

2007 DRAFTING REQUEST

Bill

Received: **01/11/2007**

Received By: **dkennedy**

Wanted: **As time permits**

Identical to LRB:

For: **Samantha Kerkman (608) 266-2530**

By/Representing: **Herself**

This file may be shown to any legislator: **NO**

Drafter: **dkennedy**

May Contact:

Addl. Drafters:

Subject: **Health - decisionmaking**

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.Kerkman@legis.wisconsin.gov**

Carbon copy (CC:) to: **robin.ryan@legis.wisconsin.gov**

Pre Topic:

No specific pre topic given

Topic:

Final disposition of human remains

Instructions:

Same as 05-3104, with changes

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	dkennedy 02/15/2007	lkunkel 02/16/2007		_____			State Crime
/1			rschluet 02/16/2007	_____	sbasford 02/16/2007		State Crime
/2	dkennedy 03/01/2007	lkunkel 03/01/2007	nmatzke 03/01/2007	_____	sbasford 03/02/2007		State Crime
/3	dkennedy	lkunkel	sherritz	_____	lparisi	lparisi	

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	03/12/2007	03/13/2007	03/13/2007	_____	03/13/2007	04/10/2007	

FE Sent For: *AT* *INTRO.*

<END>

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13/mk 3/13 dh 3/13 dh/rn 3/13

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FE Sent For:

1/2/mk 3/1

3/1
PK

3/1 PK/NN

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/?	dkennedy	1/mk 2/16					
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FE Sent For:


<END>

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3104/1dn

DAK:lmk:rs

March 28, 2006

To Representative Kerkman:

1. After giving the matter considerable thought, I did not place in s. 154.30 (3) the provision concerning the restoration to control of final disposition of an individual for whom certain charges have been dismissed or who has been found not guilty of the charges, as Attorney T. Scott Gilligan had recommended; placement as he had proposed would have had the effect of making control by such an individual an exception to the control specified in s. 154.30 (2). Instead, I renumbered s. 154.30 (2) (intro.) and (a) to (h) to be s. 154.30 (2) (a) (intro.) and 1. to 8. and renumbered s. 154.30 (2) (i) (the provision) to be s. 154.30 (2) (b). In s. 154.30 (2) (b), I specified that the individual is restored to the control in the order of priority that he or she was specified in s. 154.30 (2) (a). I believe these changes address Attorney Gilligan's concerns and clarify the order of priority that such an individual receives.

2. I added "cemetery authorities" to p. 10 of LRB-3104/P3, as requested, and then, because the additions seemed to imply equal powers and duties of a cemetery authority with a funeral director and crematory authority as specified elsewhere in the draft, added the term throughout. If you feel this addition is incorrect (if, for instance, individuals always deal with a funeral director or crematory authority instead of directly with a cemetery authority), I will redraft and remove these additions. Note that I also defined cemetery authority, crematory authority, and funeral director for purposes of subch. IV of ch. 154.

3. Although this bill authorizes, but does not require, the authorized representative to carry out the directions, instructions, and suggestions specified in the authorization, the bill also specifically assigns liability for costs in excess of the decedent's estate to the authorized representative. So far as I can determine, the only way that an authorized representative can avoid these costs is to resign the control before completion (see s. 154.30 (6) (b)), and if he or she does so after encumbering reasonable costs, the liability remains. The bill has no provision for unreasonable costs, i.e., wishes of the declarant that either are prohibitively expensive or for which there is no realistic possibility of compliance. The bill only addresses that issue in s. 154.30 (3) (c) 2. a., and only with respect to the situation in which there is a dispute between individuals in the same level of priority. Would you want something specific about this so that an authorized representative who contemplates an authorization of this type would not be forced to resign to avoid these costs?

4. I have in this draft omitted from s. 154.30 (8) (f) the requirement that DHFS include, in information accompanying the authorization form, a statement that valid witnesses acting in good faith are immune from civil or criminal liability. No such immunity exists in the bill, and it was my error to include this. If, however, you wish to provide this immunity, I will redraft to do so.

Debora A. Kennedy
Managing Attorney
Phone: (608) 266-0137
E-mail: debora.kennedy@legis.state.wi.us

STATE OF WISCONSIN - LEGISLATIVE REFERENCE BUREAU

LRB

Research (608-266-0341)

Library (608-266-7040)

Legal (608-266-3561)

LRB

Redraft of 05-2104

6-2530

7/11/07 Conversation w/

Rep. Kertman

p. 12 - add health care ~~works~~ providers
to list under par. (e)

p. reasonable costs provisions (see #3 of D.N.)



2/15/07 Mtg. w/ Rep. Kerkman, Sarah Papp, etc.

① unlawful - add as limit

② limit to estate - remove rep. liability

hospice care workers - add to list under (e)

p. 11, l. 20 authorizes, but does not require,

fits w/in health care worker: check ✓
social worker: add ✓

RESEARCH APPENDIX - Draft Transfer/Copy Request Form

- Atty's please complete this form and give to Mike Barman

(Request Made By: DAK) (Date: 2 / 15 / 07)



Please transfer the drafting file for

2005 LRB 3104 to the drafting file

for 2007 LRB 1482

☛ The final version of the 2005 draft and the final Request Sheet will copied on yellow paper, and returned to the original 2005 drafting file. A new cover sheet will be created/included listing the new location of the drafting file's "guts".

☛ For research purposes, because the 2005 draft was incorporated into a 2007 draft, the complete drafting file will be transferred, as a separate appendix, to the new 2007 drafting file. This request form will be inserted into the "guts" of the 2007 draft. If introduced, the appendix will be scanned/added to the electronic drafting file folder.

--- OR ---

Please copy the drafting file for

2007 LRB / (include the version) and place it in the

drafting file for 2007 LRB

☛ For research purposes, because the original 2007 draft was incorporated into another 2007 draft, the original drafting file will be copied on yellow paper (darkened/auto centered/reduced to 90%) and added, as a separate appendix, to the new 2007 drafting file. This request form will be inserted into the "guts" of the new 2007 draft. If introduced the appendix will be scanned/added to the electronic drafting file folder.

☛ The original drafting file will then returned, intact, to its folder and filed. For future reference, a copy of the transfer/copy request form will also be added to the "guts" of the original draft.

FRI, 2/16

2007-2008

2005-2006 LEGISLATURE

1482/1
LRB-3104/1

D-NOTE

DAK:lmk:rs
lmk

2007

2005 BILL

LPS:PLS RWF

Relegm ✓

1 **AN ACT** to renumber 69.18 (4) (a) 1.; to amend 69.20 (2) (a) 2.; to repeal and
 2 **recreate** chapter 154 (title); and to create 69.18 (4) (a) 1g. and subchapter IV
 3 of chapter 154 [precedes 154.30] of the statutes; relating to: control of final
 4 disposition of certain human remains and providing a penalty. ✓

Analysis by the Legislative Reference Bureau

Currently, if the applicable assets of the estate of a decedent are insufficient to pay all claims and allowances in full, the personal representative for the decedent's estate must pay certain items under an order of priority that begins with the costs and expenses of administering the estate, followed by the reasonable funeral and burial expenses, and then other items.

This bill authorizes an individual who is of sound mind and at least 18 years of age to execute a written, witnessed document, termed an "authorization for final disposition" (authorization). This document may express the special directions, instructions concerning religious observances, and suggestions concerning the source of funds of the individual (declarant) concerning disposition of the declarant's body after death (final disposition), including arrangements for a viewing; a funeral ceremony, memorial service, graveside service, or other last rite; and burial, cremation and burial or other disposition, or donation of the declarant's body. The authorization must be signed voluntarily by the declarant in the presence of two witnesses or a notary public. An authorization authorizes a representative and one or more named successor representatives to carry out the directions, instructions, and suggestions of the declarant and specifically assigns liability for costs in excess

for

but does not require

BILL

unless the directions, instructions, or suggestions exceed available resources from the decedent's estate or are

~~of the decedent's estate to the authorized representative.~~ The bill specifies an authorization form, although a written document that meets certain requirements for an authorization need not follow this form. The Department of Health and Family Services must prepare and provide copies of the statutory form and certain other information for distribution to funeral directors, crematory authorities, cemetery authorities, hospitals, nursing homes, county clerks, and local bar associations, and individually to private persons, and may charge a reasonable fee for the preparation and distribution.

unlawful

The bill specifies a list of individuals, in order of priority, who may control the disposition of the decedent's remains. The list includes, in order, the authorized representative of the decedent acting under the decedent's authorization, the decedent's surviving spouse, child, parent, and sibling, an individual in the next degree of kinship, the decedent's guardian of the person, and another individual who meets specified criteria. If individuals qualified on the same level of priority disagree concerning the final disposition, the bill specifies a process and criteria for determination by a probate court of the individual with control of final disposition. The bill provides civil and criminal immunities for a funeral director, crematory authority, or cemetery authority who refuses to accept the decedent's remains or inter or otherwise dispose of the remains or complete arrangements for final disposition, if individuals qualified on the same level of priority disagree, unless ordered by a probate court or unless presented with a written agreement of the individuals. A funeral director, crematory authority, or cemetery authority that retains the decedent's remains during such a dispute may add the costs of the retention to final disposition costs. The bill also provides a funeral director, crematory authority, or cemetery authority with civil or criminal immunity for certain actions in good faith reliance on instructions from an individual who claims priority.

or a successor representative

The bill prohibits control of final disposition by any of the individuals specified in the prioritized list if the individual has been charged with any of several crimes in connection with the decedent's death, except that, if the charges have been dismissed or the individual has been found not guilty, the individual is restored to his or her level of priority in the list for control of final disposition. The bill also prohibits control of final disposition by an authorized individual who fails to exercise authorization within two days after notification of the decedent's death or who cannot be located; by the decedent's spouse, if an order to terminate the marriage was pending at the time of the decedent's death; and by an individual whom the probate court determines was estranged from the decedent at the time of the decedent's death. The bill prohibits a funeral director, crematory authority, cemetery authority, employee of these, ^e or a member of the clergy, from acting as a declarant's representative unless related to the declarant by blood, marriage, or adoption.

Under the bill, an unrevoked anatomical gift made by the decedent or by an individual other than the decedent and any power or duty of a coroner, medical examiner, or other physician with respect to reporting certain deaths or performance of autopsies and inquests supercede any control of final disposition specified in the

↑ a health care provider, a hospice worker, or a social worker

BILL

154.30 Control of final disposition of certain human remains. (1)

DEFINITIONS. (a) "Authorization for final disposition" means a written, signed document that is acknowledged before a notary public or is witnessed and that is voluntarily executed by a declarant under sub. (8), but is not limited in form or substance to that provided in sub. (8).

(b) "Cemetery authority" has the meaning given in s. 157.061 (2).

(c) "Credential" has the meaning given in s. 440.01 (2) (a).

(d) "Crematory authority" has the meaning given in s. 440.70 (9).

(e) "Declarant" means an individual who executes an authorization for final disposition.

(f) "Estranged" means being physically and emotionally alienated for a period of time, at the time of the decedent's death, and clearly demonstrating an absence of due affection, trust, and regard.

(g) "Final disposition" means disposition of a decedent's remains, including any of the following:

1. Arrangements for a viewing.

2. A funeral ceremony, memorial service, graveside service, or other last rite.

3. A burial, cremation and burial, or other disposition, or donation of the decedent's body.

(h) "Funeral director" has the meaning given in s. 445.01 (5).

(i) "Health care provider" means any person who has a credential to provide health care.

(j) "Member of the clergy" has the meaning given in s. 765.002 (1).

(k) "Representative" means an individual specifically designated in an authorization for final disposition or, if that individual is unable or unwilling to carry

(j) Hospice worker means a person who provides care in or through a hospice, as defined in s. 50.90 (1).

BILL

1 out the declarant's decisions and preferences, a successor representative designated
2 in the authorization for final disposition to do so.

(m) "Social worker" has the meaning given in s. 252.15 (1)(er).

3 (2) INDIVIDUALS WITH CONTROL OF FINAL DISPOSITION; ORDER. (a) Except as
4 provided in par. (b) and sub. (3), any of the following, as prioritized in the following
5 order, who is at least 18 years old and has not been adjudicated incompetent under
6 ch. 880, may control final disposition, including the location, manner, and conditions
7 of final disposition:

8 1. Subject to sub. (8) (e), a representative of the decedent acting under the
9 decedent's authorization for final disposition that conveys to the representative the
10 control of final disposition.

or a successor representative

11 2. The surviving spouse of the decedent.

12 3. The surviving child of the decedent, unless more than one child of the
13 decedent survives. In such an instance, the majority of the surviving children has
14 control of the final disposition, except that fewer than the majority of the surviving
15 children may control the final disposition if that minority has used reasonable efforts
16 to notify all other surviving children and is not aware of opposition by the majority
17 to the minority's intended final disposition.

18 4. The surviving parent or parents of the decedent or a surviving parent who
19 is available if the other surviving parent is unavailable after the available surviving
20 parent has made reasonable efforts to locate him or her. ✓

21 5. The surviving sibling of the decedent, unless more than one sibling of the
22 decedent survives. In such an instance, the majority of the surviving siblings has
23 control of the final disposition, except that fewer than the majority of the surviving
24 siblings may control the final disposition if that minority has used reasonable efforts

BILL

1 to notify all other surviving siblings and is not aware of opposition by the majority
2 to the minority's intended final disposition. ✓

3 6. In descending order, an individual in the class of the next degree of kinship
4 specified in s. 990.001 (16). ✓

5 7. The guardian of the person, if any, of the decedent. ✓

6 8. Any individual other than an individual specified under subds. 1. to 7. who
7 is willing to control the final disposition and who attests in writing that he or she has
8 made a good-faith effort, to no avail, to contact the individuals under subds. 1. to 7. ✓

9 (b) Control of final disposition under par. (a), in the order of priority specified
10 in par. (a), is restored to an individual specified in sub. (3) (b) 1. for whom charges
11 under sub. (3) (b) 1. a. to d. are dismissed or who is found not guilty of the offense. ✓
12 Subject to s. 69.18[✓](4), the control of final disposition under this paragraph, with
13 respect to a decedent for whom disposition has already been made of his or her
14 remains, is limited, as appropriate, to any of the following: ✓

15 1. A funeral ceremony, memorial service, graveside service, or other last rite. ✓

16 2. Disinterment. ✓

17 3. Reinterment, cremation and reinterment, or other disposition of the
18 decedent's body. ✓

19 (3) EXCEPTIONS. (a) All of the following are exceptions to any control conferred
20 under sub. (2): ✓

21 1. The disposition of any unrevoked anatomical gift made by the decedent
22 under s. 157.06[✓](2) or made by an individual other than the decedent under s. 157.06

23 (3) or (4). ✓

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1 2. Any power or duty of a coroner, medical examiner, or other physician licensed
2 to perform autopsies with respect to the reporting of certain deaths, performance of
3 autopsies, and inquests under ch. 979. ✓

4 (b) None of the following is authorized under sub. (2) to control the final
5 disposition: ✓

6 1. Unless sub. (2) (b) applies, an individual who is otherwise authorized to
7 control final disposition under the order of priority of individuals specified in sub. (2)
8 (a) but who has been charged with any of the following in connection with the
9 decedent's death and the charges are known to the funeral director, crematory
10 authority, or cemetery authority:

11 a. First-degree intentional homicide under s. 940.01 (1). ✓

12 b. First-degree reckless homicide under s. 940.02. ✓

13 c. Second-degree intentional homicide under s. 940.05. ✓

14 d. Second-degree reckless homicide under s. 940.06. ✓

15 2. An individual who is otherwise authorized to control final disposition under
16 the order of priority of individuals specified in sub. (2) (a) but who fails to exercise
17 this authorization within 2 days after he or she is notified of the decedent's death or
18 who cannot be located after reasonable efforts to do so has been made. ✓

19 3. The decedent's spouse, if an action under ch. 767 to terminate the marriage
20 of the spouse and the decedent was pending at the time of the decedent's death. ✓

21 4. An individual for whom a determination is made under by the probate court
22 under par. (c) 2. b. that the individual and the decedent were estranged at the time
23 of death.

24 (c) If the individuals on the same level of priority specified in sub. (2) (a) are
25 unable to agree on the final disposition, the probate court that has jurisdiction for

BILL

1 the county in which the decedent resided at the time of his or her death may
2 designate an individual as most fit and appropriate to control the final disposition.

3 All of the following apply to a designation made under this paragraph: ✓

4 1. After the decedent's death, a petition regarding control of the final
5 disposition shall be filed with the probate court by any of the following:

6 a. A relative of the decedent. ✓

7 b. An individual seeking control of the final disposition who claims a closer
8 personal relationship to the decedent than the decedent's next of kin, who has lived
9 with the decedent, and who was not in the employ of the decedent or the decedent's
10 family. ✓

11 c. If 2 or more individuals on the same level of priority in sub. (2) (a) cannot,
12 by majority vote, decide concerning the final disposition, any of those individuals or
13 the funeral director, crematory authority, or cemetery authority that possesses the
14 decedent's remains. ✓

15 2. The probate court may consider all of the following:

16 a. The reasonableness and practicality of the proposed final disposition. ✓

17 b. The degree of the personal relationship between the decedent and each of the
18 individuals claiming the right of final disposition, including whether the decedent
19 was estranged from any of the individuals. ✓

20 c. Except as provided in subd. 3., the desires of the individual or individuals
21 who are ready, able, and willing to pay the cost of the final disposition. ✓

22 d. The express written desires of the decedent. ✓

23 e. The degree to which any proposed final disposition would permit maximum
24 participation by family members, friends, and others who wish to pay final respects
25 to the decedent. ✓

BILL

1 3. An individual's payment or agreement to pay for all or part of the costs of final
2 disposition, or the fact that an individual is the personal representative of the
3 decedent, does not, by itself, provide the individual any greater opportunity to
4 control the final disposition than the individual otherwise has under this section. ✓

5 (4) DECLINING TO EXERCISE CONTROL OR RESIGNING CONTROL. An individual who
6 is otherwise authorized to control final disposition under the order of priority of
7 individuals specified in sub. (2) (a) or who is designated under sub. (3) (c) may accept
8 the control, may decline to exercise the control, or may, after accepting the control,
9 resign it. ✓

10 (5) LIABILITY OF FUNERAL DIRECTOR, CREMATORY AUTHORITY, OR CEMETERY
11 AUTHORITY. (a) If inability to agree exists among any individuals, as specified in sub.
12 (3) (c) (intro.), no funeral director, crematory authority, or cemetery authority is
13 civilly or criminally liable for his or her refusal to accept the decedent's remains, to
14 inter or otherwise dispose of the decedent's remains, or to complete the arrangements
15 for the final disposition unless specifically directed to do so under an order of the
16 probate court or unless the individuals in disagreement present the funeral director,
17 crematory authority, or cemetery authority with a written agreement, signed by the
18 individuals, that specifies the final disposition. ✓

19 (b) A funeral director, crematory authority, or cemetery authority that retains
20 the remains of a decedent for final disposition before individuals specified in sub. (3)
21 (c) (intro.) reach agreement or before the probate court makes a final decision under
22 sub. (3) (c) may embalm or refrigerate and shelter the remains while awaiting the
23 agreement or the probate court's decision and may add the cost of embalming or
24 refrigeration and shelter, as appropriate, to the final disposition costs. ✓

BILL

1 (c) If a funeral director, crematory authority, or cemetery authority files a
 2 petition under sub. (3) (c) 1., the funeral director, crematory authority, or cemetery
 3 authority may add to the cost of final disposition reasonable legal fees and costs
 4 associated with the court's review of the petition. ✓

5 (d) This subsection may not be construed to require or otherwise impose a duty
 6 upon a funeral director, crematory authority, or cemetery authority to file a petition
 7 under sub. (3) (c) 1., and a funeral director, crematory authority, or cemetery
 8 authority may not be held criminally or civilly liable for failing or omitting to file the
 9 petition. ✓

10 (e) In the absence of written notice to the contrary from an individual who
 11 claims control of the final disposition because of precedence under the order of
 12 priority of individuals specified under sub. (2) (a), no funeral director, crematory
 13 authority, or cemetery authority, who relies in good faith on instructions concerning
 14 the final disposition from another individual who first claims control of the final
 15 disposition but has less precedence under the order of priority of individuals
 16 specified in sub. (2) (a), and who acts or omits to act in accordance with these
 17 instructions, is civilly or criminally liable or may be found guilty of unprofessional
 18 conduct for the action or omission. ✓

19 **(6) LIABILITY FOR COSTS OF FINAL DISPOSITION.** (a) Liability for the reasonable
 20 costs of the final disposition is as follows:

21 ^{MOVE TO §} 1. From the decedent's estate, as specified under s. 859.25 (1). ✓

22 2. Except as provided in par. (b), from the individual or individuals other than
 23 a funeral director, crematory authority, or cemetery authority exercising control of
 24 final disposition, for any claims remaining after payment is made under subd. 1.

BILL

1 (b) If an individual who first exercises control of final disposition subsequently
2 resigns that control under sub. (4) before completion, any reasonable costs of the final
3 disposition that are encumbered by the individual before resigning and that are not
4 paid under par. (a) 1. are the liability of the individual.

5 (7) JURISDICTION. The probate court for the county in which the decedent last
6 resided has exclusive jurisdiction over matters that arise under this section. ✓

7 (8) AUTHORIZATION FOR FINAL DISPOSITION. (a) An individual who is of sound
8 mind and has attained age 18 may voluntarily execute an authorization for final
9 disposition, which shall take effect on the date of execution. An individual for whom
10 an adjudication of incompetence and appointment of a guardian of the person is in
11 effect under ch. 880 is presumed not to be of sound mind for purposes of this
12 subsection. ✓

13 (b) An authorization for final disposition may express the declarant's special
14 directions, instructions concerning religious observances, and suggestions
15 concerning ~~the source of funds for~~ any of the following: ✓

16 1. Arrangements for a viewing. ✓

17 2. Funeral ceremony, memorial service, graveside service, or other last rite. ✓

18 3. Burial, cremation and burial, or other disposition, or donation of the
19 declarant's body after death. ✓

20 (c) An authorization for final disposition authorizes a representative and one
21 or more named successor representatives to carry out the directions, instructions,
22 and suggestions of the declarant, as expressed in the declarant's authorization for
23 final disposition.

24 (d) An authorization for final disposition shall meet all of the following
25 requirements:

^ unless the directions, instructions, and suggestions exceed available resources from the decedent's estate or are unlawful

^ but does not require ^

BILL

1 1. List the name and last-known address, as of the date of execution of the
2 authorization for final disposition, of each representative and each successor
3 representative named, and be signed by each representative and each successor
4 representative named. ✓

5 2. Be signed and dated by the declarant, with the signature witnessed by 2
6 witnesses who each have attained age 18 and who are not related by blood, marriage,
7 or adoption to the declarant, or acknowledged before a notary public. If the declarant
8 is physically unable to sign an authorization for final disposition, the authorization
9 shall be signed in the declarant's name by an individual at the declarant's express
10 direction and in his or her presence; such a proxy signing shall take place or be
11 acknowledged by the declarant in the presence of 2 witnesses or a notary public. ✓

12 (e) Unless any of the following is related to the declarant by blood, marriage,
13 or adoption, that person may not serve as a representative under the requirements
14 of this subsection:

- 15 1. A funeral director.
- 16 2. A crematory authority.
- 17 3. A cemetery authority.
- 18 4. An employee of a funeral director, crematory authority, or cemetery
19 authority. ✓
- 20 5. A member of the clergy. ✓

21 (f) The department shall prepare and provide copies of the authorization for
22 final disposition form and accompanying information for distribution in quantities
23 to funeral directors, crematory authorities, cemetery authorities, hospitals, nursing
24 homes, county clerks, and local bar associations and individually to private persons.

25 The department shall include, in information accompanying the authorization for

→ 6. A health care provider ○
 7. A hospice worker ○
 8. A social worker ○

BILL

1 final disposition form, at least the statutory definitions of terms used in the form, and
 2 an instruction to potential declarants to read and understand the information before
 3 completing the form. The department may charge a reasonable fee for the cost of
 4 preparation and distribution. The authorization for final disposition form
 5 distributed by the department shall be easy to read, in not less than 10-point type,
 6 and in the following form: ✓

AUTHORIZATION FOR FINAL DISPOSITION

7 I, (print name and address), being of sound mind, willfully and voluntarily
 8 make known by this document my desire that, upon my death, the final disposition
 9 of my remains be under the control of my representative under the requirements of
 10 section 154.30, Wisconsin statutes, and, with respect to that final disposition only,
 11 I hereby appoint the representative and any successor representative named in this
 12 document. All decisions made by my representative or any successor representative
 13 with respect to the final disposition of my remains are binding.

14 Name of representative.....

15 Address.....

16 Telephone number.....

17 If my representative dies, becomes incapacitated, resigns, refuses to act, ceases
 18 to be qualified, or cannot be located within the time necessary to control the final
 19 disposition of my remains, I hereby appoint the following individuals, each to act
 20 alone and successively, in the order specified, to serve as my successor
 21 representative:

22 1. Name of first successor representative.....

23 Address.....

24 Telephone number.....

BILL

1 2. Name of second successor representative.....

2 Address.....

3 Telephone number.....

4 SUGGESTED SPECIAL DIRECTIONS.....

5 SUGGESTED INSTRUCTIONS CONCERNING RELIGIOUS

6 OBSERVANCES.....

7 SUGGESTED SOURCE OF FUNDS FOR IMPLEMENTING FINAL DISPOSITION DIRECTIONS AND

8 INSTRUCTIONS.....

9 This authorization becomes effective upon my death.

10 I hereby revoke any prior authorization for final disposition that I may have
11 signed before the date that this document is signed.

12 I hereby agree that any funeral director, crematory authority, or cemetery
13 authority that receives a copy of this document may act under it. Any modification
14 or revocation of this document is not effective as to a funeral director, crematory
15 authority, or cemetery authority until the funeral director, crematory authority, or
16 cemetery authority receives actual notice of the modification or revocation. No
17 funeral director, crematory authority, or cemetery authority may be liable because
18 of reliance on a copy of this document. ✓

19 The representative and any successor representative, by accepting
20 appointment under this document, assume the powers and duties specified for a
21 representative under section 154.30, Wisconsin statutes, including liability for the
22 reasonable costs of the final disposition of my remains, if the assets of my estate are
23 insufficient to pay for these costs. *m-keel*

24 Signed thisday of

25 Signature of declarant.....

BILL

1 I hereby accept appointment as representative for the control of final
2 disposition of the declarant's remains.

3 Signed thisday of

4 Signature of representative.....

5 I hereby accept appointment as successor representative for the control of final
6 disposition of the declarant's remains.

7 Signed thisday of

8 Signature of first successor representative.....

9 Signed thisday of

10 Signature of second successor representative.....

11

12 I attest that the declarant signed or acknowledged this authorization for final
13 disposition in my presence and that the declarant appears to be of sound mind and
14 not subject to duress, fraud, or undue influence. I further attest that I am not the
15 representative or the successor representative appointed under this document, that
16 I am aged at least 18, and that I am not related to the declarant by blood, marriage,
17 or adoption.

18 Witness (print name).....

19 Signature.....

20 Address.....

21 Date.....

22

23 Witness (print name).....

24 Signature.....

25 Address.....

BILL

1 Date.....

2

3 State of Wisconsin

4 County of

5 On (date)....., before me personally appeared
6 (name of declarant)....., known to me or
7 satisfactorily proven to be the individual whose name is specified in this document
8 as the declarant and who has acknowledged that he or she executed the document
9 for the purposes expressed in it. I attest that the declarant appears to be of sound
10 mind and not subject to duress, fraud, or undue influence.

11 Notary public.....

12 My commission expires.....

13 **(9) REVOCATION OF AUTHORIZATION FOR FINAL DISPOSITION.** A declarant may
14 revoke an authorization for final disposition at any time by any of the following
15 methods:

16 (a) Cancelling, defacing, obliterating, burning, tearing, or otherwise destroying
17 the authorization for final disposition or directing some other person to cancel,
18 deface, obliterate, burn, tear, or otherwise destroy the authorization for final
19 disposition in the presence of the declarant. ✓

20 (b) Revoking in writing the authorization for final disposition. The declarant
21 shall sign and date any written revocation under this subsection. ✓

22 (c) Executing a subsequent authorization for final disposition. ✓

23 **(10) PENALTY.** Any person who intentionally conceals, cancels, defaces,
24 obliterates, or damages the authorization for final disposition of another without the

BILL

1 declarant's consent may be fined not more than \$500 or imprisoned not more than
2 30 days or both. ✓

3 (END)

D-NOTE

D-NOTE
(date)

DAK:lmk

To Representative Kerkman:

If the changes we agreed to in our meeting of February 15, 2007, are incorporated in the bill, in s. 154.30 (1)(j) and (m), (6), and (8)(c) and (e) 60 to 80 and in the authorization form, I have made very minor additional technical changes, principally to add "or a successor representative" to s. 154.30 (2)(a) 10.

Please let me know if I may assist you further with this bill.

DAK

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-1482/1dn
DAK:lmk:rs

February 16, 2007

To Representative Kerkman:

The changes we agreed to in our meeting of February 15, 2007, are incorporated, in the bill, in s. 154.30 (1) (j) and (m), (6), and (8) (c) and (e) 6. to 8. and in the authorization form. I have made very minor additional technical changes, principally to add “, or a successor representative” to s. 154.30 (2) (a) 1.

Please let me know if I may assist you further with this bill.

Debora A. Kennedy
Managing Attorney
Phone: (608) 266-0137
E-mail: debora.kennedy@legis.wisconsin.gov

3/1/07 From Sarah Popp
Redraft - 1482/1 :

① Require (rather than authorize) representative
to carry out declarant's wishes

② Add "unless there is no realistic
possibility of compliance" as ~~an~~ 3rd exception
to requirement in ①