Board
 15 of Pathology;

16 to perform the autopsy. The physician performing the autopsy shall be
 17 paid a fee of at least fifty dollars (\$50) from the county treasury.

18 (e) If:

19 (1) at the request of:

20 (A) the decedent's spouse;

21 (B) a child of the decedent, if the decedent does not have a
 22 spouse;

23 (C) a parent of the decedent, if the decedent does not have a
 24 spouse or children;

25 (D) a brother or sister of the decedent, if the decedent does not
 26 have a spouse, children, or parents; or

27 (E) a grandparent of the decedent, if the decedent does not
 28 have a spouse, children, parents, brothers, or sisters;

29 (2) in any death, two (2) or more witnesses who corroborate the
 30 circumstances surrounding death are present; and

31 (3) two (2) physicians who are licensed to practice medicine in
 32 the state and who have made separate examinations of the
 33 decedent certify the same cause of death in an affidavit within
 34 twenty-four (24) hours after death;

35 an autopsy need not be performed. The affidavits shall be filed with the
 36 circuit court clerk.

37 (f) A county coroner may not certify the cause of death in the case
 38 of the sudden and unexpected death of a child who is less than three (3)
 39 years old unless an autopsy is performed at county expense. However,
 40 a coroner may certify the cause of death of a child described in this
 41 subsection without the performance of an autopsy if subsection (e)
 42 applies to the death of the child.

- 1 (g) After consultation with the law enforcement agency
 2 investigating the death of a decedent, the coroner shall do the
 3 following:
- 4 (1) Inform a crematory authority if a person is barred under
 5 IC 23-14-31-26(c) from serving as the authorizing agent with
 6 respect to the cremation of the decedent's body because the
 7 coroner made the determination under IC 23-14-31-26(c)(2) in
 8 connection with the death of the decedent.
- 9 (2) Inform a cemetery owner if a person is barred under
 10 ~~IC 23-14-55-2(d)~~ IC 23-14-55-2(c) from authorizing the
 11 disposition of the body or cremated remains of the decedent
 12 because the coroner made the determination under
 13 ~~IC 23-14-55-2(d)(2)~~ IC 23-14-55-2(c)(2) in connection with the
 14 death of the decedent.
- 15 (3) Inform a seller of prepaid services or merchandise if a person's
 16 contract is unenforceable under IC 30-2-13-23(b) because the
 17 coroner made the determination under IC 30-2-13-23(b)(4) in
 18 connection with the death of the decedent."
- 19 Renumber all SECTIONS consecutively.
 (Reference is to HB 1432 as printed February 15, 2011.)

and when so amended that said bill do pass .

Committee Vote: Yeas 8, Nays 0.

Senator Steele, Chairperson