

## Who Decides What to Do With My Body After I Die?

Iowa has a new law about future planning. Prior to the new law, you could have a will, a living will, and name a power of attorney for health care and financial decisions. Now you can also make clear who you want to make decisions about what will be done with your body after your death.

The new law is the "Final Disposition Act." It is in Chapter 144C of the Iowa Code. This law went into effect on July 1, 2008.

How do I name someone to make these decisions?

You would need to name, in writing, a person who will have the sole responsibility to decide what happens to your body after you die. This includes decisions about ceremonies planned after your death.

The declaration is a written paper. It must be signed by you in front of two witnesses or a notary public and name who you want to control what happens to your body. You may also name someone else as an alternate if the person you name cannot carry out this duty. You may also include where to find agreements for items such as:

- prearranged funeral services & plans,
- the location of burial plots are; and
- special instructions about organ donation.

The law says this declaration must be attached to or be part of your durable power of attorney for health care document.

What can this person decide?

The person you chose can decide if your body will be buried, cremated, removed from the state or can be disposed of in some other way. The person can also chose the ceremonies planned after your death.

Does the person I name make all the final plans?

You may still make your own funeral plan and pay in advance. Your declaration makes clear who is responsible to see that funeral, burial, cremation or other final plans are carried out. The person you name is the only one who can decide what disposition and ceremonies are "reasonable under the circumstances." The person decides what to do whether or not you have made your own final arrangements.

You cannot name certain people or organizations to make decisions unless they are a relative. This list includes:

- a funeral director,
- assisted living facility,
- attorney, or

- hospice program

The person you name is not to take the place of a licensed funeral director or business providing cremation services. The law does not keep other family and friends from having additional ceremonies in your memory.

What does “reasonable under the circumstances” mean?

The person you name must make decisions based on your finances, cultural or family customs, and religious or spiritual beliefs. This person may need to decide what can and cannot be done based on what is financially or otherwise possible.

What happens if the person I name does not take on this responsibility after I die?

The person you name must act within a short period after your death. Otherwise, they give up the right to carry out your wishes. If this happens, the law has a list of people in line who would have the right to control what is done with your body and plans for ceremonies. The first on the list is who you may have named as alternate on your declaration. The next person is your surviving spouse. After this is your surviving children – and so forth down the line.

If you do not name someone, this same list makes clear who has the right to take on this responsibility.

Why is there a need for a Declaration for Final Disposition of Remains?

The law makes clear to funeral directors, providers of cremation services, and family members who you want to make decisions on what will be done with your body. You can also name someone to arrange the ceremony. The law helps avoid confusion and fighting if family members disagree about this. The law also gives you more control over what will be done with your remains if your family disagrees with you about your plans.

If you have questions about this new type of advance planning, please contact the Legal Hotline for Older Iowans 1-800-992-8161. You may also contact the Iowa Legal Aid office serving your county. This information is from the Legal Hotline for Older Iowans. The Legal Hotline is a project of Iowa Legal Aid that is partially funded by the U.S. Administration on Aging. The Hotline is a free, confidential service for all Iowans 60 or older with questions on non-criminal legal matters.