

# SENATE BILL REPORT

## SB 5190

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As of January 31, 2011

**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:** Senators Hobbs, Swecker, Shin and Roach.

**Brief History:**

**Committee Activity:** Government Operations, Tribal Relations & Elections: 1/31/11.

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### SENATE COMMITTEE ON GOVERNMENT OPERATIONS, TRIBAL RELATIONS & ELECTIONS

**Staff:** Sharon Swanson (786-7447)

**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 the decedent's 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.

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 surviving spouse or state-registered domestic partner;
- the surviving adult children;
- the surviving parents;
- the surviving siblings; and

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- a person acting as a representative of the decedent under the signed authorization of the decedent.

Service members are required to complete a U.S. 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 spouse, children, parents, and other persons that are to be notified if the service member becomes a casualty and to designate beneficiaries for certain benefits if the service member dies. 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. DD Form 93 restricts the designation to the following persons:

- the surviving spouse;
- a blood relative of legal age;
- adoptive relatives of the decedent;
- a person standing in loco parentis.

**Summary of Bill:** A person who is designated by a service member with the right to control the disposition of the service members remains has the first-priority right to control the disposition of the remains if the person is designated by the service member on the service member's DD Form 93, or its successor form, and if the service member died while serving in military service in any branch of the U.S. Armed Forces, U.S. Reserve Forces, or National Guard.

**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: This is a simple bill that ensures that a service member's wishes are followed with respect to their choice of authorized persons to handle their remains should they die on active duty. The DD Form 93, is signed by each service member prior to each deployment. The form contains the most current information related to the service members wishes. The DD Form 93 is the best indicator of a service member's wishes on who should handle their remains and should be followed first in any order of precedence that involves a death during active duty. Twenty states have already passed similar legislation. Federal law requires that Congress update the current form in compliance with changes to the "Don't ask, Don't Tell" laws. This bill is drafted in such a way to cover future forms that replace the DD Form 93.

**Persons Testifying:** PRO: Senator Hobbs, prime sponsor; Mark Sansouci, Department of Defense State Liaison Office; Brigadier General Bet Daugherty, Washington Military Department; Mike Partridge, Veterans Legislative Coalition.