

Final Disposition Law

On August 2, 2006, a new law took place. It concerns final disposition and who has control over it. Basically, it gives a person the legal right to decide who can carry out his/her wishes regarding disposal of his/her remains.

The details of this Law were influenced strongly by NYSFDA and even though it isn't 100% what we funeral directors would like it to be, it sets a next-of-kin hierarchy, gives strong liability protection to the funeral director and establishes an expedited judicial process to resolve at-need disputes.

It's called, simply, The NY State Final Disposition Law and it amends Section 4201 of the Public Health Law. It adds "Domestic Partner" to the hierarchy "next-of-kin" which now is: person designated in written instrument

Spouse
domestic partner
children 18 and older
parents
siblings 18 and older
authorized guardian
fiduciary

We have received some questions since the Law went into effect and although we do not claim to be experts on this or any Law, we'll try to answer them.

First, no, there is no mention of grandchildren, aunts, uncles, etc. in the new hierarchy. NYSFDA is encouraging Legislation in 2007 that will enhance and clarify the new Law and one item they hope will be included will be other relatives not now mentioned.

Second, a person wishing to make the arrangements does not have to produce a document attesting to his/her "domestic partnership" with the deceased, although it would be ideal if they are able to do so. (If they are New York City residents, ask the survivor if they were registered in the city as domestic partners.) Or, ask for documentation such as a joint mortgage, common ownership of property, joint health benefits or such. And, of course, have the person sign a form* on which he/she swears that what he/she is telling you is true.

**Thanks to NYSFDA, the form(s) are available on this web site if you are a member. We advise you to keep them on hand in the funeral home.*

As we all know well, life changes continually and we have to think outside of the box on a regular basis! The new Law protects us from many liabilities and allows us to proceed with burying the dead in a timely and respectful manner without fear of being embroiled in family legal disputes.