
Judiciary Committee

HB 2628

Title: An act relating to the disposition of remains of persons who died while serving on active duty in any branch of the United States armed forces, United States reserve forces, or national guard.

Brief Description: Authorizing persons designated by the decedent to direct disposition, if the decedent died while serving on active duty in any branch of the United States armed forces, United States reserve forces, or national guard.

Sponsors: Representatives Kelley, Seaquist, Green, Miloscia, Kenney, Probst, Conway, Kagi, Orwall, Morrell and Hurst.

<p style="text-align: center;">Brief Summary of Bill</p> <ul style="list-style-type: none">• Provides that a person has the first-priority right to control the disposition of the remains of a service member who dies while in military service if the person is designated by the service member on a specified military form.
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Hearing Date: 1/21/10

Staff: Edie Adams (786-7180).

Background:

A person has the right to control the disposition of his or her own remains. This can be accomplished by executing a written document signed by the decedent in the presence of a witness that expresses the decedent's wishes regarding the place or method of disposition of his or her remains. In addition, a person may control the disposition of his or her remains by making a pre-arrangement with a licensed funeral establishment or cemetery authority. Pre-arrangements that are prepaid or that are filed with a licensed funeral establishment or cemetery authority are not subject to cancellation or substantial revision by survivors. A funeral establishment or cemetery authority is not liable for acting upon a pre-arrangement in the absence of actual knowledge of contrary legal authorization by the decedent.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

If the decedent has not made a pre-arrangement or given directions for the disposition of his or her remains, then the right to control the disposition of the remains vests in the following people in the order named:

- the surviving spouse or state-registered domestic partner;
- the surviving adult children;
- the surviving parents;
- the surviving siblings; and
- a person acting as a representative of the decedent under the signed authorization of the decedent.

The responsibility for the reasonable costs of the preparation, care, and disposition of remains devolves jointly and severally upon all kin of the same degree of kindred in the order listed, and on the decedent's estate.

If a funeral establishment or cemetery authority is unable to locate the next of kin or the legal representative of the decedent's estate after a good-faith effort, the most responsible person available may authorize the disposition of the decedent's remains and the cemetery authority or funeral establishment may not be held criminally or civilly liable for burying or cremating the remains.

Service members are required to complete a U.S. Department of Defense record of emergency data (DD Form 93). This form is used to show the names and addresses of the service member's spouse, children, parents, and other persons that are to be notified if the service member becomes a casualty and to designate beneficiaries for certain benefits if the service member dies. The form is also used for the service member to designate a person who has the right to control the disposition of the service member's remains. The DD Form 93 restricts the designation to the following persons: the surviving spouse, a blood relative of legal age, adoptive relatives of the decedent, or a person standing in loco parentis.

Summary of Bill:

A person who is designated by a service member with the right to control the disposition of the service member's remains has the first-priority right to control the disposition of the remains if the person is designated by the service member on the service member's U.S. Department of Defense record of emergency data (DD form 93), or its successor form, and if the service member died while serving in military service in any branch of the U.S. armed forces, U. S. reserve forces, or national guard.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.