

**First Regular Session
Sixty-seventh General Assembly
STATE OF COLORADO**

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 09-0206.01 Debbie Haskins

HOUSE BILL 09-1260

HOUSE SPONSORSHIP

Ferrandino,

SENATE SPONSORSHIP

Veiga,

House Committees
Judiciary

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING DESIGNATED BENEFICIARY AGREEMENTS.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)

Authorizes 2 competent adults who are not married to enter into a designated beneficiary agreement, making each adult a designated beneficiary of the other. Provides that, in the absence of a superseding legal document that controls, a designated beneficiary agreement entitles each party to:

- ! Certain financial protections regarding ownership of real and personal property;
- ! Be a proxy decision-maker or a surrogate decision-maker to make other medical decisions for the other designated

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
*Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

- beneficiary;
- ! Be a conservator or guardian for the other designated beneficiary;
- ! Be treated as a beneficiary under the other designated beneficiary's benefits for life insurance;
- ! Be treated as a dependent under the other designated beneficiary's benefits for health insurance if the designated beneficiary's employer elects to provide coverage to designated beneficiaries;
- ! Have the right to visit the other designated beneficiary in the hospital or in a nursing home;
- ! Inherit through intestate succession upon the death of the other designated beneficiary;
- ! Have standing to sue for wrongful death of the other designated beneficiary;
- ! Act as an agent to make, revoke, or object to anatomical gifts involving the other designated beneficiary;
- ! Direct the disposition of the other designated beneficiary's last remains.

Specifies the requirements for a designated beneficiary agreement. Allows a party to a designated beneficiary agreement to specify which rights and protections are granted through the designated beneficiary agreement.

States that domestic partners or parties in a civil union registered or recognized pursuant to another jurisdiction shall be deemed to have executed a designated beneficiary agreement if the parties otherwise qualify as designated beneficiaries. States that a legal contract pursuant to another jurisdiction's law which is not valid in Colorado pursuant to the state constitutional provision regarding the recognition of marriages shall be treated as a designated beneficiary agreement if the parties qualify to enter into a designated beneficiary agreement and both parties are present or reside in Colorado.

Requires the parties to a designated beneficiary agreement to file the agreement with the clerk and recorder of the county in which one of the parties resides. Allows either party to a designated beneficiary agreement to unilaterally revoke the agreement by filing a document with the clerk and recorder of the county in which the agreement was filed. Declares that a designated beneficiary agreement shall be deemed revoked upon the marriage of either party and, in the case of a common law marriage, as of the date the court determines that a valid common law marriage exists.

Provides that a designated beneficiary agreement is terminated upon the death of either of the parties to the agreement; however, a right or power conferred in the agreement survives the death of the other party. States that a party to a designated beneficiary agreement who survives a

designated beneficiary may enter into a designated beneficiary agreement with a different person.

Makes conforming amendments.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** Title 15, Colorado Revised Statutes, is amended BY
3 THE ADDITION OF A NEW ARTICLE to read:

4 **ARTICLE 22**

5 **Designated Beneficiary Agreements**

6 **15-22-101. Short title.** THIS ARTICLE SHALL BE KNOWN AND MAY
7 BE CITED AS THE "COLORADO DESIGNATED BENEFICIARY AGREEMENT
8 ACT".

9 **15-22-102. Legislative declaration.** (1) THE GENERAL
10 ASSEMBLY FINDS AND DETERMINES THAT:

11 (a) NOT ALL COLORADANS ARE ADEQUATELY PROTECTED BY THE
12 PROVISIONS OF THE "COLORADO PROBATE CODE", ARTICLES 10 TO 17 OF
13 THIS TITLE, AND OTHER PROVISIONS OF COLORADO LAW. CURRENT STATE
14 AND FEDERAL LAWS PRESENT IMPEDIMENTS AND DISINCENTIVES FOR
15 PEOPLE WISHING TO AVAIL THEMSELVES OF THE PROTECTIONS OF THIS
16 TITLE.

17 (b) BEYOND LEGAL IMPEDIMENTS, PEOPLE OFTEN FAIL TO PLAN FOR
18 THEIR OWN MORTALITY. STUDIES HAVE FOUND THAT SIGNIFICANT
19 NUMBERS OF AMERICANS DO NOT HAVE A VALID WILL, AND EVEN FEWER
20 HAVE EXECUTED POWERS OF ATTORNEY OR OTHER ESTATE PLANNING
21 DOCUMENTS.

22 (c) A BODY OF LAW HAS BEEN ENACTED TO OPERATE BY DEFAULT
23 IN SITUATIONS IN WHICH INDIVIDUALS DO NOT PREPARE ESTATE PLANS.
24 HOWEVER, FAILURE TO PLAN FOR DISABILITY, INCAPACITY, OR DEATH

1 PLACES PEOPLE AT THE MERCY OF STATE LAWS THAT MAY VEST THE
2 POWER TO ACT IN SUCH SITUATIONS IN PERSONS OTHER THAN THOSE THEY
3 WOULD WISH TO HAVE EXERCISE THOSE POWERS. MANY LACK ACCESS TO
4 LEGAL SERVICES DUE TO THE EXPENSE OF DRAFTING LEGAL INSTRUMENTS
5 AND THE NECESSITY TO KEEP THESE DOCUMENTS CURRENT. THE POWER
6 OF INDIVIDUALS TO CARE FOR ONE ANOTHER AND TAKE ACTION TO BE
7 PERSONALLY RESPONSIBLE FOR THEMSELVES AND THEIR LOVED ONES IS OF
8 TREMENDOUS SOCIETAL BENEFIT, ENABLING SELF-DETERMINATION AND
9 REDUCING RELIANCE ON PUBLIC PROGRAMS AND SERVICES.

10 (2) THEREFORE, THE GENERAL ASSEMBLY DECLARES THAT:

11 (a) THE PUBLIC POLICY OF THE STATE SHOULD ENCOURAGE
12 RESIDENTS TO EXECUTE APPROPRIATE LEGAL DOCUMENTS TO EFFECTUATE
13 THEIR WISHES;

14 (b) THE PURPOSES OF THIS ARTICLE ARE TO:

15 (I) MAKE EXISTING LAWS RELATING TO HEALTH CARE, MEDICAL
16 EMERGENCIES, INCAPACITY, DEATH, AND ADMINISTRATION OF DECEDENT'S
17 ESTATES AVAILABLE TO MORE PERSONS THROUGH A PROCESS OF
18 DOCUMENTING DESIGNATED BENEFICIARY AGREEMENTS; AND

19 (II) ALLOW INDIVIDUALS TO ELECT TO HAVE CERTAIN DEFAULT
20 PROVISIONS IN STATE STATUTES PROVIDE RIGHTS, BENEFITS, AND
21 PROTECTIONS TO A DESIGNATED BENEFICIARY IN SITUATIONS IN WHICH NO
22 VALID AND ENFORCEABLE ESTATE PLANNING DOCUMENTS EXIST.

23 (c) IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT THIS
24 ARTICLE BE LIBERALLY CONSTRUED TO GIVE EFFECT TO THE PURPOSES
25 STATED IN THIS ARTICLE.

26 **15-22-103. Definitions.** AS USED IN THIS ARTICLE, UNLESS THE
27 CONTEXT OTHERWISE REQUIRES:

1 (1) "DESIGNATED BENEFICIARY" MEANS A PERSON WHO HAS
2 ENTERED INTO A DESIGNATED BENEFICIARY AGREEMENT PURSUANT TO
3 THIS ARTICLE.

4 (2) "DESIGNATED BENEFICIARY AGREEMENT" MEANS AN
5 AGREEMENT THAT IS ENTERED INTO PURSUANT TO THIS ARTICLE BY TWO
6 PEOPLE FOR THE PURPOSE OF DESIGNATING EACH PERSON AS THE
7 BENEFICIARY OF THE OTHER PERSON AND FOR THE PURPOSE OF ENSURING
8 THAT EACH PERSON HAS CERTAIN RIGHTS AND FINANCIAL PROTECTIONS
9 BASED UPON THE DESIGNATION.

10 (3) "SUPERSEDING LEGAL DOCUMENT" MEANS A LEGAL
11 DOCUMENT, REGARDLESS OF THE DATE OF EXECUTION, THAT IS VALID AND
12 ENFORCEABLE AND CONFLICTS WITH ALL OR A PORTION OF A DESIGNATED
13 BENEFICIARY AGREEMENT AND, THEREFORE, CAUSES THE DESIGNATED
14 BENEFICIARY AGREEMENT IN WHOLE OR IN PART TO BE REPLACED OR SET
15 ASIDE. TO THE EXTENT THERE IS A CONFLICT BETWEEN A SUPERSEDING
16 LEGAL DOCUMENT AND A DESIGNATED BENEFICIARY AGREEMENT, THE
17 SUPERSEDING LEGAL DOCUMENT CONTROLS. A SUPERSEDING LEGAL
18 DOCUMENT MAY INCLUDE, BUT NEED NOT BE LIMITED TO, ANY OF THE
19 FOLLOWING:

- 20 (a) A WILL;
- 21 (b) A CODICIL;
- 22 (c) A POWER OF ATTORNEY;
- 23 (d) A MEDICAL DURABLE POWER OF ATTORNEY;
- 24 (e) A TRUST INSTRUMENT;
- 25 (f) A BENEFICIARY DESIGNATION IN AN INSURANCE POLICY OR
26 POLICY OF HEALTH CARE COVERAGE;
- 27 (g) A BENEFICIARY DESIGNATION IN A RETIREMENT OR PENSION

1 PLAN;

2 (h) DECLARATIONS AS TO MEDICAL TREATMENT EXECUTED
3 PURSUANT TO ARTICLE 18 OF THIS TITLE; OR

4 (i) A MARRIAGE LICENSE.

5 **15-22-104. Requirements for a valid designated beneficiary**

6 **agreement.** (1) A DESIGNATED BENEFICIARY AGREEMENT SHALL BE
7 LEGALLY RECOGNIZED IF:

8 (a) THE PARTIES TO THE DESIGNATED BENEFICIARY AGREEMENT
9 SATISFY ALL OF THE FOLLOWING CRITERIA:

10 (I) BOTH ARE AT LEAST EIGHTEEN YEARS OF AGE;

11 (II) BOTH ARE COMPETENT TO ENTER INTO A CONTRACT;

12 (III) NEITHER PARTY IS MARRIED TO ANOTHER PERSON;

13 (IV) NEITHER PARTY IS A PARTY TO ANOTHER DESIGNATED
14 BENEFICIARY AGREEMENT; AND

15 (V) BOTH PARTIES ENTER INTO THE DESIGNATED BENEFICIARY
16 AGREEMENT WITHOUT FORCE, FRAUD, OR DURESS; AND

17 (b) THE AGREEMENT IS IN SUBSTANTIAL COMPLIANCE WITH THE
18 REQUIREMENTS SET FORTH IN THIS ARTICLE.

19 (2) A DESIGNATED BENEFICIARY AGREEMENT IS LEGALLY
20 SUFFICIENT UNDER THIS ARTICLE IF:

21 (a) THE WORDING OF THE DESIGNATED BENEFICIARY AGREEMENT
22 COMPLIES SUBSTANTIALLY WITH THE STANDARD FORM SET FORTH IN
23 SECTION 15-22-106 (1);

24 (b) THE DESIGNATED BENEFICIARY AGREEMENT IS PROPERLY
25 COMPLETED AND SIGNED;

26 (c) THE DESIGNATED BENEFICIARY AGREEMENT IS
27 ACKNOWLEDGED; AND

1 (d) THE DESIGNATED BENEFICIARY AGREEMENT IS FILED WITH A
2 COUNTY CLERK AND RECORDER AS PROVIDED IN SECTION 15-22-107.

3 **15-22-105. Effects and applicability of a designated**
4 **beneficiary agreement.** (1) A PERSON NAMED AS A DESIGNATED
5 BENEFICIARY IN A DESIGNATED BENEFICIARY AGREEMENT SHALL BE
6 ENTITLED TO EXERCISE THE RIGHTS AND PROTECTIONS SPECIFIED IN THE
7 AGREEMENT BY VIRTUE OF HAVING BEEN SO NAMED.

8 (2) A DESIGNATED BENEFICIARY AGREEMENT THAT IS PROPERLY
9 EXECUTED AND FILED AS PROVIDED IN SECTION 15-22-104 (2) SHALL BE
10 VALID AND LEGALLY ENFORCEABLE IN THE ABSENCE OF A SUPERSEDING
11 LEGAL DOCUMENT THAT CONFLICTS WITH THE PROVISIONS SPECIFIED IN
12 THE DESIGNATED BENEFICIARY AGREEMENT.

13 (3) A DESIGNATED BENEFICIARY AGREEMENT SHALL ENTITLE THE
14 PARTIES TO EXERCISE THE FOLLOWING RIGHTS AND ENJOY THE FOLLOWING
15 PROTECTIONS, UNLESS SPECIFICALLY EXCLUDED FROM THE DESIGNATED
16 BENEFICIARY AGREEMENT:

17 (a) THE RIGHT TO ACQUIRE, HOLD TITLE TO, OWN JOINTLY, OR
18 TRANSFER INTER VIVOS OR AT DEATH REAL OR PERSONAL PROPERTY AS
19 JOINT TENANTS WITH RIGHT OF SURVIVORSHIP OR AS TENANTS IN COMMON;

20 (b) THE RIGHT TO BE DESIGNATED AS A BENEFICIARY, PAYEE, OR
21 OWNER AS A TRUSTEE NAMED IN AN INTER VIVOS OR TESTAMENTARY
22 TRUST FOR THE PURPOSES OF A NONPROBATE TRANSFER ON DEATH;

23 (c) THE RIGHT TO BE DESIGNATED AS A BENEFICIARY AND
24 RECOGNIZED AS A DEPENDENT FOR THE PURPOSES OF THE FOLLOWING
25 BENEFITS:

26 (I) PUBLIC EMPLOYEES' RETIREMENT SYSTEMS PURSUANT TO
27 ARTICLES 51 TO 54.6 OF TITLE 24, C.R.S.;

1 (II) LOCAL GOVERNMENT FIREFIGHTER AND POLICE PENSIONS;

2 (III) INSURANCE POLICIES FOR LIFE INSURANCE COVERAGE; AND

3 (IV) HEALTH INSURANCE POLICIES OR HEALTH COVERAGE IF THE
4 EMPLOYER OF THE DESIGNATED BENEFICIARY ELECTS TO PROVIDE
5 COVERAGE FOR DESIGNATED BENEFICIARIES AS DEPENDENTS;

6 (d) THE RIGHT TO PETITION FOR AND HAVE PRIORITY FOR
7 APPOINTMENT AS A CONSERVATOR, GUARDIAN, OR PERSONAL
8 REPRESENTATIVE FOR THE OTHER DESIGNATED BENEFICIARY;

9 (e) THE RIGHT TO VISITATION BY THE OTHER DESIGNATED
10 BENEFICIARY IN A HOSPITAL OR IN A NURSING HOME;

11 (f) THE RIGHT TO ACT AS A PROXY DECISION-MAKER OR
12 SURROGATE DECISION-MAKER TO MAKE MEDICAL TREATMENT DECISIONS
13 FOR THE OTHER DESIGNATED BENEFICIARY PURSUANT TO SECTION
14 15-18.5-103 OR 15-18.5-104;

15 (g) THE RIGHT TO RECEIVE NOTICE OF THE WITHHOLDING OR
16 WITHDRAWAL OF LIFE-SUSTAINING PROCEDURES FOR THE OTHER
17 DESIGNATED BENEFICIARY PURSUANT TO SECTION 15-18-107 AND THE
18 RIGHT TO CHALLENGE THE VALIDITY OF A DECLARATION AS TO MEDICAL
19 OR SURGICAL TREATMENT OF THE OTHER DESIGNATED BENEFICIARY
20 PURSUANT TO SECTION 15-18-107;

21 (h) THE RIGHT, WITH RESPECT TO THE OTHER DESIGNATED
22 BENEFICIARY, TO ACT AS AN AGENT AND TO MAKE, REVOKE, OR OBJECT TO
23 ANATOMICAL GIFTS PURSUANT TO THE "REVISED UNIFORM ANATOMICAL
24 GIFT ACT", PART 1 OF ARTICLE 34 OF TITLE 12, C.R.S.;

25 (i) THE RIGHT TO INHERIT REAL OR PERSONAL PROPERTY FROM THE
26 OTHER DESIGNATED BENEFICIARY THROUGH INTESTATE SUCCESSION;

27 (j) THE RIGHT TO HAVE STANDING TO RECEIVE BENEFITS PURSUANT

1 TO THE "WORKERS' COMPENSATION ACT OF COLORADO", ARTICLES 40 TO
2 47 OF TITLE 8, C.R.S., MADE ON BEHALF OF THE OTHER DESIGNATED
3 BENEFICIARY;

4 (k) THE RIGHT TO HAVE STANDING TO SUE FOR WRONGFUL DEATH
5 ON BEHALF OF THE OTHER DESIGNATED BENEFICIARY; AND

6 (l) THE RIGHT TO DIRECT THE DISPOSITION OF THE OTHER
7 DESIGNATED BENEFICIARY'S LAST REMAINS PURSUANT TO ARTICLE 19 OF
8 THIS TITLE.

9 (4) THIS ARTICLE SHALL NOT BE CONSTRUED TO CREATE ANY
10 RIGHTS, PROTECTIONS, OR RESPONSIBILITIES FOR DESIGNATED
11 BENEFICIARIES THAT ARE NOT SPECIFICALLY ENUMERATED IN THE
12 DESIGNATED BENEFICIARY AGREEMENT AS AUTHORIZED IN THIS ARTICLE.

13 (5) NOTHING IN THIS ARTICLE SHALL BE CONSTRUED TO CREATE
14 EVIDENCE OF A PARTY'S INTENT TO FORM A COMMON LAW MARRIAGE.

15 (6) EXECUTION OF A DESIGNATED BENEFICIARY AGREEMENT SHALL
16 IN NO WAY IMPEDE THE ABILITY OF INDIVIDUALS TO MAKE SPECIFIC
17 DETERMINATIONS AS TO ANY OR ALL OF THE MATTERS SPECIFIED IN THIS
18 ARTICLE BY ACTING THROUGH OTHER SUPERSEDING LEGAL DOCUMENTS.

19 (7) IN THE EVENT THAT A SUPERSEDING LEGAL DOCUMENT IS
20 FOUND TO BE INVALID OR UNENFORCEABLE, THE DESIGNATED
21 BENEFICIARY AGREEMENT SHALL CONTROL DESPITE THE ATTEMPT TO
22 SUPERSEDE ITS PROVISIONS.

23 **15-22-106. Statutory form of a designated beneficiary**
24 **agreement.** (1) THE FOLLOWING STATUTORY FORM SHALL BE THE
25 STANDARD FORM FOR A DESIGNATED BENEFICIARY AGREEMENT:

26 **DESIGNATED BENEFICIARY AGREEMENT**

27 WE, _____, (INSERT FULL NAME AND ADDRESS) REFERRED TO

1 AS PARTY A, AND _____, (INSERT FULL NAME AND ADDRESS)
2 REFERRED TO AS PARTY B, HEREBY DESIGNATE EACH OTHER AS THE
3 OTHER'S DESIGNATED BENEFICIARY WITH THE FOLLOWING RIGHTS AND
4 PROTECTIONS, GRANTED OR WITHHELD AS INDICATED BY OUR INITIALS:

5 TO GRANT ONE OR MORE OF THE RIGHTS OR
6 PROTECTIONS SPECIFIED IN THIS FORM, INITIAL
7 THE LINE TO THE LEFT OF EACH RIGHT OR
8 PROTECTION YOU ARE GRANTING. TO WITHHOLD
9 A RIGHT OR PROTECTION, INITIAL THE LINE TO
10 THE RIGHT OF EACH RIGHT OR PROTECTION YOU
11 ARE WITHHOLDING.

12 TO GRANT A RIGHT TO WITHHOLD A RIGHT
13 OR PROTECTION OR PROTECTION

14 INITIAL INITIAL
15 PARTY A PARTY B PARTY A PARTY B

16 _____ THE RIGHT TO ACQUIRE, HOLD TITLE TO, OWN _____
17 JOINTLY, OR TRANSFER INTER VIVOS OR AT
18 DEATH REAL OR PERSONAL PROPERTY AS A
19 JOINT TENANT WITH ME WITH RIGHT OF
20 SURVIVORSHIP OR AS A TENANT IN COMMON
21 WITH ME;

22 _____ THE RIGHT TO BE DESIGNATED BY ME AS A _____
23 BENEFICIARY, PAYEE, OR OWNER AS A
24 TRUSTEE NAMED IN AN INTER VIVOS OR
25 TESTAMENTARY TRUST FOR THE PURPOSES OF
26 A NONPROBATE TRANSFER ON DEATH;

27 _____ THE RIGHT TO BE DESIGNATED BY ME AS A _____

1 BENEFICIARY AND RECOGNIZED AS A
2 DEPENDENT IN AN INSURANCE POLICY FOR
3 LIFE INSURANCE ;
4 ___ THE RIGHT TO BE DESIGNATED BY ME AS A ___
5 BENEFICIARY AND RECOGNIZED AS A
6 DEPENDENT IN A HEALTH INSURANCE POLICY
7 IF MY EMPLOYER ELECTS TO PROVIDE HEALTH
8 INSURANCE COVERAGE FOR DESIGNATED
9 BENEFICIARIES;
10 ___ THE RIGHT TO BE DESIGNATED BY ME AS A ___
11 BENEFICIARY IN A RETIREMENT OR PENSION
12 PLAN;
13 ___ THE RIGHT TO PETITION FOR AND HAVE ___
14 PRIORITY FOR APPOINTMENT AS A
15 CONSERVATOR, GUARDIAN, OR PERSONAL
16 REPRESENTATIVE FOR ME;
17 ___ THE RIGHT TO VISIT ME IN A HOSPITAL OR IN A ___
18 NURSING HOME;
19 ___ THE RIGHT TO ACT AS A PROXY ___
20 DECISION-MAKER OR SURROGATE
21 DECISION-MAKER TO MAKE MEDICAL
22 TREATMENT DECISIONS FOR ME PURSUANT TO
23 SECTION 15-18.5-103 OR 15-18.5-104,
24 COLORADO REVISED STATUTES;
25 ___ THE RIGHT TO NOTICE OF THE WITHHOLDING ___
26 OR WITHDRAWAL OF LIFE-SUSTAINING
27 PROCEDURES FOR ME PURSUANT TO SECTION

1 15-18-107, COLORADO REVISED STATUTES;
2 THE RIGHT TO CHALLENGE THE VALIDITY OF
3 A DECLARATION AS TO MEDICAL OR SURGICAL
4 TREATMENT OF ME PURSUANT TO SECTION
5 15-18-107, COLORADO REVISED STATUTES;
6 THE RIGHT TO ACT AS MY AGENT TO MAKE,
7 REVOKE, OR OBJECT TO ANATOMICAL GIFTS
8 INVOLVING MY PERSON PURSUANT TO THE
9 "REVISED UNIFORM ANATOMICAL GIFT
10 ACT", PART 1 OF ARTICLE 34 OF TITLE 12,
11 COLORADO REVISED STATUTES;
12 THE RIGHT TO INHERIT REAL OR PERSONAL
13 PROPERTY FROM ME THROUGH INTESTATE
14 SUCCESSION;
15 THE RIGHT TO HAVE STANDING TO RECEIVE
16 BENEFITS PURSUANT TO THE "WORKERS'
17 COMPENSATION ACT OF COLORADO",
18 ARTICLE 40 OF TITLE 8, COLORADO REVISED
19 STATUTES, IN THE EVENT OF MY INJURY OR
20 DEATH ON THE JOB;
21 THE RIGHT TO HAVE STANDING TO SUE FOR
22 WRONGFUL DEATH IN THE EVENT OF MY
23 DEATH; AND
24 THE RIGHT TO DIRECT THE DISPOSITION OF
25 MY LAST REMAINS PURSUANT TO ARTICLE 19
26 OF TITLE 15, COLORADO REVISED STATUTES.
27 THIS DESIGNATED BENEFICIARY AGREEMENT IS EFFECTIVE

1 UPON FILING AND REGISTRATION WITH THE COUNTY CLERK
2 AND RECORDER OF THE COUNTY IN WHICH ONE OF THE
3 DESIGNATED BENEFICIARIES RESIDES. THIS DESIGNATED
4 BENEFICIARY AGREEMENT WILL CONTINUE IN EFFECT UNTIL
5 ONE OF THE DESIGNATED BENEFICIARIES REVOKES THIS
6 AGREEMENT BY FILING A REVOCATION OF DESIGNATED
7 BENEFICIARY FORM WITH THE COUNTY CLERK AND
8 RECORDER OF THE COUNTY IN WHICH THIS AGREEMENT WAS
9 FILED OR UNTIL THIS AGREEMENT IS SUPERSEDED IN PART OR
10 IN WHOLE BY A SUPERSEDING LEGAL DOCUMENT.

11 _____
12 SIGNATURE OF DESIGNATED BENEFICIARY SIGNATURE OF DESIGNATED BENEFICIARY

13 STATE OF COLORADO

14 COUNTY OF _____

15 THIS DOCUMENT WAS SUBSCRIBED, SWORN TO, AND ACKNOWLEDGED
16 BEFORE ME ON _____ DATE

17 BY

18 _____

19 MY COMMISSION EXPIRES _____

20 [SEAL]

21 _____

22 NOTARY PUBLIC

23 (2) A DESIGNATED BENEFICIARY AGREEMENT SHALL BE PRESUMED
24 TO EXTEND ALL OF THE RIGHTS AND PROTECTIONS LISTED IN THE
25 STATUTORY FORM UNLESS THE PARTIES TO THE AGREEMENT EXPLICITLY
26 EXCLUDE A RIGHT OR PROTECTION.

27 (3) A PARTY TO A DESIGNATED BENEFICIARY AGREEMENT MAY

1 LIMIT THE SCOPE OF A DESIGNATED BENEFICIARY AGREEMENT BY THE
2 TERMS OF THE AGREEMENT OR BY EXECUTING A SUPERSEDING LEGAL
3 DOCUMENT THAT CONTROLS AND SUPERSEDES PART OR ALL OF THE
4 DESIGNATED BENEFICIARY AGREEMENT.

5 **15-22-107. Filing - duties of the county clerk and recorder -**

6 **fee.** (1) A SIGNED AND ACKNOWLEDGED DESIGNATED BENEFICIARY
7 AGREEMENT SHALL BE FILED WITH THE COUNTY CLERK AND
8 RECORDER IN THE COUNTY IN WHICH ONE OF THE PARTIES RESIDES. THE
9 DESIGNATED BENEFICIARY AGREEMENT SHALL BE EFFECTIVE AS OF THE
10 DATE AND TIME OF THE FILING OF THE DESIGNATED BENEFICIARY
11 AGREEMENT WITH THE COUNTY CLERK AND RECORDER. THE COUNTY
12 CLERK AND RECORDER SHALL ASSESS A FILING FEE OF THIRTY DOLLARS, AS
13 PROVIDED IN SECTION 30-1-103, C.R.S., FOR RECORDING THE DESIGNATED
14 BENEFICIARY AGREEMENT IN THAT COUNTY AND FOR ISSUING TWO
15 CERTIFIED COPIES OF THE DESIGNATED BENEFICIARY AGREEMENT THAT
16 INDICATE THE DATE AND TIME OF FILING WITH THE COUNTY. ALL FEES
17 COLLECTED BY THE COUNTY CLERK AND RECORDER SHALL BE DEPOSITED
18 IN THE COUNTY CLERK'S FEE FUND MAINTAINED AS REQUIRED IN SECTION
19 30-1-119, C.R.S.

20 (2) THE CLERK AND RECORDER OF THE COUNTY SHALL HAVE THE
21 FOLLOWING DUTIES:

22 (a) TO MAKE AVAILABLE, UPON REQUEST, COPIES OF THE
23 STATUTORY FORMS AS PRESCRIBED IN SECTIONS 15-22-106 AND
24 15-22-112;

25 (b) TO INDICATE ON THE DESIGNATED BENEFICIARY AGREEMENT
26 OR A REVOCATION OF A DESIGNATED BENEFICIARY AGREEMENT THE DATE
27 AND TIME THAT IT IS FILED WITH THE CLERK AND RECORDER;

1 (c) TO ISSUE TWO CERTIFIED COPIES OF THE FILED DESIGNATED
2 BENEFICIARY AGREEMENT THAT INDICATE THE DATE AND TIME OF THE
3 FILING;

4 (d) TO ISSUE REPLACEMENT CERTIFIED COPIES OF A DESIGNATED
5 BENEFICIARY AGREEMENT OR A REVOCATION OF A DESIGNATED
6 BENEFICIARY AGREEMENT UPON PAYMENT OF A REPLACEMENT FEE.

7 (3) DESIGNATED BENEFICIARY AGREEMENTS AND REVOCATIONS OF
8 DESIGNATED BENEFICIARY AGREEMENTS SHALL BE CONSIDERED OPEN
9 RECORDS FOR PURPOSES OF PART 2 OF ARTICLE 72 OF TITLE 24, C.R.S.

10 **15-22-108. Designated beneficiary agreement - effect on other**
11 **legal documents.** EXECUTION OF A DESIGNATED BENEFICIARY
12 AGREEMENT SHALL NOT CONSTITUTE EVIDENCE OF AN INTENT TO REVOKE
13 A PRIOR WILL OR CODICIL NOR SHALL IT AFFECT ANY TRANSFER OR
14 BEQUEST CONTAINED IN ANY OTHER LEGAL DOCUMENTS.

15 **15-22-109. Applicability - domestic partnerships.**
16 (1) DOMESTIC PARTNERS OR PARTIES IN A CIVIL UNION REGISTERED OR
17 RECOGNIZED PURSUANT TO ANOTHER JURISDICTION'S LAWS SHALL BE
18 DEEMED TO HAVE EXECUTED A DESIGNATED BENEFICIARY AGREEMENT IF
19 THE PARTIES OTHERWISE QUALIFY AS DESIGNATED BENEFICIARIES
20 PURSUANT TO SECTION 15-22-104. THE PROVISIONS OF THIS ARTICLE
21 SHALL NOT APPLY TO DOMESTIC PARTNERS OR PARTIES IN A CIVIL UNION
22 FROM ANOTHER JURISDICTION WHO DO NOT QUALIFY TO BECOME
23 DESIGNATED BENEFICIARIES.

24 (2) A LEGAL CONTRACT PURSUANT TO ANOTHER JURISDICTION'S
25 LAWS THAT IS NOT VALID IN THIS STATE PURSUANT TO SECTION 31 OF
26 ARTICLE II OF THE STATE CONSTITUTION SHALL BE TREATED AS A
27 DESIGNATED BENEFICIARY AGREEMENT IF:

1 (a) THE PARTIES QUALIFY TO ENTER INTO A DESIGNATED
2 BENEFICIARY AGREEMENT PURSUANT TO SECTION 15-22-104; AND

3 (b) BOTH PARTIES ARE PRESENT OR RESIDE IN THIS STATE.

4 **15-22-110. Affirmation of validity of designated beneficiary**
5 **agreement.** A PERSON EXERCISING RIGHTS OR PROTECTIONS PURSUANT
6 TO A DESIGNATED BENEFICIARY AGREEMENT SHALL AFFIRM THE VALIDITY
7 OF A DESIGNATED BENEFICIARY AGREEMENT AND DISCLOSE ANY
8 KNOWLEDGE OF ANY SUPERSEDING LEGAL DOCUMENTS.

9 **15-22-111. Reliance - immunity.** A THIRD PARTY WHO ACTS IN
10 GOOD FAITH RELIANCE ON THE AFFIRMATION OF THE EXISTENCE OF A
11 VALID DESIGNATED BENEFICIARY AGREEMENT SHALL NOT BE SUBJECT TO
12 CIVIL LIABILITY OR ADMINISTRATIVE DISCIPLINE FOR SUCH RELIANCE.

13 **15-22-112. Revocation of a designated beneficiary agreement.**

14 (1) A DESIGNATED BENEFICIARY AGREEMENT THAT HAS BEEN FILED WITH
15 A COUNTY CLERK AND RECORDER MAY BE UNILATERALLY REVOKED BY
16 EITHER PARTY TO THE AGREEMENT BY FILING A REVOCATION WITH THE
17 CLERK AND RECORDER OF THE COUNTY IN WHICH THE AGREEMENT WAS
18 FILED. A REVOCATION SHALL BE DATED, SIGNED, AND **ACKNOWLEDGED.**
19 THE REVOCATION SHALL BE EFFECTIVE ON THE DATE AND TIME OF THE
20 FILING OF THE REVOCATION. THE CLERK AND RECORDER SHALL ISSUE A
21 CERTIFIED COPY TO THE PARTY FILING THE REVOCATION AND SHALL MAIL
22 A CERTIFIED COPY OF THE REVOCATION TO THE LAST-KNOWN ADDRESS OF
23 THE OTHER PARTY TO THE DESIGNATED BENEFICIARY AGREEMENT.

24 (2) THE COUNTY CLERK AND RECORDER SHALL ASSESS A **TWENTY**
25 **DOLLAR FEE, AS PROVIDED IN SECTION 30-1-103, C.R.S.,** FOR FILING A
26 REVOCATION AGREEMENT AND ISSUING TWO CERTIFIED COPIES OF THE
27 REVOCATION AGREEMENT. THE FEES COLLECTED BY THE CLERK AND

1 RECORDER SHALL BE DEPOSITED IN THE COUNTY CLERK'S FEE FUND
2 MAINTAINED AS REQUIRED IN SECTION 30-1-119, C.R.S.

3 (3) A DESIGNATED BENEFICIARY AGREEMENT SHALL BE DEEMED
4 REVOKED UPON THE MARRIAGE OF EITHER PARTY. IN THE CASE OF A
5 COMMON LAW MARRIAGE, A DESIGNATED BENEFICIARY AGREEMENT SHALL
6 BE DEEMED REVOKED AS OF THE DATE THE COURT DETERMINES THAT A
7 VALID COMMON LAW MARRIAGE EXISTS.

8 (4) THE FOLLOWING STATUTORY FORM SHALL BE THE STANDARD
9 FORM FOR A REVOCATION OF A DESIGNATED BENEFICIARY AGREEMENT:

10 **REVOCATION**
11 **OF DESIGNATED BENEFICIARY AGREEMENT**

12 I _____ (INSERT YOUR FULL NAME), RESIDE AT _____
13 (INSERT YOUR CURRENT ADDRESS) AND I ENTERED INTO A DESIGNATED
14 BENEFICIARY AGREEMENT ON _____ (INSERT THE DATE) WITH THE
15 FOLLOWING PERSON _____ (INSERT THE OTHER PERSON'S NAME)
16 WHOSE LAST KNOWN ADDRESS IS _____ IN WHICH I
17 DESIGNATED SUCH PERSON AS A DESIGNATED BENEFICIARY. THIS
18 DESIGNATED BENEFICIARY AGREEMENT WAS FILED ON _____ (INSERT THE
19 DATE) IN THE COUNTY OF _____. I HEREBY REVOKE THAT
20 DESIGNATED BENEFICIARY AGREEMENT, EFFECTIVE ON THE DATE AND
21 TIME OF THE FILING OF THIS REVOCATION WITH THE CLERK AND RECORDER
22 OF _____ COUNTY.

23 _____
24 NAME DATE

25 STATE OF COLORADO
26 COUNTY OF _____

27 THIS DOCUMENT WAS SUBSCRIBED, SWORN TO, AND ACKNOWLEDGED

1 BEFORE ME ON _____DATE
2 BY
3 _____
4 MY COMMISSION EXPIRES _____

5 [SEAL]

6 _____
7 NOTARY PUBLIC

8 THIS REVOCATION OF BENEFICIARY AGREEMENT WAS FILED IN MY
9 OFFICE ON _____, _____, AT _____ O'CLOCK, AND, PURSUANT
10 TO SECTION 15-22-122, COLORADO REVISED STATUTES, I MAILED A COPY
11 OF THIS REVOCATION OF BENEFICIARY AGREEMENT TO _____
12 AT THE ADDRESS CONTAINED IN THIS REVOCATION OF BENEFICIARY
13 AGREEMENT.

14 CLERK AND RECORDER OF
15 _____ COUNTY
16 BY: _____

17 **15-22-113. Death of a designated beneficiary - effect on**
18 **designated beneficiary agreement.** (1) A DESIGNATED BENEFICIARY
19 AGREEMENT IS TERMINATED UPON THE DEATH OF EITHER OF THE PARTIES
20 TO THE DESIGNATED BENEFICIARY AGREEMENT; HOWEVER, A RIGHT OR
21 POWER WHICH A DESIGNATED BENEFICIARY AGREEMENT CONFERRED UPON
22 A DESIGNATED BENEFICIARY SURVIVES THE DEATH OF THE OTHER
23 DESIGNATED BENEFICIARY.

24 (2) A PARTY TO A DESIGNATED BENEFICIARY AGREEMENT WHO
25 SURVIVES A DESIGNATED BENEFICIARY MAY ENTER INTO A DESIGNATED
26 BENEFICIARY AGREEMENT WITH A DIFFERENT PERSON SO LONG AS IT
27 MEETS THE REQUIREMENTS OF THIS ARTICLE.

1 **SECTION 2.** 8-41-501 (1), Colorado Revised Statutes, is
2 amended to read:

3 **8-41-501. Persons presumed wholly dependent.** (1) For the
4 purposes of articles 40 to 47 of this title, the following described persons
5 shall be presumed to be wholly dependent (however, such presumption
6 may be rebutted by competent evidence):

7 (a) Widow or widower, unless it is shown that she or he was
8 voluntarily separated and living apart from the spouse at the time of the
9 injury or death or was not dependent in whole or in part on the deceased
10 for support;

11 (a.5) A PERSON WHO IS DESIGNATED IN A DESIGNATED
12 BENEFICIARY AGREEMENT FOR PURPOSES OF RECEIVING WORKERS'
13 COMPENSATION BENEFITS IN ACCORDANCE WITH THE PROVISIONS OF
14 ARTICLE 22 OF TITLE 15, C.R.S., UNLESS IT IS SHOWN THAT THE
15 DESIGNATED BENEFICIARY WAS VOLUNTARILY SEPARATED AND LIVING
16 APART FROM THE OTHER DESIGNATED BENEFICIARY AT THE TIME OF THE
17 INJURY OR DEATH OR WAS NOT DEPENDENT IN WHOLE OR IN PART ON THE
18 DECEASED FOR SUPPORT;

19 (b) Minor children of the deceased under the age of eighteen
20 years, including posthumous or legally adopted children;

21 (c) Minor children of the deceased who are eighteen years or over
22 and under the age of twenty-one years if it is shown that:

23 (I) At the time of the decedent's death they were actually
24 dependent upon the deceased for support; and

25 (II) Either at the time of the decedent's death or at the time they
26 attained the age of eighteen years they were engaged in courses of study
27 as full-time students at any accredited school. The period of presumed

1 dependency of such persons shall continue until they attain the age of
2 twenty-one years or until they cease to be engaged in courses of study as
3 full-time students at an accredited school, whichever occurs first.

4 **SECTION 3.** 10-16-102 (14) and (26) (d), Colorado Revised
5 Statutes, are amended to read:

6 **10-16-102. Definitions.** As used in this article, unless the context
7 otherwise requires:

8 (14) "Dependent" means a spouse, an unmarried child under
9 nineteen years of age, an unmarried child who is a full-time student under
10 twenty-four years of age and who is financially dependent upon the
11 parent, and an unmarried child of any age who is medically certified as
12 disabled and dependent upon the parent. "DEPENDENT" SHALL INCLUDE
13 A DESIGNATED BENEFICIARY, AS DEFINED IN SECTION 15-22-103 (1),
14 C.R.S., IF AN EMPLOYER ELECTS TO COVER A DESIGNATED BENEFICIARY AS
15 A DEPENDENT.

16 (26) "Late enrollee" means an eligible employee or dependent
17 who requests enrollment in a group health benefit plan following the
18 initial enrollment period for which such individual is entitled to enroll
19 under the terms of the health benefit plan, if such initial enrollment period
20 is a period of at least thirty days. An eligible employee or dependent shall
21 not be considered a late enrollee if:

22 (d) (I) A person becomes a dependent of a covered person through
23 marriage, birth, adoption, or placement for adoption and requests
24 enrollment no later than thirty days after becoming such a dependent. In
25 such case, coverage shall commence on the date the person becomes a
26 dependent if a request for enrollment is received in a timely fashion
27 before such date.

1 (II) A PERSON WHO BECOMES A DEPENDENT OF A COVERED PERSON
2 THROUGH A DESIGNATED BENEFICIARY AGREEMENT PURSUANT TO ARTICLE
3 22 OF TITLE 15, C.R.S., REQUESTS ENROLLMENT NO LATER THAN THIRTY
4 DAYS AFTER BECOMING SUCH A DEPENDENT, AND THE EMPLOYER OF THE
5 COVERED PERSON ELECTS TO COVER DESIGNATED BENEFICIARIES AS
6 DEPENDENTS. IN SUCH CASE, COVERAGE SHALL COMMENCE ON THE DATE
7 THE PERSON BECOMES A DEPENDENT IF A REQUEST FOR ENROLLMENT IS
8 RECEIVED IN A TIMELY FASHION BEFORE SAID DATE.

9 SECTION 4. 10-16-105 (7.2) (c), Colorado Revised Statutes, is
10 amended to read:

11 **10-16-105. Small group sickness and accident insurance -**
12 **guaranteed issue - mandated provisions for basic health benefit plans**
13 **- rules - benefit design advisory committee - repeal.** (7.2) The
14 commissioner shall promulgate rules to implement a basic health benefit
15 plan and a standard health benefit plan to be offered by each small
16 employer carrier as a condition of transacting business in this state. The
17 commissioner shall survey small group carriers annually to determine the
18 range of health benefit plans available. The commissioner shall
19 implement a basic plan that approximates the lowest level of coverage
20 offered in small group health benefit plans. A basic health benefit plan
21 may be based on the latest medical evidence. The commissioner shall
22 implement a standard plan that approximates the average level of
23 coverage offered in small group health benefit plans. In determining
24 levels of coverage, the commissioner shall consider factors such as
25 coinsurance, copayments, deductibles, out-of-pocket maximums, and
26 covered benefits. The commissioner shall amend the rules as necessary
27 to implement the basic and standard health benefit plans. The rules shall

1 be in conformity with article 4 of title 24, C.R.S., and shall incorporate
2 the following standard health benefit plan design described in paragraph
3 (a) of this subsection (7.2) and the various options for the basic health
4 benefit plan design described in paragraph (b) of this subsection (7.2):

5 (c) Notwithstanding any provision of law to the contrary, a small
6 employer carrier may offer and a small employer may accept or reject
7 coverage for employees' domestic partners and their dependents OR FOR
8 EMPLOYEES' DESIGNATED BENEFICIARIES AND THEIR DEPENDENTS under
9 a standard or basic health benefit plan.

10 **SECTION 5.** 12-34-109 (a), Colorado Revised Statutes, is
11 amended to read:

12 **12-34-109. Who may make anatomical gift of decedent's body**
13 **or part.** (a) Subject to subsections (b) and (c) of this section and unless
14 barred by section 12-34-107 or 12-34-108, an anatomical gift of a
15 decedent's body or part for purpose of transplantation, therapy, research,
16 or education may be made by any member of the following classes of
17 persons who is reasonably available, in the order of priority listed:

18 (1) An agent of the decedent at the time of death who could have
19 made an anatomical gift under section 12-34-104 (2) immediately before
20 the decedent's death;

21 (2) The spouse of the decedent;

22 (2.5) A PERSON WHO IS DESIGNATED BY THE DECEDENT AS A
23 DESIGNATED BENEFICIARY IN A DESIGNATED BENEFICIARY AGREEMENT
24 PURSUANT TO ARTICLE 22 OF TITLE 15, C.R.S., WITH THE RIGHT TO BE AN
25 AGENT TO MAKE, REVOKE, OR OBJECT TO ANATOMICAL GIFTS OF THE
26 DECEDENT;

27 (3) Adult children of the decedent;

- 1 (4) Parents of the decedent;
- 2 (5) Adult siblings of the decedent;
- 3 (6) Adult grandchildren of the decedent;
- 4 (7) Grandparents of the decedent;
- 5 (8) An adult who exhibited special care and concern for the
- 6 decedent;
- 7 (9) The persons who were acting as the guardians of the person of
- 8 the decedent at the time of death; and
- 9 (10) Any other person having the authority to dispose of the
- 10 decedent's body.

11 **SECTION 6.** 13-21-201 (1), Colorado Revised Statutes, is
12 amended to read:

13 **13-21-201. Damages for death.** (1) When any person dies from
14 any injury resulting from or occasioned by the negligence, unskillfulness,
15 or criminal intent of any officer, agent, servant, or employee while
16 running, conducting, or managing any locomotive, car, or train of cars, or
17 of any driver of any coach or other conveyance operated for the purpose
18 of carrying either freight or passengers for hire while in charge of the
19 same as a driver, and when any passenger dies from an injury resulting
20 from or occasioned by any defect or insufficiency in any railroad or any
21 part thereof, or in any locomotive or car, or other conveyance operated for
22 the purpose of carrying either freight or passengers for hire, the
23 corporation or individuals in whose employ any such officer, agent,
24 servant, employee, master, pilot, engineer, or driver is at the time such
25 injury is committed, or who owns any such railroad, locomotive, car, or
26 other conveyance operated for the purpose of carrying either freight or
27 passengers for hire at the time any such injury is received, and resulting

1 from or occasioned by the defect or insufficiency above described shall
2 forfeit and pay for every person and passenger so injured the sum of not
3 exceeding ten thousand dollars and not less than three thousand dollars,
4 which may be sued for and recovered:

5 (a) In the first year after such death:

6 (I) By the spouse of the deceased;

7 (II) Upon the written election of the spouse, by the spouse and the
8 heir or heirs of the deceased;

9 (III) Upon the written election of the spouse, by the heir or heirs
10 of the deceased; or

11 (IV) If there is no spouse, by the DESIGNATED BENEFICIARY, IF
12 THERE IS ONE DESIGNATED PURSUANT TO ARTICLE 22 OF TITLE 15, C.R.S.,
13 WITH THE RIGHT TO BRING AN ACTION PURSUANT TO THIS SECTION, AND IF
14 THERE IS NO DESIGNATED BENEFICIARY, BY THE heir or heirs of the
15 deceased;

16 (b) (I) In the second year after such death:

17 (A) By the spouse of the deceased;

18 (A.5) BY THE DESIGNATED BENEFICIARY OF THE DECEASED IF
19 THERE IS ONE DESIGNATED PURSUANT TO ARTICLE 22 OF TITLE 15, C.R.S.,
20 WITH THE RIGHT TO BRING AN ACTION PURSUANT TO THIS SECTION;

21 (B) By the heir or heirs of the deceased; or

22 (C) By the spouse and the heir or heirs of the deceased.

23 (II) However, if the heir or heirs of the deceased commence an
24 action under the provisions of sub-subparagraph (B) of subparagraph (I)
25 of this paragraph (b), the spouse, upon motion filed within ninety days
26 after service of written notice of the commencement of the action upon
27 him, shall be allowed to join the action as a party plaintiff.

1 (c) (I) If the deceased is an unmarried minor without descendants
2 or an unmarried adult without descendants AND WITHOUT A DESIGNATED
3 BENEFICIARY PURSUANT TO ARTICLE 22 OF TITLE 15, C.R.S., by the father
4 or mother who may join in the suit. Except as provided in subparagraphs
5 (II) and (III) of this paragraph (c), the father and mother shall have an
6 equal interest in the judgment, or if either of them is dead, then the
7 surviving parent shall have an exclusive interest in the judgment.

8 (II) For cases in which the father and mother are divorced,
9 separated, or living apart, a motion may be filed by either the father or the
10 mother prior to trial requesting the court to apportion fairly any judgment
11 awarded in the case. Where such a motion is filed, the court shall conduct
12 a post-judgment hearing at which the father and the mother shall have the
13 opportunity to be heard and to produce evidence regarding each parent's
14 relationship with the deceased child.

15 (III) On conclusion of the post-judgment hearing conducted
16 pursuant to subparagraph (II) of this paragraph (c), the court shall fairly
17 determine the percentage of the judgment to be awarded to each parent.
18 In making such a determination, the court shall consider each parent's
19 relationship with the deceased, including custody, control, support,
20 parental responsibility, and any other factors the court deems pertinent.
21 The court's determination of the percentage of the judgment awarded to
22 each parent shall not be disturbed absent an abuse of discretion.

23 (d) For purposes of this section, "father or mother" means a
24 natural parent of the deceased or a parent of the deceased by adoption.
25 "Father or mother" does not include a person whose parental rights
26 concerning the deceased were terminated pursuant to the provisions of
27 title 19, C.R.S.

1 **SECTION 7.** 15-11-103, Colorado Revised Statutes, is amended
2 to read:

3 **15-11-103. Share of heirs other than surviving spouse.** Any
4 part of the intestate estate not passing to the decedent's surviving spouse
5 under section 15-11-102, or the entire intestate estate if there is no
6 surviving spouse, passes in the following order to the individuals
7 designated who survive the decedent:

8 (1) TO A DESIGNATED BENEFICIARY WHO WAS DESIGNATED BY THE
9 DECEDENT TO BE HIS OR HER DESIGNATED BENEFICIARY FOR PURPOSES OF
10 INTESTATE SUCCESSION PURSUANT TO A DESIGNATED BENEFICIARY
11 AGREEMENT THAT HAS BEEN EXECUTED AND FILED WITH A COUNTY CLERK
12 AND RECORDER AS PROVIDED IN ARTICLE 22 OF THIS TITLE; EXCEPT THAT
13 IF THE DECEDENT HAS SURVIVING CHILDREN, THEN THE DESIGNATED
14 BENEFICIARY SHALL RECEIVE ONE-HALF OF THE INTESTATE ESTATE AND
15 THE SURVIVING CHILDREN SHALL RECEIVE ONE-HALF OF THE INTESTATE
16 ESTATE;

17 ~~(1)~~ (2) To the decedent's descendants per capita at each
18 generation;

19 ~~(2)~~ (3) If there is no surviving descendant, to the decedent's
20 parents equally if both survive, or to the decedent's surviving parent;

21 ~~(3)~~ (4) If there is no surviving descendant or surviving parent, to
22 the surviving descendants of the decedent's parents or either of them per
23 capita at each generation;

24 ~~(4)~~ (5) If there is no surviving descendant, surviving parent, or
25 surviving descendant of a parent, to the decedent's surviving
26 grandparents, or any of them, in equal shares;

27 ~~(5)~~ (6) If there is no surviving descendant, surviving parent,

1 surviving descendant of a parent, or surviving grandparent, to the
2 surviving descendants of the decedent's grandparents per capita at each
3 generation;

4 ~~(6)~~ (7) If there is no surviving heir under subsections (1) to ~~(5)~~ (6)
5 of this section, and if a birth child or birth children file a claim for
6 inheritance with the court having probate jurisdiction for the decedent's
7 estate within ninety days of decedent's death, to the decedent's surviving
8 birth child or children per capita at each generation. For purposes of this
9 subsection ~~(6)~~ (7), the term "birth child" means a child who was born to,
10 but adopted away from, his or her natural parent.

11 ~~(7)~~ (8) If there is no surviving heir or birth child under subsections
12 (1) to ~~(6)~~ (7) of this section, and if a birth parent or birth parents file a
13 claim for inheritance with the court having probate jurisdiction for the
14 decedent's estate within ninety days of decedent's death, to the decedent's
15 birth parents equally if both survive, or to the surviving birth parent. For
16 purposes of this subsection ~~(7)~~ (8), the term "birth parent" means the
17 natural parent of a child who was born to, but adopted away from, the
18 natural parent.

19 **SECTION 8.** 15-11-106 (2) and (3), Colorado Revised Statutes,
20 are amended to read:

21 **15-11-106. Per capita at each generation.** (2) **Decedent's**
22 **descendants.** If, under section 15-11-103 ~~(1)~~ (2), a decedent's intestate
23 estate or a part thereof passes "per capita at each generation" to the
24 decedent's descendants, the estate or part thereof is divided into as many
25 equal shares as there are (i) surviving descendants in the generation
26 nearest to the decedent which contains one or more surviving descendants
27 and (ii) deceased descendants in the same generation who left surviving

1 descendants, if any. Each surviving descendant in the nearest generation
2 is allocated one share. The remaining shares, if any, are combined and
3 then divided in the same manner among the surviving descendants of the
4 deceased descendants as if the surviving descendants who are allocated
5 a share and their surviving descendants had predeceased the decedent.

6 (3) **Descendants of parents or grandparents.** If, under section
7 15-11-103 ~~(3)~~ (4) or ~~(5)~~ (6), a decedent's intestate estate or a part thereof
8 passes "per capita at each generation" to the descendants of the decedent's
9 deceased parents or either of them, or to the descendants of the decedent's
10 deceased grandparents or any of them, the estate or part thereof is divided
11 into as many equal shares as there are (i) surviving descendants in the
12 generation nearest to the deceased parents or either of them, or the
13 deceased grandparents or any of them, that contains one or more
14 surviving descendants and (ii) deceased descendants in the same
15 generation who left surviving descendants, if any. Each surviving
16 descendant in the nearest generation is allocated one share. The
17 remaining shares, if any, are combined and then divided in the same
18 manner among the surviving descendants of the deceased descendants as
19 if the surviving descendants who were allocated a share and their
20 surviving descendants had predeceased the decedent.

21 **SECTION 9.** 15-11-114 (2), Colorado Revised Statutes, is
22 amended to read:

23 **15-11-114. Parent and child relationship.** (2) For purposes of
24 intestate succession by, through, or from a person, an adopted individual
25 is the child of his or her adopting parent or parents and not of his or her
26 birth parents, except for inheritance rights as specified in section
27 15-11-103 ~~(6)~~ and (7) AND (8), but the adoption of a child by the spouse

1 of either birth parent has no effect on the relationship between the child
2 and the birth parent whose spouse has adopted the child.

3 **SECTION 10.** 15-12-203 (1), Colorado Revised Statutes, is
4 amended to read:

5 **15-12-203. Priority among persons seeking appointment as**
6 **personal representative.** (1) Whether the proceedings are formal or
7 informal, persons who are not disqualified have priority for appointment
8 in the following order:

9 (a) The person with priority as determined by a probated will
10 including a person nominated by a power conferred in a will;

11 (b) The surviving spouse of the decedent who is a devisee of the
12 decedent;

13 (b.5) A PERSON NOMINATED TO BE A PERSONAL REPRESENTATIVE
14 BY A POWER CONFERRED IN A DESIGNATED BENEFICIARY AGREEMENT;

15 (c) Other devisees of the decedent;

16 (d) The surviving spouse of the decedent;

17 (e) Other heirs of the decedent;

18 (f) Forty-five days after the death of the decedent, any creditor.

19 **SECTION 11.** 15-14-310 (1), Colorado Revised Statutes, is
20 amended to read:

21 **15-14-310. Who may be guardian - priorities - prohibition of**
22 **dual roles.** (1) Subject to subsection (4) of this section, the court in
23 appointing a guardian shall consider persons otherwise qualified in the
24 following order of priority:

25 (a) A guardian, other than a temporary or emergency guardian,
26 currently acting for the respondent in this state or elsewhere;

27 (b) A person nominated as guardian by the respondent, including

1 the respondent's specific nomination of a guardian made in a durable
2 power of attorney OR IN A DESIGNATED BENEFICIARY AGREEMENT MADE
3 PURSUANT TO ARTICLE 22 OF THIS TITLE;

4 (c) An agent appointed by the respondent under a medical durable
5 power of attorney pursuant to section 15-14-506;

6 (d) An agent appointed by the respondent under a general durable
7 power of attorney;

8 (e) The spouse of the respondent or a person nominated by will or
9 other signed writing of a deceased spouse;

10 (f) An adult child of the respondent;

11 (g) A parent of the respondent or an individual nominated by will
12 or other signed writing of a deceased parent; and

13 (h) An adult with whom the respondent has resided for more than
14 six months immediately before the filing of the petition.

15 **SECTION 12.** 15-14-413 (1), Colorado Revised Statutes, is
16 amended to read:

17 **15-14-413. Who may be conservator - priorities - prohibition**
18 **of dual roles.** (1) Except as otherwise provided in subsection (4) of this
19 section, the court, in appointing a conservator, shall consider persons
20 otherwise qualified in the following order of priority:

21 (a) A conservator, guardian of the estate, or other like fiduciary
22 appointed or recognized by an appropriate court of any other jurisdiction
23 in which the protected person resides;

24 (b) A person nominated as conservator by the respondent,
25 including the respondent's specific nomination of a conservator made in
26 a durable power of attorney OR IN A DESIGNATED BENEFICIARY
27 AGREEMENT PURSUANT TO ARTICLE 22 OF THIS TITLE, if the respondent

1 has attained twelve years of age;

2 (c) An agent appointed by the respondent to manage the
3 respondent's property under a durable power of attorney;

4 (d) The spouse of the respondent;

5 (e) An adult child of the respondent;

6 (f) A parent of the respondent; and

7 (g) An adult with whom the respondent has resided for more than
8 six months immediately before the filing of the petition.

9 **SECTION 13.** 15-18.5-103 (1), Colorado Revised Statutes, is
10 amended to read:

11 **15-18.5-103. Proxy decision-makers for medical treatment**
12 **authorized.** (1) A health care provider or health care facility may rely,
13 in good faith, upon the medical treatment decision of a proxy
14 decision-maker selected in accordance with subsection (4) of this section
15 if an adult patient's attending physician determines that such patient lacks
16 the decisional capacity to provide informed consent to or refusal of
17 medical treatment and no guardian with medical decision-making
18 authority, agent appointed in a medical durable power of attorney,
19 PERSON DESIGNATED AS A DESIGNATED BENEFICIARY WITH THE RIGHT TO
20 ACT AS A PROXY DECISION-MAKER PURSUANT TO ARTICLE 22 OF THIS
21 TITLE, or other known person has the legal authority to provide such
22 consent or refusal on the patient's behalf.

23 **SECTION 14.** 15-18.5-104 (1), Colorado Revised Statutes, is
24 amended to read:

25 **15-18.5-104. Surrogate decision-makers for health care**
26 **benefits.** (1) A proxy decision-maker for medical treatment selected in
27 accordance with section 15-18.5-103 OR A PERSON DESIGNATED AS A

1 DESIGNATED BENEFICIARY WITH THE RIGHT TO ACT AS A SURROGATE
2 DECISION-MAKER PURSUANT TO ARTICLE 22 OF THIS TITLE shall have
3 authority to make health care benefit decisions on behalf of an adult
4 patient and may be known additionally as a surrogate decision-maker for
5 health care benefits.

6 **SECTION 15.** 15-19-103 (3) and (4), Colorado Revised Statutes,
7 are amended to read:

8 **15-19-103. Definitions.** As used in this article, unless the context
9 otherwise requires:

10 (3) "Declaration" means a written instrument directing the lawful
11 disposition of the declarant's last remains and the ceremonies planned
12 after a declarant's death, in accordance with this article. A declaration
13 may be made within a will; prepaid funeral, burial, or cremation contract;
14 durable or medical power of attorney; A DESIGNATED BENEFICIARY
15 AGREEMENT AS DESCRIBED IN ARTICLE 22 OF THIS TITLE; or any other
16 written document, including, but not limited to, a document governing the
17 disposition of last remains under part 7 of article 11 of this title.

18 (4) "Interested person" means the deceased's spouse, parent,
19 DESIGNATED BENEFICIARY, adult child, sibling, grandchild, and other
20 person designated in a declaration.

21 **SECTION 16.** 15-19-106 (1), Colorado Revised Statutes, is
22 amended to read:

23 **15-19-106. Right to dispose of remains.** (1) Subject to section
24 15-19-105 (2), the right to control disposition of the last remains or
25 ceremonial arrangements of a decedent vests in and devolves upon the
26 following persons, at the time of the decedent's death, in the following
27 order:

1 (a) The decedent if acting through a declaration pursuant to
2 section 15-19-104;

3 (b) (I) Either the appointed personal representative or special
4 administrator of the decedent's estate if such person has been appointed;
5 or

6 (II) The nominee for appointment as personal representative under
7 the decedent's will if a personal representative or special administrator
8 has not been appointed;

9 (c) The surviving spouse of the decedent, if not legally separated
10 from the decedent;

11 (c.5) A DESIGNATED BENEFICIARY WHO WAS DESIGNATED IN A
12 DESIGNATED BENEFICIARY AGREEMENT PURSUANT TO ARTICLE 22 OF THIS
13 TITLE AS HAVING THE RIGHT TO DIRECT THE DISPOSITION OF THE
14 DECEDENT'S LAST REMAINS;

15 (d) A majority of the surviving adult children of the decedent;

16 (e) A majority of the surviving parents or legal guardians of the
17 decedent, who shall act in writing;

18 (f) A majority of the surviving adult siblings of the decedent;

19 (g) (Deleted by amendment, L. 2006, p. 900, § 5, effective August
20 7, 2006.)

21 (h) Any person who is willing to assume legal and financial
22 responsibility for the final disposition of the decedent's last remains.

23 **SECTION 17.** 30-1-103 (2), Colorado Revised Statutes, is
24 amended BY THE ADDITION OF THE FOLLOWING NEW
25 PARAGRAPHS to read:

26 **30-1-103. Fees of county clerk and recorders.** (2) In cities and
27 counties and in every county, the following fees shall apply:

1 (n) FOR FILING EACH DESIGNATED BENEFICIARY AGREEMENT, AN
2 AMOUNT DETERMINED PURSUANT TO SECTION 15-22-107 (1), C.R.S.;

3 (o) FOR FILING EACH REVOCATION OF A DESIGNATED BENEFICIARY
4 AGREEMENT, AN AMOUNT DETERMINED PURSUANT TO SECTION 15-22-112,
5 C.R.S.

6 **SECTION 18. Severability.** If any provision of this act or the
7 application thereof to any person or circumstance is held invalid, such
8 invalidity shall not affect other provisions or applications of the act that
9 can be given effect without the invalid provision or application, and to
10 this end the provisions of this act are declared to be severable.

11 **SECTION 19. Effective date.** This act shall take effect July 1,
12 2009.

13 **SECTION 20. Safety clause.** The general assembly hereby finds,
14 determines, and declares that this act is necessary for the immediate
15 preservation of the public peace, health, and safety.