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**SENATE BILL 5416**

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**State of Washington**

**55th Legislature**

**1997 Regular Session**

**By** Senators Goings and Patterson; by request of Governor Lowry

Read first time 01/24/97. Referred to Committee on Government Operations.

1 AN ACT Relating to the elimination and consolidation of boards and  
2 commissions; amending RCW 18.39.010, 18.39.173, 18.39.175, 18.39.217,  
3 18.39.300, 18.39.800, 68.05.020, 68.05.095, 68.05.105, 68.05.175,  
4 68.05.195, 68.05.205, 68.05.285, 68.24.090, 68.40.040, 68.44.115,  
5 68.46.010, 68.46.040, 68.46.090, 68.46.110, 68.46.130, 68.50.165,  
6 68.50.230, 68.60.030, 68.60.050, 68.60.060, 18.135.030, 19.16.100,  
7 19.16.360, 19.16.380, 19.16.420, 43.43.705, 43.43.785, and 43.43.800;  
8 reenacting and amending RCW 18.39.145; adding a new section to chapter  
9 18.39 RCW; creating new sections; repealing RCW 68.05.040, 68.05.050,  
10 68.05.060, 68.05.080, 68.05.100, 19.16.280, 19.16.290, 19.16.300,  
11 19.16.310, 19.16.320, 19.16.330, 19.16.340, 19.16.351, 28C.20.010,  
12 28C.20.020, 28C.20.030, 43.43.790, 43.43.795, and 42.17.261; providing  
13 an effective date; and declaring an emergency.

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

15

**PART 1**

16

**FUNERAL AND CEMETERY BOARD**

17 **Sec. 101.** RCW 18.39.010 and 1989 c 390 s 1 are each amended to  
18 read as follows:

1 Unless the context clearly requires otherwise, the definitions in  
2 this section apply throughout this chapter.

3 (1) "Funeral director" means a person engaged in the profession or  
4 business of ~~((conducting))~~ providing for the care, shelter,  
5 transportation, and arrangements for the disposition of human remains  
6 that may include arranging and directing funeral~~((s and supervising or~~  
7 ~~directing the burial and disposal of dead human bodies))~~, memorial, or  
8 other services.

9 (2) "Embalmer" means a person engaged in the profession or business  
10 of ~~((disinfecting, preserving or preparing for disposal or~~  
11 ~~transportation of dead human bodies))~~ disinfecting and preserving human  
12 remains for transportation or final disposition.

13 (3) "Two-year college course" means the completion of sixty  
14 semester hours or ninety quarter hours of college credit, including the  
15 satisfactory completion of certain college courses, as set forth in  
16 this chapter.

17 (4) "Funeral establishment" means ~~((a place of business licensed in~~  
18 ~~accordance with RCW 18.39.145, conducted at a specific street address~~  
19 ~~or location, and devoted to))~~ an entity, licensed in accordance with  
20 RCW 18.39.145, that provides for any aspect of the care ~~((and~~  
21 ~~preparation for burial or disposal of dead))~~, shelter, transportation,  
22 embalming, preparation, and arrangements for the disposition of human  
23 ~~((bodies))~~ remains and includes all areas of such ~~((business premises))~~  
24 entity and all ~~((tools,))~~ equipment, instruments, and supplies used in  
25 the preparation, care, shelter, transportation, and embalming of  
26 ~~((dead))~~ human ~~((bodies for burial or disposal))~~ remains.

27 (5) "Director" means the director of licensing.

28 (6) "Board" means the ~~((state))~~ funeral and cemetery board ~~((of~~  
29 ~~funeral directors and embalmers))~~ created pursuant to RCW 18.39.173.

30 (7) "Prearrangement funeral service contract" means any contract  
31 under which, for a specified consideration, a funeral establishment  
32 promises, upon the death of the person named or implied in the  
33 contract, to furnish funeral merchandise or services.

34 (8) "Funeral merchandise or services" means those services normally  
35 performed and merchandise normally provided by funeral establishments,  
36 including the sale of burial supplies and equipment, but excluding the  
37 sale by a cemetery of lands or interests therein, services incidental  
38 thereto, markers, memorials, monuments, equipment, crypts, niches, or  
39 vaults.

1 (9) "Qualified public depository" means a public depository defined  
2 by RCW 39.58.010, a credit union as governed by chapter 31.12 RCW, a  
3 mutual savings bank as governed by Title 32 RCW, a savings and loan  
4 association as governed by Title 33 RCW, or a federal credit union or  
5 a federal savings and loan association organized, operated, and  
6 governed by any act of congress, in which prearrangement funeral  
7 service contract funds are deposited by any funeral establishment.

8 Words used in this chapter importing the singular may be applied to  
9 the plural of the person or thing, words importing the plural may be  
10 applied to the singular, and words importing the masculine gender may  
11 be applied to the female.

12 **Sec. 102.** RCW 18.39.145 and 1986 c 259 s 61 and 1985 c 7 s 40 are  
13 each reenacted and amended to read as follows:

14 The board shall issue a funeral establishment license to any  
15 person, partnership, association, corporation, or other organization to  
16 operate a funeral establishment(~~(, at specific locations only,)~~) which  
17 has met the following requirements:

18 (1) The applicant has designated the name under which the funeral  
19 establishment will operate and has designated the location(~~(s)~~) for  
20 which the (~~general~~) funeral establishment license is to be issued and  
21 the locations for which any branch funeral establishment licenses are  
22 to be issued;

23 (2) The applicant is licensed in this state as a funeral director  
24 and as an embalmer, or employs at least one person with both such  
25 qualifications or one licensed funeral director and one embalmer who  
26 will be in service at each designated location;

27 (3) The applicant has filed an application with the director as  
28 required by this chapter and paid the required filing fee therefor as  
29 fixed by the director pursuant to RCW 43.24.086;

30 (4) As a condition of applying for a new funeral establishment  
31 license, the person or entity desiring to acquire such ownership or  
32 control shall be bound by all then existing prearrangement funeral  
33 service contracts.

34 The board may deny an application for a funeral establishment  
35 license, or issue a conditional license, if disciplinary action has  
36 previously been taken against the applicant or the applicant's  
37 designated funeral director or embalmer. No funeral establishment  
38 license shall be transferable, but an applicant may make application

1 for more than one funeral establishment license so long as all of the  
2 requirements are met for each license. All funeral establishment  
3 licenses shall expire on June 30, or as otherwise determined by the  
4 director.

5 **Sec. 103.** RCW 18.39.173 and 1977 ex.s. c 93 s 8 are each amended  
6 to read as follows:

7 ~~((There is hereby established a state board of funeral directors  
8 and embalmers to be composed of five members appointed by the governor  
9 in accordance with this section, one of whom shall be a public member.  
10 The three members of the state examining committee for funeral  
11 directors and embalmers, which was created pursuant to RCW 43.24.060,  
12 as of September 21, 1977 are hereby appointed as members of the board  
13 to serve for initial terms. The governor shall appoint two additional  
14 members of the board. Each professional member of the board shall be  
15 licensed in this state as a funeral director and embalmer and a  
16 resident of the state of Washington for a period of at least five years  
17 next preceding appointment, during which time such member shall have  
18 been continuously engaged in the practice as a funeral director or  
19 embalmer as defined in this chapter. No person shall be eligible for  
20 appointment to the board of funeral directors and embalmers who is  
21 financially interested, directly or indirectly, in any embalming  
22 college, wholesale funeral supply business, or casket manufacturing  
23 business.~~

24 ~~All members of the board of funeral directors and embalmers shall  
25 be appointed to serve for a term of five years, to expire on July 1 of  
26 the year of termination of their term, and until their successors have  
27 been appointed and qualified: PROVIDED, That the governor is granted  
28 the power to fix the terms of office of the members of the board first  
29 appointed so that the term of office of not more than one member of the  
30 board shall terminate in any one year. In case of a vacancy occurring  
31 on the board, the governor shall appoint a qualified member for the  
32 remainder of the unexpired term of the vacant office. Any member of  
33 the board of funeral directors and embalmers who fails to properly  
34 discharge the duties of a member may be removed by the governor.)) A  
35 funeral and cemetery board is created to consist of nine members to be  
36 appointed by the governor in accordance with this section. The three  
37 funeral director and embalmer members of the board of funeral directors  
38 and embalmers whose terms expire after 1997 are hereby appointed to~~

1 serve for initial terms with their year of expiration of term remaining  
2 the same. The two members of the cemetery board who have had  
3 experience in this state in the active administrative management of a  
4 cemetery authority or as a member of the board of directors of a  
5 cemetery authority whose terms expire after 1997 are hereby appointed  
6 to serve for initial terms with their year of expiration of term  
7 remaining the same. A third member who has had experience in this  
8 state in the active administrative management of a cemetery authority  
9 or as a member of the board of directors of a cemetery authority shall  
10 be appointed with a term to expire in 2001. Three public members shall  
11 be appointed with terms to expire in 1999, 2000, and 2001. These  
12 appointments may cause no more than three terms to expire in any given  
13 year.

14 A member of the board must be appointed to serve for a term of four  
15 years, to expire on July 1st of the year of termination of the member's  
16 term. A member shall hold office until the expiration of the term for  
17 which the member is appointed or until a successor has been appointed  
18 and qualified. In case of a vacancy occurring on the board, the  
19 governor shall appoint a qualified member for the remainder of the  
20 unexpired term of the vacant office. A member of the board who fails  
21 to properly discharge the duties of a member may be removed by the  
22 governor.

23 Three members of the board must be persons who have had experience  
24 in this state in the active administrative management of a cemetery  
25 authority or as a member of the board of directors of a cemetery  
26 authority for a period of five years preceding appointment. Three  
27 members of the board must each be licensed in this state as funeral  
28 directors and embalmers and must have been continuously engaged in the  
29 practice as funeral directors and embalmers for a period of five years  
30 preceding appointment. Three members must represent the general public  
31 and may not have a connection with the funeral or cemetery industry.  
32 Two of these public members shall be persons who have professional,  
33 legal, accounting, or trust investment experience that is relevant to  
34 the duties of the board. A member of the board must have been a  
35 resident of the state of Washington for a period of at least five years  
36 preceding appointment.

37 The board shall meet once annually to conduct its business and to  
38 elect a ((chairman)) chair, vice ((chairman)) chair, and ((secretary  
39 and take official board action on pending matters by majority vote of

1 ~~all the members of the board of funeral directors and embalmers))~~ such  
2 other officers as the board determines, and at other times when called  
3 by the director, the ~~((chairman))~~ chair, or a majority of the members.  
4 A majority of the members of ~~((said))~~ the board ~~((shall))~~ at all times  
5 constitutes a quorum. A quorum of the board to consider any charges  
6 brought under this chapter shall include two of the funeral director  
7 and embalmer members of the board. A quorum of the board to consider  
8 any charges brought under Title 68 RCW shall include two of the members  
9 who have had experience in the active administrative management of a  
10 cemetery authority.

11 A member of the board shall be compensated in accordance with RCW  
12 43.03.240 and shall receive travel expenses in accordance with RCW  
13 43.03.050 and 43.03.060.

14 **Sec. 104.** RCW 18.39.175 and 1996 c 217 s 6 are each amended to  
15 read as follows:

16 ~~((Each member of the board of funeral directors and embalmers shall~~  
17 ~~be compensated in accordance with RCW 43.03.240 and shall be reimbursed~~  
18 ~~for travel expenses in connection with board duties in accordance with~~  
19 ~~RCW 43.03.050 and 43.03.060.))~~

20 The ~~((state))~~ board ~~((of funeral directors and embalmers shall~~  
21 ~~have))~~ has the following duties and responsibilities under this  
22 chapter:

23 (1) To be responsible for the preparation, conducting, and grading  
24 of examinations of applicants for funeral director and embalmer  
25 licenses;

26 (2) To certify to the director the results of examinations of  
27 applicants and certify the applicant as having "passed" or "failed";

28 (3) To make findings and recommendations to the director on any and  
29 all matters relating to the enforcement of this chapter;

30 (4) To adopt ~~((, promulgate,))~~ and enforce reasonable rules ~~((-~~  
31 ~~Rules regulating the cremation of human remains and permit requirements~~  
32 ~~shall be adopted in consultation with the cemetery board))~~;

33 (5) To examine or audit or to direct the examination and audit of  
34 prearrangement funeral service trust fund records for compliance with  
35 this chapter and rules adopted by the board; and

36 (6) To adopt rules establishing mandatory continuing education  
37 requirements to be met by persons applying for license renewal.

1       **Sec. 105.** RCW 18.39.217 and 1985 c 402 s 7 are each amended to  
2 read as follows:

3       A permit or endorsement issued by the board or under chapter 68.05  
4 RCW is required in order to operate a crematory or conduct a cremation.  
5 Conducting a cremation without a permit or endorsement is a  
6 misdemeanor. Each such cremation is a separate violation.  
7 (~~Crematories owned or operated by or located on property licensed as~~  
8 ~~a funeral establishment shall be regulated by the board of funeral~~  
9 ~~directors and embalmers.—Crematories not affiliated with a funeral~~  
10 ~~establishment shall be regulated by the cemetery board.~~)

11       **Sec. 106.** RCW 18.39.300 and 1989 c 390 s 7 are each amended to  
12 read as follows:

13       In addition to the grounds for action set forth in RCW (~~18.130.170~~  
14 ~~and 18.130.180~~) 18.39.410, the board may take the disciplinary action  
15 set forth in RCW (~~18.130.160~~) 18.39.500 against the funeral  
16 establishment's license, the license of any funeral director and/or the  
17 funeral establishment's certificate of registration, if the licensee or  
18 registrant:

19       (1) Fails to comply with any provisions of this chapter(~~, chapter~~  
20 ~~18.130-RCW,~~) or any proper order or regulation of the board;

21       (2) Is found by the board to be in such condition that further  
22 execution of prearrangement contracts could be hazardous to purchasers  
23 or beneficiaries and the people of this state;

24       (3) Refuses to be examined, or refuses to submit to examination by  
25 the board when required;

26       (4) Fails to pay the expense of an examination; or

27       (5) Is found by the board after investigation or receipt of  
28 reliable information to be managed by persons who are incompetent or  
29 untrustworthy or so lacking in managerial experience as to make the  
30 proposed or continued execution or servicing of prearrangement funeral  
31 service contracts hazardous to purchasers, beneficiaries, or to the  
32 public.

33       NEW SECTION. **Sec. 107.** A new section is added to chapter 18.39  
34 RCW to read as follows:

35       The procedures for conducting investigations shall provide that  
36 before taking a written statement or conducting an interview:

1 (1) For violation of this chapter, the investigator shall inform  
2 such person in writing: (a) The nature of the complaint; (b) that the  
3 person may consult with legal counsel at his or her expense before  
4 making a statement; and (c) that any statement that the person makes  
5 may be used in an adjudicative proceeding conducted under this chapter;  
6 and

7 (2) From a witness or potential witness in an investigation under  
8 this chapter, the investigator shall inform the person, in writing,  
9 that the statement may be released to the licensee, applicant, or  
10 unlicensed person under investigation if a statement of charges is  
11 issued.

12 **Sec. 108.** RCW 18.39.800 and 1996 c 217 s 9 are each amended to  
13 read as follows:

14 The funeral ~~((directors))~~ and ~~((embalmers))~~ cemetery account is  
15 created in the state treasury. All fees received by the department for  
16 licenses, registrations, renewals, certificates, permits, endorsements,  
17 license examinations, trust fund examinations, and ~~((audits))~~  
18 regulatory charges shall be forwarded to the state treasurer who shall  
19 credit the money to the account. All fines and civil penalties ordered  
20 by the superior court or fines ordered pursuant to RCW  
21 ~~((18.130.160(8)))~~ 18.39.500 and 68.05.105 against holders of licenses  
22 or registrations issued under the provisions of this chapter shall be  
23 paid to the account. All expenses incurred in carrying out the  
24 licensing and registration activities of the department of licensing  
25 and the ~~((state funeral directors and embalmers))~~ board under this  
26 chapter shall be paid from the account as authorized by legislative  
27 appropriation. Any residue in the account shall be accumulated and  
28 shall not revert to the general fund at the end of the biennium. All  
29 earnings of investments of balances in the account shall be credited to  
30 the general fund. Any fund balance remaining in the ~~((health~~  
31 ~~professions))~~ funeral directors and embalmers account attributable to  
32 the funeral director and embalmer professions as of July 1, ~~((1993))~~  
33 1997, and any fund balance remaining in the cemetery account as of July  
34 1, 1997, shall be transferred to the funeral ~~((directors))~~ and  
35 ~~((embalmers))~~ cemetery account.

36 **Sec. 109.** RCW 68.05.020 and 1953 c 290 s 27 are each amended to  
37 read as follows:



1 The term "board" used in this chapter means the funeral and  
2 cemetery board.

3 **Sec. 110.** RCW 68.05.095 and 1987 c 331 s 8 are each amended to  
4 read as follows:

5 ~~((The board shall elect annually a chairman and vice chairman and~~  
6 ~~such other officers as it shall determine from among its members.))~~  
7 The director, in consultation with the board, may employ and prescribe  
8 the duties of the ~~((executive secretary))~~ program administrator. The  
9 ~~((executive secretary shall))~~ program administrator must have a minimum  
10 of five years' experience in either cemetery or funeral management, or  
11 both, unless this requirement is waived by the board.

12 **Sec. 111.** RCW 68.05.105 and 1987 c 331 s 10 are each amended to  
13 read as follows:

14 The board has the following authority under this chapter:

15 (1) To adopt, amend, and rescind such rules as are deemed necessary  
16 to carry out this title;

17 (2) To investigate all complaints or reports of unprofessional  
18 conduct as defined in this chapter and to hold hearings;

19 (3) To issue subpoenas and administer oaths in connection with any  
20 investigation, hearing, or proceeding held under this title;

21 (4) To take or cause depositions to be taken and use other  
22 discovery procedures as needed in any investigation, hearing, or  
23 proceeding held under this title;

24 (5) To compel attendance of witnesses at hearings;

25 (6) In the course of investigating a complaint, to conduct practice  
26 reviews;

27 (7) To take emergency action pending proceedings by the board;

28 (8) To use the office of administrative hearings as authorized in  
29 chapter 34.12 RCW to conduct hearings. However, the board shall make  
30 the final decision;

31 (9) To use consultants or individual members of the board to assist  
32 in the direction of investigations and issuance of statements of  
33 charges. However, those board members shall not subsequently  
34 participate in the hearing of the case;

35 (10) To enter into contracts for professional services determined  
36 to be necessary for adequate enforcement of this title;

1 (11) To contract with persons or organizations to provide services  
2 necessary for the monitoring and supervision of licensees, or  
3 authorities who are for any authorized purpose subject to monitoring by  
4 the board;

5 (12) To adopt standards of professional conduct or practice;

6 (13) To grant or deny authorities or license applications, and in  
7 the event of a finding of unprofessional conduct by an applicant,  
8 authority, or license holder, to impose any sanction against a license  
9 applicant, authority, or license holder provided by this title;

10 (14) To enter into an assurance of discontinuance in lieu of  
11 issuing a statement of charges or conducting a hearing. The assurance  
12 shall consist of a statement of the law in question and an agreement to  
13 not violate the stated provision. The applicant, holder of an  
14 authority to operate, or license holder shall not be required to admit  
15 to any violation of the law, nor shall the assurance be construed as  
16 such an admission. Violation of an assurance under this subsection is  
17 grounds for disciplinary action;

18 (15) To revoke the license or authority;

19 (16) To suspend the license or authority for a fixed or indefinite  
20 term;

21 (17) To restrict or limit the license or authority;

22 (18) To censure or reprimand;

23 (19) To cause compliance with conditions of probation for a  
24 designated period of time;

25 (20) To fine for each violation of this title, not to exceed one  
26 thousand dollars per violation. Funds received shall be placed in the  
27 funeral and cemetery account;

28 (21) To order corrective action.

29 Any of the actions under this section may be totally or partly  
30 stayed by the board. In determining what action is appropriate, the  
31 board must first consider what sanctions are necessary to protect or  
32 compensate the public. All costs associated with compliance with  
33 orders issued under this section are the obligation of the license or  
34 authority holder or applicant.

35 **Sec. 112.** RCW 68.05.175 and 1987 c 331 s 13 are each amended to  
36 read as follows:

37 A permit or endorsement issued by the ((~~cemetery~~)) board or under  
38 chapter 18.39 RCW is required in order to operate a crematory or

1 conduct a cremation. (~~Crematories owned or operated by or located on~~  
2 ~~property licensed as a funeral establishment shall be regulated by the~~  
3 ~~board of funeral directors and embalmers. Crematories not affiliated~~  
4 ~~with a funeral establishment shall be regulated by the cemetery~~  
5 ~~board.~~)

6 **Sec. 113.** RCW 68.05.195 and 1987 c 331 s 15 are each amended to  
7 read as follows:

8 Any person other than persons defined in RCW 68.50.160 who buries  
9 or otherwise disposes of cremated remains by land, by air, or by sea  
10 shall have a permit or endorsement issued in accordance with RCW  
11 (~~68.05.100~~) 18.39.175 and shall be subject to that section.

12 **Sec. 114.** RCW 68.05.205 and 1993 c 43 s 4 are each amended to read  
13 as follows:

14 The director with the consent of the (~~cemetery~~) board shall set  
15 all fees for chapters 68.05, 68.20, 68.24, 68.28, 68.32, 68.36, 68.40,  
16 68.44, and 68.46 RCW in accordance with RCW 43.24.086, including fees  
17 for licenses, certificates, regulatory charges, permits, or  
18 endorsements, and the department shall collect the fees.

19 **Sec. 115.** RCW 68.05.285 and 1953 c 290 s 29 are each amended to  
20 read as follows:

21 (~~There shall be, in the office of the state treasurer, a fund to~~  
22 ~~be known and designated as the "cemetery fund." All regulatory fees or~~  
23 ~~other moneys to be paid under this chapter, unless provision be made~~  
24 ~~otherwise, shall be paid at least once a month to the state treasurer~~  
25 ~~to be credited to the cemetery fund. All moneys credited to the~~  
26 ~~cemetery fund shall be used, when appropriated by the legislature, by~~  
27 ~~the cemetery board to carry out the provisions of this chapter.~~) The  
28 funeral and cemetery account is created in the state treasury under RCW  
29 18.39.800.

30 **Sec. 116.** RCW 68.24.090 and 1987 c 331 s 34 are each amended to  
31 read as follows:

32 Property dedicated to cemetery purposes shall be held and used  
33 exclusively for cemetery purposes, unless and until the dedication is  
34 removed from all or any part of it by an order and decree of the  
35 superior court of the county in which the property is situated, in a

1 proceeding brought by the cemetery authority for that purpose and upon  
2 notice of hearing and proof satisfactory to the court:

3 (1) That no interments were made in or that all interments have  
4 been removed from that portion of the property from which dedication is  
5 sought to be removed.

6 (2) That the portion of the property from which dedication is  
7 sought to be removed is not being used for interment of human remains.

8 (3) That notice of the proposed removal of dedication has been  
9 given the funeral and cemetery board in writing at least sixty days  
10 before filing the proceedings in superior court.

11 **Sec. 117.** RCW 68.40.040 and 1987 c 331 s 37 are each amended to  
12 read as follows:

13 A cemetery authority not exempt under this chapter shall file in  
14 its principal office for review by plot owners the previous seven  
15 fiscal years' endowment care reports as filed with the funeral and  
16 cemetery board in accordance with RCW 68.44.150.

17 **Sec. 118.** RCW 68.44.115 and 1987 c 331 s 44 are each amended to  
18 read as follows:

19 To be considered qualified as a trustee, each trustee of an  
20 endowment care fund appointed in accordance with this chapter shall  
21 file with the board a statement of acceptance of fiduciary  
22 responsibility, on a form approved by the board, before assuming the  
23 duties of trustee. The trustee shall remain in the trustee's fiduciary  
24 capacity until such time as the trustee advises the funeral and  
25 cemetery board in writing of the trustee's resignation of trusteeship.

26 **Sec. 119.** RCW 68.46.010 and 1979 c 21 s 22 are each amended to  
27 read as follows:

28 Unless the context clearly indicates otherwise, the following terms  
29 as used only in this chapter have the meaning given in this section:

30 (1) "Prearrangement contract" means a contract for purchase of  
31 cemetery merchandise or services, unconstructed crypts or niches, or  
32 undeveloped graves to be furnished at a future date for a specific  
33 consideration which is paid in advance by one or more payments in one  
34 sum or by installment payments.

35 (2) "Cemetery authority" shall have the same meaning as in RCW  
36 68.04.190, and shall also include any individual, partnership, firm,

1 joint venture, corporation, company, association, or (~~join~~{joint}))  
2 joint stock company, any of which sells cemetery services or  
3 merchandise, unconstructed crypts or niches, or undeveloped graves  
4 through a prearrangement contract, but shall not include insurance  
5 companies licensed under chapter 48.05 RCW.

6 (3) "Cemetery merchandise or services" and "merchandise or  
7 services" mean those services normally performed by cemetery  
8 authorities, including the sale of monuments, markers, memorials,  
9 nameplates, liners, vaults, boxes, urns, vases, interment services, or  
10 any one or more of them.

11 (4) "Prearrangement trust fund" means all funds required to be  
12 maintained in one or more funds for the benefit of beneficiaries by  
13 either this chapter or by the terms of a prearrangement contract, as  
14 herein defined.

15 (5) "Depository" means a qualified public depository as defined by  
16 RCW 39.58.010, a credit union as governed by chapter 31.12 RCW, a  
17 mutual savings bank as governed by Title 32 RCW, a savings and loan  
18 association as governed by Title 33 RCW, and a federal credit union or  
19 a federal savings and loan association organized, operated, and  
20 governed by any act of congress, in which prearrangement funds are  
21 deposited by any cemetery authority.

22 (6) "Board" means the funeral and cemetery board established under  
23 (~~chapter 68.05~~) RCW 18.39.173 or its authorized representative.

24 (7) "Undeveloped grave" means any grave in an area which a cemetery  
25 authority has not landscaped and groomed to the extent customary in the  
26 cemetery industry in that community.

27 **Sec. 120.** RCW 68.46.040 and 1987 c 331 s 50 are each amended to  
28 read as follows:

29 All prearrangement trust funds shall be deposited in a qualified  
30 public depository as defined by RCW 68.46.010 or invested in  
31 instruments issued or insured by any agency of the federal government,  
32 if these securities are held in public depository. Such savings  
33 accounts shall be designated as the "prearrangement trust fund" by name  
34 and the particular cemetery authority for the benefit of the  
35 beneficiaries named in any prearrangement contract.

36 **Sec. 121.** RCW 68.46.090 and 1983 c 190 s 1 are each amended to  
37 read as follows:

1 Any cemetery authority selling prearrangement merchandise or other  
2 prearrangement services shall file in its office or offices and with  
3 the ((cemetery)) board a written report upon forms prepared by the  
4 ((cemetery)) board which shall state the amount of the principle of the  
5 prearrangement trust fund or funds, the depository of such fund or  
6 funds, and cash on hand which is or may be due to such fund as well as  
7 such other information the board may deem appropriate. All information  
8 appearing on such written reports shall be revised at least annually.  
9 These reports shall be verified by the president, or the vice  
10 president, and one other officer of the cemetery authority, the  
11 accountant or auditor who prepared the report(~~(, and, if required by~~  
12 ~~the board for good cause, a certified public accountant in accordance~~  
13 ~~with generally accepted auditing standards)~~). The board may, in its  
14 discretion, require verification of these reports by a certified public  
15 accountant in accordance with generally accepted auditing standards  
16 (~~(shall be required on reports from cemetery authorities which manage~~  
17 ~~prearrangement trust funds totaling in excess of five hundred thousand~~  
18 ~~dollars)~~).

19 **Sec. 122.** RCW 68.46.110 and 1973 1st ex.s. c 68 s 11 are each  
20 amended to read as follows:

21 No cemetery authority shall sell, offer to sell or authorize the  
22 sale of cemetery merchandise or services or accept funds in payment of  
23 any prearrangement contract, either directly or indirectly, unless such  
24 acts are performed in compliance with chapter 68, Laws of 1973 1st ex.  
25 sess., and under the authority of a valid, subsisting and unsuspended  
26 certificate of authority to operate a cemetery in this state by the  
27 (~~Washington state cemetery~~) board.

28 **Sec. 123.** RCW 68.46.130 and 1979 c 21 s 43 are each amended to  
29 read as follows:

30 The ((cemetery)) board may grant an exemption from any or all of  
31 the requirements of this chapter relating to prearrangement contracts  
32 to any cemetery authority which:

- 33 (1) Sells less than twenty prearrangement contracts per year; and
- 34 (2) Deposits one hundred percent of all funds received into a trust  
35 fund under RCW 68.46.030(~~(, as now or hereafter amended)~~).

1       **Sec. 124.** RCW 68.50.165 and 1985 c 402 s 2 are each amended to  
2 read as follows:

3       With the exception of skeletal remains, refrigeration or embalming  
4 shall be provided within twenty-four hours of the death or discovery of  
5 any human remains lying within this state. If embalming services are  
6 not desired nor required for the type of arrangements chosen by the  
7 authorized family member or representative and a refrigeration unit is  
8 unavailable for use, embalming services shall be provided without  
9 charge in instances where the ~~((body is))~~ remains are to be held more  
10 than twenty-four hours.

11       **Sec. 125.** RCW 68.50.230 and 1985 c 402 s 9 are each amended to  
12 read as follows:

13       Whenever any dead human body shall have been in the lawful  
14 possession of any person, firm, corporation or association for a period  
15 of one year or more, or whenever the incinerated remains of any dead  
16 human body have been in the lawful possession of any person, firm,  
17 corporation or association for a period of two years or more, and the  
18 relatives of, or persons interested in, the deceased person shall fail,  
19 neglect or refuse for such periods of time, respectively, to direct the  
20 disposition to be made of such body or remains, such body or remains  
21 may be disposed of by the person, firm, corporation or association  
22 having such lawful possession thereof, under and in accordance with  
23 rules adopted by the funeral and cemetery board ~~((and the board of~~  
24 ~~funeral directors and embalmers))~~, not inconsistent with any statute of  
25 the state of Washington or rule ~~((or regulation prescribed))~~ adopted by  
26 the state board of health.

27       **Sec. 126.** RCW 68.60.030 and 1995 c 399 s 168 are each amended to  
28 read as follows:

29       (1)(a) The archaeological and historical division of the department  
30 of community, trade, and economic development may grant by  
31 nontransferable certificate authority to maintain and protect an  
32 abandoned cemetery upon application made by a preservation organization  
33 which has been incorporated for the purpose of restoring, maintaining,  
34 and protecting an abandoned cemetery. Such authority shall be limited  
35 to the care, maintenance, restoration, protection, and historical  
36 preservation of the abandoned cemetery, and shall not include authority

1 to make burials, unless specifically granted by the funeral and  
2 cemetery board.

3 (b) Those preservation and maintenance corporations that are  
4 granted authority to maintain and protect an abandoned cemetery shall  
5 be entitled to hold and possess burial records, maps, and other  
6 historical documents as may exist. Maintenance and preservation  
7 corporations that are granted authority to maintain and protect an  
8 abandoned cemetery shall not be liable to those claiming burial rights,  
9 ancestral ownership, or to any other person or organization alleging to  
10 have control by any form of conveyance not previously recorded at the  
11 county auditor's office within the county in which the abandoned  
12 cemetery exists. Such organizations shall not be liable for any  
13 reasonable alterations made during restoration work on memorials,  
14 roadways, walkways, features, plantings, or any other detail of the  
15 abandoned cemetery.

16 (c) Should the maintenance and preservation corporation be  
17 dissolved, the archaeological and historical division of the department  
18 of community, trade, and economic development shall revoke the  
19 certificate of authority.

20 (d) Maintenance and preservation corporations that are granted  
21 authority to maintain and protect an abandoned cemetery may establish  
22 care funds pursuant to chapter 68.44 RCW, and shall report in  
23 accordance with chapter 68.44 RCW to the ((state)) funeral and cemetery  
24 board.

25 (2) Except as provided in subsection (1) of this section, the  
26 department of community, trade, and economic development may, in its  
27 sole discretion, authorize any Washington nonprofit corporation that is  
28 not expressly incorporated for the purpose of restoring, maintaining,  
29 and protecting an abandoned cemetery, to restore, maintain, and protect  
30 one or more abandoned cemeteries. The authorization may include the  
31 right of access to any burial records, maps, and other historical  
32 documents, but shall not include the right to be the permanent  
33 custodian of original records, maps, or documents. This authorization  
34 shall be granted by a nontransferable certificate of authority. Any  
35 nonprofit corporation authorized and acting under this subsection is  
36 immune from liability to the same extent as if it were a preservation  
37 organization holding a certificate of authority under subsection (1) of  
38 this section.



1 (3) The department of community, trade, and economic development  
2 shall establish standards and guidelines for granting certificates of  
3 authority under subsections (1) and (2) of this section to assure that  
4 any restoration, maintenance, and protection activities authorized  
5 under this subsection are conducted and supervised in an appropriate  
6 manner.

7 **Sec. 127.** RCW 68.60.050 and 1989 c 44 s 5 are each amended to read  
8 as follows:

9 (1) Any person who knowingly removes, mutilates, defaces, injures,  
10 or destroys any historic grave shall be guilty of a class C felony  
11 punishable under chapter 9A.20 RCW. Persons disturbing historic graves  
12 through inadvertence, including disturbance through construction, shall  
13 reinter the human remains under the supervision of the funeral and  
14 cemetery board. Expenses to reinter such human remains are to be  
15 provided by the office of archaeology and historic preservation.

16 (2) This section does not apply to actions taken in the performance  
17 of official law enforcement duties.

18 (3) It shall be a complete defense in a prosecution under  
19 subsection (1) of this section if the defendant can prove by a  
20 preponderance of evidence that the alleged acts were accidental or  
21 inadvertent and that reasonable efforts were made to preserve the  
22 remains accidentally disturbed or discovered, and that the accidental  
23 discovery or disturbance was properly reported.

24 **Sec. 128.** RCW 68.60.060 and 1990 c 92 s 5 are each amended to read  
25 as follows:

26 Any person who violates any provision of this chapter is liable in  
27 a civil action by and in the name of the ((state)) funeral and cemetery  
28 board to pay all damages occasioned by their unlawful acts. The sum  
29 recovered shall be applied in payment for the repair and restoration of  
30 the property injured or destroyed and to the care fund if one is  
31 established.

32 NEW SECTION. **Sec. 129.** The following acts or parts of acts are  
33 each repealed:

34 (1) RCW 68.05.040 and 1987 c 331 s 5, 1977 ex.s. c 351 s 1, & 1953  
35 c 290 s 31;

1 (2) RCW 68.05.050 and 1979 c 21 s 5, 1977 ex.s. c 351 s 2, & 1953  
2 c 290 s 32;

3 (3) RCW 68.05.060 and 1984 c 287 s 102, 1975-'76 2nd ex.s. c 34 s  
4 156, & 1953 c 290 s 33;

5 (4) RCW 68.05.080 and 1987 c 331 s 6 & 1953 c 290 s 35; and

6 (5) RCW 68.05.100 and 1993 c 43 s 3, 1987 c 331 s 9, 1985 c 402 s  
7 8, & 1953 c 290 s 36.

8 **PART 2**

9 **HEALTH CARE ASSISTANTS ADVISORY COMMITTEE**

10 **Sec. 201.** RCW 18.135.030 and 1994 sp.s. c 9 s 515 are each amended  
11 to read as follows:

12 (1) The secretary or the secretary's designee(, with the advice of  
13 designees of the medical care quality assurance commission, the board  
14 of osteopathic medicine and surgery, the podiatric medical board, and  
15 the nursing care quality assurance commission,)) may appoint members of  
16 the health care assistant profession and other health care  
17 practitioners, as defined in RCW 18.135.020(3), to serve in an ad hoc  
18 capacity to assist in carrying out the provisions of this chapter. The  
19 members shall provide advice on matters specifically identified and  
20 requested by the secretary. The members shall be reimbursed for travel  
21 expenses under RCW 43.03.050 and 43.03.060.

22 (2) In addition to any other authority provided by law, the  
23 secretary shall adopt rules necessary to:

24 (a) Administer, implement, and enforce this chapter ((and));

25 (b) Establish the minimum requirements necessary for a health care  
26 facility or health care practitioner to certify a health care assistant  
27 capable of performing the functions authorized in this chapter((The  
28 rules shall)); and

29 (c) Establish minimum requirements for each and every category of  
30 health care assistant. ((Said))

31 (3) The rules shall be adopted after fair consideration of input  
32 from representatives of each category. These requirements shall ensure  
33 that the public health and welfare are protected and shall include, but  
34 not be limited to, the following factors:

35 ((+1)) (a) The education and occupational qualifications for the  
36 health care assistant category;



1 (b) Any individual collecting or attempting to collect claims for  
2 not more than one employer, if all the collection efforts are carried  
3 on in the name of the employer and if the individual is an employee of  
4 the employer;

5 (c) Any person whose collection activities are carried on in his,  
6 her, or its true name and are confined and are directly related to the  
7 operation of a business other than that of a collection agency, such as  
8 but not limited to trust companies, savings and loan associations,  
9 building and loan associations, abstract companies doing an escrow  
10 business, real estate brokers, public officers acting in their official  
11 capacities, persons acting under court order, lawyers, insurance  
12 companies, credit unions, loan or finance companies, mortgage banks,  
13 and banks;

14 (d) Any person who on behalf of another person prepares or mails  
15 monthly or periodic statements of accounts due if all payments are made  
16 to that other person and no other collection efforts are made by the  
17 person preparing the statements of account; or

18 (e) An "out-of-state collection agency" as defined in this chapter.

19 (4) "Out-of-state collection agency" means a person whose  
20 activities within this state are limited to collecting debts from  
21 debtors located in this state by means of interstate communications,  
22 including telephone, mail, or facsimile transmission, from the person's  
23 location in another state on behalf of clients located outside of this  
24 state.

25 (5) "Claim" means any obligation for the payment of money or thing  
26 of value arising out of any agreement or contract, express or implied.

27 (6) "Statement of account" means a report setting forth only  
28 amounts billed, invoices, credits allowed, or aged balance due.

29 (7) "Director" means the director of licensing.

30 (8) "Client" or "customer" means any person authorizing or  
31 employing a collection agency to collect a claim.

32 (9) "Licensee" means any person licensed under this chapter.

33 (10) (~~"Board" means the Washington state collection agency board.~~  
34 ~~(11))~~) "Debtor" means any person owing or alleged to owe a claim.

35 **Sec. 302.** RCW 19.16.360 and 1977 ex.s. c 194 s 3 are each amended  
36 to read as follows:

37 (1) Whenever the director shall have reasonable cause to believe  
38 that grounds exist for denial, nonrenewal, revocation or suspension of

1 a license issued or to be issued under this chapter, or in lieu of or  
2 in addition to suspension that a licensee should be assessed a civil,  
3 monetary penalty not to exceed one thousand dollars, ~~((he))~~ the  
4 director shall notify the applicant or licensee in writing by certified  
5 or registered mail, with return receipt requested, stating the grounds  
6 upon which it is proposed that the license be denied, revoked, not  
7 renewed, or suspended and upon which any monetary penalty is going to  
8 be assessed and the amount of the penalty.

9 (2) Within thirty days from the receipt of notice of the alleged  
10 grounds for denial, revocation, lack of renewal, or suspension or for  
11 the monetary penalty to be assessed in lieu of or in addition to  
12 suspension, the applicant or licensee may serve upon the director a  
13 written request for hearing ~~((before the board))~~ in accordance with  
14 chapter 34.05 RCW, the administrative procedure act. Service of a  
15 request for a hearing shall be by certified mail and shall be addressed  
16 to the director at ~~((his))~~ the director's office in Thurston county.  
17 ~~((Upon receiving a request for a hearing, the director shall fix a date~~  
18 ~~for which the matter may be heard by the board, which date shall be not~~  
19 ~~less than thirty days from the receipt of the request for such hearing.~~  
20 ~~If no request for hearing is made within the time specified,))~~ The  
21 license shall be deemed denied, revoked, or not renewed or the license  
22 shall be deemed suspended and/or the civil, monetary penalty shall be  
23 deemed assessed.

24 (3) Whenever a licensee who has made timely and sufficient  
25 application for the renewal of a license, receives notice from the  
26 director that it is proposed that ~~((his or its))~~ the license is not to  
27 be renewed, and said licensee requests a hearing under subsection (2)  
28 of this section, the licensee's current license shall not expire until  
29 the last day for seeking review of the ~~((board's))~~ director's decision  
30 expires or if judicial review of the ~~((board's))~~ director's decision is  
31 sought until final judgment has been entered by the superior court, or  
32 in the event of an appeal or appeals, until final judgment has been  
33 entered by the last appellate court in which review has been sought.

34 **Sec. 303.** RCW 19.16.380 and 1971 ex.s. c 253 s 29 are each amended  
35 to read as follows:

36 ~~((Except as specifically provided in this chapter,))~~ The rules  
37 adopted and the hearings conducted shall be in accordance with the  
38 provisions of chapter 34.05 RCW (administrative procedure act).



1 contributor of such data a transcript of the record of previous arrests  
2 and dispositions of the persons described in the data submitted.

3 Upon application, the section shall furnish to criminal justice  
4 agencies, or to the department of social and health services,  
5 hereinafter referred to as the "department", a transcript of the  
6 criminal offender record information, dependency record information, or  
7 protection proceeding record information available pertaining to any  
8 person of whom the section has a record.

9 For the purposes of RCW 43.43.700 through 43.43.800 the following  
10 words and phrases shall have the following meanings:

11 "Criminal offender record information" includes, and shall be  
12 restricted to identifying data and public record information recorded  
13 as the result of an arrest or other initiation of criminal proceedings  
14 and the consequent proceedings related thereto. "Criminal offender  
15 record information" shall not include intelligence, analytical, or  
16 investigative reports and files.

17 "Criminal justice agencies" are those public agencies within or  
18 outside the state which perform, as a principal function, activities  
19 directly relating to the apprehension, prosecution, adjudication or  
20 rehabilitation of criminal offenders.

21 "Dependency record information" includes and shall be restricted to  
22 identifying data regarding a person, over the age of eighteen, who was  
23 a party to a dependency proceeding brought under chapter 13.34 RCW and  
24 who has been found, pursuant to such dependency proceeding, to have  
25 sexually abused or exploited or physically abused a child.

26 "Protection proceeding record information" includes and shall be  
27 restricted to identifying data regarding a person, over eighteen, who  
28 was a respondent to a protection proceeding brought under chapter 74.34  
29 RCW and who has been found pursuant to such a proceeding to have abused  
30 or financially exploited a vulnerable adult.

31 The section may refuse to furnish any information pertaining to the  
32 identification or history of any person or persons of whom it has a  
33 record, or other information in its files and records, to any applicant  
34 if the chief determines that the applicant has previously misused  
35 information furnished to such applicant by the section or the chief  
36 believes that the applicant will not use the information requested  
37 solely for the purpose of due administration of the criminal laws or  
38 for the purposes enumerated in RCW 43.43.760(3). The applicant may  
39 appeal such determination (~~and denial of information to the advisory~~

1 ~~council created in RCW 43.43.785 and the council may direct that the~~  
2 ~~section furnish such information to the applicant)) by notifying the~~  
3 ~~chief in writing within thirty days. The hearing shall be before an~~  
4 ~~administrative law judge appointed under chapter 34.12 RCW and in~~  
5 ~~accordance with procedures for adjudicative proceedings under chapter~~  
6 ~~34.05 RCW.~~

7 **Sec. 502.** RCW 43.43.785 and 1972 ex.s. c 152 s 18 are each amended  
8 to read as follows:

9 The legislature finds that there is a need for the Washington state  
10 patrol to establish a program which will consolidate existing programs  
11 of criminal justice services within its jurisdiction so that such  
12 services may be more effectively utilized by the criminal justice  
13 agencies of this state. The chief(~~(, with the advice of the state~~  
14 ~~advisory council on criminal justice services created in RCW~~  
15 ~~43.43.790,)) shall establish such a program which shall include but not  
16 be limited to the identification section, all auxiliary systems  
17 including the Washington crime information center and the  
18 teletypewriter communications network, the drug control assistance  
19 unit, and any other services the chief deems necessary which are not  
20 directly related to traffic control.~~

21 **Sec. 503.** RCW 43.43.800 and 1972 ex.s. c 152 s 21 are each amended  
22 to read as follows:

23 The ~~((advisory council))~~ executive committee created in RCW  
24 10.98.160 shall review the provisions of RCW 43.43.700 through  
25 43.43.785 and the administration thereof and shall consult with and  
26 advise the chief of the state patrol on matters pertaining to the  
27 policies of criminal justice services program.

28 ~~((The council shall appoint technical advisory committees comprised~~  
29 ~~of members of criminal justice agencies having demonstrated technical~~  
30 ~~expertise in the various fields of specialty within the program.))~~

31 NEW SECTION. **Sec. 504.** The following acts or parts of acts are  
32 each repealed:

- 33 (1) RCW 43.43.790 and 1972 ex.s. c 152 s 19; and  
34 (2) RCW 43.43.795 and 1972 ex.s. c 152 s 20.



1 **PART 6**

2 **LOCAL GOVERNMENT ADVISORY COMMITTEE**

3 NEW SECTION. **Sec. 601.** By July 1, 1997, the director of the  
4 department of community, trade, and economic development shall abolish  
5 the local government advisory committee.

6 **PART 7**

7 **COMMUNITY DIVERSIFICATION PROGRAM ADVISORY COMMITTEE**

8 NEW SECTION. **Sec. 701.** By July 1, 1997, the director of the  
9 department of community, trade, and economic development shall abolish  
10 the community diversification program advisory committee.

11 **PART 8**

12 **LOWER COLUMBIA RIVER BISTATE STEERING COMMITTEE**

13 NEW SECTION. **Sec. 801.** The bistate steering committee created in  
14 section 302(28)(a), chapter 16, Laws of 1990 1st ex. sess. is  
15 abolished.

16 **PART 9**

17 **DEPARTMENT OF CORRECTIONS WORK RELEASE SITING COMMITTEES**

18 NEW SECTION. **Sec. 901.** By July 1, 1997, the secretary of  
19 corrections shall abolish the work release advisory committee, the  
20 Pierce county advisory committee, the Moses Lake search committee, the  
21 Spokane search committee, the Bremerton advisory committee, and the  
22 Kitsap county work release facility analysis and site evaluation  
23 committee.

24 **PART 10**

25 **PUBLIC INFORMATION ACCESS POLICY TASK FORCE**

26 NEW SECTION. **Sec. 1001.** RCW 42.17.261 and 1994 c 40 s 4 are each  
27 repealed.

28 **PART 11**

29 **MISCELLANEOUS**

1        NEW SECTION.    **Sec. 1101.**    Part headings used in this act are not  
2 any part of the law.

3        NEW SECTION.    **Sec. 1102.**    This act is necessary for the immediate  
4 preservation of the public peace, health, or safety, or support of the  
5 state government and its existing public institutions, and takes effect  
6 July 1, 1997.

--- END ---