

### **367.93103 Funeral planning declarations.**

- (1) A person who is of sound mind and is at least eighteen (18) years of age may execute a declaration.
- (2) A declaration shall not be included in:
  - (a) A will;
  - (b) A power of attorney; or
  - (c) A similar document.
- (3) A declaration shall designate an individual to serve as the designee, or if no designee is designated shall provide instruction concerning funeral services, ceremonies, and the disposition of remains after death.
- (4) A declaration, at a minimum, shall be:
  - (a) Voluntary;
  - (b) In writing;
  - (c) Signed by the declarant or by another person in the declarant's presence and at the direction of the declarant;
  - (d) Dated;
  - (e) Signed in the presence of at least two (2) competent witnesses who are at least eighteen (18) years of age at the time they sign the declaration; and
  - (f) Acknowledged before a notary public or other person authorized to administer oaths.
- (5) A declaration is not binding upon a funeral home, a cemetery, or any person engaged in the business of providing funeral services, selling merchandise or grave markers, or providing a service or other property subject to the declaration until the funeral home, cemetery, or person receives full payment for the service, merchandise, or other property.
- (6) A person is not considered to be entitled to any part of the declarant's estate solely by virtue of being designated by the declarant to serve as his or her designee.
- (7) Unless an individual is related to the declarant by birth, marriage, or adoption, a declarant shall not designate an individual to be his or her designee or alternate designee who is:
  - (a) A provider of funeral or cemetery services;
  - (b) Responsible for any aspect of the disposition of the declarant's remains; or
  - (c) Associated with any entity that is responsible for providing funeral or cemetery services or disposing of the declarant's remains.
- (8) The following shall not be a witness to a declaration:
  - (a) The person who signed the declaration on behalf of and at the direction of the declarant;
  - (b) A parent, spouse, or child of the declarant;
  - (c) The person identified as the designee; or
  - (d) An individual who is entitled to any part of the declarant's estate whether the

declarant dies testate or intestate, including an individual who could take from the declarant's estate if the declarant's will is declared invalid.

**Effective:** July 15, 2016

**History:** Created 2016 Ky. Acts ch. 59, sec. 2, effective July 15, 2016.