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**SUBSTITUTE SENATE BILL 5190**

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**State of Washington**

**62nd Legislature**

**2012 Regular Session**

**By** Senate Government Operations, Tribal Relations & Elections  
(originally sponsored by Senators Hobbs, Swecker, Shin, and Roach)

READ FIRST TIME 01/20/12.

1       AN ACT Relating to the disposition of remains of persons who died  
2 while serving on active duty in any branch of the United States armed  
3 forces, United States reserve forces, or national guard; and amending  
4 RCW 68.50.160.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6       **Sec. 1.** RCW 68.50.160 and 2011 c 265 s 2 are each amended to read  
7 as follows:

8       (1) A person has the right to control the disposition of his or her  
9 own remains without the predeath or postdeath consent of another  
10 person. A valid written document expressing the decedent's wishes  
11 regarding the place or method of disposition of his or her remains,  
12 signed by the decedent in the presence of a witness, is sufficient  
13 legal authorization for the procedures to be accomplished.

14       (2) Prearrangements that are prepaid, or filed with a licensed  
15 funeral establishment or cemetery authority, under RCW 18.39.280  
16 through 18.39.345 and chapter 68.46 RCW are not subject to cancellation  
17 or substantial revision by survivors. Absent actual knowledge of  
18 contrary legal authorization under this section, a licensed funeral

1 establishment or cemetery authority shall not be held criminally nor  
2 civilly liable for acting upon such prearrangements.

3 (3) If the decedent has not made a prearrangement as set forth in  
4 subsection (2) of this section or the costs of executing the decedent's  
5 wishes regarding the disposition of the decedent's remains exceeds a  
6 reasonable amount or directions have not been given by the decedent,  
7 the right to control the disposition of the remains of a deceased  
8 person vests in, and the duty of disposition and the liability for the  
9 reasonable cost of preparation, care, and disposition of such remains  
10 devolves upon the following in the order named:

11 (a) The person designated by the decedent as authorized to direct  
12 disposition as listed on the decedent's United States department of  
13 defense record of emergency data, DD form 93, or its successor form, if  
14 the decedent died while serving in military service as described in 10  
15 U.S.C. Sec. 1481(a) (1)-(8) in any branch of the United States armed  
16 forces, United States reserve forces, or national guard;

17 (b) The designated agent of the decedent as directed through a  
18 written document signed and dated by the decedent in the presence of a  
19 witness. The direction of the designated agent is sufficient to direct  
20 the type, place, and method of disposition((-));

21 ((+b+)) (c) The surviving spouse or state registered domestic  
22 partner((-));

23 ((+e+)) (d) The majority of the surviving adult children of the  
24 decedent((-));

25 ((+d+)) (e) The surviving parents of the decedent((-));

26 ((+e+)) (f) The majority of the surviving siblings of the  
27 decedent((-));

28 ((+f+)) (g) A court-appointed guardian for the person at the time  
29 of the person's death.

30 (4) If any person to whom the right of control has vested pursuant  
31 to subsection (3) of this section has been arrested or charged with  
32 first or second degree murder or first degree manslaughter in  
33 connection with the decedent's death, the right of control is  
34 relinquished and passed on in accordance with subsection (3) of this  
35 section.

36 (5) If a cemetery authority as defined in RCW 68.04.190 or a  
37 funeral establishment licensed under chapter 18.39 RCW has made a good  
38 faith effort to locate the person cited in subsection (3)(a) through

1    (~~(f)~~) (g) of this section or the legal representative of the  
2    decedent's estate, the cemetery authority or funeral establishment  
3    shall have the right to rely on an authority to bury or cremate the  
4    human remains, executed by the most responsible party available, and  
5    the cemetery authority or funeral establishment may not be held  
6    criminally or civilly liable for burying or cremating the human  
7    remains. In the event any government agency or charitable organization  
8    provides the funds for the disposition of any human remains, the  
9    cemetery authority or funeral establishment may not be held criminally  
10  or civilly liable for cremating the human remains.

11        (6) The liability for the reasonable cost of preparation, care, and  
12  disposition devolves jointly and severally upon all kin of the decedent  
13  in the same degree of kindred, in the order listed in subsection (3) of  
14  this section, and upon the estate of the decedent.

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