

ESHB 2777 - S AMD TO JUD COMM AMD (S-5133.1/10) 246
By Senator Zarelli

ADOPTED 03/03/2010

1 On page 50, after line 4, insert the following:

2 "Sec. 602. RCW 68.50.160 and 2007 c 156 s 24 are each amended to
3 read as follows:

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

10 (2) Prearrangements that are prepaid, or filed with a licensed
11 funeral establishment or cemetery authority, under RCW 18.39.280
12 through 18.39.345 and chapter 68.46 RCW are not subject to cancellation
13 or substantial revision by survivors. Absent actual knowledge of
14 contrary legal authorization under this section, a licensed funeral
15 establishment or cemetery authority shall not be held criminally nor
16 civilly liable for acting upon such prearrangements.

17 (3) If the decedent has not made a prearrangement as set forth in
18 subsection (2) of this section or the costs of executing the decedent's
19 wishes regarding the disposition of the decedent's remains exceeds a
20 reasonable amount or directions have not been given by the decedent,
21 the right to control the disposition of the remains of a deceased
22 person vests in, and the duty of disposition and the liability for the
23 reasonable cost of preparation, care, and disposition of such remains
24 devolves upon the following in the order named:

- 25 (a) The surviving spouse or state registered domestic partner.
26 (b) The surviving adult children of the decedent.
27 (c) The surviving parents of the decedent.
28 (d) The surviving siblings of the decedent.
29 (e) A person acting as a representative of the decedent under the
30 signed authorization of the decedent.

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

7 (5) If a cemetery authority as defined in RCW 68.04.190 or a
8 funeral establishment licensed under chapter 18.39 RCW has made a good
9 faith effort to locate the person cited in subsection (3)(a) through
10 (e) of this section or the legal representative of the decedent's
11 estate, the cemetery authority or funeral establishment shall have the
12 right to rely on an authority to bury or cremate the human remains,
13 executed by the most responsible party available, and the cemetery
14 authority or funeral establishment may not be held criminally or
15 civilly liable for burying or cremating the human remains. In the
16 event any government agency provides the funds for the disposition of
17 any human remains and the government agency elects to provide funds for
18 cremation only, the cemetery authority or funeral establishment may not
19 be held criminally or civilly liable for cremating the human remains.

20 ((+5)) (6) The liability for the reasonable cost of preparation,
21 care, and disposition devolves jointly and severally upon all kin of
22 the decedent in the same degree of kindred, in the order listed in
23 subsection (3) of this section, and upon the estate of the decedent."

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24 On page 50, line 8 of the title amendment, after "35.20.255,"
25 strike "and 26.50.150" and insert "26.50.150, and 68.50.160"

EFFECT: If a person is arrested or charged with first or second

degree murder or first degree manslaughter in connection with the decedent's death, the right of the person charged to control the remains of the decedent is relinquished. The right lapses to the next vested individual according to statute.

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