

**367.93103 Funeral planning declarations.**

- (1) A person who is of sound mind and is at least eighteen (18) years of age may execute a declaration.
- (2) (a) A declaration shall not be included in:
  1. A will;
  2. A power of attorney; or
  3. A similar document.(b) If a declaration is included in any of the documents listed in paragraph (a) of this subsection, it shall not invalidate the document but the declaration contained therein is not enforceable.
- (3) A declaration shall designate an individual to serve as the designee, or if no designee is designated shall provide instruction concerning funeral services, ceremonies, and the disposition of remains after death.
- (4) A declaration, at a minimum, shall be:
  - (a) Voluntary;
  - (b) In writing;
  - (c) Signed by the declarant or by another person in the declarant's presence and at the direction of the declarant;
  - (d) Dated;
  - (e) Signed in the presence of at least two (2) competent witnesses who are at least eighteen (18) years of age at the time they sign the declaration; and
  - (f) Acknowledged before a notary public or other person authorized to administer oaths.
- (5) A declaration is not binding upon a funeral home, a cemetery, or any person engaged in the business of providing funeral services, selling merchandise or grave markers, or providing a service or other property subject to the declaration until the funeral home, cemetery, or person receives full payment for the service, merchandise, or other property.
- (6) A person is not considered to be entitled to any part of the declarant's estate solely by virtue of being designated by the declarant to serve as his or her designee.
- (7) Unless an individual is related to the declarant by birth, marriage, or adoption, a declarant shall not designate an individual to be his or her designee or alternate designee who is:
  - (a) A provider of funeral or cemetery services; or
  - (b) Employed by any entity that is responsible for providing funeral or cemetery services or disposing of the declarant's remains.
- (8) The following shall not be a witness to a declaration:
  - (a) The person who signed the declaration on behalf of and at the direction of the declarant; or
  - (b) The person identified as the designee.

**Effective:** July 14, 2018

**History:** Amended 2018 Ky. Acts ch. 185, sec. 27, effective July 14, 2018. -- Amended 2017 Ky. Acts ch. 144, sec. 1, effective June 29, 2017. -- Created 2016 Ky. Acts ch. 59, sec. 2, effective July 15, 2016.