

Burial Arrangements and Memorialization



New York law sets the order of people who have the legal right to make arrangements for final disposition (burial, entombment, cremation). The following people, in this order, can decide the final disposition arrangements for the deceased:

1. the person chosen in writing by the deceased through a will or through a form created by the New York State Department of Health for this purpose, that can be found here: <https://www.health.ny.gov/forms/doh-5211.pdf>;
2. the spouse;
3. the domestic partner;
4. any child who is at least 18 years old;
5. either parent;
6. any sibling who is at least 18 years old;
7. a legal guardian appointed under certain laws;
8. any person who is at least 18 years old who would be entitled to share in the deceased person's estate as specified in section 4-1.1 of the New York Estates, Powers and Trusts Law (<https://www.nysenate.gov/legislation/laws/EPT/4-1.1>), with the person closest in relationship having the highest priority;
9. a fiduciary of the estate;
10. a close friend or relative who is reasonably familiar with the deceased's wishes, including religious or moral beliefs, when no one higher on this list is reasonably available, willing, or competent to act; to handle final disposition, this person must complete a written statement; or
11. a chief fiscal officer of a county or a public administrator appointed under certain circumstances or any other person acting on behalf of the deceased, provided that such person gives a written statement.

These rules also govern who has the right to memorialize the deceased. The right of memorialization means that person can decide what memorial or structure will be placed on the final resting place and what it will say, limited by whatever rules the cemetery has for memorials. Other consents may be required to change a shared memorial on a multi-grave plot