

HB 102 – AS INTRODUCED

2013 SESSION

13-0005
10/01

HOUSE BILL **102**

AN ACT relative to custody and control of the remains of deceased persons by next of kin.

SPONSORS: Rep. Kappler, Rock 3; Sen. Boutin, Dist 16; Sen. Reagan, Dist 17

COMMITTEE: Judiciary

ANALYSIS

 This bill changes the order of priority for custody and control of the remains of a deceased person by the next of kin and adds requirements for passing to the next in the order of priority.

Explanation: Matter added to current law appears in ***bold italics***.
 Matter removed from current law appears ~~[in brackets and struckthrough]~~
 Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Thirteen

AN ACT relative to custody and control of the remains of deceased persons by next of kin.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 1 Custody of Remains of Deceased Persons; Definition of Next of Kin. Amend RSA 290:16, IV to
2 read as follows:

3 IV. “Next-of-kin” means **a spouse, or** a person having the following relationship to the
4 subject, **in descending order of blood relationship**, in the following order of priority:

5 (a) ~~[The spouse.~~

6 ~~(b)]~~ An adult son or daughter.

7 **(b) Notwithstanding the blood relationship requirement, an adult stepson,**
8 **adopted son, stepdaughter, or adopted daughter.**

9 (c) A parent.

10 (d) An adult brother or sister.

11 (e) An adult grandchild.

12 (f) An adult niece or nephew who is the child of a brother or sister.

13 (g) A maternal grandparent.

14 (h) A paternal grandparent.

15 (i) An adult aunt or uncle.

16 (j) An adult first cousin.

17 ~~[(k) Any other adult relative in descending order of blood relationship.]~~

18 2 Custody and Control of Remains of Deceased Persons. Amend RSA 290:17 to read as follows:

19 290:17 Custody and Control Generally. **When the body of a deceased resident of this state**
20 **is released to a funeral director or designee**, the custody and control of the remains of **the**
21 deceased ~~[residents of this state are]~~ **subject, by an authorizing agent for purposes of this**
22 **chapter and RSA 325-A, shall be** governed by the following provisions:

23 I. If the subject has designated a person to have custody and control in a written and signed
24 document, custody and control belong to that person. The person designated by the subject shall be
25 entitled to no compensation or reimbursement of expenses related to the custody and control of the
26 subject’s body.

27 I-a. If the subject has designated a person on a United States Department of Defense Record
28 of Emergency Data (DD Form 93), custody and control belong to that person if the decedent died
29 while serving in the United States armed forces and executed the DD Form 93, or its successor form.

30 II. If the subject has not left a written signed document designating a person to have custody
31 and control, or if the person designated by the subject refuses custody and control, custody and

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1 control belong to the next of kin.

2 III. If the next of kin is 2 or more persons with the same relationship to the subject, the
3 majority of the next of kin have custody and control. If the next of kin cannot, by majority vote,
4 make a decision regarding the subject's remains, the court shall make the decision upon petition
5 under RSA 290:19, IV.

6 IV. If the next of kin or person designated by the subject under paragraph I is missing and
7 cannot be located using reasonable efforts, the missing person shall lose custody and control **after 7**
8 **days** and custody and control shall pass to the next in order of priority **under RSA 290:16, IV. The**
9 **funeral director, or designee, shall document his or her efforts and provide a record of**
10 **documentation.**

11 V. If the next of kin **highest in the order of priority** holding custody and control will not
12 cooperate with the funeral director, **or designee**, in making arrangements, the next of kin shall
13 **within 7 days submit a notarized, signed statement of his or her desire not to cooperate.**
14 ~~[lose custody and control after 3 days of noncooperation and]~~ Custody and control shall **then** pass to
15 the next in order of priority **under RSA 290:16, IV.**

16 VI. If the individual holding custody and control of the subject is arrested for criminally
17 causing the death of the subject, custody and control shall pass to the next in order of priority.

18 VII. If no person is designated by the subject to have custody and control and no next of kin
19 can be located using reasonable efforts, the funeral director holding custody of the body shall retain
20 custody and control of the body for purposes of carrying out the disposition of the body.

21 ~~[VIII. A funeral director acting in good faith may rely upon representations made by~~
22 ~~individuals claiming to have custody and control of the subject.]~~

23 3 Effective Date. This act shall take effect 60 days after its passage.