
SUBSTITUTE SENATE BILL 6033

State of Washington

62nd Legislature

2012 Regular Session

By Senate Judiciary (originally sponsored by Senators Kohl-Welles, Pflug, Harper, Regala, Kline, and Shin)

READ FIRST TIME 02/02/12.

1 AN ACT Relating to parental decision making regarding the
2 disposition of remains upon the death of an adult child; and amending
3 RCW 68.50.160.

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

5 **Sec. 1.** RCW 68.50.160 and 2011 c 265 s 2 are each amended to read
6 as follows:

7 (1) A person has the right to control the disposition of his or her
8 own remains without the predeath or postdeath consent of another
9 person. A valid written document expressing the decedent's wishes
10 regarding the place or method of disposition of his or her remains,
11 signed by the decedent in the presence of a witness, is sufficient
12 legal authorization for the procedures to be accomplished.

13 (2) Prearrangements that are prepaid, or filed with a licensed
14 funeral establishment or cemetery authority, under RCW 18.39.280
15 through 18.39.345 and chapter 68.46 RCW are not subject to cancellation
16 or substantial revision by survivors. Absent actual knowledge of
17 contrary legal authorization under this section, a licensed funeral
18 establishment or cemetery authority shall not be held criminally nor
19 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 written document signed and dated by the decedent in the presence of a
11 witness. The direction of the designated agent is sufficient to direct
12 the type, place, and method of disposition((~~-~~));

13 (b) The surviving spouse or state registered domestic partner((~~-~~));

14 (c) The majority of the surviving adult children of the
15 decedent((~~-~~));

16 (d) The surviving parents of the decedent((~~-~~)), except as provided
17 in subsection (4) of this section when a child dies after reaching the
18 age of majority;

19 (e) The majority of the surviving siblings of the decedent((~~-~~));

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

22 (4) A parent's right to control the disposition of remains of the
23 parent's child who dies after reaching the age of majority is governed
24 by this subsection.

25 (a) A parent has the right to exercise sole decision-making
26 authority to direct the type, place, and method of disposition under
27 the following circumstances:

28 (i) At the time of death:

29 (A) There was a valid court order in force restricting or
30 precluding the other parent's contact with the adult child;

31 (B) There was a request pending with a court of competent
32 jurisdiction for a protective order filed by or on behalf of the adult
33 child against the other parent; or

34 (C) The other parent was awaiting sentencing, confined, or on
35 probation for an assault or other injury to the child, regardless of
36 when the assault or injury occurred;

37 (ii) At the time the child reached the age of majority, there was
38 a court order in force that:

1 (A) Restricted or precluded entirely the other parent's contact
2 with the child under the provisions of RCW 26.09.191, or under
3 substantially similar provisions in the laws of another jurisdiction;
4 or

5 (B) Granted sole decision-making authority for religious upbringing
6 or for all matters to the parent seeking to exercise authority
7 regarding the disposition of remains; or

8 (iii) For fifteen or more years during the child's minority:

9 (A) The parent seeking to exercise authority regarding the
10 disposition of remains was the legal custodian of the child;

11 (B) There was no court order granting the other parent residential
12 time or other contact with the child and the other parent never filed
13 a petition with the court seeking residential time or other contact
14 with the child; and

15 (C) There was no order of child support in force on behalf of the
16 child requiring the other parent to support the child or the other
17 parent failed to pay child support that was due under a court order.

18 (b) For the purposes of this subsection (4), "court order" means
19 any valid order issued by a court of competent jurisdiction, including
20 an order entered by agreement of the parties or by default. Proof of
21 the existence of such a court order may be made by providing the
22 cemetery authority or funeral establishment with a certified copy of
23 the order.

24 (c) A parent seeking to exercise authority under this subsection
25 (4) based on the absence of a court order must affirm in writing the
26 circumstances supporting the parent's exercise of authority.

27 (d) This subsection (4) does not prohibit the parents of a child
28 who dies after reaching the age of majority from voluntarily
29 cooperating in the decision making regarding the disposition of the
30 child's remains under subsection (3)(d) of this section.

31 (5) If any person to whom the right of control has vested pursuant
32 to subsection (3) of this section has been arrested or charged with
33 first or second degree murder or first degree manslaughter in
34 connection with the decedent's death, the right of control is
35 relinquished and passed on in accordance with subsection (3) of this
36 section.

37 ((+5)-If)) (6) A cemetery authority as defined in RCW 68.04.190 or

1 a funeral establishment licensed under chapter 18.39 RCW may not be
2 held criminally or civilly liable for burying or cremating the human
3 remains when:

4 (a) The cemetery authority or funeral establishment has made a good
5 faith effort to locate the person cited in subsection (3)(a) through
6 (f) of this section or the legal representative of the decedent's
7 estate((, the));

8 (b) The cemetery authority or funeral establishment relies on
9 documentation provided under subsection (4)(b) or (c) of this section;
10 or

11 (c) Any government agency or charitable organization provides the
12 funds for the disposition of any human remains. A cemetery authority
13 or funeral establishment shall have the right to rely on an authority
14 to bury or cremate the human remains, executed by the most responsible
15 party available((, and the cemetery authority or funeral establishment
16 may not be held criminally or civilly liable for burying or cremating
17 the human remains. In the event any government agency or charitable
18 organization provides the funds for the disposition of any human
19 remains, the cemetery authority or funeral establishment may not be
20 held criminally or civilly liable for cremating the human remains)) and
21 supported by any documentation provided under subsection (4)(b) or (c)
22 of this section.

23 ~~((+6))~~ (7) The liability for the reasonable cost of preparation,
24 care, and disposition devolves jointly and severally upon all kin of
25 the decedent in the same degree of kindred, in the order listed in
26 subsection (3) of this section, and upon the estate of the decedent.

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