
SUBSTITUTE SENATE BILL 6277

State of Washington **61st Legislature** **2010 Regular Session**

By Senate Judiciary (originally sponsored by Senators Zarelli and Regala)

READ FIRST TIME 02/05/10.

1 AN ACT Relating to disposition of human remains; and amending RCW
2 68.50.160.

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

4 **Sec. 1.** RCW 68.50.160 and 2007 c 156 s 24 are each amended to read
5 as follows:

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

12 (2) Prearrangements that are prepaid, or filed with a licensed
13 funeral establishment or cemetery authority, under RCW 18.39.280
14 through 18.39.345 and chapter 68.46 RCW are not subject to cancellation
15 or substantial revision by survivors. Absent actual knowledge of
16 contrary legal authorization under this section, a licensed funeral
17 establishment or cemetery authority shall not be held criminally nor
18 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 surviving spouse or state registered domestic partner.

10 (b) The surviving adult children of the decedent.

11 (c) The surviving parents of the decedent.

12 (d) The surviving siblings of the decedent.

13 (e) A person acting as a representative of the decedent under the
14 signed authorization of the decedent.

15 (4)(a) There shall exist an action known as a petition for
16 relinquishment of the right to control the disposition of human
17 remains. The action may only be filed when the person to whom the
18 right of control has vested pursuant to subsection (3) of this section
19 has been arrested or charged with first or second degree murder or
20 first degree manslaughter in connection with the decedent's death.

21 (b) A petition for relinquishment of the right to control the
22 disposition of human remains may only be filed by the party to which
23 the right to control the disposition would next vest pursuant to
24 subsection (3) of this section. A party must file such petition with
25 the clerk of the superior court in the county in which the respondent
26 is in custody within seven days of the arrest or charge, whichever
27 occurs first, as described under (a) of this subsection. Upon receipt
28 of the petition, the court shall order a hearing, which shall be held
29 not later than seven court days from the date that the petition was
30 filed, and enjoin the respondent from exercising his or her rights
31 under subsection (3) of this section pending the judicial disposition
32 of the petition. Personal service shall be made upon the respondent
33 not less than five court days before the hearing.

34 (c) A petition for relinquishment of the right to control the
35 disposition of human remains shall allege:

36 (i) The petitioner is the party to which the right to control the
37 disposition would next vest pursuant to subsection (3) of this section;

1 (ii) Facts supporting the petitioner's relationship to the
2 deceased;

3 (iii) The legal relationship of the deceased to the respondent; and

4 (iv) Good cause why the court should grant the petition. Good
5 cause may include a showing of the emotional distress to the petitioner
6 if the decision to control the disposition of human remains is made by
7 the person arrested or charged with the decedent's death. Good cause
8 may also include facts regarding the history of the personal
9 relationship between both the decedent and the person arrested or
10 charged with his or her killing, and the decedent and the petitioner.

11 (d) No fees for filing or service of process may be charged by a
12 public agency to petitioners seeking relief under this subsection.

13 (e) No result from a hearing on the petition for relinquishment of
14 the right to control the disposition of human remains is admissible in
15 a criminal proceeding related to the death of the decedent.

16 (5) If a cemetery authority as defined in RCW 68.04.190 or a
17 funeral establishment licensed under chapter 18.39 RCW has made a good
18 faith effort to locate the person cited in subsection (3)(a) through
19 (e) of this section or the legal representative of the decedent's
20 estate, the cemetery authority or funeral establishment shall have the
21 right to rely on an authority to bury or cremate the human remains,
22 executed by the most responsible party available, and the cemetery
23 authority or funeral establishment may not be held criminally or
24 civilly liable for burying or cremating the human remains. In the
25 event any government agency provides the funds for the disposition of
26 any human remains and the government agency elects to provide funds for
27 cremation only, the cemetery authority or funeral establishment may not
28 be held criminally or civilly liable for cremating the human remains.

29 ~~((+5))~~ (6) The liability for the reasonable cost of preparation,
30 care, and disposition devolves jointly and severally upon all kin of
31 the decedent in the same degree of kindred, in the order listed in
32 subsection (3) of this section, and upon the estate of the decedent.

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