
SENATE BILL 6033

State of Washington 62nd Legislature 2012 Regular Session

By Senators Kohl-Welles, Pflug, Harper, Regala, Kline, and Shin

Read first time 01/09/12. Referred to Committee on Judiciary.

1 AN ACT Relating to parental decision making regarding the
2 disposition of remains upon the death of an adult child; and amending
3 RCW 68.50.160.

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

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

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

13 (2) Prearrangements that are prepaid, or filed with a licensed
14 funeral establishment or cemetery authority, under RCW 18.39.280
15 through 18.39.345 and chapter 68.46 RCW are not subject to cancellation
16 or substantial revision by survivors. Absent actual knowledge of
17 contrary legal authorization under this section, a licensed funeral
18 establishment or cemetery authority shall not be held criminally nor
19 civilly liable for acting upon such prearrangements.

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

9 (a) The designated agent of the decedent as directed through a
10 written document signed and dated by the decedent in the presence of a
11 witness. The direction of the designated agent is sufficient to direct
12 the type, place, and method of disposition((~~-~~));

13 (b) The surviving spouse or state registered domestic partner((~~-~~));

14 (c) The majority of the surviving adult children of the
15 decedent((~~-~~));

16 (d) The surviving parents of the decedent((~~-~~)), except as provided
17 in subsection (4) of this section when a child dies after reaching the
18 age of majority;

19 (e) The majority of the surviving siblings of the decedent((~~-~~));

20 (f) A court-appointed guardian for the person at the time of the
21 person's death.

22 (4) A parent's right to control the disposition of remains of the
23 parent's child who dies after reaching the age of majority is governed
24 by this subsection.

25 (a) A parent has the right to exercise sole decision-making
26 authority to direct the type, place, and method of disposition under
27 the following circumstances:

28 (i) At the time of death:

29 (A) There was a valid court order in force restricting or
30 precluding the other parent's contact with the adult child;

31 (B) There was a request pending with a court of competent
32 jurisdiction for a protective order filed by or on behalf of the adult
33 child against the other parent;

34 (C) The other parent was awaiting sentencing, confined, or on
35 probation for an assault or other injury to the child, regardless of
36 when the assault or injury occurred; or

37 (D) The other parent owed, on behalf of the child, two thousand
38 dollars or more in past due child support under a valid order of

1 support or under a judgment for past due support, including any
2 interests and other costs and fees granted under the judgment, and the
3 parent continues to owe two thousand dollars or more;

4 (ii) At the time the child reached the age of majority, there was
5 a court order in force that:

6 (A) Restricted or precluded entirely the other parent's contact
7 with the child under the provisions of RCW 26.09.191, or under
8 substantially similar provisions in the laws of another jurisdiction;
9 or

10 (B) Granted sole decision-making authority for religious upbringing
11 or for all matters to the parent seeking to exercise authority
12 regarding the disposition of remains; or

13 (iii) For fifteen or more years during the child's minority:

14 (A) The parent seeking to exercise authority regarding the
15 disposition of remains was the legal custodian of the child;

16 (B) There was no court order granting the other parent residential
17 time or other contact with the child and the other parent never filed
18 a petition with the court seeking residential time or other contact
19 with the child; and

20 (C) There was no order of child support in force on behalf of the
21 child requiring the other parent to support the child or the other
22 parent failed to pay child support that was due under a court order.

23 (b) For the purposes of this subsection (4), "court order" means
24 any valid order issued by a court of competent jurisdiction, including
25 an order entered by agreement of the parties or by default. Proof of
26 the existence of such a court order may be made by providing the
27 cemetery authority or funeral establishment with a certified copy of
28 the order.

29 (c) A parent seeking to exercise authority under this subsection
30 (4) based on the absence of a court order or on a child support
31 arrearage must affirm in writing the circumstances supporting the
32 parent's exercise of authority.

33 (d) This subsection (4) does not prohibit the parents of a child
34 who dies after reaching the age of majority from voluntarily
35 cooperating in the decision making regarding the disposition of the
36 child's remains under subsection (3)(d) of this section.

37 (5) If any person to whom the right of control has vested pursuant
38 to subsection (3) of this section has been arrested or charged with

1 first or second degree murder or first degree manslaughter in
2 connection with the decedent's death, the right of control is
3 relinquished and passed on in accordance with subsection (3) of this
4 section.

5 ~~((5) If))~~ (6) A cemetery authority as defined in RCW 68.04.190 or
6 a funeral establishment licensed under chapter 18.39 RCW may not be
7 held criminally or civilly liable for burying or cremating the human
8 remains when:

9 (a) The cemetery authority or funeral establishment has made a good
10 faith effort to locate the person cited in subsection (3)(a) through
11 (f) of this section or the legal representative of the decedent's
12 estate(~~(, the))~~);

13 (b) The cemetery authority or funeral establishment relies on
14 documentation provided under subsection (4)(b) or (c) of this section;
15 or

16 (c) Any government agency or charitable organization provides the
17 funds for the disposition of any human remains. A cemetery authority
18 or funeral establishment shall have the right to rely on an authority
19 to bury or cremate the human remains, executed by the most responsible
20 party available(~~(, and the cemetery authority or funeral establishment~~
21 may not be held criminally or civilly liable for burying or cremating
22 the human remains. In the event any government agency or charitable
23 organization provides the funds for the disposition of any human
24 remains, the cemetery authority or funeral establishment may not be
25 held criminally or civilly liable for cremating the human remains)) and
26 supported by any documentation provided under subsection (4)(b) or (c)
27 of this section.

28 ~~((6))~~ (7) The liability for the reasonable cost of preparation,
29 care, and disposition devolves jointly and severally upon all kin of
30 the decedent in the same degree of kindred, in the order listed in
31 subsection (3) of this section, and upon the estate of the decedent.

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