

Part 7. Disposition of Body or Body Parts.

§ 130A-420. Authority to dispose of body or body parts.

(a) An individual at least 18 years of age may authorize the type, place, and method of disposition of the individual's own dead body by methods in the following order:

- (1) Pursuant to a preneed funeral contract executed pursuant to Article 13D of Chapter 90 of the General Statutes or pursuant to a cremation authorization form executed pursuant to Article 13C of Chapter 90 of the General Statutes.
- (2) Pursuant to a health care power of attorney to the extent provided in Article 3 of Chapter 32A of the General Statutes.
- (3) Pursuant to a written will.
- (4) Pursuant to a written statement other than a will signed by the individual and witnessed by two persons who are at least 18 years old.

(a1) An individual at least 18 years of age may delegate his or her right to dispose of his or her own dead human body to any person by one of the following methods:

- (1) Any means authorized in subsection (a) of this section.
- (2) By completing United States Department of Defense Record of Emergency Data, DD Form 93, or its successor form. A delegation made by filling out this form shall only be effective if the individual dies under the circumstances described in 10 U.S.C. § 1481(a)(1) through (8). A delegation under this subdivision takes precedence over any of the methods set forth in this section.

(a2) Unless expressly prohibited by the order of appointment, a guardian of the person shall have the authority to direct the final disposition of the remains of the ward through the methods authorized in subdivision (1) of subsection (a) of this section if executed before the death of the ward.

(b) If a decedent has left no written authorization for the disposal of the decedent's body as permitted under subsection (a) of this section, the following competent persons in the order listed may authorize the type, method, place, and disposition of the decedent's body:

- (1) The surviving spouse.
- (2) A majority of the surviving children over 18 years of age, who can be located after reasonable efforts.
- (3) The surviving parents.
- (4) A majority of the surviving siblings over 18 years of age, who can be located after reasonable efforts.
- (5) A majority of the persons in the classes of the next degrees of kinship, in descending order, who, under State law, would inherit the decedent's estate if the decedent died intestate who are at least 18 years of age and can be located after reasonable efforts.
- (6) A person who has exhibited special care and concern for the decedent and is willing and able to make decisions about the disposition.
- (7) In the case of indigents or any other individuals whose final disposition is the responsibility of the State or any of its instrumentalities, a public administrator, medical examiner, coroner, State-appointed guardian, or any other public official charged with arranging the final disposition of the decedent.
- (8) In the case of individuals who have donated their bodies to science or whose death occurred in a nursing home or private institution and in which the institution is charged with making arrangements for the final disposition of the decedent, a representative of the institution.

- (9) In the absence of any of the persons described in subdivisions (1) through (8) of this subsection, any person willing to assume responsibility for the disposition of the body.

This subsection does not grant to any person the right to cancel a preneed funeral contract executed pursuant to Article 13D of Chapter 90 of the General Statutes, to prohibit the substitution of a preneed licensee as authorized under G.S. 90-210.63, or to permit modification of preneed contracts under G.S. 90-210.63A. If an individual is incompetent at the time of the decedent's death, the individual shall be treated as if he or she predeceased the decedent. An attending physician may certify the incompetence of an individual and the certification shall apply to the rights under this section only. Any individual under this section may waive his or her rights under this subsection by any written statement notarized by a notary public or signed by two witnesses.

(b1) A person who does not exercise his or her right to dispose of the decedent's body under subsection (b) of this section within five days of notification or 10 days from the date of death, whichever is earlier, shall be deemed to have waived his or her right to authorize disposition of the decedent's body or contest disposition in accordance with this section. Under G.S. 130A-415(c) or (j), upon such a waiver, and upon the Commission of Anatomy declining or failing to request delivery of the abandoned dead body, the director of social services of the county in which the dead body is located shall become vested with all interests and rights to the dead body and shall authorize and arrange for disposition by cremation, hydrolysis, or burial.

(b2) Once the burial of an individual is completed under the provisions of this section, the method and location of disposition shall not be changed unless otherwise authorized by law or by a court order upon a showing of good cause.

(c) An individual at least 18 years of age may, in a writing signed by the individual, authorize the disposition of one or more of the individual's body parts that has been or will be removed. If the individual does not authorize the disposition, a person listed in subsection (b) of this section may authorize the disposition as if the individual was deceased.

(d) This section does not apply to the disposition of dead human bodies as anatomical gifts under Part 3A of Article 16 of Chapter 130A of the General Statutes or the right to perform autopsies under Part 2 of Article 16 of Chapter 130A of the General Statutes. (1997-399, s. 34; 2007-531, s. 26; 2008-153, s. 8; 2010-191, s. 1; 2018-78, s. 22.)