

SENATE BILL No. 355

DIGEST OF INTRODUCED BILL

Citations Affected: IC 9-17; IC 9-29-4-4; IC 9-31-2-30; IC 16-36; IC 23-14; IC 25-15-9-18; IC 29-1; IC 29-2-19-17; IC 29-3-9-1; IC 30-4-2.1-11.1; IC 30-5-5-16; IC 32-17-14-3; IC 34-30-2-71.

Synopsis: Various probate and trust matters. Provides that a trust may incorporate by reference a document that exists at the time the trust is executed. Specifies that funeral expenses and expenses of a tombstone are expenses of administration. Expands the definition of "person" under the probate code to include governmental entities and other legal entities. Provides that a nonprobate transfer to a testamentary trust: (1) is valid upon the will being admitted to probate; and (2) is not subject to claims against the probate estate. Allows a governmental entity or business entity (in addition to an individual) to be a transfer on death beneficiary of an automobile or a watercraft. Allows a governmental entity or business entity (in addition to an individual) to be appointed a health care representative. Amends the order of priority of persons who may control the disposition of a decedent's body. Provides that a power of attorney may delegate the authority of a parent or guardian with respect to the health care of a minor or protected person.

Effective: July 1, 2015.

Steele

January 8, 2015, read first time and referred to Committee on Civil Law.



First Regular Session 119th General Assembly (2015)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2014 Regular Session and 2014 Second Regular Technical Session of the General Assembly.

SENATE BILL No. 355

A BILL FOR AN ACT to amend the Indiana Code concerning probate.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 9-17-2-2, AS AMENDED BY P.L.125-2012,
2 SECTION 72, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2015]: Sec. 2. (a) A person applying for a certificate of title
4 for a vehicle must submit an application on a form furnished by the
5 bureau and provide the following information:
6 (1) A full description of the vehicle, including the make, model,
7 and year of manufacture of the vehicle.
8 (2) A statement of any lien or encumbrance on the vehicle.
9 (3) The vehicle identification number or special identification
10 number of the vehicle.
11 (4) The former title number, if applicable.
12 (5) The purchase or acquisition date.
13 (6) The name, residence address and, if different from the
14 residence address, mailing address, and Social Security number
15 or federal identification number of the person.
16 (7) Other information that the bureau requires.



1 (b) This subsection applies only to ~~an individual~~ **a person** who
 2 receives an interest in a vehicle under IC 9-17-3-9. To obtain a
 3 certificate of title for the vehicle, the ~~individual~~ **person** must do the
 4 following:

5 (1) Surrender the certificate of title designating the ~~individual~~
 6 **person** as a transfer on death beneficiary.

7 (2) Submit proof of the transferor's death.

8 (3) Submit an application for a certificate of title on a form
 9 furnished by the bureau that meets the requirements of subsection

10 (a).

11 SECTION 2. IC 9-17-3-9, AS AMENDED BY P.L.36-2011,
 12 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 13 JULY 1, 2015]: Sec. 9. (a) The owner or owners of a vehicle may
 14 create an interest in the vehicle that is transferrable on the death of the
 15 owner or owners by obtaining a certificate of title conveying the
 16 interest in the vehicle to one (1) or more ~~named individuals~~ **persons** as
 17 transfer on death beneficiaries.

18 (b) Subject to subsection (e), an interest in a vehicle transferred
 19 under this section vests upon the death of the owner or owners.

20 (c) A certificate of title that is:

21 (1) worded in substance as "A.B. transfers on death to C.D." or
 22 "A.B. and C.D. transfer on death to E.F."; and

23 (2) signed by the owner or owners;

24 is a good and sufficient conveyance on the death of the owner or
 25 owners to the transferee or transferees.

26 (d) A certificate of title obtained under this section is not required
 27 to be:

28 (1) supported by consideration; or

29 (2) delivered to the named transfer on death beneficiary or
 30 beneficiaries;

31 to be effective.

32 (e) Upon the death of the owner or owners conveying an interest in
 33 a vehicle in a certificate of title obtained under this section, the interest
 34 in the vehicle is transferred to each beneficiary who is described by
 35 either of the following:

36 (1) The beneficiary:

37 (A) is named in the certificate; and

38 (B) survives the transferor.

39 (2) The beneficiary:

40 (A) survives the transferor; and

41 (B) is entitled to an interest in the vehicle under
 42 IC 32-17-14-22 following the death of a beneficiary who:



1 (i) is named in the certificate; and

2 (ii) did not survive the transferor.

3 (f) A transfer of an interest in a vehicle under this section is subject
4 to IC 6-4.1.

5 (g) A certificate of title designating a transfer on death beneficiary
6 is not testamentary.

7 (h) In general, IC 32-17-14 applies to a certificate of title
8 designating a transfer on death beneficiary. However, a particular
9 provision of IC 32-17-14 does not apply if it is inconsistent with the
10 requirements of this section or IC 9-17-2-2(b).

11 SECTION 3. IC 9-29-4-4, AS AMENDED BY P.L.216-2014,
12 SECTION 69, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
13 JULY 1, 2015]: Sec. 4. (a) For purposes of this section, and except as
14 provided in subsection (e), a title is considered delinquent when a
15 purchaser or transferee of a vehicle fails to apply for an original
16 certificate of title or a transfer of title, by assignment, for the vehicle
17 within thirty-one (31) days after the vehicle is purchased or otherwise
18 acquired.

19 (b) The fee for a delinquent title is twenty-one dollars and fifty cents
20 (\$21.50). The fee shall be distributed as follows:

21 (1) Twenty-five cents (\$0.25) to the crossroads 2000 fund.

22 (2) Fifty cents (\$0.50) to the state motor vehicle technology fund.

23 (3) Three dollars (\$3) to the highway, road and street fund.

24 (4) Five dollars (\$5) to the motor vehicle highway account.

25 (5) For an application received before July 1, 2019, as follows:

26 (A) One dollar and fifty cents (\$1.50) to the integrated public
27 safety communications fund.

28 (B) Eleven dollars and twenty-five cents (\$11.25) to the
29 commission fund.

30 (6) For an application received after June 30, 2019, twelve dollars
31 and seventy-five cents (\$12.75) to the commission fund.

32 This fee is in addition to all other fees imposed for the issuance of a
33 certificate of title.

34 (c) A dealer who titles a vehicle in the dealership's name for
35 purposes of putting the vehicle in rental, leasing, or demonstrating
36 service is not required to pay a delinquent title fee under this section.

37 (d) IC 9-17-2-1.5 applies to the purchase or acquisition of an
38 off-road vehicle that is less than five (5) model years old.

39 (e) ~~An individual~~ **A person** who acquires a vehicle by a conveyance
40 subject to IC 9-17-3-9 is not required to pay a delinquent title fee under
41 this section unless the ~~individual~~ **person** fails to apply for a certificate
42 of title within sixty (60) days after the vehicle is acquired.



1 SECTION 4. IC 9-31-2-30, AS AMENDED BY P.L.36-2011,
2 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2015]: Sec. 30. (a) The owner or owners of a watercraft may
4 create an interest in the watercraft that is transferrable on the death of
5 the owner or owners by obtaining a certificate of title conveying the
6 interest in the watercraft to one (1) or more ~~named individuals~~ **persons**
7 as transfer on death beneficiaries.

8 (b) Subject to subsection (e), an interest in a watercraft transferred
9 under this section vests upon the death of the owner or owners.

10 (c) A certificate of title that is:

11 (1) worded in substance as "A.B. transfers on death to C.D." or
12 "A.B. and C.D. transfer on death to E.F."; and

13 (2) signed by the owner or owners;

14 is a good and sufficient conveyance on the death of the owner or
15 owners to the transferee or transferees.

16 (d) A certificate of title obtained under this section is not required
17 to be:

18 (1) supported by consideration; or

19 (2) delivered to the named transfer on death beneficiary or
20 beneficiaries;

21 to be effective.

22 (e) Upon the death of the owner or owners conveying an interest in
23 a watercraft in a certificate of title obtained under this section, the
24 interest in the watercraft is transferred to each beneficiary who is
25 described by either of the following:

26 (1) The beneficiary:

27 (A) is named in the certificate; and

28 (B) survives the transferor.

29 (2) The beneficiary:

30 (A) survives the transferor; and

31 (B) is entitled to an interest in the watercraft under
32 IC 32-17-14-22 following the death of a beneficiary who:

33 (i) is named in the certificate; and

34 (ii) did not survive the transferor.

35 (f) A transfer of an interest in a watercraft under this section is
36 subject to IC 6-4.1.

37 (g) A certificate of title designating a transfer on death beneficiary
38 is not testamentary.

39 (h) In general, IC 32-17-14 applies to a certificate of title
40 designating a transfer on death beneficiary. However, a particular
41 provision of IC 32-17-14 does not apply if it is inconsistent with the
42 requirements of this section or IC 9-31-2-16.



1 SECTION 5. IC 16-36-1-2 IS AMENDED TO READ AS
 2 FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 2. As used in this
 3 chapter, "representative" means:

- 4 (1) an individual **at least eighteen (18) years of age;**
 5 (2) **a corporation;**
 6 (3) **a trust;**
 7 (4) **a limited liability company;**
 8 (5) **a partnership;**
 9 (6) **a business trust;**
 10 (7) **an estate;**
 11 (8) **an association;**
 12 (9) **a joint venture;**
 13 (10) **a government or political subdivision;**
 14 (11) **an agency;**
 15 (12) **an instrumentality; or**
 16 (13) **any other legal or commercial entity;**

17 appointed to consent to health care of another under this chapter.

18 SECTION 6. IC 16-36-1-5 IS AMENDED TO READ AS
 19 FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 5. (a) If an individual
 20 incapable of consenting under section 4 of this chapter has not
 21 appointed a health care representative under section 7 of this chapter
 22 or the health care representative appointed under section 7 of this
 23 chapter is not reasonably available or declines to act, consent to health
 24 care may be given:

- 25 (1) by a judicially appointed guardian of the person or a
 26 representative appointed under section 8 of this chapter; or
 27 (2) by a spouse, a parent, an adult child, or an adult sibling, unless
 28 disqualified under section 9 of this chapter, if:
 29 (A) there is no guardian or other representative described in
 30 subdivision (1);
 31 (B) the guardian or other representative is not reasonably
 32 available or declines to act; or
 33 (C) the existence of the guardian or other representative is
 34 unknown to the health care provider; or
 35 (3) by the individual's religious superior, if the individual is a
 36 member of a religious order and:
 37 (A) there is no guardian or other representative described in
 38 subdivision (1);
 39 (B) the guardian or other representative is not reasonably
 40 available or declines to act; or
 41 (C) the existence of the guardian or other representative is
 42 unknown to the health care provider.



1 (b) Consent to health care for a minor not authorized to consent
2 under section 3 of this chapter may be given by any of the following:

3 (1) A judicially appointed guardian of the person or a
4 representative appointed under section 8 of this chapter.

5 (2) A parent or an individual in loco parentis if:

6 (A) there is no guardian or other representative described in
7 subdivision (1);

8 (B) the guardian or other representative is not reasonably
9 available or declines to act; or

10 (C) the existence of the guardian or other representative is
11 unknown to the health care provider.

12 (3) An adult sibling of the minor if:

13 (A) there is no guardian or other representative described in
14 subdivision (1);

15 (B) a parent or an individual in loco parentis is not reasonably
16 available or declines to act; or

17 (C) the existence of the parent or individual in loco parentis is
18 unknown to the health care provider.

19 (c) ~~An individual~~ **A representative** delegated authority to consent
20 under section 6 of this chapter has the same authority and responsibility
21 as the individual delegating the authority.

22 (d) An individual authorized to consent for another under this
23 section shall act in good faith and in the best interest of the individual
24 incapable of consenting.

25 SECTION 7. IC 16-36-1-6 IS AMENDED TO READ AS
26 FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 6. (a) ~~An individual~~ **A**
27 **representative** authorized to consent to health care for another under
28 section 5(a)(2), 5(b)(2), or 5(b)(3) of this chapter who for a time will
29 not be reasonably available to exercise the authority may delegate the
30 authority to consent during that time to another ~~individual~~
31 **representative** not disqualified under section 9 of this chapter. The
32 delegation:

33 (1) must be in writing;

34 (2) must be signed by the delegate;

35 (3) must be witnessed by an adult; and

36 (4) may specify conditions on the authority delegated.

37 (b) Unless the writing expressly provides otherwise, the delegate
38 may not delegate the authority to another ~~individual~~ **representative**.

39 (c) The delegate may revoke the delegation at any time by notifying
40 orally or in writing the delegate or the health care provider.

41 SECTION 8. IC 16-36-1-7 IS AMENDED TO READ AS
42 FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 7. (a) An individual



1 who may consent to health care under section 3 of this chapter may
 2 appoint another individual as a representative to act for the appointor
 3 in matters affecting the appointor's health care.

4 ~~(b)~~ **(b)** A representative appointed under this section must be an
 5 individual who may consent to health care under section 3 of this
 6 chapter.

7 ~~(c)~~ **(b)** An appointment and any amendment must meet the
 8 following conditions:

9 (1) Be in writing.

10 (2) Be signed by the appointor or by a designee in the appointor's
 11 presence.

12 (3) Be witnessed by an adult other than the representative.

13 ~~(d)~~ **(c)** The appointor may specify in the appointment appropriate
 14 terms and conditions, including an authorization to the representative
 15 to delegate the authority to consent to another.

16 ~~(e)~~ **(d)** The authority granted becomes effective according to the
 17 terms of the appointment.

18 ~~(f)~~ **(e)** The appointment does not commence until the appointor
 19 becomes incapable of consenting. The authority granted in the
 20 appointment is not effective if the appointor regains the capacity to
 21 consent.

22 ~~(g)~~ **(f)** Unless the appointment provides otherwise, a representative
 23 appointed under this section who is reasonably available and willing to
 24 act has priority to act in all matters of health care for the appointor,
 25 except when the appointor is capable of consenting.

26 ~~(h)~~ **(g)** In making all decisions regarding the appointor's health care,
 27 a representative appointed under this section shall act as follows:

28 (1) In the best interest of the appointor consistent with the
 29 purpose expressed in the appointment.

30 (2) In good faith.

31 ~~(i)~~ **(h)** A health care representative who resigns or is unwilling to
 32 comply with the written appointment may not exercise further power
 33 under the appointment and shall so inform the following:

34 (1) The appointor.

35 (2) The appointor's legal representative if one is known.

36 (3) The health care provider if the representative knows there is
 37 one.

38 ~~(j)~~ **(i)** An individual who is capable of consenting to health care may
 39 revoke:

40 (1) the appointment at any time by notifying the representative
 41 orally or in writing; or

42 (2) the authority granted to the representative by notifying the



1 health care provider orally or in writing.

2 SECTION 9. IC 16-36-1-8 IS AMENDED TO READ AS
3 FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 8. (a) A health care
4 provider or any interested ~~individual~~ **person (as defined in**
5 **IC 30-5-2-6)** may petition the probate court in the county where the
6 individual who is the subject of the petition is present for purposes of
7 receiving health care to:

8 (1) make a health care decision or order health care for an
9 individual incapable of consenting; or

10 (2) appoint a representative to act for the individual.

11 (b) Reasonable notice of the time and place of hearing a petition
12 under this section must be given to the following:

13 (1) The individual incapable of consenting.

14 (2) Anyone having the care and custody of the individual.

15 (3) Those ~~individuals~~ **persons** in the classes described in section
16 5 of this chapter who are reasonably available and who are
17 designated by the court.

18 (c) The probate court may modify or dispense with notice and
19 hearing if the probate court finds that delay will have a serious, adverse
20 effect upon the health of the individual.

21 (d) The probate court may order health care, appoint a
22 representative to make a health care decision for the individual
23 incapable of consenting to health care with the limitations on the
24 authority of the representative as the probate court considers
25 appropriate, or order any other appropriate relief in the best interest of
26 the individual if the probate court finds the following:

27 (1) A health care decision is required for the individual.

28 (2) The individual is incapable of consenting to health care.

29 (3) There is no ~~individual~~ **person** authorized to consent or ~~an~~
30 ~~individual~~ **a person** authorized to consent to health care:

31 (A) is not reasonably available;

32 (B) declines to act; or

33 (C) is not acting in the best interest of the individual in need
34 of health care.

35 SECTION 10. IC 16-36-1-10 IS AMENDED TO READ AS
36 FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 10. (a) A health care
37 provider acting or declining to act in reliance on the consent or refusal
38 of consent of an ~~individual~~ **a representative** who the provider believes
39 in good faith is authorized to consent to health care is not subject to:

40 (1) criminal prosecution;

41 (2) civil liability; or

42 (3) professional disciplinary action;



1 on the ground that the ~~individual~~ **representative** who consented or
 2 refused to consent lacked authority or capacity.

3 (b) A health care provider who believes in good faith that ~~an~~
 4 ~~individual~~ **a representative** is incapable of consenting is not subject to:

- 5 (1) criminal prosecution;
- 6 (2) civil liability; or
- 7 (3) professional disciplinary action;

8 for failing to follow the ~~individual's~~ **representative's** direction.

9 (c) A person who in good faith believes the ~~person~~ **representative**
 10 is authorized to consent or refuse to consent to health care for another
 11 under this chapter or another statute is not subject to:

- 12 (1) criminal prosecution; or
- 13 (2) civil liability if the person exercises due care;

14 on the ground that the ~~person~~ **representative** lacked authority to
 15 consent.

16 SECTION 11. IC 16-36-1-11 IS AMENDED TO READ AS
 17 FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 11. (a) ~~An individual~~
 18 ~~authorized to consent to health care for another individual~~ **A**
 19 **representative** under this chapter has the same right that the
 20 authorizing individual has to receive information relevant to the
 21 contemplated health care and to consent to the disclosure of medical
 22 records to a health care provider.

23 (b) Disclosure of information regarding contemplated health care to
 24 ~~an individual authorized to consent for another~~ **a representative** is not
 25 a waiver of an evidentiary privilege or of the right to assert
 26 confidentiality.

27 SECTION 12. IC 16-36-1-12 IS AMENDED TO READ AS
 28 FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 12. (a) This chapter
 29 does not affect Indiana law concerning an individual's authorization to
 30 do the following:

- 31 (1) Make a health care decision for the individual or another
 32 individual.
- 33 (2) Provide, withdraw, or withhold medical care necessary to
 34 prolong or sustain life.

35 (b) This chapter does not affect the requirements in any other
 36 Indiana law concerning consent to observation, diagnosis, treatment,
 37 or hospitalization for a mental illness.

38 (c) This chapter does not authorize ~~an individual~~ **a representative**
 39 to consent to any health care that is prohibited under Indiana law.

40 (d) This chapter does not affect any requirement of notice to others
 41 of proposed health care under any other Indiana law.

42 (e) This chapter does not affect Indiana law concerning the



- 1 following:
- 2 (1) The standard of care of a health care provider required in the
- 3 provision of health care.
- 4 (2) When consent is required for health care.
- 5 (3) Elements of informed consent for health care.
- 6 (4) Other methods of consent authorized by Indiana law.
- 7 (5) Health care being provided in an emergency without consent.
- 8 (f) This chapter does not prevent an individual capable of
- 9 consenting to the individual's own health care or to the health care of
- 10 another under this chapter, including those authorized under sections
- 11 5 through 7 of this chapter, from consenting to health care administered
- 12 in good faith under religious tenets of the individual requiring health
- 13 care.
- 14 (g) A representative consenting to health care for an individual
- 15 under this chapter does not become personally liable for the cost of the
- 16 health care by virtue of that consent.
- 17 SECTION 13. IC 16-36-6-9, AS ADDED BY P.L.164-2013,
- 18 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 19 JULY 1, 2015]: Sec. 9. (a) The state department shall develop a
- 20 standardized POST form and distribute the POST form.
- 21 (b) The POST form developed under this section must include the
- 22 following:
- 23 (1) A medical order specifying whether cardiopulmonary
- 24 resuscitation (CPR) should be performed if the qualified person
- 25 is in cardiopulmonary arrest.
- 26 (2) A medical order concerning the level of medical intervention
- 27 that should be provided to the qualified person, including the
- 28 following:
- 29 (A) Comfort measures.
- 30 (B) Limited additional interventions.
- 31 (C) Full intervention.
- 32 (3) A medical order specifying whether antibiotics should be
- 33 provided to the qualified person.
- 34 (4) A medical order specifying whether artificially administered
- 35 nutrition should be provided to the qualified person.
- 36 (5) A signature line for the treating physician, including the
- 37 following information:
- 38 (A) The physician's printed name.
- 39 (B) The physician's telephone number.
- 40 (C) The physician's medical license number.
- 41 (D) The date of the physician's signature.
- 42 As used in this subdivision, "signature" includes an electronic or



1 physician controlled stamp signature.
2 (6) A signature line for the qualified person or representative,
3 including the following information:
4 (A) The qualified person's or representative's printed name.
5 (B) The relationship of the representative signing the POST
6 form to the qualified person covered by the POST form.
7 (C) The date of the signature.
8 (7) A section presenting the option to allow a declarant to appoint
9 **an individual a representative (as defined in IC 16-36-1-2)**
10 under IC 16-36-1-7 to serve as the declarant's health care
11 representative.
12 (c) The state department shall place the POST form on its Internet
13 web site.
14 (d) The state department is not liable for any use or misuse of the
15 POST form.
16 SECTION 14. IC 16-36-6-13, AS ADDED BY P.L.164-2013,
17 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
18 JULY 1, 2015]: Sec. 13. (a) A health care provider, a health care
19 facility, or an interested **individual person** that believes that following
20 the medical orders set forth in the POST form will result in care or
21 treatment, or the withholding of care or treatment, that:
22 (1) is inconsistent with the declarant's known preferences; or
23 (2) in the absence of the declarant's known preferences, is not in
24 the declarant's best interest;
25 may seek relief under IC 16-36-1-8 by petitioning the probate court in
26 the county where the declarant is located.
27 (b) If, in a proceeding sought under subsection (a), a probate court
28 determines that following the medical orders in the declarant's POST
29 form will result in care or treatment, or the withholding or withdrawal
30 of care or treatment, that:
31 (1) is inconsistent with the declarant's known preferences; or
32 (2) in the absence of the declarant's known preferences, is not in
33 the declarant's best interest;
34 the probate court may order any of the relief available under
35 IC 16-36-1-8.
36 SECTION 15. IC 23-14-31-26, AS AMENDED BY P.L.6-2012,
37 SECTION 161, IS AMENDED TO READ AS FOLLOWS
38 [EFFECTIVE JULY 1, 2015]: Sec. 26. (a) Except as provided in
39 subsection (c), the following persons, in the priority listed, have the
40 right to serve as an authorizing agent:
41 (1) A person:
42 (A) granted the authority to serve in a funeral planning



- 1 declaration executed by the decedent under IC 29-2-19; or
2 (B) named in a United States Department of Defense form
3 "Record of Emergency Data" (DD Form 93) or a successor
4 form adopted by the United States Department of Defense, if
5 the decedent died while serving in any branch of the United
6 States Armed Forces (as defined in 10 U.S.C. 1481) and
7 completed the form.
- 8 (2) ~~An individual~~ **A person** specifically granted the authority to
9 serve in a power of attorney or a health care power of attorney
10 executed by the decedent under IC 30-5-5-16.
- 11 (3) The individual who was the spouse of the decedent at the time
12 of the decedent's death, except when:
- 13 (A) a petition to dissolve the marriage or for legal separation
14 of the decedent and spouse is pending with a court at the time
15 of the decedent's death, unless a court finds that the decedent
16 and spouse were reconciled before the decedent's death; or
17 (B) a court determines the decedent and spouse were
18 physically and emotionally separated at the time of death and
19 the separation was for an extended time that clearly
20 demonstrates an absence of due affection, trust, and regard for
21 the decedent.
- 22 (4) The decedent's surviving adult child or, if more than one (1)
23 adult child is surviving, the majority of the adult children.
24 However, less than half of the surviving adult children have the
25 rights under this subdivision if the adult children have used
26 reasonable efforts to notify the other surviving adult children of
27 their intentions and are not aware of any opposition to the final
28 disposition instructions by more than half of the surviving adult
29 children.
- 30 (5) The decedent's surviving parent or parents. If one (1) of the
31 parents is absent, the parent who is present has authority under
32 this subdivision if the parent who is present has used reasonable
33 efforts to notify the absent parent.
- 34 (6) The decedent's surviving sibling or, if more than one (1)
35 sibling is surviving, the majority of the surviving siblings.
36 However, less than half of the surviving siblings have the rights
37 under this subdivision if the siblings have used reasonable efforts
38 to notify the other surviving siblings of their intentions and are
39 not aware of any opposition to the final disposition instructions by
40 more than half of the surviving siblings.
- 41 (7) The individual in the next degree of kinship under IC 29-1-2-1
42 to inherit the estate of the decedent or, if more than one (1)



1 individual of the same degree is surviving, the majority of those
 2 who are of the same degree. However, less than half of the
 3 individuals who are of the same degree of kinship have the rights
 4 under this subdivision if they have used reasonable efforts to
 5 notify the other individuals who are of the same degree of kinship
 6 of their intentions and are not aware of any opposition to the final
 7 disposition instructions by more than half of the individuals who
 8 are of the same degree of kinship.

9 (8) If none of the persons described in subdivisions (1) through
 10 (7) are available, any other person willing to act and arrange for
 11 the final disposition of the decedent's remains, including a funeral
 12 home that:

13 (A) has a valid prepaid funeral plan executed under IC 30-2-13
 14 that makes arrangements for the disposition of the decedent's
 15 remains; and

16 (B) attests in writing that a good faith effort has been made to
 17 contact any living individuals described in subdivisions (1)
 18 through (7).

19 (9) In the case of an indigent or other individual whose final
 20 disposition is the responsibility of the state or township, the
 21 following may serve as the authorizing agent:

22 (A) If none of the persons identified in subdivisions (1)
 23 through (8) are available:

24 (i) a public administrator, including a responsible township
 25 trustee or the trustee's designee; or

26 (ii) the coroner.

27 (B) A state appointed guardian.

28 However, an indigent decedent may not be cremated if a
 29 surviving family member objects to the cremation or if cremation
 30 would be contrary to the religious practices of the deceased
 31 individual as expressed by the individual or the individual's
 32 family.

33 (10) In the absence of any person under subdivisions (1) through
 34 (9), any person willing to assume the responsibility as the
 35 authorizing agent, as specified in this article.

36 (b) When a body part of a nondeceased individual is to be cremated,
 37 a representative of the institution that has arranged with the crematory
 38 authority to cremate the body part may serve as the authorizing agent.

39 (c) If:

40 (1) the death of the decedent appears to have been the result of:

41 (A) murder (IC 35-42-1-1);

42 (B) voluntary manslaughter (IC 35-42-1-3); or



- 1 (C) another criminal act, if the death does not result from the
 2 operation of a vehicle; and
 3 (2) the coroner, in consultation with the law enforcement agency
 4 investigating the death of the decedent, determines that there is a
 5 reasonable suspicion that a person described in subsection (a)
 6 committed the offense;
 7 the person referred to in subdivision (2) may not serve as the
 8 authorizing agent.
 9 (d) The coroner, in consultation with the law enforcement agency
 10 investigating the death of the decedent, shall inform the crematory
 11 authority of the determination referred to in subsection (c)(2).
 12 (e) If a person vested with a right under subsection (a) does not
 13 exercise that right not later than seventy-two (72) hours after the person
 14 receives notification of the death of the decedent, the person forfeits the
 15 person's right to determine the final disposition of the decedent's
 16 remains, and the right to determine final disposition passes to the next
 17 person described in subsection (a).
 18 (f) A crematory authority owner has the right to rely, in good faith,
 19 on the representations of a person listed in subsection (a) that any other
 20 individuals of the same degree of kinship have been notified of the
 21 final disposition instructions.
 22 (g) If there is a dispute concerning the disposition of a decedent's
 23 remains, a crematory authority is not liable for refusing to accept the
 24 remains of the decedent until the crematory authority receives:
 25 (1) a court order; or
 26 (2) a written agreement signed by the disputing parties;
 27 that determines the final disposition of the decedent's remains. If a
 28 crematory authority agrees to shelter the remains of the decedent while
 29 the parties are in dispute, the crematory authority may collect any
 30 applicable fees for storing the remains, including legal fees that are
 31 incurred.
 32 (h) Any cause of action filed under this section must be filed in the
 33 probate court in the county where the decedent resided, unless the
 34 decedent was not a resident of Indiana.
 35 (i) A spouse seeking a judicial determination under subsection
 36 (a)(3)(A) that the decedent and spouse were reconciled before the
 37 decedent's death may petition the court having jurisdiction over the
 38 dissolution or separation proceeding to make this determination by
 39 filing the petition under the same cause number as the dissolution or
 40 separation proceeding. A spouse who files a petition under this
 41 subsection is not required to pay a filing fee.
 42 SECTION 16. IC 23-14-55-2, AS AMENDED BY P.L.6-2012,



1 SECTION 163, IS AMENDED TO READ AS FOLLOWS
 2 [EFFECTIVE JULY 1, 2015]: Sec. 2. (a) Except as provided in
 3 subsection (c), the owner of a cemetery is authorized to inter, entomb,
 4 or inurn the body or cremated remains of a deceased human upon the
 5 receipt of a written authorization of an individual who professes either
 6 of the following:

7 (1) To be (in the priority listed) one (1) of the following:

8 (A) An individual granted the authority to serve in a funeral
 9 planning declaration executed by the decedent under
 10 IC 29-2-19, or the person named in a United States
 11 Department of Defense form "Record of Emergency Data"
 12 (DD Form 93) or a successor form adopted by the United
 13 States Department of Defense, if the decedent died while
 14 serving in any branch of the United States Armed Forces (as
 15 defined in 10 U.S.C. 1481) and completed the form.

16 (B) ~~An individual~~ **A person** specifically granted the authority
 17 in a power of attorney or a health care power of attorney
 18 executed by the decedent under IC 30-5-5-16.

19 (C) The individual who was the spouse of the decedent at the
 20 time of the decedent's death, except when:

21 (i) a petition to dissolve the marriage or for legal separation
 22 of the decedent and spouse is pending with a court at the
 23 time of the decedent's death, unless a court finds that the
 24 decedent and spouse were reconciled before the decedent's
 25 death; or

26 (ii) a court determines the decedent and spouse were
 27 physically and emotionally separated at the time of death
 28 and the separation was for an extended time that clearly
 29 demonstrates an absence of due affection, trust, and regard
 30 for the decedent.

31 (D) The decedent's surviving adult child or, if more than one
 32 (1) adult child is surviving, the majority of the adult children.
 33 However, less than half of the surviving adult children have
 34 the rights under this clause if the adult children have used
 35 reasonable efforts to notify the other surviving adult children
 36 of their intentions and are not aware of any opposition to the
 37 final disposition instructions by more than half of the surviving
 38 adult children.

39 (E) The decedent's surviving parent or parents. If one (1) of the
 40 parents is absent, the parent who is present has authority under
 41 this clause if the parent who is present has used reasonable
 42 efforts to notify the absent parent.



- 1 (F) The decedent's surviving sibling or, if more than one (1)
 2 sibling is surviving, the majority of the surviving siblings.
 3 However, less than half of the surviving siblings have the
 4 rights under this clause if the siblings have used reasonable
 5 efforts to notify the other surviving siblings of their intentions
 6 and are not aware of any opposition to the final disposition
 7 instructions by more than half of the surviving siblings.
- 8 (G) The individual in the next degree of kinship under
 9 IC 29-1-2-1 to inherit the estate of the decedent or, if more
 10 than one (1) individual of the same degree of kinship is
 11 surviving, the majority of those who are of the same degree.
 12 However, less than half of the individuals who are of the same
 13 degree of kinship have the rights under this clause if they have
 14 used reasonable efforts to notify the other individuals who are
 15 of the same degree of kinship of their intentions and are not
 16 aware of any opposition to the final disposition instructions by
 17 more than half of the individuals who are of the same degree
 18 of kinship.
- 19 (H) If none of the persons described in clauses (A) through (G)
 20 are available, any other person willing to act and arrange for
 21 the final disposition of the decedent's remains, including a
 22 funeral home that:
- 23 (i) has a valid prepaid funeral plan executed under
 - 24 IC 30-2-13 that makes arrangements for the disposition of
 - 25 the decedent's remains; and
 - 26 (ii) attests in writing that a good faith effort has been made
 - 27 to contact any living individuals described in clauses (A)
 - 28 through (G).
- 29 (2) To have acquired by court order the right to control the
 30 disposition of the deceased human body or cremated remains.
- 31 The owner of a cemetery may accept the authorization of an individual
 32 only if all other individuals of the same priority or a higher priority
 33 (according to the priority listing in this subsection) are deceased, are
 34 barred from authorizing the disposition of the deceased human body or
 35 cremated remains under subsection (c), or are physically or mentally
 36 incapacitated from exercising the authorization, and the incapacity is
 37 certified to by a qualified medical doctor.
- 38 (b) An action may not be brought against the owner of a cemetery
 39 relating to the remains of a human that have been left in the possession
 40 of the cemetery owner without permanent interment, entombment, or
 41 inurnment for a period of three (3) years, unless the cemetery owner
 42 has entered into a written contract for the care of the remains.



- 1 (c) If:
 2 (1) the death of the decedent appears to have been the result of:
 3 (A) murder (IC 35-42-1-1);
 4 (B) voluntary manslaughter (IC 35-42-1-3); or
 5 (C) another criminal act, if the death does not result from the
 6 operation of a vehicle; and
 7 (2) the coroner, in consultation with the law enforcement agency
 8 investigating the death of the decedent, determines that there is a
 9 reasonable suspicion that a person described in subsection (a)
 10 committed the offense;
 11 the person referred to in subdivision (2) may not authorize the
 12 disposition of the decedent's body or cremated remains.
 13 (d) The coroner, in consultation with the law enforcement agency
 14 investigating the death of the decedent, shall inform the cemetery
 15 owner of the determination referred to in subsection (c)(2).
 16 (e) If a person vested with a right under subsection (a) does not
 17 exercise that right not less than seventy-two (72) hours after the person
 18 receives notification of the death of the decedent, the person forfeits the
 19 person's right to determine the final disposition of the decedent's
 20 remains and the right to determine final disposition passes to the next
 21 person described in subsection (a).
 22 (f) A cemetery owner has the right to rely, in good faith, on the
 23 representations of a person listed in subsection (a) that any other
 24 individuals of the same degree of kinship have been notified of the
 25 final disposition instructions.
 26 (g) If there is a dispute concerning the disposition of a decedent's
 27 remains, a cemetery owner is not liable for refusing to accept the
 28 remains of the decedent until the cemetery owner receives:
 29 (1) a court order; or
 30 (2) a written agreement signed by the disputing parties;
 31 that determines the final disposition of the decedent's remains. If a
 32 cemetery agrees to shelter the remains of the decedent while the parties
 33 are in dispute, the cemetery may collect any applicable fees for storing
 34 the remains, including legal fees that are incurred.
 35 (h) Any cause of action filed under this section must be filed in the
 36 probate court in the county where the decedent resided, unless the
 37 decedent was not a resident of Indiana.
 38 (i) A spouse seeking a judicial determination under subsection
 39 (a)(1)(C)(i) that the decedent and spouse were reconciled before the
 40 decedent's death may petition the court having jurisdiction over the
 41 dissolution or separation proceeding to make this determination by
 42 filing the petition under the same cause number as the dissolution or



1 separation proceeding. A spouse who files a petition under this
2 subsection is not required to pay a filing fee.

3 SECTION 17. IC 25-15-9-18, AS AMENDED BY P.L.6-2012,
4 SECTION 176, IS AMENDED TO READ AS FOLLOWS
5 [EFFECTIVE JULY 1, 2015]: Sec. 18. (a) Except as provided in
6 subsection (b), the following persons, in the order of priority indicated,
7 have the authority to designate the manner, type, and selection of the
8 final disposition of human remains, to make arrangements for funeral
9 services, and to make other ceremonial arrangements after an
10 individual's death:

11 (1) A person:

12 (A) granted the authority to serve in a funeral planning
13 declaration executed by the decedent under IC 29-2-19; or

14 (B) named in a United States Department of Defense form
15 "Record of Emergency Data" (DD Form 93) or a successor
16 form adopted by the United States Department of Defense, if
17 the decedent died while serving in any branch of the United
18 States Armed Forces (as defined in 10 U.S.C. 1481) and
19 completed the form.

20 (2) ~~An individual~~ **A person** specifically granted the authority in
21 a power of attorney or a health care power of attorney executed by
22 the decedent under IC 30-5-5-16.

23 (3) The individual who was the spouse of the decedent at the time
24 of the decedent's death, except when:

25 (A) a petition to dissolve the marriage or for legal separation
26 of the decedent and spouse is pending with a court at the time
27 of the decedent's death, unless a court finds that the decedent
28 and spouse were reconciled before the decedent's death; or

29 (B) a court determines the decedent and spouse were
30 physically and emotionally separated at the time of death and
31 the separation was for an extended time that clearly
32 demonstrates an absence of due affection, trust, and regard for
33 the decedent.

34 (4) The decedent's surviving adult child or, if more than one (1)
35 adult child is surviving, the majority of the adult children.
36 However, less than half of the surviving adult children have the
37 rights under this subdivision if the adult children have used
38 reasonable efforts to notify the other surviving adult children of
39 their intentions and are not aware of any opposition to the final
40 disposition instructions by more than half of the surviving adult
41 children.

42 (5) The decedent's surviving parent or parents. If one (1) of the



1 parents is absent, the parent who is present has the rights under
 2 this subdivision if the parent who is present has used reasonable
 3 efforts to notify the absent parent.

4 (6) The decedent's surviving sibling or, if more than one (1)
 5 sibling is surviving, the majority of the surviving siblings.
 6 However, less than half of the surviving siblings have the rights
 7 under this subdivision if the siblings have used reasonable efforts
 8 to notify the other surviving siblings of their intentions and are
 9 not aware of any opposition to the final disposition instructions by
 10 more than half of the surviving siblings.

11 (7) The individual in the next degree of kinship under IC 29-1-2-1
 12 to inherit the estate of the decedent or, if more than one (1)
 13 individual of the same degree survives, the majority of those who
 14 are of the same degree of kinship. However, less than half of the
 15 individuals who are of the same degree of kinship have the rights
 16 under this subdivision if they have used reasonable efforts to
 17 notify the other individuals who are of the same degree of kinship
 18 of their intentions and are not aware of any opposition to the final
 19 disposition instructions by more than half of the individuals who
 20 are of the same degree of kinship.

21 (8) If none of the persons identified in subdivisions (1) through
 22 (7) are available, any other person willing to act and arrange for
 23 the final disposition of the decedent's remains, including a funeral
 24 home that:

25 (A) has a valid prepaid funeral plan executed under IC 30-2-13
 26 that makes arrangements for the disposition of the decedent's
 27 remains; and

28 (B) attests in writing that a good faith effort has been made to
 29 contact any living individuals described in subdivisions (1)
 30 through (7).

31 (9) In the case of an indigent or other individual whose final
 32 disposition is the responsibility of the state or township, the
 33 following:

34 (A) If none of the persons identified in subdivisions (1)
 35 through (8) is available:

36 (i) a public administrator, including a responsible township
 37 trustee or the trustee's designee; or

38 (ii) the coroner.

39 (B) A state appointed guardian.

40 (b) If:

41 (1) the death of the decedent appears to have been the result of:

42 (A) murder (IC 35-42-1-1);



- 1 (B) voluntary manslaughter (IC 35-42-1-3); or
 2 (C) another criminal act, if the death does not result from the
 3 operation of a vehicle; and
 4 (2) the coroner, in consultation with the law enforcement agency
 5 investigating the death of the decedent, determines that there is a
 6 reasonable suspicion that a person described in subsection (a)
 7 committed the offense;
 8 the person referred to in subdivision (2) may not authorize or designate
 9 the manner, type, or selection of the final disposition of human
 10 remains.
 11 (c) The coroner, in consultation with the law enforcement agency
 12 investigating the death of the decedent, shall inform the cemetery
 13 owner or crematory authority of the determination under subsection
 14 (b)(2).
 15 (d) If the decedent had filed a protection order against a person
 16 described in subsection (a) and the protection order is currently in
 17 effect, the person described in subsection (a) may not authorize or
 18 designate the manner, type, or selection of the final disposition of
 19 human remains.
 20 (e) A law enforcement agency shall determine if the protection order
 21 is in effect. If the law enforcement agency cannot determine the
 22 existence of a protection order that is in effect, the law enforcement
 23 agency shall consult the protective order registry established under
 24 IC 5-2-9-5.5.
 25 (f) If a person vested with a right under subsection (a) does not
 26 exercise that right not later than seventy-two (72) hours after the person
 27 receives notification of the death of the decedent, the person forfeits the
 28 person's right to determine the final disposition of the decedent's
 29 remains and the right to determine final disposition passes to the next
 30 person described in subsection (a).
 31 (g) A funeral home has the right to rely, in good faith, on the
 32 representations of a person listed in subsection (a) that any other
 33 individuals of the same degree of kinship have been notified of the
 34 final disposition instructions.
 35 (h) If there is a dispute concerning the disposition of a decedent's
 36 remains, a funeral home is not liable for refusing to accept the remains
 37 of the decedent until the funeral home receives:
 38 (1) a court order; or
 39 (2) a written agreement signed by the disputing parties;
 40 that determines the final disposition of the decedent's remains. If a
 41 funeral home agrees to shelter the remains of the decedent while the
 42 parties are in dispute, the funeral home may collect any applicable fees



1 for storing the remains, including legal fees that are incurred.

2 (i) Any cause of action filed under this section must be filed in the
3 probate court in the county where the decedent resided, unless the
4 decedent was not a resident of Indiana.

5 (j) A spouse seeking a judicial determination under subsection
6 (a)(3)(A) that the decedent and spouse were reconciled before the
7 decedent's death may petition the court having jurisdiction over the
8 dissolution or separation proceeding to make this determination by
9 filing the petition under the same cause number as the dissolution or
10 separation proceeding. A spouse who files a petition under this
11 subsection is not required to pay a filing fee.

12 SECTION 18. IC 29-1-1-3, AS AMENDED BY P.L.99-2013,
13 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
14 JULY 1, 2015]: Sec. 3. (a) The following definitions apply throughout
15 this article, unless otherwise apparent from the context:

16 (1) "Child" includes an adopted child but does not include a
17 grandchild or other more remote descendants, nor, except as
18 provided in IC 29-1-2-5, a child born out of wedlock.

19 (2) "Claims" includes liabilities of a decedent which survive,
20 whether arising in contract or in tort or otherwise, ~~funeral~~
21 ~~expenses; the expense of a tombstone;~~ expenses of administration,
22 and all taxes imposed by reason of the person's death. However,
23 for purposes of IC 29-1-2-1 and IC 29-1-3-1, the term does not
24 include taxes imposed by reason of the person's death.

25 (3) "Court" means the court having probate jurisdiction.

26 (4) "Decedent" means one who dies testate or intestate.

27 (5) "Devise" or "legacy", when used as a noun, means a
28 testamentary disposition of either real or personal property or
29 both.

30 (6) "Devise", when used as a verb, means to dispose of either real
31 or personal property or both by will.

32 (7) "Devisee" includes legatee, and "legatee" includes devisee.

33 (8) "Distributee" denotes those persons who are entitled to the
34 real and personal property of a decedent under a will, under the
35 statutes of intestate succession, or under IC 29-1-4-1.

36 (9) "Estate" denotes the real and personal property of the decedent
37 or protected person, as from time to time changed in form by sale,
38 reinvestment, or otherwise, and augmented by any accretions and
39 additions thereto and substitutions therefor and diminished by any
40 decreases and distributions therefrom.

41 **(10) "Expenses of administration" includes expenses incurred**
42 **by or on behalf of a decedent's estate in the collection of**



1 **assets, the payment of debts, and the distribution of property**
 2 **to the persons entitled to the property, including funeral**
 3 **expenses, expenses of a tombstone, expenses incurred in the**
 4 **disposition of the decedent's body, executor's commissions,**
 5 **attorney's fees, and miscellaneous expenses.**

6 ~~(10)~~ **(11)** "Fiduciary" includes a:

7 (A) personal representative;

8 (B) guardian;

9 (C) conservator;

10 (D) trustee; and

11 (E) person designated in a protective order to act on behalf of
 12 a protected person.

13 ~~(11)~~ **(12)** "Heirs" denotes those persons, including the surviving
 14 spouse, who are entitled under the statutes of intestate succession
 15 to the real and personal property of a decedent on the decedent's
 16 death intestate, unless otherwise defined or limited by the will.

17 ~~(12)~~ **(13)** "Incapacitated" has the meaning set forth in
 18 IC 29-3-1-7.5.

19 ~~(13)~~ **(14)** "Interested persons" means heirs, devisees, spouses,
 20 creditors, or any others having a property right in or claim against
 21 the estate of a decedent being administered. This meaning may
 22 vary at different stages and different parts of a proceeding and
 23 must be determined according to the particular purpose and
 24 matter involved.

25 ~~(14)~~ **(15)** "Issue" of a person, when used to refer to persons who
 26 take by intestate succession, includes all lawful lineal descendants
 27 except those who are lineal descendants of living lineal
 28 descendants of the intestate.

29 ~~(15)~~ **(16)** "Lease" includes an oil and gas lease or other mineral
 30 lease.

31 ~~(16)~~ **(17)** "Letters" includes letters testamentary, letters of
 32 administration, and letters of guardianship.

33 ~~(17)~~ **(18)** "Minor" or "minor child" or "minority" refers to any
 34 person under the age of eighteen (18) years.

35 ~~(18)~~ **(19)** "Mortgage" includes deed of trust, vendor's lien, and
 36 chattel mortgage.

37 ~~(19)~~ **(20)** "Net estate" refers to the real and personal property of
 38 a decedent less the allowances provided under IC 29-1-4-1 and
 39 enforceable claims against the estate.

40 ~~(20)~~ **(21)** "Person" ~~includes natural persons and corporations.~~
 41 **means:**

42 (A) **an individual;**



- 1 **(B) a corporation;**
 2 **(C) a trust;**
 3 **(D) a limited liability company;**
 4 **(E) a partnership;**
 5 **(F) a business trust;**
 6 **(G) an estate;**
 7 **(H) an association;**
 8 **(I) a joint venture;**
 9 **(J) a government or political subdivision;**
 10 **(K) an agency;**
 11 **(L) an instrumentality; or**
 12 **(M) any other legal or commercial entity.**
 13 ~~(21)~~ **(22)** "Personal property" includes interests in goods, money,
 14 choses in action, evidences of debt, and chattels real.
 15 ~~(22)~~ **(23)** "Personal representative" includes executor,
 16 administrator, administrator with the will annexed, administrator
 17 de bonis non, and special administrator.
 18 ~~(23)~~ **(24)** "Probate estate" denotes the property transferred at the
 19 death of a decedent under the decedent's will or under IC 29-1-2,
 20 in the case of a decedent dying intestate.
 21 ~~(24)~~ **(25)** "Property" includes both real and personal property.
 22 ~~(25)~~ **(26)** "Protected person" has the meaning set forth in
 23 IC 29-3-1-13.
 24 ~~(26)~~ **(27)** "Real property" includes estates and interests in land,
 25 corporeal or incorporeal, legal or equitable, other than chattels
 26 real.
 27 ~~(27)~~ **(28)** "Will" includes all wills, testaments, and codicils. The
 28 term also includes a testamentary instrument which merely
 29 appoints an executor or revokes or revives another will.
 30 (b) The following rules of construction apply throughout this article
 31 unless otherwise apparent from the context:
 32 (1) The singular number includes the plural and the plural number
 33 includes the singular.
 34 (2) The masculine gender includes the feminine and neuter.
 35 SECTION 19. IC 29-1-8-10 IS ADDED TO THE INDIANA CODE
 36 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 37 1, 2015]: **Sec. 10. (a) This section applies only to a nonprobate**
 38 **transfer (as defined in IC 32-17-13-1) by a transferee that is a**
 39 **testamentary trust established in a will that is admitted to probate**
 40 **under this article.**
 41 **(b) All of the following apply to a nonprobate transfer described**
 42 **in subsection (a):**



- 1 **(1) The nonprobate transfer is considered effective upon the**
- 2 **decedent's death, if the decedent's will is admitted to probate,**
- 3 **regardless of when the will is admitted to probate.**
- 4 **(2) The nonprobate transfer:**
- 5 **(A) does not constitute part of the estate (as defined in**
- 6 **IC 29-1-1-3); and**
- 7 **(B) is not subject to claims other than as provided in**
- 8 **IC 32-17-13.**
- 9 **(3) The nonprobate transfer is not considered the decedent's**
- 10 **transfer to the testamentary trust by the decedent's will for all**
- 11 **other purposes of the Indiana Code.**

12 SECTION 20. IC 29-1-14-9, AS AMENDED BY P.L.99-2013,
 13 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 14 JULY 1, 2015]: Sec. 9. (a) All claims shall be classified in one (1) of
 15 the following classes. If the applicable assets of the estate are
 16 insufficient to pay all claims in full, the personal representative shall
 17 make payment in the following order:

- 18 (1) Costs and expenses of administration, **except funeral**
- 19 **expenses, expenses of a tombstone, and expenses incurred in**
- 20 **the disposition of the decedent's body.**
- 21 (2) Reasonable funeral expenses, **expenses of a tombstone, and**
- 22 **expenses incurred in the disposition of the decedent's body.**
- 23 However, in any estate in which the decedent was a recipient of
- 24 public assistance under IC 12-1-1 through IC 12-1-12 (before its
- 25 repeal) or any of the following, the amount of funeral expenses
- 26 having priority over any claim for the recovery of public
- 27 assistance shall not exceed the limitations provided for under
- 28 IC 12-14-6, IC 12-14-17, and IC 12-14-21:
- 29 TANF assistance.
- 30 TANF burials.
- 31 TANF IMPACT/J.O.B.S.
- 32 Temporary Assistance to Other Needy Families (TAONF)
- 33 assistance.
- 34 ARCH.
- 35 Blind relief.
- 36 Child care.
- 37 Child welfare adoption assistance.
- 38 Child welfare adoption opportunities.
- 39 Child welfare assistance.
- 40 Child welfare child care improvement.
- 41 Child welfare child abuse.
- 42 Child welfare child abuse and neglect prevention.



- 1 Child welfare children's victim advocacy program.
 2 Child welfare foster care assistance.
 3 Child welfare independent living.
 4 Child welfare medical assistance to wards.
 5 Child welfare program review action group (PRAG).
 6 Child welfare special needs adoption.
 7 Food Stamp administration.
 8 Health care for indigent (HCI).
 9 ICES.
 10 IMPACT (food stamps).
 11 Title IV-D (ISETS or a successor statewide automated support
 12 enforcement system).
 13 Title IV-D child support administration.
 14 Title IV-D child support enforcement (parent locator).
 15 Medicaid assistance.
 16 Medical services for inmates and patients (590).
 17 Room and board assistance (RBA).
 18 Refugee social service.
 19 Refugee resettlement.
 20 Repatriated citizens.
 21 SSI burials and disabled examinations.
 22 Title XIX certification.
- 23 (3) Allowances made under IC 29-1-4-1.
 24 (4) All debts and taxes having preference under the laws of the
 25 United States.
 26 (5) Reasonable and necessary medical expenses of the last
 27 sickness of the decedent, including compensation of persons
 28 attending the decedent.
 29 (6) All debts and taxes having preference under the laws of this
 30 state; but no personal representative shall be required to pay any
 31 taxes on any property of the decedent unless such taxes are due
 32 and payable before possession thereof is delivered by the personal
 33 representative pursuant to the provisions of IC 29-1.
 34 (7) All other claims allowed.
- 35 (b) No preference shall be given in the payment of any claim over
 36 any other claim of the same class, nor shall a claim due and payable be
 37 entitled to a preference over claims not due.
- 38 SECTION 21. IC 29-2-19-17, AS AMENDED BY P.L.6-2012,
 39 SECTION 201, IS AMENDED TO READ AS FOLLOWS
 40 [EFFECTIVE JULY 1, 2015]: Sec. 17. **(a)** The right to control the
 41 disposition of a decedent's body, to make arrangements for funeral
 42 services, and to make other ceremonial arrangements after an



1 individual's death devolves on the following, in the priority listed:

2 (1) A person:

3 (A) granted the authority to serve in a funeral planning
4 declaration executed by the decedent under this chapter; or

5 (B) named in a United States Department of Defense form
6 "Record of Emergency Data" (DD Form 93) or a successor
7 form adopted by the United States Department of Defense, if
8 the decedent died while serving in any branch of the United
9 States Armed Forces (as defined in 10 U.S.C. 1481) and
10 completed the form.

11 (2) ~~An individual~~ **A person** specifically granted the authority in
12 a power of attorney or a health care power of attorney executed by
13 the decedent under IC 30-5-5-16.

14 (3) The decedent's surviving spouse.

15 **(4) The personal representative of the decedent's estate.**

16 ~~(4)~~ **(5)** A surviving adult child of the decedent or, if more than
17 one (1) adult child is surviving, the majority of the other adult
18 children. However, less than half of the surviving adult children
19 have the rights under this subdivision if the adult children have
20 used reasonable efforts to notify the other surviving adult children
21 of their intentions and are not aware of any opposition to the final
22 disposition instructions by more than half of the surviving adult
23 children.

24 ~~(5)~~ **(6)** The surviving parent or parents of the decedent. If one (1)
25 of the parents is absent, the parent who is present has the rights
26 under this subdivision if the parent who is present has used
27 reasonable efforts to notify the absent parent.

28 ~~(6)~~ **(7)** The decedent's surviving sibling or, if more than one (1)
29 sibling is surviving, the majority of the surviving siblings.
30 However, less than half of the surviving siblings have the rights
31 under this subdivision if the siblings have used reasonable efforts
32 to notify the other surviving siblings of their intentions and are
33 not aware of any opposition to the final disposition instructions by
34 more than half of the surviving siblings.

35 ~~(7)~~ **(8)** An individual in the next degree of kinship under
36 IC 29-1-2-1 to inherit the estate of the decedent or, if more than
37 one (1) individual of the same degree survives, the majority of
38 those who are of the same degree of kinship. However, less than
39 half of the individuals who are of the same degree of kinship have
40 the rights under this subdivision if they have used reasonable
41 efforts to notify the other individuals who are of the same degree
42 of kinship of their intentions and are not aware of any opposition



1 to the final disposition instructions by more than half of the
2 individuals who are of the same degree of kinship.

3 **(9) If none of the persons described in subdivisions (1)**
4 **through (8) are available or willing to act and arrange for the**
5 **final disposition of the decedent's remains, then the decedent's**
6 **surviving adult stepchild or, if more than one (1) adult**
7 **stepchild survives the decedent, then the majority of the**
8 **surviving adult stepchildren. However, less than half of the**
9 **surviving adult stepchildren have the rights under this**
10 **subdivision, if the surviving adult stepchild or surviving adult**
11 **stepchildren have used reasonable efforts to notify the other**
12 **surviving adult stepchildren of their intentions and are not**
13 **aware of any opposition to the final disposition instructions by**
14 **more than half of the surviving adult stepchildren.**

15 ~~(8)~~ **(10)** If none of the persons described in subdivisions (1)
16 through ~~(7)~~ **(9)** are available, any other person willing to act and
17 arrange for the final disposition of the decedent's remains,
18 including a funeral home that:

19 (A) has a valid prepaid funeral plan executed under IC 30-2-13
20 that makes arrangements for the disposition of the decedent's
21 remains; and

22 (B) attests in writing that a good faith effort has been made to
23 contact any living individuals described in subdivisions (1)
24 through ~~(7)~~ **(9)**.

25 **(b) As used in this section, "stepchild" means a child of the**
26 **decedent's surviving, deceased, or former spouse who is not a child**
27 **of the transferor.**

28 SECTION 22. IC 29-3-9-1, AS AMENDED BY P.L.83-2014,
29 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
30 JULY 1, 2015]: Sec. 1. (a) Except as provided in subsection (b), by a
31 properly executed power of attorney, a parent of a minor or a guardian
32 (other than a temporary guardian) of a protected person may delegate
33 to another person for:

34 (1) any period during which the care and custody of the minor or
35 protected person is entrusted to an institution furnishing care,
36 custody, education, or training; or

37 (2) a period not exceeding twelve (12) months;

38 any powers regarding support, custody, or property of the minor or
39 protected person. A delegation described in this subsection is effective
40 immediately unless otherwise stated in the power of attorney.

41 (b) A parent of a minor or a guardian of a protected person may not
42 delegate under subsection (a) the power to:



1 (1) consent to the marriage or adoption of a protected person who
2 is a minor; or

3 (2) petition the court to request the authority to petition for
4 dissolution of marriage, legal separation, or annulment of
5 marriage on behalf of a protected person as provided under
6 IC 29-3-9-12.2.

7 (c) A person having a power of attorney executed under subsection
8 (a) has and shall exercise, for the period during which the power is
9 effective, all other authority of the parent or guardian respecting the
10 **health care**, support, custody, or property of the minor or protected
11 person except any authority expressly excluded in the written
12 instrument delegating the power. ~~However,~~ The parent or guardian
13 remains responsible for any act or omission of the person having the
14 power of attorney with respect to the affairs, property, and person of the
15 minor or protected person as though the power of attorney had never
16 been executed.

17 (d) Except as otherwise stated in the power of attorney delegating
18 powers under this section, a delegation of powers under this section
19 may be revoked by a written instrument of revocation that:

20 (1) identifies the power of attorney revoked; and

21 (2) is signed by the:

22 (A) parent of a minor; or

23 (B) guardian of a protected person;

24 who executed the power of attorney.

25 SECTION 23. IC 30-4-2.1-11.1 IS ADDED TO THE INDIANA
26 CODE AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY 1, 2015]: **Sec. 11.1. Except as provided in**
27 **section 11 of this chapter, if a trust refers to a writing of any kind,**
28 **the referenced writing, whether subsequently amended or revoked,**
29 **as it existed at the time of the execution of the trust, shall be given**
30 **the same effect as if set forth at length in the trust, if the referenced**
31 **writing is clearly identified in the trust and is in existence at the**
32 **time of the execution of the trust.**

34 SECTION 24. IC 30-5-5-16, AS AMENDED BY P.L.143-2009,
35 SECTION 30, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
36 JULY 1, 2015]: Sec. 16. (a) This section does not prohibit an individual
37 capable of consenting to the individual's own health care or to the
38 health care of another from consenting to health care administered in
39 good faith under the religious tenets and practices of the individual
40 requiring health care.

41 (b) Language conferring general authority with respect to health
42 care powers means the principal authorizes the attorney in fact to do



- 1 the following:
- 2 (1) Employ or contract with servants, companions, or health care
- 3 providers to care for the principal.
- 4 (2) ~~If the attorney in fact is an individual,~~ Consent to or refuse
- 5 health care for the principal who is an individual in accordance
- 6 with IC 16-36-4 and IC 16-36-1 by properly executing and
- 7 attaching to the power of attorney a declaration or appointment,
- 8 or both.
- 9 (3) Admit or release the principal from a hospital or health care
- 10 facility.
- 11 (4) Have access to records, including medical records, concerning
- 12 the principal's condition.
- 13 (5) Make anatomical gifts on the principal's behalf.
- 14 (6) Request an autopsy.
- 15 (7) Make plans for the disposition of the principal's body,
- 16 including executing a funeral planning declaration on behalf of
- 17 the principal in accordance with IC 29-2-19.

18 SECTION 25. IC 32-17-14-3, AS AMENDED BY P.L.36-2011,
 19 SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 20 JULY 1, 2015]: Sec. 3. The following definitions apply throughout this
 21 chapter:

- 22 (1) "Beneficiary" means a person designated or entitled to receive
- 23 property because of another person's death under a transfer on
- 24 death transfer.
- 25 (2) "Beneficiary designation" means a written instrument other
- 26 than a will or trust that designates the beneficiary of a transfer on
- 27 death transfer.
- 28 (3) "Governing instrument" refers to a written instrument agreed
- 29 to by an owner that establishes the terms and conditions of an
- 30 ownership in beneficiary form.
- 31 **(4) "Intangible personal property" means incorporeal**
- 32 **property, such as money, deposits, credits, shares of stock,**
- 33 **bonds, notes, other evidences of indebtedness, and other**
- 34 **evidences of property interests.**
- 35 ~~(5)~~ (5) "Joint owners" refers to persons who hold property as joint
- 36 tenants with a right of survivorship. However, the term does not
- 37 include a husband and wife who hold property as tenants by the
- 38 entirety.
- 39 ~~(5)~~ (6) "LDPS" means an abbreviation of lineal descendants per
- 40 stirpes, which may be used in a beneficiary designation to
- 41 designate a substitute beneficiary as provided in section 22 of this
- 42 chapter.



- 1 ~~(6)~~ **(7)** "Owner" refers to a person or persons who have a right to
 2 designate the beneficiary of a transfer on death transfer.
 3 ~~(7)~~ **(8)** "Ownership in beneficiary form" means holding property
 4 under a registration in beneficiary form or other written
 5 instrument that:
 6 (A) names the owner of the property;
 7 (B) directs ownership of the property to be transferred upon
 8 the death of the owner to the designated beneficiary; and
 9 (C) designates the beneficiary.
 10 ~~(8)~~ **(9)** "Person" means an individual, a sole proprietorship, a
 11 partnership, an association, a fiduciary, a trustee, a corporation,
 12 a limited liability company, or any other business entity.
 13 ~~(9)~~ **(10)** "Proof of death" means a death certificate or a record or
 14 report that is prima facie proof or evidence of an individual's
 15 death.
 16 ~~(10)~~ **(11)** "Property" means any present or future interest in real
 17 property, intangible personal property, ~~(as defined in~~
 18 ~~IC 6-4.1-1-5)~~, or tangible personal property. ~~(as defined in~~
 19 ~~IC 6-4.1-1-13)~~. The term includes:
 20 (A) a right to direct or receive payment of a debt;
 21 (B) a right to direct or receive payment of money or other
 22 benefits due under a contract, account agreement, deposit
 23 agreement, employment contract, or trust or by operation of
 24 law;
 25 (C) a right to receive performance remaining due under a
 26 contract;
 27 (D) a right to receive payment under a promissory note or a
 28 debt maintained in a written account record;
 29 (E) rights under a certificated or uncertificated security;
 30 (F) rights under an instrument evidencing ownership of
 31 property issued by a governmental agency; and
 32 (G) rights under a document of title (as defined in
 33 IC 26-1-1-201).
 34 ~~(11)~~ **(12)** "Registration in beneficiary form" means titling of an
 35 account record, certificate, or other written instrument that:
 36 (A) provides evidence of ownership of property in the name of
 37 the owner;
 38 (B) directs ownership of the property to be transferred upon
 39 the death of the owner to the designated beneficiary; and
 40 (C) designates the beneficiary.
 41 ~~(12)~~ **(13)** "Security" means a share, participation, or other interest
 42 in property, in a business, or in an obligation of an enterprise or



1 other issuer. The term includes a certificated security, an
 2 uncertificated security, and a security account.

3 **(14) "Tangible personal property" means corporeal personal**
 4 **property, such as goods, wares, and merchandise.**

5 ~~(13)~~ **(15) "Transfer on death deed" means a deed that conveys an**
 6 interest in real property to a grantee by beneficiary designation.

7 ~~(14)~~ **(16) "Transfer on death transfer" refers to a transfer of**
 8 property that takes effect upon the death of the owner under a
 9 beneficiary designation made under this chapter.

10 ~~(15)~~ **(17) "Transferring entity" means a person who:**

11 (A) owes a debt or is obligated to pay money or benefits;

12 (B) renders contract performance;

13 (C) delivers or conveys property; or

14 (D) changes the record of ownership of property on the books,
 15 records, and accounts of an enterprise or on a certificate or
 16 document of title that evidences property rights.

17 The term includes a governmental agency, business entity, or
 18 transfer agent that issues certificates of ownership or title to
 19 property and a person acting as a custodial agent for an owner's
 20 property. However, the term does not include a governmental
 21 office charged with endorsing, entering, or recording the transfer
 22 of real property in the public records.

23 SECTION 26. IC 34-30-2-71 IS AMENDED TO READ AS
 24 FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 71. IC 16-36-1-10
 25 (Concerning a health care provider who acts or declines to act in
 26 reliance on the consent or refusal to consent of ~~an individual who a~~
 27 **representative that** the provider believes is authorized to do so).

