As Introduced

133rd General Assembly
Regular Session
2019-2020

H. B. No. 397
Representative Galonski
Cosponsors: Representatives Sobecki, Lepore-Hagan

A BILL

To amend section 2108.81 of the Revised Code regarding parental right of disposition for a deceased adult child.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That section 2108.81 of the Revised Code be amended to read as follows:

Sec. 2108.81. (A) If either of the following is true, division (B) of this section shall apply:

(1) An adult has not executed a written declaration pursuant to sections 2108.70 to 2108.73 of the Revised Code that remains in force at the time of the adult's death.

(2) Each person to whom the right of disposition has been assigned or reassigned pursuant to a written declaration is disqualified from exercising the right as described in section 2108.75 of the Revised Code.

(B) Subject to division (A) of this section and sections 2108.75 and 2108.79 of the Revised Code, the right of disposition is assigned to the following persons, if mentally
competent adults who can be located with reasonable effort, in the order of priority stated:

(1) The deceased person's surviving spouse;

(2) The sole surviving child of the deceased person or, if there is more than one surviving child, all of the surviving children, collectively;

(3) The deceased person's surviving parent or parents, subject to division (C) of this section;

(4) The deceased person's surviving sibling, whether of the whole or of the half blood or, if there is more than one sibling of the whole or of the half blood, all of the surviving siblings, collectively;

(5) The deceased person's surviving grandparent or grandparents;

(6) The deceased person's surviving grandchild, or if there is more than one surviving grandchild, all of the surviving grandchildren collectively;

(7) The lineal descendants of the deceased person's grandparents, as described in division (I) of section 2105.06 of the Revised Code;

(8) The person who was the deceased person's guardian at the time of the deceased person's death, if a guardian had been appointed;

(9) Any other person willing to assume the right of disposition, including the personal representative of the deceased person's estate or the licensed funeral director with custody of the deceased person's body, after attesting in writing that a good faith effort has been made to locate the
persons in divisions (B)(1) to (8) of this section.

(10) If the deceased person was an indigent person or other person the final disposition of whose body is the financial and statutory responsibility of the state or a political subdivision of this state, the public officer or employee responsible for arranging the final disposition of the remains of the deceased person.

(C)(1) If a parent was the residential parent and legal custodian of the deceased person at the time the deceased person reached the age of majority, that parent's right of disposition for the deceased person shall take precedence over the parent who was not the residential parent and legal custodian of the deceased person at that time.

(2) Division (C)(1) of this section shall not apply if the parent with precedence is disqualified from the right of disposition for the deceased person under section 2108.75 of the Revised Code.

(3) Section 2108.79 of the Revised Code shall not affect the precedence under division (C)(1) of this section.

Section 2. That existing section 2108.81 of the Revised Code is hereby repealed.