

HOUSE BILL REPORT

SHB 1195

As Passed Legislature
April 19, 1993

Title: An act relating to the right of a person to control the disposition of a person's remains.

Brief Description: Allowing a person to dictate the disposition of his or her remains.

Sponsors: By House Committee on Judiciary (originally sponsored by Representatives Anderson, Sommers, Jacobsen, G. Cole, Johanson, J. Kohl and Leonard.)

Brief History:

Reported by House Committee on:
Judiciary, February 16, 1993, DPS;
Passed House, March 10, 1993, 97-0;
Amended by Senate;
Passed Legislature, April 19, 1993, 95-0.

HOUSE COMMITTEE ON JUDICIARY

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 17 members: Representatives Appelwick, Chair; Ludwig, Vice Chair; Padden, Ranking Minority Member; Ballasiotes, Assistant Ranking Minority Member; Campbell; Chappell; Forner; Johanson; Locke; Long; Mastin; H. Myers; Riley; Schmidt; Scott; Tate; and Wineberry.

Staff: Margaret Allen (786-7191).

Background: In the absence of directions by the decedent, the right to control the disposition of remains vests in the following people in the order named: the surviving spouse of the decedent; the surviving children of the decedent; or the surviving parents of the decedent. There is no indication of what constitutes valid "directions" by the decedent. Liabilities for the reasonable costs of the preparation, care, and disposition of remains devolves jointly and severally upon all kin of the same degree of kindred in the above named order.

Summary of Bill: The right of a person to control the disposition of his or her remains without the consent of another person is explicitly provided. The decedent's

wishes concerning the place or method of disposition of his or her remains are accomplished through a written authorization, signed by the decedent in the presence of a witness.

Prearrangements that are prepaid or that are filed with a licensed funeral establishment or cemetery authority are not subject to cancellation or substantial revision by survivors. A funeral establishment or cemetery authority is not liable for acting upon such prearrangements in the absence of actual knowledge of contrary legal authorization by the decedent.

The siblings of the decedent and a person acting as a representative of the decedent are added to the list of persons upon whom the right to control disposition of remains vests in the absence of directions by the decedent.

The right to control the disposition of the remains as well as the duty, and liability for the reasonable cost, of disposition, passes to specified kin or to an authorized representative of the decedent, in any of the following circumstances:

- (1) The decedent has not made a prearrangement;
- (2) The costs of executing the decedent's wishes exceed a reasonable amount; or
- (3) The decedent has not given directions for the disposition of his or her remains.

Fiscal Note: Not requested.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: A person should have the right to control the disposition of his or her own remains without the consent of another person. The decedent's wishes are not always carried out because of disputes between family and friends after death. Funeral establishments and cemetery authorities exposed to these competing interests are often subject to liability for their ultimate decision. A funeral establishment should be able to rely on the written authorization of the decedent without fear of liability because of competing interests of family or friends.

Testimony Against: None.

Witnesses: Representative Anderson, Prime Sponsor (pro); B. David Daly, Washington Funeral Directors Association (pro);

James H. Noel, Washington Interment Association (pro); and
J.K. Johnson (pro).