

GardenHill Funeral Director Service, Inc.

579 Grove Street
Irvington, NJ 07111



Betty R. Hill, Manager
NJ Lic. No. 4156

Tel.: 973-675-8401
Fax: 973-866-5656

www.garden-hill.com

New Jersey's Law Pertaining to Right to Control the Funeral

Right to Control N.J.S.A. 45:27-22

a. If a decedent, in a will as defined in N.J.S.3B:1-2, appoints a person to control the funeral and disposition of the human remains, the funeral and disposition shall be in accordance with the instructions of the person so appointed. A person so appointed shall not have to be the executor of the will. The funeral and disposition may occur prior to probate of the will, in accordance with section 40 of P.L.2003, c.261 (C.3B: 10-21.1). If the decedent has not left a will appointing a person to control the funeral and disposition of the human remains, the right to control the funeral and disposition of the human remains shall be in the following order, unless other directions have been given by a court of competent jurisdiction.

- (1) The surviving spouse of the decedent or the surviving domestic partner.
(Effective February 19, 2007 Civil Union Partners have the same rights under this statute as spouses.)
- (2) A majority of the surviving adult children of the decedent.
- (3) The surviving parent or parents of the decedent.
- (4) A majority of the brothers and sisters of the decedent.
- (5) Other next of kin of the decedent according to the degree of consanguinity.
- (6) If there are no known living relatives, a cemetery may rely on the written authorization of any other person acting on behalf of the decedent.

For purposes of this subsection “domestic partner” means a domestic partner as defined in section 3 of P.L.2003, c. 246 (C.26:8A-3).

b. A cemetery may permit the disposition of human remains on the authorization of a funeral director handling arrangements for the decedent, or on the written authorization of a person who claims to be, and is believed to be, a person who has the right to control the disposition. The cemetery shall not be liable for disposition pursuant to this authorization unless it had reasonable notice that the person did not have the right to control the disposition.

[Unrelated language omitted]

d. A person who signs an authorization for the funeral and disposition of human remains warrants the truth of the facts stated, the identity of the person whose remains are disposed and the authority to order the disposition. The person shall be liable for damages caused by a false statement or breach of warranty. A cemetery or funeral director shall not be liable for disposition in accordance with the authorization unless it had reasonable notice that the representations were untrue or that the person lacked the right to control the disposition.

Appointment of Person to Control Funeral and Disposition N.J.S.A. 3B:10-21.1

Prior to probate, a decedent’s appointment of a person in a will to control the funeral and disposition of human remains may be carried out in accordance with section 22 of P.L.2003, c. 261 (C.45:27-22). If known to them, a person named executor in a will shall notify such a person of their appointment and advise them of what financial means are available to carry out the funeral and disposition arrangements.