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SENATE BILL 5804

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State of Washington                      62nd Legislature                      2011 Regular Session

By Senators White, Nelson, Tom, and Murray

Read first time 02/15/11. Referred to Committee on Judiciary.

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

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

4            **Sec. 1.** RCW 68.50.160 and 2010 c 274 s 602 are each amended to  
5 read 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 and dated, is  
11 sufficient 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 designated agent of the decedent as directed through a  
10 valid written document signed by the decedent in the presence of a  
11 witness and dated. The direction of the designated agent is sufficient  
12 to direct the type, place, and method of disposition.

13 (b) The surviving spouse or state registered domestic partner.

14 ~~((b))~~ (c) The surviving adult children of the decedent.

15 ~~((c))~~ (d) The surviving parents of the decedent.

16 ~~((d))~~ (e) The surviving siblings of the decedent.

17 ~~((e))~~ (f) A person acting as a representative of the decedent  
18 under the signed authorization of the decedent.

19 (g) A court-appointed guardian for the person at the time of the  
20 person's death.

21 (4) If any person to whom the right of control has vested pursuant  
22 to subsection (3) of this section has been arrested or charged with  
23 first or second degree murder or first degree manslaughter in  
24 connection with the decedent's death, the right of control is  
25 relinquished and passed on in accordance with subsection (3) of this  
26 section.

27 (5) If a cemetery authority as defined in RCW 68.04.190 or a  
28 funeral establishment licensed under chapter 18.39 RCW has made a good  
29 faith effort to locate the person cited in subsection (3)(a) through  
30 ~~((e))~~ (g) of this section or the legal representative of the  
31 decedent's estate, the cemetery authority or funeral establishment  
32 shall have the right to rely on an authority to bury or cremate the  
33 human remains, executed by the most responsible party available, and  
34 the cemetery authority or funeral establishment may not be held  
35 criminally or civilly liable for burying or cremating the human  
36 remains. In the event any government agency provides the funds for the  
37 disposition of any human remains and the government agency elects to

1 provide funds for cremation only, the cemetery authority or funeral  
2 establishment may not be held criminally or civilly liable for  
3 cremating the human remains.

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

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