

**As Introduced**

**128th General Assembly  
Regular Session  
2009-2010**

**H. B. No. 449**

**Representative Ujvagi**

**Cosponsor: Representative Yuko**

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**A B I L L**

To amend sections 2108.72 and 2108.73 of the Revised 1  
Code to allow a DD Form 93, Record of Emergency 2  
Data, to satisfy the written declaration 3  
requirements for designating a person authorized 4  
to direct disposition of human remains. 5

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

**Section 1.** That sections 2108.72 and 2108.73 of the Revised 6  
Code be amended to read as follows: 7

**Sec. 2108.72.** (A) The written declaration described in 8  
section 2108.70 of the Revised Code shall include all of the 9  
following: 10

(1) The declarant's legal name and present address; 11

(2) A statement that the declarant, an adult being of sound 12  
mind, willfully and voluntarily appoints a representative to have 13  
the declarant's right of disposition for the declarant's body upon 14  
the declarant's death; 15

(3) A statement that all decisions made by the declarant's 16  
representative with respect to the right of disposition are 17  
binding; 18

(4) The name, last known address, and last known telephone number of the representative or, if the representative is a group of persons, the name, last known address, and last known telephone number of each person in the group;

(5) If the declarant chooses to have a successor representative, a statement that if any person or group of persons named as the declarant's representative is disqualified from serving in such position as described in section 2108.75 of the Revised Code, the declarant appoints a successor representative;

(6) If applicable, the name, last known address, and last known telephone number of the successor representative or, if the successor representative is a group of persons, the name, last known address, and last known telephone number of each person in the group;

(7) A space where the declarant may indicate the declarant's preferences regarding how the right of disposition should be exercised, including any religious observances the declarant wishes the person with the right of disposition to consider;

(8) A space where the declarant may indicate one or more sources of funds that may be used to pay for goods and services associated with the exercise of the right of disposition;

(9) A statement that the declarant's written declaration becomes effective on the declarant's death;

(10) A statement that the declarant revokes any written declaration that the declarant executed, in accordance with section 2108.70 of the Revised Code, prior to the execution of the present written declaration;

(11) A space where the declarant can sign and date the written declaration;

(12) A space where a notary public or two witnesses can sign

and date the written declaration as described in section 2108.73 49  
of the Revised Code. 50

(B) A written declaration may take the following form: 51

APPOINTMENT OF REPRESENTATIVE FOR DISPOSITION OF BODILY 52  
REMAINS, FUNERAL ARRANGEMENTS, AND BURIAL OR CREMATION GOODS AND 53  
SERVICES: 54

I, ..... (legal name and present address of 55  
declarant), an adult being of sound mind, willfully and 56  
voluntarily appoint my representative, named below, to have the 57  
right of disposition, as defined in section 2108.70 of the Revised 58  
Code, for my body upon my death. All decisions made by my 59  
representative with respect to the right of disposition shall be 60  
binding. 61

REPRESENTATIVE: 62

(If the representative is a group of persons, indicate the 63  
name, last known address, and telephone number of each person in 64  
the group.) 65

Name(s): ..... 66

Address(es): ..... 67

Telephone Number(s): ..... 68

SUCCESSOR REPRESENTATIVE: 69

If my representative is disqualified from serving as my 70  
representative as described in section 2108.75 of the Revised 71  
Code, then I hereby appoint the following person or group of 72  
persons to serve as my successor representative. 73

(If the successor representative is a group of persons, 74  
indicate the name, last known address, and telephone number of 75  
each person in the group.) 76

Name(s): ..... 77

Address(es): ..... 78

Telephone Number(s): .....	79
PREFERENCES REGARDING HOW THE RIGHT OF DISPOSITION SHOULD BE	80
EXERCISED, INCLUDING ANY RELIGIOUS OBSERVANCES THE DECLARANT	81
WISHES A REPRESENTATIVE OR A SUCCESSOR REPRESENTATIVE TO CONSIDER:	82
.....	83
.....	84
.....	85
.....	86
ONE OR MORE SOURCES OF FUNDS THAT COULD BE USED TO PAY FOR	87
GOODS AND SERVICES ASSOCIATED WITH AN EXERCISE OF THE RIGHT OF	88
DISPOSITION:	89
.....	90
.....	91
.....	92
.....	93
DURATION:	94
The appointment of my representative and, if applicable,	95
successor representative, becomes effective upon my death.	96
PRIOR APPOINTMENTS REVOKED:	97
I hereby revoke any written declaration that I executed in	98
accordance with section 2108.70 of the Ohio Revised Code prior to	99
the date of execution of this written declaration indicated below.	100
AUTHORIZATION TO ACT:	101
I hereby agree that any of the following that receives a copy	102
of this written declaration may act under it:	103
- Cemetery organization;	104
- Crematory operator;	105
- Business operating a columbarium;	106
- Funeral director;	107

- Embalmer;	108
- Funeral home;	109
- Any other person asked to assist with my funeral, burial, cremation, or other manner of final disposition.	110 111
MODIFICATION AND REVOCATION - WHEN EFFECTIVE:	112
Any modification or revocation of this written declaration is not effective as to any party until that party receives actual notice of the modification or revocation.	113 114 115
LIABILITY:	116
No person who acts in accordance with a properly executed copy of this written declaration shall be liable for damages of any kind associated with the person's reliance on this declaration.	117 118 119 120
Signed this ..... day of .....	121
..... (Signature of declarant)	122 123
ACKNOWLEDGMENT OF ASSUMPTION OF OBLIGATIONS AND COSTS:	124
By signing below, the representative, or successor representative, if applicable, acknowledges that he or she, as representative or successor representative, assumes the right of disposition as defined in section 2108.70 of the Revised Code, and understands that he or she is liable for the reasonable costs of exercising the right, including any goods and services that are purchased.	125 126 127 128 129 130 131
ACCEPTANCE (OPTIONAL):	132
The undersigned hereby accepts this appointment as representative or successor representative, as applicable, for the right of disposition as defined in section 2108.70 of the Revised Code.	133 134 135 136
Signed this ..... day of .....	137

.....	138
Signature of representative (if representative is a group of persons, each person in the group shall sign)	139
Signed this ..... day of .....	140
.....	141
Signature of successor representative (if successor representative is a group of persons, each person in the group shall sign)	142
WITNESSES:	143
I attest that the declarant signed or acknowledged this	144
assignment of the right of disposition under section 2108.70 of	145
the Revised Code in my presence and that the declarant is at least	146
eighteen years of age and appears to be of sound mind and not	147
under or subject to duress, fraud, or undue influence. I further	148
attest that I am not the declarant's representative or successor	149
representative, I am at least eighteen years of age, and I am not	150
related to the declarant by blood, marriage, or adoption.	151
First witness:	152
Name (printed):	153
..... Residing at: .....	154
Signature: .....	155
.....	156
Date:	157
.....	158
Second witness:	159
Name (printed):	160
..... Residing at: .....	161
Signature: .....	162

.....	163
Date:	164
.....	165
OR	166
NOTARY ACKNOWLEDGMENT:	167
State of Ohio	168
County of ..... SS.	169
On ....., before me, the undersigned notary public,	170
personally appeared ....., known to me or	171
satisfactorily proven to be the person whose name is subscribed as	172
the declarant, and who has acknowledged that he or she executed	173
this written declaration under section 2108.70 of the Revised Code	174
for the purposes expressed in that section. I attest that the	175
declarant is at least eighteen years of age and appears to be of	176
sound mind and not under or subject to duress, fraud, or undue	177
influence.	178
Signature of notary public	179
.....	180
My commission expires on:	181
.....	182
<u>(C) Completion of a DD Form 93, Record of Emergency Data, is</u>	183
<u>sufficient to constitute a written declaration under section</u>	184
<u>2108.70 of the Revised Code.</u>	185
<b>Sec. 2108.73.</b> A written declaration executed by a declarant	186
under section 2108.70 of the Revised Code shall be signed and	187
dated by the declarant in the presence of <del>either</del> <u>one</u> of the	188
following:	189
(A) A notary public who shall make the certification	190
described in section 147.53 of the Revised Code.	191
(B) Two witnesses who are adults and who are not related by	192

blood, marriage, or adoption to the declarant. 193

(C) If the written declaration is a DD Form 93, Record of 194  
Emergency Data, by whomever the form requires. 195

**Section 2.** That existing sections 2108.72 and 2108.73 of the 196  
Revised Code are hereby repealed. 197