

SENATE BILL REPORT

SB 6033

As of January 17, 2012

Title: An act relating to parental decision making regarding the disposition of remains upon the death of an adult child.

Brief Description: Concerning parental decision making regarding the disposition of remains upon the death of an adult child.

Sponsors: Senators Kohl-Welles, Pflug, Harper, Regala, Kline and Shin.

Brief History:

Committee Activity: Judiciary: 1/17/12.

SENATE COMMITTEE ON JUDICIARY

Staff: Juliana Roe (786-7438)

Background: Under current law, a person has the right to control the disposition of his or her own remains. A written document expressing the decedent's wishes is sufficient to carry out the chosen procedure. However, if the decedent has not made a prearrangement, the cost of executing the decedent's wishes exceeds a reasonable amount, or directions have not be provided by the decedent, the right to control the decedent's remains devolves upon the following in the order named: the designated agent, the surviving spouse or state registered domestic partner, the majority of the decedent's surviving adult children, the surviving parents, the majority of the surviving siblings, or a court appointed guardian for the person at the time of death.

If a cemetery authority or funeral establishment has made a good faith effort to locate one of the listed persons or the legal representative of the decedent's estate, the cemetery authority or funeral establishment has the right to defer to the most responsible party available and may not be held criminally or civilly liable for burying or cremating the remains.

Summary of Bill: When surviving parents have the authority to control the disposition of the remains of their child who has reached the age of majority, they may do so cooperatively. A parent may exercise sole decision-making authority, however, if:

1. At the time of death: (a) there was a valid court order restricting or precluding the other parent's contact with the adult child; (b) a pending protective order request was filed by or on behalf of the adult child against the other parent; (c) the other parent

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- was awaiting sentencing; (d) the other parent was confined or on probation for assaulting or injuring the child, regardless of when the assault or injury occurred; or (e) the other parent owed, on behalf of the child, two thousand dollars or more in past due child support under a valid order.
2. At the time the child reached the age of majority, a court order was in force that: (a) restricted or precluded entirely the other parent's contact with the child pursuant to a restriction on a temporary or permanent parenting plan, or (b) granted the parent sole decision-making authority for religious upbringing or the disposition of remains.
 3. For 15 or more years during the child's minority: (a) the parent seeking disposition authority was the legal custodian of the child; (b) there was no court order granting the other parent residential time or contact with the child and the other parent never filed a petition seeking time or contact with the child; and (c) there was no child support order in force requiring the other parent to support the child, or the other parent failed to pay child support that was due under a court order.

The parent seeking sole decision-making authority must provide support, in writing, for the parent's authority. A cemetery authority or funeral establishment may not be held criminally or civilly liable, for burying or cremating the remains of a child who has reached the age of majority, when relying on the documentation establishing sole decision-making authority by a surviving parent.

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 bill has been brought before this committee to deal with a real-life situation. As a parent, the death of a child brings about an extreme amount of stress, trauma, heartbreak, and grief, especially when it involves a sudden or unexpected death. Families are forced to deal the aftermath, which includes funeral arrangements and the disposition of remains; these often become unexpected expenses. This is especially important when one parent is absent.

One real-life story occurred when the adult son of a single mother, based on the voluntary absence of the father, passed suddenly. The adult child had expressed his hope to be cremated, but did not document his wish. Under the current law, both parents must sign the authorization to cremate. The absent father wanted to bury the child, which was expensive, but did not want to pay for the burial. The mother could not afford the burial expenses and wanted to honor her son's wishes. No other family should have to deal with this type of situation. This bill is meant to alleviate this type of problem, especially in a society with a divorce rate of 50 percent and so many single parents. It causes unnecessary heartache.

OTHER: We want to offer language that will cover other situations in which parents do not qualify under the listed circumstances, but still disagree as to the disposition of remains.

Persons Testifying: PRO: Sen. Kohl-Welles, prime sponsor; Karen Veloria, citizen.

OTHER: James McMahan, WA Assn. of County Officials.