

SENATE BILL REPORT

SB 6277

As Reported by Senate Committee On:
Judiciary, February 3, 2010

Title: An act relating to disposition of human remains.

Brief Description: Revising the order of vesting for the right to control disposition of human remains.

Sponsors: Senators Zarelli and Regala.

Brief History:

Committee Activity: Judiciary: 1/19/10, 2/03/10 [DPS].

SENATE COMMITTEE ON JUDICIARY

Majority Report: That Substitute Senate Bill No. 6277 be substituted therefor, and the substitute bill do pass.

Signed by Senators Kline, Chair; McCaslin, Ranking Minority Member; Carrell, Gordon, Hargrove and Roach.

Staff: Kim Johnson (786-7472)

Background: A person has the right to control the disposition of his or her own remains. A valid written document expressing the decedent's wishes regarding the place or method of disposition of his or her remains, signed by the decedent in the presence of a witness, is sufficient legal authorization for the remains to be disposed of as specified. A person may make prearrangements with a licensed funeral establishment or cemetery authority and such arrangements are not subject to cancellation or substantial revision by survivors.

However, if the decedent has not provided any directions then decisions regarding the disposition of such remains vests in a default list of individuals in the order named. The default list is as follows: (1) the surviving spouse or domestic partner; (2) the surviving adult children; (3) the surviving parents; (4) the surviving siblings; (5) a person acting as a representative of the decedent under the signed authorization of the decedent.

Summary of Bill (Recommended Substitute): If the person who has the right to control the disposition of remains has been arrested or charged with the decedent's murder, then the

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party who would be next in line to control the disposition is authorized file a petition in superior court to have the right to control disposition relinquished to them.

The petition to relinquish must be filed within seven days of the arrest or charge, whichever occurs first. The court must order a hearing within seven days of the date the petition was filed and must enjoin the respondent from exercising his or her disposition rights pending a judicial decision on the petition. The petition must contain allegations related to the legal relationships between the parties and the decedent, and good cause why the court should grant the petition. Good cause may include a showing of the emotional distress the petitioner may suffer if the decision to control the disposition is made by the person arrested or charged with the decedent's death, and facts regarding the history of the personal relationship between the respondent and the decedent.

Petitioners may not be charged any fees for filing or service of process by a public agency. No result from a hearing on the petition may be admissible in a criminal proceeding related to the death of the decedent.

EFFECT OF CHANGES MADE BY JUDICIARY COMMITTEE (Recommended Substitute): The original language in the bill, which provided an automatic relinquishment of the right to control disposition upon a charge of murder, is removed. The substitute provides that if the person who has the right to control the disposition of remains has been arrested or charged with the decedent's murder, then the party who would be next in line to control the disposition is authorized file a petition in superior court to have the right to control disposition relinquished to them. Requirements for the new petition related to deadlines, venue, notice, and content are provided.

Appropriation: None.

Fiscal Note: Requested on substitute February 4, 2010.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Original Bill: PRO: We support this legislation because of what happened to our family. Our daughter was murdered. Her estranged husband was the murderer and we could not get control of her body until he gave his permission. We want to prevent this from happening to other families. Families that have to go back to the person accused of their loved ones' murder are re-victimized and further traumatized because they don't have the rights to their loved one's body. We found out at a funeral home that we had to get the murderer's permission for her own mother to bury our daughter. No parent or child should have to go through anything like this. We are supportive of an amendment to add arrest to the language.

There are similar laws now in force in Colorado, Montana and Oregon. We think that there may be other crimes that should be added, such as homicide by abuse.

Persons Testifying: PRO: Senator Zarelli, prime sponsor; Steve & Kerry Crane, citizens; John Eric Rolfstead, People's Memorial Association; Grace Huang, Washington State Coalition Against Domestic Violence.