



Ohio Revised Code

Section 2108.81 Right of disposition - no declaration of assignment.

Effective: September 13, 2022

Legislation: Senate Bill 224

(A) If either of the following is true, division (B) of this section shall apply:

(1) A person has not executed a written declaration pursuant to sections 2108.70 to 2108.73 of the Revised Code that remains in force at the time of the person's death.

(2) Each person to whom the right of disposition has been assigned or reassigned pursuant to a written declaration is disqualified from exercising the right as described in section 2108.75 of the Revised Code.

(B) Subject to division (A) of this section and sections 2108.75 and 2108.79 of the Revised Code, the right of disposition is assigned to the following persons, if mentally competent adults who can be located with reasonable effort, in the order of priority stated:

(1) The deceased person's surviving spouse;

(2) The sole surviving child of the deceased person or, if there is more than one surviving child, all of the surviving children, collectively;

(3) The deceased person's surviving parent or parents, subject to division (C) of this section;

(4) The deceased person's surviving sibling, whether of the whole or of the half blood or, if there is more than one sibling of the whole or of the half blood, all of the surviving siblings, collectively;

(5) The deceased person's surviving grandparent or grandparents;

(6) The deceased person's surviving grandchild, or if there is more than one surviving grandchild, all of the surviving grandchildren collectively;



(7) The lineal descendants of the deceased person's grandparents, as described in division (I) of section 2105.06 of the Revised Code;

(8) The person who was the deceased person's guardian at the time of the deceased person's death, if a guardian had been appointed;

(9) Any other person willing to assume the right of disposition, including the personal representative of the deceased person's estate or the licensed funeral director with custody of the deceased person's body, after attesting in writing that a good faith effort has been made to locate the persons in divisions (B)(1) to (8) of this section.

(10) If the deceased person was an indigent person or other person the final disposition of whose body is the financial and statutory responsibility of the state or a political subdivision of this state, the public officer or employee responsible for arranging the final disposition of the remains of the deceased person.

(C)(1) If a parent was the residential parent and legal custodian of the deceased person at the time the deceased person reached the age of majority, that parent's right of disposition for the deceased person shall take precedence over the parent who was not the residential parent and legal custodian of the deceased person at that time.

(2) Division (C)(1) of this section shall not apply if the parent with precedence is disqualified from the right of disposition for the deceased person under section 2108.75 of the Revised Code.

(3) Section 2108.79 of the Revised Code shall not affect the precedence under division (C)(1) of this section;

(4) For purposes of this section, a parent's status as a residential parent and legal custodian of a child shall be established by a court order or decree that allocates parental rights and responsibilities for the care of the child and was in effect up to or at the time that the deceased person reached the age of majority, or by other uncontroverted evidence. No funeral director, embalmer, or crematory operator is required to investigate whether or not the person claiming to be the residential parent and legal custodian of a deceased person is in fact the residential parent and legal custodian.