

# HOUSE BILL REPORT

## SHB 1073

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### As Passed Legislature

**Title:** An act relating to the disposition of remains of persons who died while serving on active duty in any branch of the United States armed forces, United States reserve forces, or national guard.

**Brief Description:** Authorizing persons designated by the decedent to direct disposition, if the decedent died while serving on active duty in any branch of the United States armed forces, United States reserve forces, or national guard.

**Sponsors:** House Committee on Judiciary (originally sponsored by Representatives Kelley, McCoy, Green and Van De Wege).

#### **Brief History:**

##### **Committee Activity:**

Judiciary: 1/11/12, 1/12/12 [DPS].

##### **Floor Activity:**

Passed House: 1/30/12, 96-0.

Passed Senate: 2/27/12, 47-0.

Passed Legislature.

#### **Brief Summary of Substitute Bill**

- Provides that a person has the first right to control the disposition of the remains of a service member who dies while in military service if the person is designated by the service member on a specified military form.

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### HOUSE COMMITTEE ON JUDICIARY

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 12 members: Representatives Pedersen, Chair; Goodman, Vice Chair; Shea, Assistant Ranking Minority Member; Chandler, Eddy, Hansen, Kirby, Klippert, Nealey, Orwall, Rivers and Roberts.

**Staff:** Edie Adams (786-7180).

#### **Background:**

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*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.*

A person has the right to control the disposition of his or her own remains. This can be accomplished by making a pre-arrangement with a licensed funeral establishment or cemetery authority or by executing a written document signed by the decedent in the presence of a witness that expresses the decedent's wishes regarding the place or method of disposition of his or her remains.

If the decedent has not made a pre-arrangement or given directions for the disposition of his or her remains, then the right to control the disposition of the remains vests in the following people in the order named:

- the designated agent of the decedent indicated in a written document signed and dated by the decedent in the presence of a witness;
- the surviving spouse or state-registered domestic partner;
- the majority of the surviving adult children;
- the surviving parents;
- the majority of the surviving siblings; and
- a court-appointed guardian for the person at the time of the person's death.

The responsibility 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 order listed, and on the decedent's estate. If a funeral establishment or cemetery authority is unable to locate the next of kin or the legal representative of the decedent's estate after a good-faith effort, the most responsible person available may authorize the disposition of the decedent's remains.

Service members are required to complete a United States Department of Defense record of emergency data (DD Form 93). This form is used to show the names and addresses of the service member's family and other persons who are to be notified if the service member becomes a casualty and to designate beneficiaries in case the service member dies while in service. The form is also used for the service member to designate a person who has the right to control the disposition of the service member's remains.

#### **Summary of Substitute Bill:**

A person who is designated by a service member with the right to control the disposition of the service member's remains has the first right to control the disposition of the remains if the person is designated on the service member's United States Department of Defense record of emergency data (DD form 93), or its successor form, and if the service member died while serving in military service in any branch of the United States armed forces, United States reserve forces, or National Guard.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.

#### **Staff Summary of Public Testimony:**

(In support) This amendment is important to honor the wishes of service members who die while serving their country. Service members are required to designate who they wish to control the disposition of their remains in a Department of Defense record of emergency data (DD Form 93). This form is the best indicator of a service member's wishes. The problem is that state laws on this issue can conflict with the service member's choice on the DD Form 93, resulting in the wishes of the service member not being honored. Past impediments to passage of this measure have been resolved. Congress, last month in the National Defense Authorization Act, changed the law to allow service members to designate anyone, regardless of relationship.

(Opposed) None.

**Persons Testifying:** Representative Kelley, prime sponsor; Mark San Souci, Department of Defense State Liaison Office; Bret Daugherty, Washington National Guard; Ted Wicorek, Veteran's Legislative Coalition; and Bob Rudolph, Veterans and Military Families.

**Persons Signed In To Testify But Not Testifying:** None.