

# HOUSE BILL REPORT

## SHB 1564

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**As Passed House:**  
February 28, 2011

**Title:** An act relating to the right to control the disposition of human remains.

**Brief Description:** Concerning the right to control the disposition of human remains.

**Sponsors:** House Committee on Judiciary (originally sponsored by Representatives Kenney, Cody, Kagi and Moscoso).

**Brief History:**

**Committee Activity:**

Judiciary: 2/10/11, 2/17/11 [DPS].

**Floor Activity:**

Passed House: 2/28/11, 96-0.

**Brief Summary of Substitute Bill**

- Makes changes to the list of persons who have the right to control the disposition of a decedent's remains when the decedent has not provided directions regarding disposition.
- Addresses the liability of a cemetery authority or funeral establishment if or when funds for the disposition of human remains are provided by a government agency or charitable organization.

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### HOUSE COMMITTEE ON JUDICIARY

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 13 members: Representatives Pedersen, Chair; Goodman, Vice Chair; Rodne, Ranking Minority Member; Shea, Assistant Ranking Minority Member; Chandler, Eddy, Frockt, Kirby, Klippert, Nealey, Orwall, Rivers and Roberts.

**Staff:** Edie Adams (786-7180).

**Background:**

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*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.*

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. 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.

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 is given to 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 then 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.

If or when a government agency provides funds for the disposition of human remains and elects to provide funds for cremation only, the cemetery authority or funeral establishment may not be held civilly or criminally liable for cremating the remains.

#### **Summary of Substitute Bill:**

The list of persons who have the right to control the disposition of remains if or when the decedent has not provided directions is revised as follows:

- The designated agent of the decedent is listed as the person with the first right to control the disposition. The designated agent must be indicated in a written document signed and dated by the decedent in the presence of a witness. The direction of the designated agent is sufficient to direct the type, place, and method of disposition.
- The categories for surviving adult children and surviving siblings are changed to give the right to the majority of the children or siblings, rather than all children or siblings.
- The decedent's court-appointed guardian is added as the last in the list of persons who have the right to control the disposition.

A cemetery authority or funeral establishment is not liable for cremating any human remains if or when the funds for the disposition of the human remains are provided by a charitable organization or government agency (regardless of whether funds are provided for cremation only).

**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.

**Staff Summary of Public Testimony:**

(In support) Allowing people to designate an agent with the right to make decisions regarding the disposition of the person's remains will be beneficial for funeral consumers and the funeral industry. Thirty-five other states have a designated agent provision in their laws. There is overwhelming support for the provision that allows a majority of the siblings or children to make the decision. Last year there was a lack of consensus in the language but now there is agreement among all the parties. One suggested change would be to require the document designating the agent to be dated.

Another proposed change would be to include a provision dealing with organizations located outside Washington that are actively pursuing donation of bodies. People may not be aware that these organizations do not operate with the same standards as universities or medical institutions that receive anatomical gifts. These organizations should be required to provide notice of how they dispose of the remains and that they may profit from the donation.

(Opposed) None.

**Persons Testifying:** John Barr, Washington Cemetery, Cremation, and Funeral Association; and John Eric Rolfstad and Rod Stout, Peoples Memorial Association.

**Persons Signed In To Testify But Not Testifying:** None.