

HOUSE BILL REPORT

HB 1001

As Reported by House Committee On:
Judiciary

Title: An act relating to veterans' burials.

Brief Description: Concerning veterans' burials.

Sponsors: Representatives Parker, Hurst, McCune, Moeller, Ross, Kelley, Morrell, Chase, Green, Schmick, Sullivan, Conway, Dickerson, Kenney, Campbell, Kristiansen, Driscoll, Van De Wege, Orwall, O'Brien, Roach, Wallace, Simpson, Bailey, Kretz and Warnick; by request of Joint Committee on Veterans' and Military Affairs.

Brief History:

Committee Activity:

Judiciary: 1/22/09, 1/29/09 [DPS].

Brief Summary of Substitute Bill

- Requires the transfer of a veteran's or veteran's dependent's remains to the Department of Veterans Affairs upon certification of eligibility for interment at a federal or state veterans cemetery, if the remains are unclaimed for a period of 90 days or longer.
- Provides immunity to the state, its employees or agents, and the person, firm, corporation, or association making a transfer of human remains to the Department of Veterans Affairs.

HOUSE COMMITTEE ON JUDICIARY

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 11 members: Representatives Pedersen, Chair; Goodman, Vice Chair; Rodne, Ranking Minority Member; Shea, Assistant Ranking Minority Member; Flannigan, Kelley, Kirby, Ormsby, Roberts, Ross and Warnick.

Staff: Courtney Barnes (786-7194)

Background:

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.

Disposal of Human Remains.

A person has the right to control the disposition of his or her remains without the pre-death or post-death consent of another person. A valid written document expressing the decedent's wishes regarding the place or method of disposition of his or her remains, signed by the decedent in the presence of a witness, is sufficient legal authorization. Prearrangements may also be prepaid or filed with a licensed funeral establishment or cemetery authority.

In the event that a decedent has not made a prearrangement, the right to control the disposition of the remains vests in the following order:

1. the surviving spouse or state registered domestic partner;
2. the surviving adult children;
3. the surviving parents of the decedent;
4. the surviving siblings of the decedent; or
5. a person acting as a representative of the decedent under the signed authorization of the decedent.

If a funeral establishment or cemetery authority is unable to locate the next of kin after making a good faith effort to find them, the most responsible person available may authorize the disposition of the deceased's remains. In such cases, the cemetery authority or funeral establishment may not be held criminally or civilly liable for burying or cremating the remains.

Human Remains Without Disposition.

There may be situations where the relatives of a decedent may fail or refuse to direct the disposition of the deceased's remains. A person or entity that has been in possession of unclaimed remains for a period of 90 days or more may dispose of the remains. The disposition of unclaimed human remains must be in accordance with the rules adopted by the Washington State Cemetery Board and the Board of Funeral Directors and Embalmers.

State and Federal Veterans Cemeteries.

Eligibility for interment in the Washington State Veterans Cemetery mirrors the National Veterans Cemetery eligibility requirements. In general, the following are eligible for interment at a state or federal veterans cemetery:

- all U.S. veterans discharged under conditions other than dishonorable;
- veterans' spouses; and
- veterans' dependent children.

The Department of Veterans Affairs (DVA) has access to various records and databases used to determine whether a decedent is eligible for interment at a state or federal veterans cemetery.

Summary of Substitute Bill:

When human remains are unclaimed for a period of 90 days or longer, the DVA may certify that a deceased person was a veteran or veteran's dependent eligible for interment at a federal or state veterans cemetery. The person, firm, corporation, or association in possession of the veteran's or veteran's dependent's remains is required to transfer the remains to the DVA.

The person, firm, corporation, or association transferring the remains to the DVA is immune from any liability associated with the transfer. The state, its employees or agents, is immune from any liability related to the transfer of remains to the DVA.

Substitute Bill Compared to Original Bill:

The substitute bill clarifies that the certification and transfer of human remains to the DVA only applies in cases where remains are unclaimed for a period of 90 days or longer. In addition, the substitute bill changes the liability language to conform with preferred drafting conventions when limiting liability.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) This bill gives deceased veterans the military honors they deserve. Many remains of veterans go unclaimed for decades; these unclaimed remains sit on shelves in funeral establishments across Washington. The DVA already has an understanding with funeral establishments and cemetery authorities to transfer the unclaimed remains of veterans to the DVA. The bill provides liability protection when transferring remains to the DVA. The Missing in America Project is a volunteer organization that seeks to inter the unclaimed remains of veterans in veterans cemeteries. The bill will help volunteer organizations assist the DVA in finding unclaimed remains of veterans.

(Opposed) None.

Persons Testifying: Representative Parker, prime sponsor; Heidi Audette, Washington State Department of Veterans Affairs; Dennis Primoli, Veterans Legislative Coalition; and Chris Dulas, Missing in America Project.

Persons Signed In To Testify But Not Testifying: None.