

**Assembly Bill No. 886**

**CHAPTER 96**

An act to amend Section 7105 of the Health and Safety Code, relating to human remains.

[Approved by Governor July 21, 2006. Filed with  
Secretary of State July 21, 2006.]

LEGISLATIVE COUNSEL'S DIGEST

AB 886, Committee on Business and Professions. Human remains: disposition.

Existing law provides that specified persons who otherwise have the right to control the disposition of a decedent's remains and arrange for funeral goods and services fail to act or cannot be found within 7 days of the death, or in the case of a competent surviving spouse who fails to act or cannot be found within 10 days of the death, the right to control the disposition shall pass to the next person or persons in accordance with the order of succession provided by statute.

This bill would instead provide that if the person or persons who have the right to control the disposition of a decedent's remains and arrange for funeral goods and services fail to act or cannot be found within 7 days from the date when this right devolves to the person or persons, or in the case of a competent surviving spouse within 10 days of when the right devolves to him or her, the right shall pass to the next person in accordance with the order of succession provided by statute.

*The people of the State of California do enact as follows:*

SECTION 1. Section 7105 of the Health and Safety Code is amended to read:

7105. (a) If the person or persons listed in paragraphs (1), (3), (4), (5), and (6) of subdivision (a) of Section 7100 that would otherwise have the right to control the disposition and arrange for funeral goods and services fails to act, or fails to delegate his or her authority to act to some other person within seven days of the date when the right and duty devolves upon the person or persons, or in the case of a person listed in paragraph (2) of subdivision (a) of Section 7100, within 10 days of the date when the right and duty devolves upon the person, the right to control the disposition and arrange for funeral goods and services shall be relinquished and passed on to the person or persons of the next degree of kinship in accordance with subdivision (a) of Section 7100.

(b) If the person or persons listed in paragraphs (1), (3), (4), (5), and (6) of subdivision (a) of Section 7100 that would otherwise have the right to control the disposition and arrange for funeral goods and services cannot be found within seven days of the date when the right and duty devolves upon the person or persons, or in the case of a person listed in paragraph (2) of subdivision (a) of Section 7100, within 10 days of the date when the right and duty devolves upon the person, after reasonable inquiry, the right to control the disposition and arrange for funeral goods and services shall be relinquished and passed on to the person or persons of the next degree of kinship in accordance with subdivision (a) of Section 7100.

(c) If any persons listed in paragraphs (1), (3), (4), (5), and (6), of subdivision (a) of Section 7100 that would otherwise have equal rights to control the disposition and arrange for funeral goods and services fail to agree on disposition and funeral goods and services to be provided within seven days of the date on which the right and duty of disposition devolved upon the persons, a funeral establishment or a cemetery authority having possession of the remains, or any person who has equal right to control the disposition of the remains may file a petition in the superior court in the county in which the decedent resided at the time of his or her death, or in which the remains are located, naming as a party to the action those persons who would otherwise have equal rights to control the disposition and seeking an order of the court determining, as appropriate, who among those parties will have the control of disposition and to direct that person to make interment of the remains. The court, at the time of determining the person to whom the right of disposition will vest, shall, from the remaining parties to the action, establish an alternate order to whom the right to control disposition will pass if the person vested with the right to control disposition fails to act within seven days.

(d) If the person vested with the duty of interment has criminal charges pending against him or her for the unlawful killing of the decedent, in violation of Section 187 of, or subdivision (a) or (b) of Section 192 of, the Penal Code, the person or persons with the next highest priority prescribed by Section 7100 may petition a court of competent jurisdiction for an order for control of the disposition of the decedent's remains. For this purpose, it shall be conclusively presumed that the petitioner is the person entitled to control the disposition of the remains if the petitioner is next in the order of priority specified in Section 7100.