



Personal Preference for Body Disposition

In more than half the states, there are laws permitting you to name a particular person to control your funeral and the disposition of your body. While this may seem unnecessary to most people, there are a number of situations where it is a very good idea.

If you are

- separated but not divorced
- not married to your significant other
- living in a state that doesn't recognize same sex marriage or unions
- estranged from next-of-kin
- aware that there is a possibility that your next of kin won't agree with your wishes or with each other (i.e. you want to be cremated, donate your body to science, etc.)

New Jersey Statute 45:27-22 Control of funeral, disposition of remains, gives you the right to designate a person to control the funeral and body disposition that will override the next-of-kin's usual authority. This designation must be included in a will or as a codicil to a will. Without this, the right to control the funeral and disposition of the remains shall be in the following order: 1) spouse or civil union or domestic partner, 2) a majority of surviving adult children, 3) parents, 4) a majority of brothers and sisters, 5) other next of kin according to degree of consanguinity.

Pennsylvania Statute, Title 20, Chapter 3, Section 305 Right to dispose of a decedent's remains, gives you the right to make a "statement of contrary intent" naming a person to control the body disposition that will override the next-of-kin's usual authority. Without this, the right to control the disposition of the remains shall be in the following order: 1) spouse, 2) children, 3) parents, 4) brothers, sisters or their children, 5) grandparents, 6) uncles, aunts and their children, and grandchildren.

In NJ, you can write your wishes into your will or use the attached codicil. If properly completed, signed, witnessed and notarized, it is a legal document. Keep the original with your will but be sure to make copies and put them in the hands of those most likely to be involved immediately after your death. If you have completed the Expression of Wishes form, attach it to all copies of the codicil.

If you are in PA, you can create a document titled "Designation of Agent for Body Disposition ("Statement of Contrary Intent," pursuant to 20 PA C.S. §305)" and include this language as well as specific wishes you have. "I, INSERT YOUR NAME, hereby appoint INSERT AGENT'S NAME, as my agent for body disposition. My agent shall have the sole right to determine the disposition of my body at my death, including by burial, cremation, anatomical donation or any other legal form of disposition. No other person, regardless of his or her kinship status to me, shall override my agent's authority." It should be witnessed by two people.