

# HOUSE BILL REPORT

## SHB 1691

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### As Passed Legislature

**Title:** An act relating to embalmers.

**Brief Description:** Concerning embalmers.

**Sponsors:** House Committee on Business & Financial Services (originally sponsored by Representatives Kirby, Anderson, Springer, Eddy, Ryu, Morris and Stanford).

#### **Brief History:**

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

Business & Financial Services: 2/1/11, 2/4/11 [DPS].

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

Passed House: 2/26/11, 97-0.

Senate Amended.

Passed Senate: 4/12/11, 47-0.

House Concurred.

Passed House: 4/15/11, 96-0.

Passed Legislature.

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

- Allows educational institutions offering embalming training programs to receive human remains that a county is required to provide for the disposition of at public expense.
- 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 provided directions regarding disposition.
- Addresses the liability of a cemetery authority or funeral establishment if or when funds for the disposition of human remains are provided by a government agency or charitable organization.

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### HOUSE COMMITTEE ON BUSINESS & FINANCIAL SERVICES

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 13 members: Representatives Kirby, Chair; Kelley, Vice Chair; Bailey, Ranking

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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.*

Minority Member; Buys, Assistant Ranking Minority Member; Blake, Condotta, Hudgins, Hurst, Parker, Pedersen, Rivers, Ryu and Stanford.

**Staff:** Alison Hellberg (786-7152).

**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. In addition, a person may control the disposition of his or her remains by making a prearrangement with a licensed funeral establishment or cemetery authority.

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.

If the decedent has not made a prearrangement 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 then 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. If or when 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.

Counties are responsible for providing for the disposition of the remains of any indigent person whose body is unclaimed by relatives or a church organization. Remains of persons that will be buried at the public expense are required to be surrendered to a physician or surgeon. These bodies must be used for the advancement of anatomical science. Preference is given to medical schools in this state for their use in the instruction of medical students.

Embalmers are regulated by the Department of Licensing. In order to be licensed, an applicant must complete the required education in mortuary science, complete an embalmer internship, and successfully pass an examination.

**Summary of Substitute Bill:**

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

- The designated agent of the decedent is listed as the person with the first right to control the disposition. The designated agent must be indicated in a written document signed and dated 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 the disposition.

A cemetery authority or funeral establishment is not liable for cremating any human remains if or when 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).

A public agency required to provide for the disposition of human remains at public expense may surrender the remains to an accredited educational institution offering funeral services and embalming programs. The bodies must be used in training embalming students under the supervision of a licensed embalmer.

**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) Lake Washington Technical College recently received accreditation and is the only comprehensive embalming program in the state. To become an embalmer, a student must perform at least 10 embalmings. Most other mortuary programs have access to human remains and are able to provide this educational opportunity to students. Because of Washington's law, Washington programs are unable to provide this. It is easier and a better learning opportunity to do at school. Lake Washington Technical College has all of the proper refrigerators and facilities.

This would also benefit the community by helping to provide for the proper disposition of indigent remains. The county's indigent program is going broke and the need is rising. In most situations, indigent persons are ultimately cremated because of cost issues. This program would save tax dollars because student fees would pay for cremation charges.

(Opposed) None.

**Persons Testifying:** Erin Wilcox, Lake Washington Technical College.

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