

REFERENCE TITLE: **designated beneficiaries**

State of Arizona
House of Representatives
Fiftieth Legislature
First Regular Session
2011

HB 2100

Introduced by
Representative Heinz

AN ACT

AMENDING SECTIONS 14-2103, 14-2106, 14-3203, 14-5311, 14-5410, 23-1046, 36-831, 36-848 AND 36-3201, ARIZONA REVISED STATUTES; AMENDING TITLE 14, ARIZONA REVISED STATUTES, BY ADDING CHAPTER 13; RELATING TO DESIGNATED BENEFICIARIES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 14-2103, Arizona Revised Statutes, is amended to
3 read:

4 14-2103. Heirs other than surviving spouse; share in estate

5 Any part of the intestate estate not passing to the decedent's
6 surviving spouse under section 14-2102 or the entire intestate estate if
7 there is no surviving spouse passes in the following order to the following
8 persons who survive the decedent:

9 1. TO THE DECEDENT'S DESIGNATED BENEFICIARY WHO WAS DESIGNATED BY THE
10 DECEDENT TO BE THE DECEDENT'S BENEFICIARY FOR PURPOSES OF INTESTATE
11 SUCCESSION PURSUANT TO A DESIGNATED BENEFICIARY AGREEMENT THAT HAS BEEN
12 EXECUTED AND RECORDED PURSUANT TO CHAPTER 13 OF THIS TITLE.

13 ~~1-~~ 2. To the decedent's descendants by representation.

14 ~~2-~~ 3. If there is no surviving descendant, to the decedent's parents
15 equally if both survive or to the surviving parent.

16 ~~3-~~ 4. If there is no surviving descendant or parent, to the
17 descendants of the decedent's parents or either of them by representation.

18 ~~4-~~ 5. If there is no surviving descendant, parent or descendant of a
19 parent, but the decedent is survived by one or more grandparents or
20 descendants of grandparents, ONE-half of the estate passes to the decedent's
21 paternal grandparents equally if both survive or to the surviving paternal
22 grandparent or the descendants of the decedent's paternal grandparents or
23 either of them if both are deceased with the descendants taking by
24 representation. The other ONE-half passes to the decedent's maternal
25 relatives in the same manner. If there is no surviving grandparent or
26 descendant of a grandparent on either the paternal or the maternal side, the
27 entire estate passes to the decedent's relatives on the other side in the
28 same manner as the ONE-half.

29 Sec. 2. Section 14-2106, Arizona Revised Statutes, is amended to read:

30 14-2106. Passing of estate by representation; assigning of
31 shares; definitions

32 A. If under section 14-2103, paragraph ~~1-~~ 2 all or part of a
33 decedent's intestate estate passes by representation to the decedent's
34 descendants, that estate is divided into as many equal shares as there are
35 surviving descendants in the generation nearest to the decedent that contains
36 one or more surviving descendants and to deceased descendants in the same
37 generation who left any surviving descendants. Each surviving descendant in
38 the nearest generation is allocated one share. Any remaining shares are
39 combined and then divided in the same manner among the surviving descendants
40 of the deceased descendants as if the surviving descendants who were
41 allocated a share and their surviving descendants had predeceased the
42 decedent.

43 B. If under section 14-2103, paragraph ~~3-~~ 4 or ~~4-~~ 5 all or part of a
44 decedent's intestate estate passes by representation to the descendants of
45 either of the decedent's deceased parents or to the descendants of either of

1 the decedent's deceased paternal or maternal grandparents, all or part of the
2 estate is divided into as many equal shares as there are surviving
3 descendants in the generation nearest the deceased parents or either of them,
4 or the deceased grandparents or either of them, that contains one or more
5 surviving descendants and to deceased descendants in the same generation who
6 left any surviving descendants. Each surviving descendant in the nearest
7 generation is allocated one share. Any remaining shares are combined and
8 then divided in the same manner among the surviving descendants of the
9 deceased descendants as if the surviving descendants who were allocated a
10 share and their surviving descendants had predeceased the decedent.

11 C. For the purposes of this section:

12 1. "Deceased descendant", "deceased parent" or "deceased grandparent"
13 means a descendant, parent or grandparent who either predeceased the decedent
14 or is deemed to have predeceased the decedent under section 14-2104.

15 2. "Surviving descendant" means a descendant who neither predeceased
16 the decedent nor is deemed to have predeceased the decedent under section
17 14-2104.

18 Sec. 3. Section 14-3203, Arizona Revised Statutes, is amended to read:

19 14-3203. Priority among persons seeking appointment as personal
20 representative

21 A. Whether the proceedings are formal or informal, persons who are not
22 disqualified have priority for appointment in the following order:

23 1. The person with priority as determined by a probated will including
24 a person nominated by a power conferred in a will.

25 2. The surviving spouse of the decedent who is a devisee of the
26 decedent.

27 3. A PERSON NOMINATED TO BE A PERSONAL REPRESENTATIVE BY A POWER
28 CONFERRED IN A DESIGNATED BENEFICIARY AGREEMENT PURSUANT TO CHAPTER 13 OF
29 THIS TITLE.

30 ~~3-~~ 4. Other devisees of the decedent.

31 ~~4-~~ 5. The surviving spouse of the decedent.

32 ~~5-~~ 6. Other heirs of the decedent.

33 ~~6-~~ 7. If the decedent was a veteran or the spouse or child of a
34 veteran, the department of veterans' services.

35 ~~7-~~ 8. Forty-five days after the death of the decedent, any creditor.

36 ~~8-~~ 9. The public fiduciary.

37 B. An objection to an appointment can be made only in formal
38 proceedings. In case of objection the priorities stated in subsection A of
39 this section apply, except that:

40 1. If the estate appears to be more than adequate to meet exemptions
41 and costs of administration but inadequate to discharge anticipated unsecured
42 claims, the court, on petition of creditors, may appoint any qualified
43 person.

44 2. In case of objection to appointment of a surviving spouse, other
45 than one whose priority is determined by will, by an heir or devisee

1 appearing to have a substantial interest in the estate, and the surviving
2 spouse is found by the court to be unsuitable, the court may appoint a person
3 who is acceptable to heirs and devisees, whose interests in the estate appear
4 to be worth in total more than half of the probable distributable value or,
5 in default of this accord, any suitable person.

6 3. In case of objection to appointment of a person who is not a
7 surviving spouse, other than one whose priority is determined by will, by an
8 heir or devisee appearing to have a substantial interest in the estate, the
9 court may appoint a person who is acceptable to heirs and devisees whose
10 interests in the estate appear to be worth in total more than half of the
11 probable distributable value, ~~or~~, or, in default of this accord any suitable
12 person.

13 C. A person entitled to letters under subsection A, paragraphs 2
14 through ~~5-6~~ of this section and a person age fourteen and over who would be
15 entitled to letters but for the person's age may nominate a qualified person
16 to act as personal representative. Any person age eighteen and over may
17 renounce the person's right to nominate or to an appointment by appropriate
18 writing filed with the court. If two or more persons share a priority, those
19 of them who do not renounce must concur in nominating another to act for
20 them, or in applying for appointment.

21 D. Conservators of the estates of protected persons, or if there is no
22 conservator, any guardian except a guardian ad litem of a minor or
23 incapacitated person, may exercise the same right to nominate, to object to
24 another's appointment, ~~or~~ or to participate in determining the preference of a
25 majority in interest of the heirs and devisees that the protected person or
26 ward would have if qualified for appointment.

27 E. Formal proceedings are required to appoint a personal
28 representative in any of the following situations:

29 1. If there is a person with a higher order of priority who has not
30 renounced or waived the person's right by appropriate writing filed with the
31 court.

32 2. If a priority is shared by two or more persons, as devisees under
33 subsection A, paragraph ~~3-4~~ of this section, or as heirs under subsection A,
34 paragraph ~~5-6~~ of this section, and one or more of them has not renounced or
35 concurred in nominating the person whose appointment is applied for.

36 3. If appointment is sought for a person who does not have any
37 priority under this section, under this paragraph the court shall determine
38 that those having priority do not object to the appointment, and that
39 administration is necessary.

40 F. A person is not qualified to serve as a personal representative who
41 is:

- 42 1. Under the age of majority as defined in section 1-215.
- 43 2. A person whom the court finds unsuitable in formal proceedings.
- 44 3. A foreign corporation.

1 G. A personal representative appointed by a court of the decedent's
2 domicile has priority over all other persons except if the decedent's will
3 nominates different persons to be personal representative in this state and
4 in the state of domicile. The domiciliary personal representative may
5 nominate another, who shall have the same priority as the domiciliary
6 personal representative.

7 H. This section governs priority for appointment of a successor
8 personal representative but does not apply to the selection of a special
9 administrator.

10 Sec. 4. Section 14-5311, Arizona Revised Statutes, is amended to read:

11 14-5311. Who may be guardian; priorities

12 A. Any qualified person may be appointed guardian of an incapacitated
13 person, subject to the requirements of section 14-5106.

14 B. The court may consider the following persons for appointment as
15 guardian in the following order:

16 1. A guardian or conservator of the person or a fiduciary appointed or
17 recognized by the appropriate court of any jurisdiction in which the
18 incapacitated person resides.

19 2. An individual or corporation nominated by the incapacitated person
20 if the person has, in the opinion of the court, sufficient mental capacity to
21 make an intelligent choice.

22 3. The person nominated in the incapacitated person's most recent
23 durable power of attorney **OR IN A DESIGNATED BENEFICIARY AGREEMENT MADE**
24 **PURSUANT TO CHAPTER 13 OF THIS TITLE.**

25 4. The spouse of the incapacitated person.

26 5. An adult child of the incapacitated person.

27 6. A parent of the incapacitated person, including a person nominated
28 by will or other writing signed by a deceased parent.

29 7. Any relative of the incapacitated person with whom the
30 incapacitated person has resided for more than six months before the filing
31 of the petition.

32 8. The nominee of a person who is caring for or paying benefits to the
33 incapacitated person.

34 9. If the incapacitated person is a veteran, the spouse of a veteran
35 or the minor child of a veteran, the department of veterans' services.

36 10. A fiduciary, guardian or conservator.

37 C. A person listed in subsection B, paragraph 4, 5, 6, 7 or 8 may
38 nominate in writing a person to serve in that person's place. With respect
39 to persons who have equal priority, the court shall select the one the court
40 determines is best qualified to serve.

41 D. For good cause the court may pass over a person who has priority
42 and appoint a person who has a lower priority or no priority.

1 BENEFICIARY OF THE OTHER PERSON AND FOR THE PURPOSE OF ENSURING THAT EACH
2 PERSON HAS CERTAIN RIGHTS AND FINANCIAL PROTECTIONS BASED ON THE DESIGNATION.

3 3. "SUPERSEDING LEGAL DOCUMENT" MEANS A LEGAL DOCUMENT, REGARDLESS OF
4 THE DATE OF EXECUTION, THAT IS VALID AND ENFORCEABLE AND THAT CONFLICTS WITH
5 ALL OR A PORTION OF A DESIGNATED BENEFICIARY AGREEMENT AND CAUSES THE
6 DESIGNATED BENEFICIARY AGREEMENT IN WHOLE OR IN PART TO BE REPLACED OR SET
7 ASIDE. A SUPERSEDING LEGAL DOCUMENT INCLUDES:

8 (a) A WILL.

9 (b) A CODICIL.

10 (c) A POWER OF ATTORNEY.

11 (d) A MEDICAL DURABLE POWER OF ATTORNEY.

12 (e) A TRUST INSTRUMENT.

13 (f) A BENEFICIARY DESIGNATION IN AN INSURANCE POLICY OR POLICY OF
14 HEALTH CARE COVERAGE.

15 (g) A BENEFICIARY DESIGNATION IN A RETIREMENT OR PENSION PLAN.

16 (h) A BENEFICIARY DESIGNATION FOR A DEPOSIT OR ACCOUNT, INCLUDING
17 DEMAND, SAVINGS AND TIME DEPOSIT ACCOUNTS.

18 (i) A DECLARATION AS TO MEDICAL TREATMENT EXECUTED PURSUANT TO TITLE
19 36, CHAPTER 32.

20 (j) A DECLARATION AS TO DISPOSITION OF A DEAD PERSON'S REMAINS.

21 (k) A MARRIAGE LICENSE.

22 14-13102. Requirements for a valid designated beneficiary
23 agreement

24 A. A DESIGNATED BENEFICIARY AGREEMENT IS LEGALLY RECOGNIZED IF:

25 1. THE PARTIES TO THE DESIGNATED BENEFICIARY AGREEMENT SATISFY ALL OF
26 THE FOLLOWING CRITERIA:

27 (a) BOTH ARE AT LEAST EIGHTEEN YEARS OF AGE.

28 (b) BOTH ARE COMPETENT TO ENTER INTO A CONTRACT.

29 (c) NEITHER PARTY IS MARRIED TO ANOTHER PERSON.

30 (d) NEITHER PARTY IS A PARTY TO ANOTHER DESIGNATED BENEFICIARY
31 AGREEMENT.

32 (e) BOTH PARTIES ENTER INTO THE DESIGNATED BENEFICIARY AGREEMENT
33 WITHOUT FORCE, FRAUD OR DURESS.

34 2. THE AGREEMENT IS IN SUBSTANTIAL COMPLIANCE WITH THE REQUIREMENTS
35 PRESCRIBED IN THIS ARTICLE. FOR THE PURPOSES OF THIS PARAGRAPH, "SUBSTANTIAL
36 COMPLIANCE" MEANS THAT THE AGREEMENT INCLUDES THE DISCLAIMER CONTAINED IN
37 SECTION 14-13104, THE INSTRUCTIONS AND HEADINGS ABOUT HOW TO GRANT OR
38 WITHHOLD A RIGHT OR PROTECTION, THE STATEMENTS ABOUT THE EFFECTIVE DATE OF
39 THE AGREEMENT AND HOW TO RECORD THE AGREEMENT, THE SIGNATURES FOR THE TWO
40 PARTIES AND THE ACKNOWLEDGMENTS FOR THE NOTARY PUBLIC.

41 B. A DESIGNATED BENEFICIARY AGREEMENT IS LEGALLY SUFFICIENT UNDER THIS
42 ARTICLE IF:

43 1. THE WORDING OF THE DESIGNATED BENEFICIARY AGREEMENT COMPLIES
44 SUBSTANTIALLY WITH THE STANDARD FORM PRESCRIBED IN SECTION 14-13104.

- 1 2. THE DESIGNATED BENEFICIARY AGREEMENT IS PROPERLY COMPLETED AND
2 SIGNED.
- 3 3. THE DESIGNATED BENEFICIARY AGREEMENT IS ACKNOWLEDGED.
- 4 4. THE DESIGNATED BENEFICIARY AGREEMENT IS RECORDED IN THE OFFICE OF
5 THE COUNTY RECORDER PURSUANT TO SECTION 14-13105.
6 14-13103. Effects and applicability of a designated beneficiary
7 agreement
- 8 A. A PERSON NAMED AS A DESIGNATED BENEFICIARY IN A DESIGNATED
9 BENEFICIARY AGREEMENT MAY EXERCISE THE RIGHTS AND PROTECTIONS SPECIFIED IN
10 THE AGREEMENT BY VIRTUE OF HAVING BEEN NAMED AS A DESIGNATED BENEFICIARY.
- 11 B. A DESIGNATED BENEFICIARY AGREEMENT THAT IS PROPERLY EXECUTED AND
12 RECORDED PURSUANT TO THIS ARTICLE IS VALID AND LEGALLY ENFORCEABLE IN THE
13 ABSENCE OF A SUPERSEDING LEGAL DOCUMENT THAT CONFLICTS WITH THE PROVISIONS
14 SPECIFIED IN THE DESIGNATED BENEFICIARY AGREEMENT.
- 15 C. A DESIGNATED BENEFICIARY AGREEMENT PERMITS THE PARTIES TO EXERCISE
16 THE FOLLOWING RIGHTS AND TO ENJOY THE FOLLOWING PROTECTIONS, UNLESS
17 SPECIFICALLY EXCLUDED FROM THE DESIGNATED BENEFICIARY AGREEMENT:
- 18 1. TO ACQUIRE, HOLD TITLE TO, OWN JOINTLY OR TRANSFER INTER VIVOS OR
19 AT DEATH REAL OR PERSONAL PROPERTY AS JOINT TENANTS WITH RIGHT OF
20 SURVIVORSHIP OR AS TENANTS IN COMMON.
- 21 2. TO BE DESIGNATED AS A BENEFICIARY, PAYEE OR OWNER AS A TRUSTEE
22 NAMED IN AN INTER VIVOS OR TESTAMENTARY TRUST FOR THE PURPOSES OF A
23 NONPROBATE TRANSFER ON DEATH.
- 24 3. FOR THE PURPOSES OF THE FOLLOWING BENEFITS, TO BE DESIGNATED AS A
25 BENEFICIARY AND RECOGNIZED AS A DEPENDENT IF NOTICE IS GIVEN IN ACCORDANCE
26 WITH ANY APPLICABLE STATUTE, RULE, CONTRACT, POLICY, PROCEDURE OR OTHER
27 GOVERNMENT DOCUMENT OF THE FOLLOWING BENEFITS:
- 28 (a) THE ARIZONA STATE RETIREMENT SYSTEM.
- 29 (b) LOCAL GOVERNMENT FIREFIGHTER AND POLICE PENSIONS.
- 30 (c) INSURANCE POLICIES FOR LIFE INSURANCE COVERAGE.
- 31 (d) HEALTH INSURANCE POLICIES OR HEALTH COVERAGE IF THE EMPLOYER OF
32 THE DESIGNATED BENEFICIARY ELECTS TO PROVIDE COVERAGE FOR DESIGNATED
33 BENEFICIARIES AS DEPENDENTS.
- 34 4. TO PETITION FOR AND HAVE PRIORITY FOR APPOINTMENT AS A CONSERVATOR,
35 GUARDIAN OR PERSONAL REPRESENTATIVE FOR THE OTHER DESIGNATED BENEFICIARY.
- 36 5. TO VISITATION BY THE OTHER DESIGNATED BENEFICIARY IN A HOSPITAL,
37 NURSING HOME, HOSPICE OR SIMILAR HEALTH CARE FACILITY IN WHICH A PARTY TO A
38 DESIGNATED BENEFICIARY RESIDES OR IS RECEIVING CARE, INCLUDING THE RIGHT TO
39 INITIATE A FORMAL COMPLAINT ALLEGING A VIOLATION OF THE RIGHTS OF NURSING
40 HOME PATIENTS.
- 41 6. TO ACT AS A SURROGATE DECISION MAKER TO MAKE MEDICAL TREATMENT
42 DECISIONS FOR THE OTHER DESIGNATED BENEFICIARY AS IF SELECTED PURSUANT TO
43 TITLE 36, CHAPTER 32.

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DESIGNATE THE OTHER PARTY FOR PURPOSES OF ANY INSURANCE POLICY, PENSION PLAN, PAYABLE ON DEATH DESIGNATION OR MANNER IN WHICH TITLE TO PROPERTY IS HELD AND THAT THE PARTIES MUST TAKE ADDITIONAL ACTION IF THEY WISH TO MAKE OR CHANGE THESE DESIGNATIONS. THE PARTIES UNDERSTAND THAT THIS DESIGNATED BENEFICIARY AGREEMENT MAY BE ONE COMPONENT OF ESTATE PLANNING INSTRUCTIONS AND THAT THEY ARE ENCOURAGED TO CONSULT AN ATTORNEY TO ENSURE THEIR ESTATE PLANNING WISHES ARE ACCOMPLISHED.

WE, _____, (INSERT FULL NAME AND ADDRESS) REFERRED TO AS PARTY A, AND _____, (INSERT FULL NAME AND ADDRESS) REFERRED TO AS PARTY B, BY THIS DOCUMENT DESIGNATE EACH OTHER AS THE OTHER'S DESIGNATED BENEFICIARY WITH THE FOLLOWING RIGHTS AND PROTECTIONS, GRANTED OR WITHHELD AS INDICATED BY OUR INITIALS:

(TO GRANT OR DENY A RIGHT OR PROTECTION DESCRIBED IN A SPECIFIC PARAGRAPH, INITIAL EITHER "ACCEPT" OR "DENY" BELOW THAT PARAGRAPH.)

1. THE RIGHT TO ACQUIRE, HOLD TITLE TO, OWN JOINTLY OR TRANSFER INTER VIVOS OR AT DEATH REAL OR PERSONAL PROPERTY AS A JOINT TENANT WITH ME WITH RIGHT OF SURVIVORSHIP OR AS A TENANT IN COMMON WITH ME.

PARTY A: ACCEPT___ DENY___ PARTY B: ACCEPT___ DENY___

2. THE RIGHT TO BE DESIGNATED BY ME AS A BENEFICIARY, PAYEE OR OWNER AS A TRUSTEE NAMED IN AN INTER VIVOS OR TESTAMENTARY TRUST FOR THE PURPOSES OF A NONPROBATE TRANSFER ON DEATH.

PARTY A: ACCEPT___ DENY___ PARTY B: ACCEPT___ DENY___

3. THE RIGHT TO BE DESIGNATED BY ME AS A BENEFICIARY AND RECOGNIZED AS A DEPENDENT IN AN INSURANCE POLICY FOR LIFE INSURANCE.

PARTY A: ACCEPT___ DENY___ PARTY B: ACCEPT___ DENY___

4. THE RIGHT TO BE DESIGNATED BY ME AS A BENEFICIARY AND RECOGNIZED AS A DEPENDENT IN A HEALTH INSURANCE POLICY IF MY EMPLOYER ELECTS TO PROVIDE HEALTH INSURANCE COVERAGE FOR DESIGNATED BENEFICIARIES.

PARTY A: ACCEPT___ DENY___ PARTY B: ACCEPT___ DENY___

5. THE RIGHT TO BE DESIGNATED BY ME AS A BENEFICIARY IN A RETIREMENT OR PENSION PLAN.

PARTY A: ACCEPT___ DENY___ PARTY B: ACCEPT___ DENY___

6. THE RIGHT TO PETITION FOR AND HAVE PRIORITY FOR APPOINTMENT AS A CONSERVATOR, GUARDIAN OR PERSONAL REPRESENTATIVE FOR ME.

PARTY A: ACCEPT___ DENY___ PARTY B: ACCEPT___ DENY___

1 7. THE RIGHT TO VISIT ME IN A HOSPITAL, NURSING HOME,
2 HOSPICE OR SIMILAR HEALTH CARE FACILITY IN WHICH A PARTY TO A
3 DESIGNATED BENEFICIARY AGREEMENT RESIDES OR IS RECEIVING CARE.
4 PARTY A: ACCEPT___ DENY___ PARTY B: ACCEPT___ DENY___
5 8. THE RIGHT TO INITIATE A FORMAL COMPLAINT REGARDING
6 ALLEGED VIOLATIONS OF MY RIGHTS AS A NURSING HOME PATIENT.
7 PARTY A: ACCEPT___ DENY___ PARTY B: ACCEPT___ DENY___
8 9. THE RIGHT TO ACT AS A SURROGATE DECISION MAKER TO MAKE
9 MEDICAL CARE DECISIONS FOR ME PURSUANT TO TITLE 36, CHAPTER 32,
10 ARIZONA REVISED STATUTES.
11 PARTY A: ACCEPT___ DENY___ PARTY B: ACCEPT___ DENY___
12 10. THE RIGHT TO NOTICE OF THE WITHHOLDING OR WITHDRAWAL
13 OF LIFE-SUSTAINING PROCEDURES FOR ME PURSUANT TO TITLE 36,
14 CHAPTER 32, ARIZONA REVISED STATUTES.
15 PARTY A: ACCEPT___ DENY___ PARTY B: ACCEPT___ DENY___
16 11. THE RIGHT TO CHALLENGE THE VALIDITY OF A DECLARATION
17 AS TO MEDICAL OR SURGICAL TREATMENT OF ME PURSUANT TO TITLE 36,
18 CHAPTER 32, ARIZONA REVISED STATUTES.
19 PARTY A: ACCEPT___ DENY___ PARTY B: ACCEPT___ DENY___
20 12. THE RIGHT TO ACT AS MY AGENT TO MAKE, REVOKE OR OBJECT
21 TO ANATOMICAL GIFTS INVOLVING MY PERSON PURSUANT TO SECTION
22 36-848, ARIZONA REVISED STATUTES.
23 PARTY A: ACCEPT___ DENY___ PARTY B: ACCEPT___ DENY___
24 13. THE RIGHT TO INHERIT REAL OR PERSONAL PROPERTY FROM ME
25 THROUGH INTESTATE SUCCESSION.
26 PARTY A: ACCEPT___ DENY___ PARTY B: ACCEPT___ DENY___
27 14. THE RIGHT TO HAVE STANDING TO RECEIVE BENEFITS
28 PURSUANT TO THE WORKERS' COMPENSATION LAWS OF ARIZONA IF I DIE
29 ON THE JOB.
30 PARTY A: ACCEPT___ DENY___ PARTY B: ACCEPT___ DENY___
31 15. THE RIGHT TO HAVE STANDING TO SUE AS A PLAINTIFF FOR
32 MY WRONGFUL DEATH.
33 PARTY A: ACCEPT___ DENY___ PARTY B: ACCEPT___ DENY___
34 16. THE RIGHT TO DIRECT THE DISPOSITION OF MY LAST REMAINS
35 PURSUANT TO SECTION 36-831, ARIZONA REVISED STATUTES.
36 PARTY A: ACCEPT___ DENY___ PARTY B: ACCEPT___ DENY___
37 THIS DESIGNATED BENEFICIARY AGREEMENT IS EFFECTIVE WHEN IT
38 IS FILED IN THE OFFICE OF THE COUNTY RECORDER OF THE COUNTY IN
39 WHICH ONE OF THE DESIGNATED BENEFICIARIES RESIDES.
40 THIS DESIGNATED BENEFICIARY AGREEMENT CONTINUES IN EFFECT
41 UNTIL ONE OF THE DESIGNATED BENEFICIARIES REVOKES THIS AGREEMENT
42 BY RECORDING A REVOCATION OF DESIGNATED BENEFICIARY FORM IN THE
43 OFFICE OF THE COUNTY RECORDER OF THE COUNTY IN WHICH THIS
44 AGREEMENT WAS RECORDED OR UNTIL THIS AGREEMENT IS SUPERSEDED IN
45 PART OR IN WHOLE BY A SUPERSEDING LEGAL DOCUMENT.

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SIGNATURE OF DESIGNATED BENEFICIARY
SIGNATURE OF DESIGNATED BENEFICIARY

STATE OF ARIZONA
COUNTY OF _____

THIS DOCUMENT WAS SUBSCRIBED, SWORN TO AND ACKNOWLEDGED
BEFORE ME ON _____ DATE
BY _____

MY COMMISSION EXPIRES _____
[SEAL]

NOTARY PUBLIC

B. THE INSTRUCTIONS TO EACH PARTY REGARDING HOW TO GRANT OR WITHHOLD A
RIGHT OR PROTECTION BY INITIALING AND THE WORDS "PARTY A" AND "PARTY B" MUST
APPEAR AT THE TOP OF EACH PAGE OF THE STATUTORY FORM.

C. A DESIGNATED BENEFICIARY AGREEMENT IS PRESUMED TO EXTEND ALL OF THE
RIGHTS AND PROTECTIONS LISTED IN THE STATUTORY FORM UNLESS THE PARTIES TO THE
AGREEMENT EXPLICITLY EXCLUDE A RIGHT OR PROTECTION.

D. A PARTY TO A DESIGNATED BENEFICIARY AGREEMENT MAY LIMIT THE SCOPE
OF A DESIGNATED BENEFICIARY AGREEMENT BY THE TERMS OF THE AGREEMENT OR BY
EXECUTING A SUPERSEDING LEGAL DOCUMENT THAT CONTROLS AND SUPERSEDES PART OR
ALL OF THE DESIGNATED BENEFICIARY AGREEMENT.

14-13105. Recording of agreement; duties of county recorder;
public inspection

A. A SIGNED AND ACKNOWLEDGED DESIGNATED BENEFICIARY AGREEMENT MUST BE
RECORDED IN THE OFFICE OF THE COUNTY RECORDER OF THE COUNTY IN WHICH ONE OF
THE PARTIES TO THE AGREEMENT RESIDES. THE DESIGNATED BENEFICIARY AGREEMENT
IS EFFECTIVE AS OF THE DATE AND TIME IT IS RECORDED IN THE OFFICE OF THE
COUNTY RECORDER. THE COUNTY RECORDER MAY REQUIRE THE PERSON RECORDING THE
DESIGNATED BENEFICIARY AGREEMENT TO INDICATE THE MAILING ADDRESS TO WHICH THE
ORIGINAL DOCUMENT SHOULD BE RETURNED AFTER IT IS RECORDED.

B. THE COUNTY RECORDER MAY MAKE AVAILABLE COPIES OF THE STATUTORY
FORMS AS PRESCRIBED IN SECTIONS 14-13104 AND 14-13109.

C. THE COUNTY RECORDER MUST:

1. INDICATE ON THE DESIGNATED BENEFICIARY AGREEMENT OR A REVOCATION OF
A DESIGNATED BENEFICIARY AGREEMENT THE DATE AND TIME THAT IT IS RECORDED WITH
THE CLERK AND RECORDER.

2. ISSUE TWO CERTIFIED COPIES OF THE RECORDED DESIGNATED BENEFICIARY
AGREEMENT THAT INDICATE THE DATE AND TIME OF THE RECORDING.

1 3. ISSUE REPLACEMENT CERTIFIED COPIES OF A DESIGNATED BENEFICIARY
2 AGREEMENT OR A REVOCATION OF A DESIGNATED BENEFICIARY AGREEMENT ON PAYMENT OF
3 A REPLACEMENT FEE.

4 D. DESIGNATED BENEFICIARY AGREEMENTS AND REVOCATIONS OF DESIGNATED
5 BENEFICIARY AGREEMENTS ARE OPEN TO PUBLIC INSPECTION.

6 14-13106. Designated beneficiary agreements; effect on other
7 legal documents; conflicting documents

8 A. THE EXECUTION OF A DESIGNATED BENEFICIARY AGREEMENT DOES NOT
9 CONSTITUTE EVIDENCE OF AN INTENT TO REVOKE A PRIOR WILL OR CODICIL AND DOES
10 NOT AFFECT ANY BENEFICIARY DESIGNATION, TRANSFER OR BEQUEST CONTAINED IN ANY
11 OTHER LEGAL DOCUMENTS.

12 B. TO THE EXTENT THERE IS A CONFLICT BETWEEN A SUPERSEDING LEGAL
13 DOCUMENT AND A DESIGNATED BENEFICIARY AGREEMENT, THE SUPERSEDING LEGAL
14 DOCUMENT CONTROLS.

15 14-13107. Affirmation of validity of designated beneficiary
16 agreement

17 A PERSON WHO EXERCISES RIGHTS OR PROTECTIONS PURSUANT TO A DESIGNATED
18 BENEFICIARY AGREEMENT AFFIRMS THE VALIDITY OF A DESIGNATED BENEFICIARY
19 AGREEMENT AND MUST DISCLOSE ANY KNOWLEDGE OF ANY SUPERSEDING LEGAL DOCUMENTS.

20 14-13108. Civil immunity

21 A THIRD PARTY WHO ACTS IN GOOD FAITH RELIANCE ON THE AFFIRMATION OF THE
22 EXISTENCE OF A VALID DESIGNATED BENEFICIARY AGREEMENT IS NOT SUBJECT TO CIVIL
23 LIABILITY OR ADMINISTRATIVE DISCIPLINE FOR THAT RELIANCE.

24 14-13109. Revocation of a designated beneficiary agreement;
25 form

26 A. EITHER PARTY TO A DESIGNATED BENEFICIARY AGREEMENT THAT HAS BEEN
27 RECORDED PURSUANT TO THIS ARTICLE MAY UNILATERALLY REVOKE THE AGREEMENT BY
28 RECORDING A REVOCATION WITH THE COUNTY RECORDER OF THE COUNTY IN WHICH THE
29 AGREEMENT WAS RECORDED. THE PERSON WHO WISHES TO REVOKE THE AGREEMENT MUST
30 DATE, SIGN AND ACKNOWLEDGE THE REVOCATION. THE REVOCATION IS EFFECTIVE ON
31 THE DATE AND TIME THE REVOCATION IS RECORDED BY THE COUNTY RECORDER. THE
32 COUNTY RECORDER SHALL ISSUE A CERTIFIED COPY TO THE PARTY RECORDING THE
33 REVOCATION AND SHALL MAIL A CERTIFIED COPY OF THE REVOCATION TO THE LAST
34 KNOWN ADDRESS OF THE OTHER PARTY TO THE DESIGNATED BENEFICIARY AGREEMENT.

35 B. A DESIGNATED BENEFICIARY AGREEMENT IS DEEMED REVOKED ON THE
36 MARRIAGE OF EITHER PARTY. IN THE CASE OF A COMMON LAW MARRIAGE, A DESIGNATED
37 BENEFICIARY AGREEMENT IS DEEMED REVOKED AS OF THE DATE THE COURT DETERMINES
38 THAT A VALID COMMON LAW MARRIAGE EXISTS.

39 C. A REVOCATION OF A DESIGNATED BENEFICIARY AGREEMENT SHALL BE IN THE
40 FOLLOWING FORM:

41 REVOCATION OF DESIGNATED BENEFICIARY AGREEMENT
42 I, _____ (INSERT YOUR FULL NAME), RESIDE AT
43 _____ (INSERT YOUR CURRENT ADDRESS). ON _____
44 (INSERT THE DATE), I ENTERED INTO A DESIGNATED BENEFICIARY
45 AGREEMENT WITH THE FOLLOWING PERSON _____ (INSERT THE

1 OTHER PERSON'S NAME) WHOSE LAST KNOWN ADDRESS IS _____
 2 AND DESIGNATED THAT PERSON AS A DESIGNATED BENEFICIARY. THIS
 3 DESIGNATED BENEFICIARY AGREEMENT WAS RECORDED ON
 4 _____ (INSERT THE DATE) IN THE COUNTY OF
 5 _____. THE INDEXING FILE NUMBER OF THE DESIGNATED
 6 BENEFICIARY AGREEMENT IS _____. I REVOKE THAT
 7 DESIGNATED BENEFICIARY AGREEMENT, EFFECTIVE ON THE DATE AND TIME
 8 THAT THIS REVOCATION IS RECORDED BY THE COUNTY RECORDER OF
 9 _____ COUNTY.

10 _____
 11 NAME DATE
 12 STATE OF ARIZONA
 13 COUNTY OF _____

14
 15 THIS DOCUMENT WAS SUBSCRIBED, SWORN TO AND ACKNOWLEDGED
 16 BEFORE ME ON _____ DATE
 17 BY _____

18
 19 MY COMMISSION EXPIRES _____
 20 [SEAL]

21 _____
 22 NOTARY PUBLIC

23
 24 THIS REVOCATION OF DESIGNATED BENEFICIARY AGREEMENT WAS
 25 RECORDED IN MY OFFICE ON _____, AT _____'CLOCK AND,
 26 PURSUANT TO SECTION 14-13109, ARIZONA REVISED STATUTES, I MAILED
 27 A COPY OF THIS REVOCATION OF DESIGNATED BENEFICIARY AGREEMENT TO
 28 _____ AT THE ADDRESS CONTAINED IN THIS REVOCATION OF
 29 DESIGNATED BENEFICIARY AGREEMENT.

30 _____ CLERK OF
 31 _____ COUNTY

32 BY: _____
 33 14-13110. Death of a designated beneficiary; effect on
 34 agreement

35 A. A DESIGNATED BENEFICIARY AGREEMENT TERMINATES ON THE DEATH OF
 36 EITHER PARTY TO THAT AGREEMENT EXCEPT THAT A RIGHT OR POWER THAT A DESIGNATED
 37 BENEFICIARY AGREEMENT CONFERRED ON A DESIGNATED BENEFICIARY SURVIVES THE
 38 DEATH OF THE OTHER DESIGNATED BENEFICIARY.

39 B. A PARTY TO A DESIGNATED BENEFICIARY AGREEMENT WHO SURVIVES A
 40 DESIGNATED BENEFICIARY MAY ENTER INTO A DESIGNATED BENEFICIARY AGREEMENT WITH
 41 A DIFFERENT PERSON IF THAT AGREEMENT MEETS THE REQUIREMENTS OF THIS ARTICLE.

1 Sec. 7. Section 23-1046, Arizona Revised Statutes, is amended to read:
2 23-1046. Death benefits

3 A. In case of an injury causing death, the compensation therefor shall
4 be known as a death benefit and shall be payable in the amount, for the
5 period, and to and for the benefit of the following:

6 1. Burial expenses, not to exceed five thousand dollars, in addition
7 to the compensation.

8 2. To the surviving spouse, if there are no children, sixty-six and
9 two-thirds per cent of the average monthly wage of the deceased, to be paid
10 until such spouse's death or remarriage, with two years' compensation in one
11 sum upon remarriage. To the surviving spouse if there are surviving
12 children, thirty-five per cent of the average monthly wage of the deceased,
13 to be paid until such spouse's death or remarriage with two years'
14 compensation in one sum upon remarriage, and to the surviving children, an
15 additional thirty-one and two-thirds per cent of the average monthly wage, to
16 be divided equally among them until the age of eighteen years, until the age
17 of twenty-two years if the child is enrolled as a full-time student in any
18 accredited educational institution, or if over eighteen years and incapable
19 of self-support when the child becomes capable of self-support. When all
20 surviving children are no longer eligible for benefits, the surviving
21 spouse's benefits shall be paid as if there were no children. In the event
22 of the subsequent death or remarriage of the surviving spouse, the surviving
23 child's or children's benefits shall be computed pursuant to paragraph ~~3~~ 4.

24 3. TO THE SURVIVING DESIGNATED BENEFICIARY, IF THERE ARE NO CHILDREN,
25 SIXTY-SIX AND TWO-THIRDS PER CENT OF THE AVERAGE MONTHLY WAGE OF THE
26 DECEASED, TO BE PAID UNTIL THE SURVIVING DESIGNATED BENEFICIARY'S DEATH OR
27 UNTIL THE SURVIVING DESIGNATED BENEFICIARY NO LONGER IS QUALIFIED AS A
28 DESIGNATED BENEFICIARY PURSUANT TO TITLE 14, CHAPTER 13. TO THE DESIGNATED
29 BENEFICIARY IF THERE ARE SURVIVING CHILDREN, THIRTY-FIVE PER CENT OF THE
30 AVERAGE MONTHLY WAGE OF THE DECEASED, TO BE PAID UNTIL THE DESIGNATED
31 BENEFICIARY'S DEATH OR UNTIL THE SURVIVING DESIGNATED BENEFICIARY NO LONGER
32 IS QUALIFIED AS A DESIGNATED BENEFICIARY PURSUANT TO TITLE 14, CHAPTER 13,
33 AND TO THE SURVIVING CHILDREN, AN ADDITIONAL THIRTY-ONE AND TWO-THIRDS PER
34 CENT OF THE AVERAGE MONTHLY WAGE, TO BE DIVIDED EQUALLY AMONG THEM UNTIL THE
35 AGE OF EIGHTEEN YEARS, UNTIL THE AGE OF TWENTY-TWO YEARS IF THE CHILD IS
36 ENROLLED AS A FULL-TIME STUDENT IN ANY ACCREDITED EDUCATIONAL INSTITUTION, OR
37 IF OVER EIGHTEEN YEARS AND INCAPABLE OF SELF-SUPPORT WHEN THE CHILD BECOMES
38 CAPABLE OF SELF-SUPPORT. WHEN ALL SURVIVING CHILDREN ARE NO LONGER ELIGIBLE
39 FOR BENEFITS, THE SURVIVING DESIGNATED BENEFICIARY'S BENEFITS SHALL BE PAID
40 AS IF THERE WERE NO CHILDREN. IN THE EVENT OF THE SUBSEQUENT DEATH OR
41 DISQUALIFICATION OF THE SURVIVING DESIGNATED BENEFICIARY, THE SURVIVING
42 CHILD'S OR CHILDREN'S BENEFITS SHALL BE COMPUTED PURSUANT TO PARAGRAPH 4.

1 ~~3-~~ 4. To a single surviving child, in the case of the subsequent
2 death or remarriage of a surviving husband or wife, or if there is no
3 surviving husband or wife, sixty-six and two-thirds per cent of the average
4 monthly wage of the deceased, or if there is more than one surviving child,
5 sixty-six and two-thirds per cent to be divided equally among the surviving
6 children. Compensation to any such child shall cease upon death, upon
7 marriage or upon reaching the age of eighteen years, except, if over eighteen
8 years and incapable of self-support, when he becomes capable of self-support,
9 or if over eighteen years of age and enrolled as a full-time student in any
10 accredited educational institution, when the child reaches age twenty-two.

11 ~~4-~~ 5. To a parent, if there is no surviving husband, wife or child
12 under the age of eighteen years, if wholly dependent for support upon the
13 deceased employee at the time of his death, twenty-five per cent of the
14 average monthly wage of the deceased during dependency, with an added
15 allowance of fifteen per cent if two dependent parents survive, and, if
16 neither parent is wholly dependent, but one or both partly dependent, fifteen
17 per cent divided between them share and share alike.

18 ~~5-~~ 6. To brothers or sisters under the age of eighteen years, if
19 there is no surviving husband or wife, dependent children under the age of
20 eighteen years or dependent parent, the following shall govern:

21 (a) If one of the brothers or sisters is wholly dependent upon the
22 deceased employee for support at the time of injury causing death,
23 twenty-five per cent of the average monthly wage until the age of eighteen
24 years.

25 (b) If more than one brother or sister is wholly dependent,
26 thirty-five per cent of the average monthly wage at the time of injury
27 causing death, divided among such dependents share and share alike.

28 (c) If none of the brothers or sisters is wholly dependent, but one or
29 more are partly dependent, fifteen per cent divided among such dependents
30 share and share alike.

31 B. If the deceased employee leaves dependents only partially dependent
32 upon his earnings for support at the time of the injury, the monthly
33 compensation shall be equal to such proportion of the monthly payments for
34 the benefit of persons totally dependent as the amount contributed by the
35 employee to such partial dependents bears to the average wage of the deceased
36 at the time of the injury resulting in his death. The duration of
37 compensation to partial dependents shall be fixed by the commission in
38 accordance with the facts shown, and in accordance with the provisions of
39 section 23-1047, but shall in no case exceed compensation for one hundred
40 months.

41 C. In the event of death of a dependent before expiration of the time
42 named in the award, the funeral expenses of such person, not to exceed eight
43 hundred dollars, shall be paid.

1 Sec. 8. Section 36-831, Arizona Revised Statutes, is amended to read:
2 36-831. Burial duties; notification requirements; failure to
3 perform duty; definitions

4 A. Except as provided pursuant to subsection I or J of this section,
5 the duty of burying the body of or providing other funeral and disposition
6 arrangements for a dead person devolves in the following order:

7 1. If the dead person was married, on the surviving spouse unless:
8 (a) The dead person was legally separated from the person's spouse.
9 (b) A petition for divorce or for legal separation from the dead
10 person's spouse was filed before the person's death and remains pending at
11 the time of death.

12 2. The person who is designated as having power of attorney for the
13 decedent in the decedent's most recent durable power of attorney.

14 3. A DESIGNATED BENEFICIARY WHO WAS DESIGNATED IN A DESIGNATED
15 BENEFICIARY AGREEMENT PURSUANT TO TITLE 14, CHAPTER 13 AS HAVING THE RIGHT TO
16 DIRECT THE DISPOSITION OF THE DECEDENT'S REMAINS.

17 ~~3.~~ 4. If the dead person was a minor, on the parents.

18 ~~4.~~ 5. On the adult children of the dead person.

19 ~~5.~~ 6. On the dead person's parent.

20 ~~6.~~ 7. On the dead person's adult sibling.

21 ~~7.~~ 8. On the dead person's adult grandchild.

22 ~~8.~~ 9. On the dead person's grandparent.

23 ~~9.~~ 10. On an adult who exhibited special care and concern for the dead
24 person.

25 ~~10.~~ 11. On the person who was acting as the guardian of the person of
26 the dead person at the time of death.

27 ~~11.~~ 12. On any other person who has the authority to dispose of the
28 dead person's body.

29 ~~12.~~ 13. If none of the persons named in paragraphs 1 through ~~11~~ 12 of
30 this subsection is financially capable of providing for the burial or other
31 funeral and disposition arrangements, or cannot be located on reasonable
32 inquiry, on any person or fraternal, charitable or religious organization
33 willing to assume responsibility.

34 B. During a person's life, the person's family members that are listed
35 in subsection A of this section may sign a waiver of decision making that
36 waives their rights under this section relating to the disposition of the
37 person's body when the person dies.

38 C. If none of the persons named in subsection A of this section is
39 willing or financially able to bury or provide other funeral and disposition
40 arrangements for a dead person, or if the person cannot be located after
41 reasonable efforts have been made to do so, the county in which death occurs
42 shall bury or place in a permanent care crypt the dead body or cremated
43 remains of a dead body. If the decedent is known to be an honorably
44 discharged veteran or the surviving spouse of an honorably discharged
45 veteran, the county shall notify the veterans' administration or a local

1 veteran's organization, or both, of the death and give that organization the
2 opportunity to provide for the person's burial or for other funeral and
3 disposition arrangements. If the organization is unable to provide for the
4 burial of the veteran or the surviving spouse, the county shall ensure that
5 the decedent is properly interred and that burial is made in a veterans'
6 cemetery or a portion of a cemetery that is designated for the burial of
7 veterans and spouses of veterans.

8 D. If there is more than one member of a category listed in subsection
9 A, paragraph ~~3~~, 4, 5, 6, 7, 8, ~~or~~ 9 OR 10 of this section entitled to serve
10 as the authorizing agent, final arrangements may be made by any member of
11 that category unless that member knows of any objection by another member of
12 the category. If an objection is known, final arrangements shall be made by
13 a majority of the members of the category who are reasonably available.

14 E. If the county medical examiner or person performing the duties of
15 the county medical examiner knows that the dead person is a member of a
16 federally recognized Native American tribe located in this state, the county
17 medical examiner or person performing the duties of the county medical
18 examiner must notify the tribe and give the tribe the opportunity to provide
19 for the person's burial or other funeral and disposition arrangements. If an
20 autopsy is required by section 11-597, the county medical examiner or person
21 performing the duties of the county medical examiner, if possible, shall
22 complete the autopsy and return the remains to the federally recognized
23 Native American tribe located in this state within four calendar days after
24 the determined date of death.

25 F. A person on whom the duty prescribed in subsection A of this
26 section is imposed who omits or is unwilling to perform that duty within a
27 reasonable time or is prohibited from performing that duty under subsection I
28 of this section is liable to the person performing the duty in an amount of
29 two times the expenses the person incurred in providing for the burial or
30 other funeral and disposition arrangements. The person who performs this
31 duty may recover this amount in a civil action.

32 G. Notwithstanding the probate requirements of title 14, if a county
33 is required to bury a person pursuant to subsection C of this section, the
34 county may recover the burial costs from the decedent's estate. A financial
35 institution in possession of monies in an account in the decedent's name must
36 reimburse the county for the burial costs on presentation by the county of an
37 affidavit that certifies:

- 38 1. The date of the decedent's death.
- 39 2. That, pursuant to this section, the county performed the decedent's
40 burial.
- 41 3. The total burial costs incurred by the county.

42 H. A person, a corporation or an agency of government that provides
43 for the burial or other funeral and disposition arrangements on the
44 instructions of a person described in subsection A of this section is immune
45 from civil liability:

1 1. For failing to honor the wishes of the decedent or the wishes of a
2 person who has a higher priority in subsection A or C of this section if the
3 person, corporation or agency of government was not aware, after reasonable
4 inquiry, of the contrary wishes.

5 2. For refusing to follow conflicting directions of persons who have
6 the same priority in subsection A of this section.

7 3. For following directions of a personal representative that are
8 consistent with the written testamentary instructions of the decedent.

9 I. The duty to bury or to provide other funeral and disposition
10 arrangements devolves to the next person in the order prescribed pursuant to
11 subsection A of this section if the person who is otherwise responsible for
12 performing this duty is charged with the criminal death of the person to whom
13 the duty is owed. The person who performs this duty may recover costs as
14 prescribed in subsection F of this section. If the charges against the
15 person on whom this duty originally fell are subsequently dismissed or are
16 resolved in that person's favor on the merits, the person is responsible for
17 only the actual costs.

18 J. If the decedent died while serving in any branch of the United
19 States armed forces, the United States reserve forces or the national guard,
20 and completed a United States department of defense record of emergency data,
21 DD form 93, or its successor form, the duty to bury the decedent or to
22 provide other funeral and disposition arrangements for the decedent devolves
23 on the person authorized by the decedent pursuant to that form.

24 K. For the purposes of this section, "person" includes a natural
25 person, a corporation, a company, a partnership, a firm, an association, a
26 society, the United States, this state, any territory, state or country, an
27 Arizona federally recognized Native American tribe, any political subdivision
28 of this state or a public or private corporation or partnership or
29 association.

30 L. For the purposes of this article, "burial" includes cremation.

31 Sec. 9. Section 36-848, Arizona Revised Statutes, is amended to read:

32 36-848. Who may make anatomical gift of decedent's body or part

33 A. Subject to the requirements of subsections B and C of this section,
34 and unless barred pursuant to section 36-846 or 36-847, an anatomical gift
35 for transplantation, therapy, research or education may be made by any member
36 of the following classes of persons who is reasonably available, in the order
37 of priority listed:

38 1. An agent of the decedent at the time of death who could have made
39 an anatomical gift pursuant to section 36-843 immediately before the
40 decedent's death.

41 2. The decedent's spouse.

42 3. A PERSON WHO IS DESIGNATED BY THE DECEDENT AS A DESIGNATED
43 BENEFICIARY PURSUANT TO TITLE 14, CHAPTER 13 WITH THE RIGHT TO MAKE, REVOKE
44 OR OBJECT TO ANATOMICAL GIFTS OF THE DECEDENT.

45 ~~3-~~ 4. The decedent's adult children.

1 ~~4.~~ 5. The decedent's parents.
2 ~~5.~~ 6. If the decedent is unmarried, the decedent's domestic partner,
3 if another person had not assumed financial responsibility for the decedent.
4 ~~6.~~ 7. The decedent's adult siblings.
5 ~~7.~~ 8. The decedent's adult grandchildren.
6 ~~8.~~ 9. The decedent's grandparents.
7 ~~9.~~ 10. An adult who exhibited special care and concern for the
8 decedent.
9 ~~10.~~ 11. The persons who were acting as the guardians of the person of
10 the decedent at the time of death.
11 ~~11.~~ 12. Any other person who has the authority to dispose of the
12 decedent's body.
13 B. If there is more than one member of a class that is listed in
14 subsection A, paragraph 1, ~~3,~~ 4, 5, 6, 7, 8, 9 or ~~10~~ 11 of this section who
15 is entitled to make an anatomical gift, an anatomical gift may be made by a
16 member of the class unless that member or a person to which the gift may pass
17 pursuant to section 36-850 knows of an objection by another member of the
18 class. If an objection is known, the gift may be made only by a majority of
19 the members of the class who are reasonably available.
20 C. A person may not make an anatomical gift if, at the time of the
21 decedent's death, a person in a prior class pursuant to subsection A of this
22 section is reasonably available to make or to object to the making of an
23 anatomical gift.
24 D. If the decedent's body is not within the custody of the county
25 medical examiner, the county health officer may release and permit the
26 removal of any part from the body in the county health officer's custody for
27 transplantation, therapy, education or research if the requirements of
28 section 36-860, subsection A, ~~are~~ are met.
29 Sec. 10. Section 36-3201, Arizona Revised Statutes, is amended to
30 read:
31 36-3201. Definitions
32 In this chapter, unless the context otherwise requires:
33 1. "Agent" means an adult who has the authority to make health care
34 treatment decisions for another person, referred to as the principal,
35 pursuant to a health care power of attorney.
36 2. "Artificially administered" means providing food or fluid through a
37 medically invasive procedure.
38 3. "Attending physician" means a physician who has the primary
39 responsibility for a principal's health care.
40 4. "Comfort care" means treatment given in an attempt to protect and
41 enhance the quality of life without artificially prolonging that life.
42 5. "Health care directive" means a document drafted in substantial
43 compliance with this chapter, including a mental health care power of
44 attorney, to deal with a person's future health care decisions.

1 6. "Health care power of attorney" means a written designation of an
2 agent to make health care decisions that meets the requirements of section
3 36-3221 and that comes into effect and is durable as provided in section
4 36-3223, subsection A.

5 7. "Health care provider" means a natural person who is licensed under
6 title 32, chapter 13, 15, 17 or 25, a hospice as defined in section 36-401
7 that is licensed under chapter 4 of this title or an organization that is
8 licensed under this title, that renders health care designed to prevent,
9 diagnose or treat illness or injury and that employs persons licensed under
10 title 32, chapter 13, 15, 17 or 25.

11 8. "Interested person" means the patient, a person listed under
12 section 36-3231, subsection A, a health care provider directly involved in
13 the patient's medical care or an employee of a health care provider.

14 9. "Living will" means a statement written either by a person who has
15 not written a health care power of attorney or by the principal as an
16 attachment to a health care power of attorney and intended to guide or
17 control the health care treatment decisions that can be made on that person's
18 behalf.

19 10. "Mental health care power of attorney" means a written designation
20 of an agency to make mental health care decisions that meets the requirements
21 of section 36-3281.

22 11. "Physician" means a doctor of medicine licensed pursuant to title
23 32, chapter 13 or doctor of osteopathy licensed pursuant to title 32, chapter
24 17.

25 12. "Principal" means a person who is the subject of a health care
26 power of attorney.

27 13. "Surrogate" means a person authorized to make health care decisions
28 for a patient ~~by~~ PURSUANT TO a power of attorney, a court order, ~~or the~~
29 ~~provisions of~~ section 36-3231 OR TITLE 14, CHAPTER 13.