

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

REENGROSSED

*This Version Includes All Amendments
Adopted in the House of Introduction*

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.*

HOUSE
3rd Reading Unamended
February 24, 2009

HOUSE
Amended 2nd Reading
February 20, 2009

- 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.

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

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

ARTICLE 22

Designated Beneficiary Agreements

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

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

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

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

(c) A BODY OF LAW HAS BEEN ENACTED TO OPERATE BY DEFAULT IN SITUATIONS IN WHICH INDIVIDUALS DO NOT PREPARE ESTATE PLANS. 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	___	___
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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 CARE
22 DECISIONS FOR ME PURSUANT TO SECTION
23 15-18.5-103 OR 15-18.5-104, COLORADO
24 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 15-22-111;


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 
16 **15-22-109. Affirmation of validity of designated beneficiary**
17 **agreement.** A PERSON EXERCISING RIGHTS OR PROTECTIONS PURSUANT
18 TO A DESIGNATED BENEFICIARY AGREEMENT SHALL AFFIRM THE VALIDITY
19 OF A DESIGNATED BENEFICIARY AGREEMENT AND DISCLOSE ANY
20 KNOWLEDGE OF ANY SUPERSEDING LEGAL DOCUMENTS.

21 **15-22-110. Reliance - immunity.** A THIRD PARTY WHO ACTS IN
22 GOOD FAITH RELIANCE ON THE AFFIRMATION OF THE EXISTENCE OF A
23 VALID DESIGNATED BENEFICIARY AGREEMENT SHALL NOT BE SUBJECT TO
24 CIVIL LIABILITY OR ADMINISTRATIVE DISCIPLINE FOR SUCH RELIANCE.

25 **15-22-111. Revocation of a designated beneficiary agreement.**
26 (1) A DESIGNATED BENEFICIARY AGREEMENT THAT HAS BEEN FILED WITH
27 A COUNTY CLERK AND RECORDER MAY BE UNILATERALLY REVOKED BY

1 EITHER PARTY TO THE AGREEMENT BY FILING A REVOCATION WITH THE
2 CLERK AND RECORDER OF THE COUNTY IN WHICH THE AGREEMENT WAS
3 FILED. A REVOCATION SHALL BE DATED, SIGNED, AND ACKNOWLEDGED.
4 THE REVOCATION SHALL BE EFFECTIVE ON THE DATE AND TIME OF THE
5 FILING OF THE REVOCATION. THE CLERK AND RECORDER SHALL ISSUE A
6 CERTIFIED COPY TO THE PARTY FILING THE REVOCATION AND SHALL MAIL
7 A CERTIFIED COPY OF THE REVOCATION TO THE LAST-KNOWN ADDRESS OF
8 THE OTHER PARTY TO THE DESIGNATED BENEFICIARY AGREEMENT.

9 (2) THE COUNTY CLERK AND RECORDER SHALL ASSESS A TWENTY
10 DOLLAR FEE, AS PROVIDED IN SECTION 30-1-103, C.R.S., FOR FILING A
11 REVOCATION AGREEMENT AND ISSUING TWO CERTIFIED COPIES OF THE
12 REVOCATION AGREEMENT. THE FEES COLLECTED BY THE CLERK AND
13 RECORDER SHALL BE DEPOSITED IN THE COUNTY CLERK'S FEE FUND
14 MAINTAINED AS REQUIRED IN SECTION 30-1-119, C.R.S.

15 (3) A DESIGNATED BENEFICIARY AGREEMENT SHALL BE DEEMED
16 REVOKED UPON THE MARRIAGE OF EITHER PARTY. IN THE CASE OF A
17 COMMON LAW MARRIAGE, A DESIGNATED BENEFICIARY AGREEMENT SHALL
18 BE DEEMED REVOKED AS OF THE DATE THE COURT DETERMINES THAT A
19 VALID COMMON LAW MARRIAGE EXISTS.

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

22 **REVOCATION**
23 **OF DESIGNATED BENEFICIARY AGREEMENT**

24 I _____ (INSERT YOUR FULL NAME), RESIDE AT _____
25 (INSERT YOUR CURRENT ADDRESS) AND I ENTERED INTO A DESIGNATED
26 BENEFICIARY AGREEMENT ON _____ (INSERT THE DATE) WITH THE
27 FOLLOWING PERSON _____ (INSERT THE OTHER PERSON'S NAME)

1 WHOSE LAST KNOWN ADDRESS IS _____ IN WHICH I
2 DESIGNATED SUCH PERSON AS A DESIGNATED BENEFICIARY. THIS
3 DESIGNATED BENEFICIARY AGREEMENT WAS FILED ON ____ (INSERT THE
4 DATE) IN THE COUNTY OF _____. I HEREBY REVOKE THAT
5 DESIGNATED BENEFICIARY AGREEMENT, EFFECTIVE ON THE DATE AND
6 TIME OF THE FILING OF THIS REVOCATION WITH THE CLERK AND RECORDER
7 OF _____ COUNTY.

8 _____
9 NAME DATE

10 STATE OF COLORADO

11 COUNTY OF _____

12 THIS DOCUMENT WAS SUBSCRIBED, SWORN TO, AND ACKNOWLEDGED
13 BEFORE ME ON _____ DATE

14 BY
15 _____

16 MY COMMISSION EXPIRES _____

17 [SEAL]

18 _____
19 NOTARY PUBLIC

20 THIS REVOCATION OF BENEFICIARY AGREEMENT WAS FILED IN MY
21 OFFICE ON _____, _____, AT _____ O'CLOCK, AND, PURSUANT
22 TO SECTION 15-22-111, COLORADO REVISED STATUTES, I MAILED A COPY
23 OF THIS REVOCATION OF BENEFICIARY AGREEMENT TO _____
24 AT THE ADDRESS CONTAINED IN THIS REVOCATION OF BENEFICIARY
25 AGREEMENT.

26 CLERK AND RECORDER OF
27 _____ COUNTY

1 BY: _____

2 **15-22-112. Death of a designated beneficiary - effect on**
3 **designated beneficiary agreement.** (1) A DESIGNATED BENEFICIARY
4 AGREEMENT IS TERMINATED UPON THE DEATH OF EITHER OF THE PARTIES
5 TO THE DESIGNATED BENEFICIARY AGREEMENT; HOWEVER, A RIGHT OR
6 POWER WHICH A DESIGNATED BENEFICIARY AGREEMENT CONFERRED UPON
7 A DESIGNATED BENEFICIARY SURVIVES THE DEATH OF THE OTHER
8 DESIGNATED BENEFICIARY.

9 (2) A PARTY TO A DESIGNATED BENEFICIARY AGREEMENT WHO
10 SURVIVES A DESIGNATED BENEFICIARY MAY ENTER INTO A DESIGNATED
11 BENEFICIARY AGREEMENT WITH A DIFFERENT PERSON SO LONG AS IT
12 MEETS THE REQUIREMENTS OF THIS ARTICLE.

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

15 **8-41-501. Persons presumed wholly dependent.** (1) For the
16 purposes of articles 40 to 47 of this title, the following described persons
17 shall be presumed to be wholly dependent (however, such presumption
18 may be rebutted by competent evidence):

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

23 (a.5) A PERSON WHO IS DESIGNATED IN A DESIGNATED
24 BENEFICIARY AGREEMENT FOR PURPOSES OF RECEIVING WORKERS'
25 COMPENSATION BENEFITS IN ACCORDANCE WITH THE PROVISIONS OF
26 ARTICLE 22 OF TITLE 15, C.R.S., UNLESS IT IS SHOWN THAT THE
27 DESIGNATED BENEFICIARY WAS VOLUNTARILY SEPARATED AND LIVING

1 APART FROM THE OTHER DESIGNATED BENEFICIARY AT THE TIME OF THE
2 INJURY OR DEATH OR WAS NOT DEPENDENT IN WHOLE OR IN PART ON THE
3 DECEASED FOR SUPPORT;

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

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

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

10 (II) Either at the time of the decedent's death or at the time they
11 attained the age of eighteen years they were engaged in courses of study
12 as full-time students at any accredited school. The period of presumed
13 dependency of such persons shall continue until they attain the age of
14 twenty-one years or until they cease to be engaged in courses of study as
15 full-time students at an accredited school, whichever occurs first.

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

18 **10-16-102. Definitions.** As used in this article, unless the context
19 otherwise requires:

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

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

7 (d) (I) A person becomes a dependent of a covered person through
8 marriage, birth, adoption, or placement for adoption and requests
9 enrollment no later than thirty days after becoming such a dependent. In
10 such case, coverage shall commence on the date the person becomes a
11 dependent if a request for enrollment is received in a timely fashion
12 before such date.

13 (II) A PERSON WHO BECOMES A DEPENDENT OF A COVERED PERSON
14 THROUGH A DESIGNATED BENEFICIARY AGREEMENT PURSUANT TO ARTICLE
15 22 OF TITLE 15, C.R.S., REQUESTS ENROLLMENT NO LATER THAN THIRTY
16 DAYS AFTER BECOMING SUCH A DEPENDENT, AND THE EMPLOYER OF THE
17 COVERED PERSON ELECTS TO COVER DESIGNATED BENEFICIARIES AS
18 DEPENDENTS. IN SUCH CASE, COVERAGE SHALL COMMENCE ON THE DATE
19 THE PERSON BECOMES A DEPENDENT IF A REQUEST FOR ENROLLMENT IS
20 RECEIVED IN A TIMELY FASHION BEFORE SAID DATE.

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

23 **10-16-105. Small group sickness and accident insurance -**
24 **guaranteed issue - mandated provisions for basic health benefit plans**
25 **- rules - benefit design advisory committee - repeal.** (7.2) The
26 commissioner shall promulgate rules to implement a basic health benefit
27 plan and a standard health benefit plan to be offered by each small

1 employer carrier as a condition of transacting business in this state. The
2 commissioner shall survey small group carriers annually to determine the
3 range of health benefit plans available. The commissioner shall
4 implement a basic plan that approximates the lowest level of coverage
5 offered in small group health benefit plans. A basic health benefit plan
6 may be based on the latest medical evidence. The commissioner shall
7 implement a standard plan that approximates the average level of
8 coverage offered in small group health benefit plans. In determining
9 levels of coverage, the commissioner shall consider factors such as
10 coinsurance, copayments, deductibles, out-of-pocket maximums, and
11 covered benefits. The commissioner shall amend the rules as necessary
12 to implement the basic and standard health benefit plans. The rules shall
13 be in conformity with article 4 of title 24, C.R.S., and shall incorporate
14 the following standard health benefit plan design described in paragraph
15 (a) of this subsection (7.2) and the various options for the basic health
16 benefit plan design described in paragraph (b) of this subsection (7.2):

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

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

24 **12-34-109. Who may make anatomical gift of decedent's body**
25 **or part.** (a) Subject to subsections (b) and (c) of this section and unless
26 barred by section 12-34-107 or 12-34-108, an anatomical gift of a
27 decedent's body or part for purpose of transplantation, therapy, research,

1 or education may be made by any member of the following classes of
2 persons who is reasonably available, in the order of priority listed:

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

6 (2) The spouse of the decedent;

7 (2.5) A PERSON WHO IS DESIGNATED BY THE DECEDENT AS A
8 DESIGNATED BENEFICIARY IN A DESIGNATED BENEFICIARY AGREEMENT
9 PURSUANT TO ARTICLE 22 OF TITLE 15, C.R.S., WITH THE RIGHT TO BE AN
10 AGENT TO MAKE, REVOKE, OR OBJECT TO ANATOMICAL GIFTS OF THE
11 DECEDENT;

12 (3) Adult children of the decedent;

13 (4) Parents of the decedent;

14 (5) Adult siblings of the decedent;

15 (6) Adult grandchildren of the decedent;

16 (7) Grandparents of the decedent;

17 (8) An adult who exhibited special care and concern for the
18 decedent;

19 (9) The persons who were acting as the guardians of the person of
20 the decedent at the time of death; and

21 (10) Any other person having the authority to dispose of the
22 decedent's body.

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

25 **13-21-201. Damages for death.** (1) When any person dies from
26 any injury resulting from or occasioned by the negligence, unskillfulness,
27 or criminal intent of any officer, agent, servant, or employee while

1 running, conducting, or managing any locomotive, car, or train of cars, or
2 of any driver of any coach or other conveyance operated for the purpose
3 of carrying either freight or passengers for hire while in charge of the
4 same as a driver, and when any passenger dies from an injury resulting
5 from or occasioned by any defect or insufficiency in any railroad or any
6 part thereof, or in any locomotive or car, or other conveyance operated for
7 the purpose of carrying either freight or passengers for hire, the
8 corporation or individuals in whose employ any such officer, agent,
9 servant, employee, master, pilot, engineer, or driver is at the time such
10 injury is committed, or who owns any such railroad, locomotive, car, or
11 other conveyance operated for the purpose of carrying either freight or
12 passengers for hire at the time any such injury is received, and resulting
13 from or occasioned by the defect or insufficiency above described shall
14 forfeit and pay for every person and passenger so injured the sum of not
15 exceeding ten thousand dollars and not less than three thousand dollars,
16 which may be sued for and recovered:

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

18 (I) By the spouse of the deceased;

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

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

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

1 (b) (I) In the second year after such death:
2 (A) By the spouse of the deceased;
3 (A.5) BY THE DESIGNATED BENEFICIARY OF THE DECEASED IF
4 THERE IS ONE DESIGNATED PURSUANT TO ARTICLE 22 OF TITLE 15, C.R.S.,
5 WITH THE RIGHT TO BRING AN ACTION PURSUANT TO THIS SECTION;
6 (B) By the heir or heirs of the deceased; or
7 (C) By the spouse and the heir or heirs of the deceased.
8 (II) However, if the heir or heirs of the deceased commence an
9 action under the provisions of sub-subparagraph (B) of subparagraph (I)
10 of this paragraph (b), the spouse, upon motion filed within ninety days
11 after service of written notice of the commencement of the action upon
12 him, shall be allowed to join the action as a party plaintiff.
13 (c) (I) If the deceased is an unmarried minor without descendants
14 or an unmarried adult without descendants AND WITHOUT A DESIGNATED
15 BENEFICIARY PURSUANT TO ARTICLE 22 OF TITLE 15, C.R.S., by the father
16 or mother who may join in the suit. Except as provided in subparagraphs
17 (II) and (III) of this paragraph (c), the father and mother shall have an
18 equal interest in the judgment, or if either of them is dead, then the
19 surviving parent shall have an exclusive interest in the judgment.
20 (II) For cases in which the father and mother are divorced,
21 separated, or living apart, a motion may be filed by either the father or the
22 mother prior to trial requesting the court to apportion fairly any judgment
23 awarded in the case. Where such a motion is filed, the court shall conduct
24 a post-judgment hearing at which the father and the mother shall have the
25 opportunity to be heard and to produce evidence regarding each parent's
26 relationship with the deceased child.
27 (III) On conclusion of the post-judgment hearing conducted

1 pursuant to subparagraph (II) of this paragraph (c), the court shall fairly
2 determine the percentage of the judgment to be awarded to each parent.
3 In making such a determination, the court shall consider each parent's
4 relationship with the deceased, including custody, control, support,
5 parental responsibility, and any other factors the court deems pertinent.
6 The court's determination of the percentage of the judgment awarded to
7 each parent shall not be disturbed absent an abuse of discretion.

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

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

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

20 (1) TO A DESIGNATED BENEFICIARY WHO WAS DESIGNATED BY THE
21 DECEDENT TO BE HIS OR HER DESIGNATED BENEFICIARY FOR PURPOSES OF
22 INTESTATE SUCCESSION PURSUANT TO A DESIGNATED BENEFICIARY
23 AGREEMENT THAT HAS BEEN EXECUTED AND FILED WITH A COUNTY CLERK
24 AND RECORDER AS PROVIDED IN ARTICLE 22 OF THIS TITLE; EXCEPT THAT
25 IF THE DECEDENT HAS SURVIVING CHILDREN, THEN THE DESIGNATED
26 BENEFICIARY SHALL RECEIVE ONE-HALF OF THE INTESTATE ESTATE AND
27 THE SURVIVING CHILDREN SHALL RECEIVE ONE-HALF OF THE INTESTATE

1 ESTATE;

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

4 ~~(2)~~ (3) If there is no surviving descendant, to the decedent's
5 parents equally if both survive, or to the decedent's surviving parent;

6 ~~(3)~~ (4) If there is no surviving descendant or surviving parent, to
7 the surviving descendants of the decedent's parents or either of them per
8 capita at each generation;

9 ~~(4)~~ (5) If there is no surviving descendant, surviving parent, or
10 surviving descendant of a parent, to the decedent's surviving
11 grandparents, or any of them, in equal shares;

12 ~~(5)~~ (6) If there is no surviving descendant, surviving parent,
13 surviving descendant of a parent, or surviving grandparent, to the
14 surviving descendants of the decedent's grandparents per capita at each
15 generation;

16 ~~(6)~~ (7) If there is no surviving heir under subsections (1) to ~~(5)~~ (6)
17 of this section, and if a birth child or birth children file a claim for
18 inheritance with the court having probate jurisdiction for the decedent's
19 estate within ninety days of decedent's death, to the decedent's surviving
20 birth child or children per capita at each generation. For purposes of this
21 subsection ~~(6)~~ (7), the term "birth child" means a child who was born to,
22 but adopted away from, his or her natural parent.

23 ~~(7)~~ (8) If there is no surviving heir or birth child under subsections
24 (1) to ~~(6)~~ (7) of this section, and if a birth parent or birth parents file a
25 claim for inheritance with the court having probate jurisdiction for the
26 decedent's estate within ninety days of decedent's death, to the decedent's
27 birth parents equally if both survive, or to the surviving birth parent. For

1 purposes of this subsection (~~7~~) (8), the term "birth parent" means the
2 natural parent of a child who was born to, but adopted away from, the
3 natural parent.

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

6 **15-11-106. Per capita at each generation. (2) Decedent's**
7 **descendants.** If, under section 15-11-103 (~~1~~) (2), a decedent's intestate
8 estate or a part thereof passes "per capita at each generation" to the
9 decedent's descendants, the estate or part thereof is divided into as many
10 equal shares as there are (i) surviving descendants in the generation
11 nearest to the decedent which contains one or more surviving descendants
12 and (ii) deceased descendants in the same generation who left surviving
13 descendants, if any. Each surviving descendant in the nearest generation
14 is allocated one share. The remaining shares, if any, are combined and
15 then divided in the same manner among the surviving descendants of the
16 deceased descendants as if the surviving descendants who are allocated
17 a share and their surviving descendants had predeceased the decedent.

18 (3) **Descendants of parents or grandparents.** If, under section
19 15-11-103 (~~3~~) (4) or (~~5~~) (6), a decedent's intestate estate or a part thereof
20 passes "per capita at each generation" to the descendants of the decedent's
21 deceased parents or either of them, or to the descendants of the decedent's
22 deceased grandparents or any of them, the estate or part thereof is divided
23 into as many equal shares as there are (i) surviving descendants in the
24 generation nearest to the deceased parents or either of them, or the
25 deceased grandparents or any of them, that contains one or more
26 surviving descendants and (ii) deceased descendants in the same
27 generation who left surviving descendants, if any. Each surviving

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

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

8 **15-11-114. Parent and child relationship.** (2) For purposes of
9 intestate succession by, through, or from a person, an adopted individual
10 is the child of his or her adopting parent or parents and not of his or her
11 birth parents, except for inheritance rights as specified in section
12 15-11-103 ~~(6)~~ and (7) AND (8), but the adoption of a child by the spouse
13 of either birth parent has no effect on the relationship between the child
14 and the birth parent whose spouse has adopted the child.

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

17 **15-12-203. Priority among persons seeking appointment as**
18 **personal representative.** (1) Whether the proceedings are formal or
19 informal, persons who are not disqualified have priority for appointment
20 in the following order:

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

23 (b) The surviving spouse of the decedent who is a devisee of the
24 decedent;

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

27 (c) Other devisees of the decedent;

- 1 (d) The surviving spouse of the decedent;
- 2 (e) Other heirs of the decedent;
- 3 (f) Forty-five days after the death of the decedent, any creditor.

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

6 **15-14-310. Who may be guardian - priorities - prohibition of**
7 **dual roles.** (1) Subject to subsection (4) of this section, the court in
8 appointing a guardian shall consider persons otherwise qualified in the
9 following order of priority:

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

12 (b) A person nominated as guardian by the respondent, including
13 the respondent's specific nomination of a guardian made in a durable
14 power of attorney OR IN A DESIGNATED BENEFICIARY AGREEMENT MADE
15 PURSUANT TO ARTICLE 22 OF THIS TITLE;

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

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

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

22 (f) An adult child of the respondent;

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

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

27 **SECTION 12.** 15-14-413 (1), Colorado Revised Statutes, is

1 amended to read:

2 **15-14-413. Who may be conservator - priorities - prohibition**
3 **of dual roles.** (1) Except as otherwise provided in subsection (4) of this
4 section, the court, in appointing a conservator, shall consider persons
5 otherwise qualified in the following order of priority:

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

9 (b) A person nominated as conservator by the respondent,
10 including the respondent's specific nomination of a conservator made in
11 a durable power of attorney OR IN A DESIGNATED BENEFICIARY
12 AGREEMENT PURSUANT TO ARTICLE 22 OF THIS TITLE, if the respondent
13 has attained twelve years of age;

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

16 (d) The spouse of the respondent;

17 (e) An adult child of the respondent;

18 (f) A parent of the respondent; and

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

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

23 **15-18.5-103. Proxy decision-makers for medical treatment**
24 **authorized.** (1) A health care provider or health care facility may rely,
25 in good faith, upon the medical treatment decision of a proxy
26 decision-maker selected in accordance with subsection (4) of this section
27 if an adult patient's attending physician determines that such patient lacks

1 the decisional capacity to provide informed consent to or refusal of
2 medical treatment and no guardian with medical decision-making
3 authority, agent appointed in a medical durable power of attorney,
4 PERSON DESIGNATED AS A DESIGNATED BENEFICIARY WITH THE RIGHT TO
5 ACT AS A PROXY DECISION-MAKER PURSUANT TO ARTICLE 22 OF THIS
6 TITLE, or other known person has the legal authority to provide such
7 consent or refusal on the patient's behalf.

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

10 **15-18.5-104. Surrogate decision-makers for health care**
11 **benefits.** (1) A proxy decision-maker for medical treatment selected in
12 accordance with section 15-18.5-103 OR A PERSON DESIGNATED AS A
13 DESIGNATED BENEFICIARY WITH THE RIGHT TO ACT AS A SURROGATE
14 DECISION-MAKER PURSUANT TO ARTICLE 22 OF THIS TITLE shall have
15 authority to make health care benefit decisions on behalf of an adult
16 patient and may be known additionally as a surrogate decision-maker for
17 health care benefits.

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

20 **15-19-103. Definitions.** As used in this article, unless the context
21 otherwise requires:

22 (3) "Declaration" means a written instrument directing the lawful
23 disposition of the declarant's last remains and the ceremonies planned
24 after a declarant's death, in accordance with this article. A declaration
25 may be made within a will; prepaid funeral, burial, or cremation contract;
26 durable or medical power of attorney; A DESIGNATED BENEFICIARY
27 AGREEMENT AS DESCRIBED IN ARTICLE 22 OF THIS TITLE; or any other

1 written document, including, but not limited to, a document governing the
2 disposition of last remains under part 7 of article 11 of this title.

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

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

8 **15-19-106. Right to dispose of remains.** (1) Subject to section
9 15-19-105 (2), the right to control disposition of the last remains or
10 ceremonial arrangements of a decedent vests in and devolves upon the
11 following persons, at the time of the decedent's death, in the following
12 order:

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

15 (b) (I) Either the appointed personal representative or special
16 administrator of the decedent's estate if such person has been appointed;
17 or

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

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

23 (c.5) A DESIGNATED BENEFICIARY WHO WAS DESIGNATED IN A
24 DESIGNATED BENEFICIARY AGREEMENT PURSUANT TO ARTICLE 22 OF THIS
25 TITLE AS HAVING THE RIGHT TO DIRECT THE DISPOSITION OF THE
26 DECEDENT'S LAST REMAINS;

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

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

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

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

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

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

11 **30-1-103. Fees of county clerk and recorders.** (2) In cities and
12 counties and in every county, the following fees shall apply:

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

15 (o) FOR FILING EACH REVOCATION OF A DESIGNATED BENEFICIARY
16 AGREEMENT, AN AMOUNT DETERMINED PURSUANT TO SECTION 15-22-111,
17 C.R.S.

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

23 **SECTION 19. Effective date.** This act shall take effect July 1,
24 2009.

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