

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

INTRODUCED

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) FAILURE TO PLAN FOR DISABILITY, INCAPACITY, OR DEATH
23 PLACES PEOPLE AT THE MERCY OF STATE LAWS THAT MAY VEST THE
24 POWER TO ACT IN SUCH SITUATIONS IN PERSONS OTHER THAN THOSE THEY

1 WOULD WISH TO HAVE EXERCISE THOSE POWERS. MANY LACK ACCESS TO
2 LEGAL SERVICES DUE TO THE EXPENSE OF DRAFTING LEGAL INSTRUMENTS
3 AND THE NECESSITY TO KEEP THESE DOCUMENTS CURRENT. THE POWER
4 OF INDIVIDUALS TO CARE FOR ONE ANOTHER AND TAKE ACTION TO BE
5 PERSONALLY RESPONSIBLE FOR THEMSELVES AND THEIR LOVED ONES IS OF
6 TREMENDOUS SOCIETAL BENEFIT, ENABLING SELF-DETERMINATION AND
7 REDUCING RELIANCE ON PUBLIC PROGRAMS AND SERVICES.

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

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

12 (b) THE PURPOSES OF THIS ARTICLE ARE TO MAKE EXISTING LAWS
13 RELATING TO HEALTH CARE, MEDICAL EMERGENCIES, INCAPACITY, DEATH,
14 AND ADMINISTRATION OF DECEDENT'S ESTATES AVAILABLE TO MORE
15 PERSONS THROUGH A PROCESS OF DOCUMENTING DESIGNATED
16 BENEFICIARY AGREEMENTS; AND

17 (c) IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT THIS
18 ARTICLE BE LIBERALLY CONSTRUED TO GIVE EFFECT TO THE PURPOSES
19 STATED IN THIS ARTICLE.

20 **15-22-103. Definitions.** AS USED IN THIS ARTICLE, UNLESS THE
21 CONTEXT OTHERWISE REQUIRES:

22 (1) "DESIGNATED BENEFICIARY" MEANS A PERSON WHO HAS
23 ENTERED INTO A DESIGNATED BENEFICIARY AGREEMENT PURSUANT TO
24 THIS ARTICLE.

25 (2) "DESIGNATED BENEFICIARY AGREEMENT" MEANS AN
26 AGREEMENT THAT IS ENTERED INTO PURSUANT TO THIS ARTICLE BY TWO
27 PEOPLE FOR THE PURPOSE OF DESIGNATING EACH PERSON AS THE

1 BENEFICIARY OF THE OTHER PERSON AND FOR THE PURPOSE OF ENSURING
2 THAT EACH PERSON HAS CERTAIN RIGHTS AND FINANCIAL PROTECTIONS
3 BASED UPON THE DESIGNATION.

4 (3) "SUPERSEDING LEGAL DOCUMENT" MEANS A LEGAL
5 DOCUMENT, REGARDLESS OF THE DATE OF EXECUTION, THAT CONFLICTS
6 WITH ALL OR A PORTION OF A DESIGNATED BENEFICIARY AGREEMENT AND,
7 THEREFORE, CAUSES THE DESIGNATED BENEFICIARY AGREEMENT IN
8 WHOLE OR IN PART TO BE REPLACED OR SET ASIDE. TO THE EXTENT THERE
9 IS A CONFLICT BETWEEN A SUPERSEDING LEGAL DOCUMENT AND A
10 DESIGNATED BENEFICIARY AGREEMENT, THE SUPERSEDING LEGAL
11 DOCUMENT CONTROLS. A SUPERSEDING LEGAL DOCUMENT MAY INCLUDE,
12 BUT NEED NOT BE LIMITED TO, ANY OF THE FOLLOWING:

- 13 (a) A WILL;
- 14 (b) A CODICIL;
- 15 (c) A POWER OF ATTORNEY;
- 16 (d) A MEDICAL DURABLE POWER OF ATTORNEY;
- 17 (e) A TRUST INSTRUMENT;
- 18 (f) A BENEFICIARY DESIGNATION IN AN INSURANCE POLICY OR
19 POLICY OF HEALTH CARE COVERAGE;
- 20 (g) A BENEFICIARY DESIGNATION IN A RETIREMENT OR PENSION
21 PLAN;
- 22 (h) DECLARATIONS AS TO MEDICAL TREATMENT EXECUTED
23 PURSUANT TO ARTICLE 18 OF THIS TITLE; OR
- 24 (i) A MARRIAGE LICENSE.

25 **15-22-104. Requirements for a valid designated beneficiary**
26 **agreement.** (1) A DESIGNATED BENEFICIARY AGREEMENT SHALL BE
27 LEGALLY RECOGNIZED IF:

1 (a) THE PARTIES TO THE DESIGNATED BENEFICIARY AGREEMENT
2 SATISFY ALL OF THE FOLLOWING CRITERIA:

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

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

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

6 (IV) NEITHER PARTY IS A PARTY TO ANOTHER DESIGNATED
7 BENEFICIARY AGREEMENT; AND

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

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

12 (2) A DESIGNATED BENEFICIARY AGREEMENT IS LEGALLY
13 SUFFICIENT UNDER THIS ARTICLE IF:

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

17 (b) THE DESIGNATED BENEFICIARY AGREEMENT IS PROPERLY
18 COMPLETED AND SIGNED;

19 (c) THE DESIGNATED BENEFICIARY AGREEMENT IS NOTARIZED;
20 AND

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

23 **15-22-105. Effects and applicability of a designated**
24 **beneficiary agreement.** (1) A PERSON NAMED AS A DESIGNATED
25 BENEFICIARY IN A DESIGNATED BENEFICIARY AGREEMENT SHALL BE
26 ENTITLED TO EXERCISE THE RIGHTS AND PROTECTIONS SPECIFIED IN THE
27 AGREEMENT BY VIRTUE OF HAVING BEEN SO NAMED.

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

6 (3) A DESIGNATED BENEFICIARY AGREEMENT SHALL ENTITLE THE
7 PARTIES TO EXERCISE THE FOLLOWING RIGHTS AND ENJOY THE FOLLOWING
8 PROTECTIONS, UNLESS SPECIFICALLY EXCLUDED FROM THE DESIGNATED
9 BENEFICIARY AGREEMENT:

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

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

16 (c) THE RIGHT TO BE DESIGNATED AS A BENEFICIARY AND
17 RECOGNIZED AS A DEPENDENT FOR THE PURPOSES OF THE FOLLOWING
18 BENEFITS:

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

21 (II) LOCAL GOVERNMENT FIREFIGHTER AND POLICE PENSIONS;

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

23 (IV) HEALTH INSURANCE POLICIES OR HEALTH COVERAGE IF THE
24 EMPLOYER OF THE DESIGNATED BENEFICIARY ELECTS TO PROVIDE
25 COVERAGE FOR DESIGNATED BENEFICIARIES AS DEPENDENTS;

26 (d) THE RIGHT TO PETITION FOR AND HAVE PRIORITY FOR
27 APPOINTMENT AS A CONSERVATOR, GUARDIAN, OR PERSONAL

1 REPRESENTATIVE FOR THE OTHER DESIGNATED BENEFICIARY;

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

4 (f) THE RIGHT TO ACT AS A PROXY DECISION-MAKER OR
5 SURROGATE DECISION-MAKER TO MAKE MEDICAL TREATMENT DECISIONS
6 FOR THE OTHER DESIGNATED BENEFICIARY PURSUANT TO SECTION
7 15-18.5-103 OR 15-18.5-104;

8 (g) THE RIGHT TO RECEIVE NOTICE OF THE WITHHOLDING OR
9 WITHDRAWAL OF LIFE-SUSTAINING PROCEDURES FOR THE OTHER
10 DESIGNATED BENEFICIARY PURSUANT TO SECTION 15-18-107 AND THE
11 RIGHT TO CHALLENGE THE VALIDITY OF A DECLARATION AS TO MEDICAL
12 OR SURGICAL TREATMENT OF THE OTHER DESIGNATED BENEFICIARY
13 PURSUANT TO SECTION 15-18-107;

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

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

20 (j) THE RIGHT TO HAVE STANDING TO RECEIVE BENEFITS PURSUANT
21 TO THE "WORKERS' COMPENSATION ACT OF COLORADO", ARTICLES 40 TO
22 47 OF TITLE 8, C.R.S., MADE ON BEHALF OF THE OTHER DESIGNATED
23 BENEFICIARY;

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

26 (l) THE RIGHT TO DIRECT THE DISPOSITION OF THE OTHER
27 DESIGNATED BENEFICIARY'S LAST REMAINS PURSUANT TO ARTICLE 19 OF

1 THIS TITLE.

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

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

10 **15-22-106. Statutory form of a designated beneficiary**
11 **agreement.** (1) THE FOLLOWING STATUTORY FORM SHALL BE THE
12 STANDARD FORM FOR A DESIGNATED BENEFICIARY AGREEMENT:

13 **DESIGNATED BENEFICIARY AGREEMENT**

14 WE, _____, (INSERT FULL NAME AND ADDRESS) REFERRED TO
15 AS PARTY A, AND _____, (INSERT FULL NAME AND ADDRESS)
16 REFERRED TO AS PARTY B, HEREBY DESIGNATE EACH OTHER AS THE
17 OTHER'S DESIGNATED BENEFICIARY WITH THE FOLLOWING RIGHTS AND
18 PROTECTIONS, GRANTED OR WITHHELD AS INDICATED BY OUR INITIALS:

19 TO GRANT ONE OR MORE OF THE RIGHTS OR
20 PROTECTIONS SPECIFIED IN THIS FORM, INITIAL
21 THE LINE TO THE LEFT OF EACH RIGHT OR
22 PROTECTION YOU ARE GRANTING. TO WITHHOLD
23 A RIGHT OR PROTECTION, INITIAL THE LINE TO
24 THE RIGHT OF EACH RIGHT OR PROTECTION YOU
25 ARE WITHHOLDING.

26 TO GRANT A RIGHT TO WITHHOLD A RIGHT
27 OR PROTECTION OR PROTECTION

1	INITIAL		INITIAL
2	PARTY A	PARTY B	PARTY A PARTY B
3	___	___	___ ___
4		THE RIGHT TO ACQUIRE, HOLD TITLE TO, OWN	
5		JOINTLY, OR TRANSFER INTER VIVOS OR AT	
6		DEATH REAL OR PERSONAL PROPERTY AS A	
7		JOINT TENANT WITH ME WITH RIGHT OF	
8		SURVIVORSHIP OR AS A TENANT IN COMMON	
9	___	WITH ME;	___ ___
10		THE RIGHT TO BE DESIGNATED BY ME AS A	
11		BENEFICIARY, PAYEE, OR OWNER AS A	
12		TRUSTEE NAMED IN AN INTER VIVOS OR	
13		TESTAMENTARY TRUST FOR THE PURPOSES OF	
14		A NONPROBATE TRANSFER ON DEATH;	
15	___	THE RIGHT TO BE DESIGNATED BY ME AS A	___ ___
16		BENEFICIARY AND RECOGNIZED AS A	
17		DEPENDENT IN AN INSURANCE POLICY FOR	
18		LIFE INSURANCE ;	
19	___	THE RIGHT TO BE DESIGNATED BY ME AS A	___ ___
20		BENEFICIARY AND RECOGNIZED AS A	
21		DEPENDENT IN A HEALTH INSURANCE POLICY	
22		IF MY EMPLOYER ELECTS TO PROVIDE HEALTH	
23		INSURANCE COVERAGE FOR DESIGNATED	
24		BENEFICIARIES;	
25	___	THE RIGHT TO BE DESIGNATED BY ME AS A	___ ___
26		BENEFICIARY IN A RETIREMENT OR PENSION	
27		PLAN;	
28	___	THE RIGHT TO PETITION FOR AND HAVE	___ ___

1 PRIORITY FOR APPOINTMENT AS A
2 CONSERVATOR, GUARDIAN, OR PERSONAL
3 REPRESENTATIVE FOR ME;
4 ___ THE RIGHT TO VISIT ME IN A HOSPITAL OR IN A ___
5 NURSING HOME;
6 ___ THE RIGHT TO ACT AS A PROXY ___
7 DECISION-MAKER OR SURROGATE
8 DECISION-MAKER TO MAKE MEDICAL
9 TREATMENT DECISIONS FOR ME PURSUANT TO
10 SECTION 15-18.5-103 OR 15-18.5-104,
11 COLORADO REVISED STATUTES;
12 ___ THE RIGHT TO NOTICE OF THE WITHHOLDING ___
13 OR WITHDRAWAL OF LIFE-SUSTAINING
14 PROCEDURES FOR ME PURSUANT TO SECTION
15 15-18-107, COLORADO REVISED STATUTES;
16 ___ THE RIGHT TO CHALLENGE THE VALIDITY OF ___
17 A DECLARATION AS TO MEDICAL OR SURGICAL
18 TREATMENT OF ME PURSUANT TO SECTION
19 15-18-107, COLORADO REVISED STATUTES;
20 ___ THE RIGHT TO ACT AS MY AGENT TO MAKE, ___
21 REVOKE, OR OBJECT TO ANATOMICAL GIFTS
22 INVOLVING MY PERSON PURSUANT TO THE
23 "REVISED UNIFORM ANATOMICAL GIFT
24 ACT", PART 1 OF ARTICLE 34 OF TITLE 12,
25 COLORADO REVISED STATUTES;
26 ___ THE RIGHT TO INHERIT REAL OR PERSONAL ___
27 PROPERTY FROM ME THROUGH INTESTATE

1 COUNTY OF _____
2 THIS DOCUMENT WAS ACKNOWLEDGED BEFORE ME ON _____ DATE
3 BY
4 _____
5 MY COMMISSION EXPIRES _____

6 [SEAL]
7 _____
8 NOTARY PUBLIC

9 (2) A DESIGNATED BENEFICIARY AGREEMENT SHALL BE PRESUMED
10 TO EXTEND ALL OF THE RIGHTS AND PROTECTIONS LISTED IN THE
11 STATUTORY FORM UNLESS THE PARTIES TO THE AGREEMENT EXPLICITLY
12 EXCLUDE A RIGHT OR PROTECTION.

13 (3) A PARTY TO A DESIGNATED BENEFICIARY AGREEMENT MAY
14 LIMIT THE SCOPE OF A DESIGNATED BENEFICIARY AGREEMENT BY THE
15 TERMS OF THE AGREEMENT OR BY EXECUTING A SUPERSEDING LEGAL
16 DOCUMENT THAT CONTROLS AND SUPERSEDES PART OR ALL OF THE
17 DESIGNATED BENEFICIARY AGREEMENT.

18 **15-22-107. Filing - duties of the county clerk and recorder -**
19 **fee.** (1) AT LEAST ONE PARTY TO THE DESIGNATED BENEFICIARY
20 AGREEMENT SHALL FILE THE SIGNED AND NOTARIZED DESIGNATED
21 BENEFICIARY AGREEMENT WITH THE COUNTY CLERK AND RECORDER IN
22 THE COUNTY IN WHICH ONE OF THE PARTIES RESIDES. THE DESIGNATED
23 BENEFICIARY AGREEMENT SHALL BE EFFECTIVE AS OF THE DATE AND TIME
24 OF THE FILING OF THE DESIGNATED BENEFICIARY AGREEMENT WITH THE
25 COUNTY CLERK AND RECORDER. THE COUNTY CLERK AND RECORDER
26 SHALL ASSESS A REGISTRATION FEE OF _____ DOLLARS, AS PROVIDED IN
27 SECTION 30-1-103, C.R.S., FOR REGISTERING THE DESIGNATED

1 BENEFICIARY AGREEMENT IN THAT COUNTY AND FOR ISSUING TWO
2 CERTIFIED COPIES OF THE DESIGNATED BENEFICIARY AGREEMENT THAT
3 INDICATE THE DATE AND TIME OF FILING WITH THE COUNTY. ALL FEES
4 COLLECTED BY THE COUNTY CLERK AND RECORDER SHALL BE DEPOSITED
5 IN THE COUNTY CLERK'S FEE FUND MAINTAINED AS REQUIRED IN SECTION
6 30-1-119, C.R.S.

7 (2) THE CLERK AND RECORDER OF THE COUNTY SHALL HAVE THE
8 FOLLOWING DUTIES:

9 (a) TO MAKE AVAILABLE, UPON REQUEST, COPIES OF THE
10 STATUTORY FORMS AS PRESCRIBED IN SECTIONS 15-22-106 AND
11 15-22-112;

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

15 (c) TO ISSUE TWO CERTIFIED COPIES OF THE FILED DESIGNATED
16 BENEFICIARY AGREEMENT THAT INDICATE THE DATE AND TIME OF THE
17 FILING;

18 (d) TO ISSUE REPLACEMENT CERTIFIED COPIES OF A DESIGNATED
19 BENEFICIARY AGREEMENT OR A REVOCATION OF A DESIGNATED
20 BENEFICIARY AGREEMENT UPON PAYMENT OF A REPLACEMENT FEE.

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

24 **15-22-108. Designated beneficiary agreement - effect on other**
25 **legal documents.** EXECUTION OF A DESIGNATED BENEFICIARY
26 AGREEMENT SHALL NOT CONSTITUTE EVIDENCE OF AN INTENT TO REVOKE
27 A PRIOR WILL OR CODICIL NOR SHALL IT AFFECT ANY TRANSFER OR

1 BEQUEST CONTAINED IN ANY OTHER LEGAL DOCUMENTS.

2 **15-22-109. Applicability - domestic partnerships.**

3 (1) DOMESTIC PARTNERS OR PARTIES IN A CIVIL UNION REGISTERED OR
4 RECOGNIZED PURSUANT TO ANOTHER JURISDICTION'S LAWS SHALL BE
5 DEEMED TO HAVE EXECUTED A DESIGNATED BENEFICIARY AGREEMENT IF
6 THE PARTIES OTHERWISE QUALIFY AS DESIGNATED BENEFICIARIES
7 PURSUANT TO SECTION 15-22-104. THE PROVISIONS OF THIS ARTICLE
8 SHALL NOT APPLY TO DOMESTIC PARTNERS OR PARTIES IN A CIVIL UNION
9 FROM ANOTHER JURISDICTION WHO DO NOT QUALIFY TO BECOME
10 DESIGNATED BENEFICIARIES.

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

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

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

18 **15-22-110. Affirmation of validity of designated beneficiary**
19 **agreement.** A PERSON EXERCISING RIGHTS OR PROTECTIONS PURSUANT
20 TO A DESIGNATED BENEFICIARY AGREEMENT SHALL AFFIRM THE VALIDITY
21 OF A DESIGNATED BENEFICIARY AGREEMENT AND DISCLOSE ANY
22 KNOWLEDGE OF ANY SUPERSEDING LEGAL DOCUMENTS.

23 **15-22-111. Reliance - immunity.** A THIRD PARTY WHO ACTS IN
24 GOOD FAITH RELIANCE ON THE AFFIRMATION OF THE EXISTENCE OF A
25 VALID DESIGNATED BENEFICIARY AGREEMENT SHALL NOT BE SUBJECT TO
26 CIVIL LIABILITY OR ADMINISTRATIVE DISCIPLINE FOR SUCH RELIANCE.

27 **15-22-112. Revocation of a designated beneficiary agreement.**

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

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

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

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

23 **REVOCATION**

24 **OF DESIGNATED BENEFICIARY AGREEMENT**

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

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

9 _____

10 NAME DATE

11 STATE OF COLORADO

12 COUNTY OF _____

13 THIS DOCUMENT WAS ACKNOWLEDGED 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 15-22-122, 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 **15-22-113. 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;

25 ~~(1)~~ (2) To the decedent's descendants per capita at each
26 generation;

27 ~~(2)~~ (3) If there is no surviving descendant, to the decedent's

1 parents equally if both survive, or to the decedent's surviving parent;

2 ~~(3)~~ (4) If there is no surviving descendant or surviving parent, to
3 the surviving descendants of the decedent's parents or either of them per
4 capita at each generation;

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

8 ~~(5)~~ (6) If there is no surviving descendant, surviving parent,
9 surviving descendant of a parent, or surviving grandparent, to the
10 surviving descendants of the decedent's grandparents per capita at each
11 generation;

12 ~~(6)~~ (7) If there is no surviving heir under subsections (1) to ~~(5)~~ (6)
13 of this section, and if a birth child or birth children file a claim for
14 inheritance with the court having probate jurisdiction for the decedent's
15 estate within ninety days of decedent's death, to the decedent's surviving
16 birth child or children per capita at each generation. For purposes of this
17 subsection ~~(6)~~ (7), the term "birth child" means a child who was born to,
18 but adopted away from, his or her natural parent.

19 ~~(7)~~ (8) If there is no surviving heir or birth child under subsections
20 (1) to ~~(6)~~ (7) of this section, and if a birth parent or birth parents file a
21 claim for inheritance with the court having probate jurisdiction for the
22 decedent's estate within ninety days of decedent's death, to the decedent's
23 birth parents equally if both survive, or to the surviving birth parent. For
24 purposes of this subsection ~~(7)~~ (8), the term "birth parent" means the
25 natural parent of a child who was born to, but adopted away from, the
26 natural parent.

27 **SECTION 8.** 15-11-106 (2) and (3), Colorado Revised Statutes,

1 are amended to read:

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

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

1 surviving descendants had predeceased the decedent.

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

4 **15-11-114. Parent and child relationship.** (2) For purposes of
5 intestate succession by, through, or from a person, an adopted individual
6 is the child of his or her adopting parent or parents and not of his or her
7 birth parents, except for inheritance rights as specified in section
8 15-11-103 ~~(6)~~ and (7) AND (8), but the adoption of a child by the spouse
9 of either birth parent has no effect on the relationship between the child
10 and the birth parent whose spouse has adopted the child.

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

13 **15-12-203. Priority among persons seeking appointment as**
14 **personal representative.** (1) Whether the proceedings are formal or
15 informal, persons who are not disqualified have priority for appointment
16 in the following order:

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

19 (b) The surviving spouse of the decedent who is a devisee of the
20 decedent;

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

23 (c) Other devisees of the decedent;

24 (d) The surviving spouse of the decedent;

25 (e) Other heirs of the decedent;

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

27 **SECTION 11.** 15-14-310 (1), Colorado Revised Statutes, is

1 amended to read:

2 **15-14-310. Who may be guardian - priorities - prohibition of**
3 **dual roles.** (1) Subject to subsection (4) of this section, the court in
4 appointing a guardian shall consider persons otherwise qualified in the
5 following order of priority:

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

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

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

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

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

18 (f) An adult child of the respondent;

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

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

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

25 **15-14-413. Who may be conservator - priorities - prohibition**
26 **of dual roles.** (1) Except as otherwise provided in subsection (4) of this
27 section, the court, in appointing a conservator, shall consider persons

1 otherwise qualified in the following order of priority:

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

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

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

12 (d) The spouse of the respondent;

13 (e) An adult child of the respondent;

14 (f) A parent of the respondent; and

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

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

19 **15-18.5-103. Proxy decision-makers for medical treatment**
20 **authorized.** (1) A health care provider or health care facility may rely,
21 in good faith, upon the medical treatment decision of a proxy
22 decision-maker selected in accordance with subsection (4) of this section
23 if an adult patient's attending physician determines that such patient lacks
24 the decisional capacity to provide informed consent to or refusal of
25 medical treatment and no guardian with medical decision-making
26 authority, agent appointed in a medical durable power of attorney,
27 PERSON DESIGNATED AS A DESIGNATED BENEFICIARY WITH THE RIGHT TO

1 ACT AS A PROXY DECISION-MAKER PURSUANT TO ARTICLE 22 OF THIS
2 TITLE, or other known person has the legal authority to provide such
3 consent or refusal on the patient's behalf.

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

6 **15-18.5-104. Surrogate decision-makers for health care**
7 **benefits.** (1) A proxy decision-maker for medical treatment selected in
8 accordance with section 15-18.5-103 OR A PERSON DESIGNATED AS A
9 DESIGNATED BENEFICIARY WITH THE RIGHT TO ACT AS A SURROGATE
10 DECISION-MAKER PURSUANT TO ARTICLE 22 OF THIS TITLE shall have
11 authority to make health care benefit decisions on behalf of an adult
12 patient and may be known additionally as a surrogate decision-maker for
13 health care benefits.

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

16 **15-19-103. Definitions.** As used in this article, unless the context
17 otherwise requires:

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

26 (4) "Interested person" means the deceased's spouse, parent,
27 DESIGNATED BENEFICIARY, adult child, sibling, grandchild, and other

1 person designated in a declaration.

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

4 **15-19-106. Right to dispose of remains.** (1) Subject to section
5 15-19-105 (2), the right to control disposition of the last remains or
6 ceremonial arrangements of a decedent vests in and devolves upon the
7 following persons, at the time of the decedent's death, in the following
8 order:

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

11 (b) (I) Either the appointed personal representative or special
12 administrator of the decedent's estate if such person has been appointed;
13 or

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

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

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

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

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

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

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

1 7, 2006.)

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

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

7 **30-1-103. Fees of county clerk and recorders.** (2) In cities and
8 counties and in every county, the following fees shall apply:

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

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

14 **SECTION 18. Effective date.** This act shall take effect July 1,
15 2009.

16 **SECTION 19. Safety clause.** The general assembly hereby finds,
17 determines, and declares that this act is necessary for the immediate
18 preservation of the public peace, health, and safety.