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SENATE BILL 5190

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State of Washington

62nd Legislature

2011 Regular Session

By Senators Hobbs, Swecker, Shin, and Roach

Read first time 01/18/11. Referred to Committee on Government Operations, Tribal Relations & Elections.

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 2010 c 274 s 602 are each amended to  
7 read 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 surviving spouse or state registered domestic partner.

18 ((+b)) (c) The surviving adult children of the decedent.

19 ((+c)) (d) The surviving parents of the decedent.

20 ((+d)) (e) The surviving siblings of the decedent.

21 ((+e)) (f) A person acting as a representative of the decedent  
22 under the signed authorization of the decedent.

23 (4) If any person to whom the right of control has vested pursuant  
24 to subsection (3) of this section has been arrested or charged with  
25 first or second degree murder or first degree manslaughter in  
26 connection with the decedent's death, the right of control is  
27 relinquished and passed on in accordance with subsection (3) of this  
28 section.

29 (5) If a cemetery authority as defined in RCW 68.04.190 or a  
30 funeral establishment licensed under chapter 18.39 RCW has made a good  
31 faith effort to locate the person cited in subsection (3)(a) through  
32 ((+e)) (f) of this section or the legal representative of the  
33 decedent's estate, the cemetery authority or funeral establishment  
34 shall have the right to rely on an authority to bury or cremate the  
35 human remains, executed by the most responsible party available, and  
36 the cemetery authority or funeral establishment may not be held  
37 criminally or civilly liable for burying or cremating the human  
38 remains. In the event any government agency provides the funds for the

1 disposition of any human remains and the government agency elects to  
2 provide funds for cremation only, the cemetery authority or funeral  
3 establishment may not be held criminally or civilly liable for  
4 cremating the human remains.

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

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