

# SENATE, No. 2083

## STATE OF NEW JERSEY 211th LEGISLATURE

INTRODUCED NOVEMBER 15, 2004

**Sponsored by:**

**Senator JOHN H. ADLER**

**District 6 (Camden)**

**Senator NIA H. GILL**

**District 34 (Essex and Passaic)**

**Co-Sponsored by:**

**Senator Gormley**

**SYNOPSIS**

Provides that surviving domestic partner shall have same rights as surviving spouse with respect to decedent's funeral.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 12/2/2005)**

1 AN ACT concerning funerals and the disposition of human remains and  
2 amending P.L.2003, c.261.

3  
4 **BE IT ENACTED** by the Senate and General Assembly of the State  
5 of New Jersey:

6  
7 1. Section 22 of P.L.2003, c.261 (C.45:27-22) is amended to read  
8 as follows:

9 22. a. If a decedent, in a will as defined in N.J.S.3B:1-2, appoints  
10 a person to control the funeral and disposition of the human remains,  
11 the funeral and disposition shall be in accordance with the instructions  
12 of the person so appointed. A person so appointed shall not have to  
13 be executor of the will. The funeral and disposition may occur prior  
14 to probate of the will, in accordance with **[N.J.S.3B:10-21]** section 40  
15 of P.L.2003, c.261 (C.3B:10-21.1). If the decedent has not left a will  
16 appointing a person to control the funeral and disposition of the  
17 remains, the right to control the funeral and disposition of the human  
18 remains shall be in the following order, unless other directions have  
19 been given by a court of competent jurisdiction:

20 (1) The surviving spouse of the decedent or the surviving domestic  
21 partner.

22 (2) A majority of the surviving adult children of the decedent.

23 (3) The surviving parent or parents of the decedent.

24 (4) A majority of the brothers and sisters of the decedent.

25 (5) Other next of kin of the decedent according to the degree of  
26 consanguinity.

27 (6) If there are no known living relatives, a cemetery may rely on  
28 the written authorization of any other person acting on behalf of the  
29 decedent.

30 For purposes of this subsection "domestic partner" means a person  
31 who is in a relationship that satisfies the definition of a domestic  
32 partnership as set forth in P.L.2003, c.246 (C.26:8A-1 et seq.).

33 b. A cemetery may permit the disposition of human remains on the  
34 authorization of a funeral director handling arrangements for the  
35 decedent, or on the written authorization of a person who claims to be,  
36 and is believed to be, a person who has the right to control the  
37 disposition. The cemetery shall not be liable for disposition pursuant  
38 to this authorization unless it had reasonable notice that the person did  
39 not have the right to control the disposition.

40 c. A cemetery shall not bury human remains of more than one  
41 person in a grave unless:

42 (1) directions have been given for the burials in accordance with  
43 this section on behalf of all persons so buried; or

**EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.**

**Matter underlined thus is new matter.**

1 (2) the rights to be buried in the grave were sold by the cemetery  
2 with explicit provision allowing separate sales of rights to burial at  
3 different depths in the grave.

4 d. A person who signs an authorization for the funeral and  
5 disposition of human remains warrants the truth of the facts stated, the  
6 identity of the person whose remains are disposed and the authority to  
7 order the disposition. The person shall be liable for damages caused  
8 by a false statement or breach of warranty. A cemetery or funeral  
9 director shall not be liable for disposition in accordance with the  
10 authorization unless it had reasonable notice that the representations  
11 were untrue or that the person lacked the right to control the  
12 disposition.

13 e. An action against a cemetery company relating to the disposition  
14 of human remains left in its temporary custody may not be brought  
15 more than one year from the date of delivery of the remains to the  
16 cemetery company unless otherwise provided by a written contract.  
17 (cf: P.L.2003, c.261, s.22)

18

19 2. This act shall take effect immediately.

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#### STATEMENT

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24 This bill amends the "New Jersey Cemetery Act, 2003" to provide  
25 that a surviving domestic partner, as defined in the "Domestic  
26 Partnership Act," shall have the same rights as a surviving spouse with  
27 respect to the decedent's funeral and the disposition of the decedent's  
28 remains if the decedent has not left a will.