

Judiciary Committee

HB 1564

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: Representatives Kenney, Cody, Kagi and Moscoso.

<p style="text-align: center;">Brief Summary of Bill</p> <ul style="list-style-type: none">• Makes changes to the list of persons who have the right to control the disposition of a decedent's remains when the decedent has not made a pre-arrangement or otherwise provided directions regarding disposition.• Addresses the liability of a cemetery authority or funeral establishment where funds for the disposition of human remains are provided by a government agency or charitable organization.

Hearing Date: 2/10/11

Staff: Edie Adams (786-7180).

Background:

A person has the right to control the disposition of his or her own remains. This can be accomplished 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. In addition, a person may control the disposition of his or her remains by making a pre-arrangement with a licensed funeral establishment or cemetery authority. Pre-arrangements 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 a pre-arrangement in the absence of actual knowledge of contrary legal authorization by the decedent.

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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 is given to the following people in the order named:

- the surviving spouse or state registered domestic partner;
- the surviving adult children;
- the surviving parents;
- the surviving siblings; and
- a person acting as a representative of the decedent under the signed authorization of the decedent.

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 and the cemetery authority or funeral establishment may not be held criminally or civilly liable for burying or cremating the remains.

Where a government agency provides funds for the disposition of human remains and elects to provide funds for cremation only, the cemetery authority or funeral establishment may not be held civilly or criminally liable for cremating the remains.

Summary of Bill:

The list of persons who have the right to control the disposition of remains where the decedent has not provided directions is revised as follows:

- The designated agent of the decedent is listed as the person with the first priority right to control the disposition. The designated agent must be indicated in a written document signed by the decedent in the presence of a witness. The direction of the designated agent is sufficient to direct the type, place, and method of disposition.
- The categories for surviving adult children and surviving siblings are changed to give the right to the majority of the children or siblings, rather than all children or siblings.
- The decedent's court-appointed guardian is added as the last in the list of persons who have the right to control disposition.

A cemetery authority or funeral establishment is not liable for cremating any human remains where the funds for the disposition of the human remains are provided by a charitable organization or government agency (regardless of whether funds are provided for cremation only).

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.