

SENATE BILL REPORT

SHB 1564

As of March 15, 2011

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: House Committee on Judiciary (originally sponsored by Representatives Kenney, Cody, Kagi and Moscoso).

Brief History: Passed House: 2/28/11, 96-0.

Committee Activity: Judiciary: 3/11/11.

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 the decedent's 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, when prepaid and filed with a licensed funeral establishment or cemetery authority, are not subject to cancellation or substantial revision by survivors.

However, if the decedent has not provided any directions or made a prearrangement then decisions regarding the disposition of the decedent's remains vests in a default list of individuals in the order provided. 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; (5) a person acting as a representative of the decedent under the signed authorization of the decedent.

If 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 is not held criminally or civilly liable for cremating the remains.

Summary of Bill: The list of persons who have the right to control the disposition of remains when a decedent has not provided direction is revised as follows:

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.

- 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 make a decision regarding disposition of remains to the majority of the 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.

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: Last year there was some disagreement over the language of this bill, but we worked this bill over the interim and were able to reach an agreement within our industry that we feel is both beneficial for funeral consumers and the funeral industry. Thirty-five other states have a designated-agent provision in their laws.

Persons Testifying: PRO: John Eric Rolfstad, People's Memorial Association; JC Barr, WA Cemetery, Cremation and Funeral Association.