

# SENATE BILL REPORT

## SB 6394

---

---

As of January 19, 2010

**Title:** An act relating to the right to control the disposition of human remains.

**Brief Description:** Concerning the right to control the disposition of human remains.

**Sponsors:** Senator Jacobsen.

**Brief History:**

**Committee Activity:** Judiciary: 1/19/10.

---

### SENATE COMMITTEE ON JUDICIARY

**Staff:** Kim Johnson (786-7472)

**Background:** A person has the right to control the disposition of his or her own remains. A valid written document expressing the decedent's wishes regarding the place or method of disposition of his or her remains, signed by the decedent in the presence of a witness, is sufficient legal authorization for the remains to be disposed of as specified. A person may make prearrangements with a licensed funeral establishment or cemetery authority, and such arrangements are not subject to cancellation or substantial revision by survivors.

However, if the decedent has not provided any directions, then decisions regarding the disposition of such remains vests in a default list of individuals in the order named. The default list is as follows: (1) the surviving spouse or domestic partner; (2) the surviving adult children; (3) the surviving parents; (4) the surviving siblings; and (5) a person acting as a representative of the decedent under the signed authorization of the decedent.

**Summary of Bill:** The right of a person to appoint a representative to control the disposition of his or her remains is clarified.

The default list of individuals to which the decision regarding the disposition of remains vests is modified as follows: (1) a person acting as a representative of the decedent under the signed authorization of the decedent; (2) the surviving spouse or domestic partner; (3) the majority of the surviving adult children; (4) the surviving parents; (5) the surviving siblings; (6) the majority of the surviving adult grandchildren; (7) the majority of the surviving adult nieces and nephews; and (8) the guardian of the decedent at the time of the decedent's death.

---

*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Committee/Commission/Task Force Created:** No.

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

**Staff Summary of Public Testimony:** PRO: We need to clarify the representative agent law. This bill would move that person to the top of the list. As people are living longer, it would give people the same kind of power a power of attorney has, but the power would survive death. The addition of language requiring a majority of a particular group of family members is needed to reach a decision when there is disagreement without having to go to court. At least five other states require a majority. Some states require only a single party from the class to make the decision. I think majority rule is most fair. The addition of nieces and nephews and grandchildren simply reflects some of the family dynamics that we have come across over the years.

CON: There is nothing wrong with the existing statutes. They have served the over 40,000 persons who die every year in Washington well. Cremation is an irreversible act and it is important to have strict safeguards in place to ensure that no human body is cremated without authorization from every member of a class who has the right to control disposition. This bill creates as many questions as it hopes to answer and is completely unnecessary. If the proponents of this legislation see a need for change we encourage them to come together with all the interested parties in this topic and work together to address their concerns.

**Persons Testifying:** PRO: John Eric Rolfstead, People's Memorial Association.

CON: TK Bentler, Washington State Funeral Director's Association; John Barr, Washington Cemetery, Cremation, Funeral Association.