

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

PREAMENDED

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

LLS NO. 10-0526.01 Brita Darling

SENATE BILL 10-047

SENATE SPONSORSHIP

King K.,

HOUSE SPONSORSHIP

Looper,

Senate Committees
State, Veterans & Military Affairs

House Committees
State, Veterans, & Military Affairs

A BILL FOR AN ACT

101 **CONCERNING RIGHTS RELATING TO THE DISPOSITION OF THE LAST**
102 **REMAINS OF MEMBERS OF THE ARMED FORCES.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

Currently, Colorado law allows a person to execute a declaration regarding the disposition of that person's last remains, including appointing another person to direct the disposition of the person's last remains.

The bill specifies that if a person is a member of the United States

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.

SENATE
3rd Reading Unamended
January 28, 2010

SENATE
2nd Reading Unamended
January 26, 2010

armed forces, United States reserve forces, or a state National Guard called to federal service, then the federal record of emergency data (DD form 93), or any successor form, executed by the service member as part of his or her military service shall be the controlling document with respect to the disposition of the service member's last remains and the appointment of another person to direct the disposition of the service member's last remains. The DD form 93 shall control even if the service member executes a declaration that is not a DD form 93 after executing a DD form 93.

Declarations by the service member relating to ceremonial arrangements, including identifying another person to direct ceremonial arrangements, contained in the service member's most recent declaration, should one exist, shall remain valid and enforceable to the extent that the more recent declarations are not inconsistent with the DD form 93.

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

2 **SECTION 1. Legislative declaration.** (1) The general assembly
3 finds and declares that:

4 (a) It is a tragic and unavoidable fact that men and women from
5 Colorado serving in the United States armed forces may lose their lives
6 in the service of our country;

7 (b) The family members of those brave men and women should
8 not have to experience uncertainty or strife with respect to the disposition
9 of the last remains of their loved ones;

10 (c) The existence of a statutory procedure in Colorado for
11 designating a person to be responsible for decisions relating to the
12 disposition of last remains in addition to a separate, mandatory federal
13 record of emergency data has created unnecessary confusion with respect
14 to determining who is legally authorized to care for a fallen service
15 member's remains; and

16 (d) This confusion has resulted in expensive and emotionally
17 damaging litigation concerning the disposition of the last remains of

1 service members; and

2 (e) Uniformity in resolving this issue among the states is both
3 possible and appropriate.

4 (2) The general assembly therefore finds and declares that
5 Colorado's statutory provisions concerning the disposition of last remains
6 of persons serving in the United States armed forces should recognize the
7 existence and legal superiority of the mandatory federal record of
8 emergency data.

9 **SECTION 2.** 15-19-103, Colorado Revised Statutes, is amended
10 BY THE ADDITION OF A NEW SUBSECTION to read:

11 **15-19-103. Definitions.** As used in this article, unless the context
12 otherwise requires:

13 (3.5) "FEDERAL RECORD OF EMERGENCY DATA" MEANS THE
14 UNITED STATES DEPARTMENT OF DEFENSE RECORD OF EMERGENCY DATA,
15 DD FORM 93, OR ANY SUCCESSOR FORM.

16 **SECTION 3.** 15-19-104 (3) (a), Colorado Revised Statutes, is
17 amended to read:

18 **15-19-104. Declaration of disposition of last remains.**

19 (3) (a) (I) The provisions of the most recent declaration shall control over
20 any other document regarding the disposition of the declarant's last
21 remains.

22 (II) (A) NOTWITHSTANDING THE PROVISIONS OF SUBPARAGRAPH
23 (I) OF THIS PARAGRAPH (a), IF THE DECLARANT IS A MEMBER OF THE
24 UNITED STATES ARMED FORCES OR THE UNITED STATES RESERVE FORCES
25 OR A MEMBER OF A STATE NATIONAL GUARD CALLED INTO FEDERAL
26 SERVICE AND THE DECLARANT HAS EXECUTED A FEDERAL RECORD OF
27 EMERGENCY DATA THAT IS VALID AND ENFORCEABLE AT THE TIME OF THE

1 DECLARANT'S DEATH, THEN THE FEDERAL RECORD OF EMERGENCY DATA
2 SHALL CONTROL OVER ANY OTHER DECLARATION CONCERNING THE
3 DISPOSITION OF THE DECLARANT'S LAST REMAINS, INCLUDING
4 SPECIFICATION OF A PERSON APPOINTED TO DIRECT THE DISPOSITION OF
5 THE DECLARANT'S LAST REMAINS, EVEN IF THE FEDERAL RECORD OF
6 EMERGENCY DATA WAS EXECUTED PRIOR TO THE EXECUTION OF THE MOST
7 RECENT DECLARATION PURSUANT TO THIS ARTICLE. PROVISIONS OF THE
8 DECLARANT'S MOST RECENT, UNREVOKED DECLARATION RELATING TO
9 CEREMONIAL ARRANGEMENTS, INCLUDING SPECIFICATION OF A PERSON TO
10 DIRECT CEREMONIAL ARRANGEMENTS, THAT ARE NOT INCONSISTENT WITH
11 THE PROVISIONS OF THE FEDERAL RECORD OF EMERGENCY DATA SHALL
12 REMAIN VALID AND ENFORCEABLE.

13 (B) FOR PURPOSES OF SUB-SUBPARAGRAPH (A) OF THIS
14 SUBPARAGRAPH (II), A FEDERAL RECORD OF EMERGENCY DATA IS VALID
15 AND ENFORCEABLE FOR ANY DECLARANT WHO IS A COVERED DECEDENT
16 AT THE TIME OF HIS OR HER DEATH, PURSUANT TO 10 U.S.C. SEC. 1481, OR
17 ANY SUCCESSOR SECTION CONCERNING RECOVERY, CARE, AND
18 DISPOSITION OF REMAINS.

19 **SECTION 4.** 15-19-106 (1) (a), Colorado Revised Statutes, is
20 amended to read:

21 **15-19-106. Right to dispose of remains.** (1) Subject to section
22 15-19-105 (2), the right to control disposition of the last remains or
23 ceremonial arrangements of a decedent vests in and devolves upon the
24 following persons, at the time of the decedent's death, in the following
25 order:

26 (a) The decedent if acting through a declaration pursuant to
27 section 15-19-104, SUBJECT TO THE PROVISIONS OF SECTION 15-19-104 (3)

1 (a) (II);

2 **SECTION 5. Act subject to petition - effective date.** This act
3 shall take effect at 12:01 a.m. on the day following the expiration of the
4 ninety-day period after final adjournment of the general assembly (August
5 11, 2010, if adjournment sine die is on May 12, 2010); except that, if a
6 referendum petition is filed pursuant to section 1 (3) of article V of the
7 state constitution against this act or an item, section, or part of this act
8 within such period, then the act, item, section, or part shall not take effect
9 unless approved by the people at the general election to be held in
10 November 2010 and shall take effect on the date of the official
11 declaration of the vote thereon by the governor.