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**SUBSTITUTE SENATE BILL 6501**

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**State of Washington**

**66th Legislature**

**2020 Regular Session**

**By** Senate Law & Justice (originally sponsored by Senator Padden)

READ FIRST TIME 02/07/20.

1 AN ACT Relating to the disposition of human remains and  
2 cremation; amending RCW 68.50.130, 18.39.170, 68.50.160, 68.50.270,  
3 68.64.120, and 70.58.230; repealing 2020 c . . . s 6 and 2019 c 432 s  
4 30; and prescribing penalties.

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

6 **Sec. 1.** RCW 68.50.130 and 2019 c 432 s 21 are each amended to  
7 read as follows:

8 (1) Every person who performs a disposition of any human remains,  
9 except as otherwise provided by law, in any place, except in a  
10 cemetery or a building dedicated exclusively for religious purposes,  
11 is guilty of a misdemeanor, except as provided in subsection (2) of  
12 this section. Disposition of human remains following cremation,  
13 alkaline hydrolysis, or natural organic reduction may also occur on  
14 private property, with the consent of the property owner; and on  
15 public or government lands or waters, with the approval of the  
16 government agency that has either jurisdiction or control, or both,  
17 of the lands or waters.

18 (2) Every person who performs a disposition of the body of a  
19 deceased person or a part of the body of a deceased person, except as  
20 otherwise provided by law, in any place, except in a cemetery or a

1 building dedicated exclusively for religious purposes, is guilty of a  
2 class C felony.

3 **Sec. 2.** RCW 18.39.170 and 2019 c 432 s 37 are each amended to  
4 read as follows:

5 The director must appoint an agent whose title is "inspector of  
6 funeral establishments, crematories, alkaline hydrolysis, and natural  
7 organic reduction facilities, funeral directors, and embalmers of the  
8 state of Washington." A person is not eligible for such appointment  
9 unless he or she has been a licensed funeral director and embalmer in  
10 the state of Washington, with a minimum experience of not less than  
11 five consecutive years.

12 (1) The inspector must:

- 13 (a) Serve at the pleasure of the director; and  
14 (b) At all times be under the supervision of the director.

15 (2) The inspector is authorized to:

16 (a) Enter the office, premises, establishment, or place of  
17 business, where funeral directing, cremation, embalming, alkaline  
18 hydrolysis, or natural organic reduction is carried on for the  
19 purpose of inspecting the premises;

20 (b) Inspect the licenses and registrations of funeral directors,  
21 embalmers, funeral director interns, and embalmer interns;

22 (c) Serve and execute any papers or process issued by the  
23 director under authority of this chapter; and

24 (d) Perform any other duty or duties prescribed or ordered by the  
25 director.

26 **Sec. 3.** RCW 68.50.160 and 2019 c 432 s 23 are each amended to  
27 read as follows:

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

34 (2) Prearrangements that are prepaid, or filed with a licensed  
35 funeral establishment or cemetery authority, under RCW 18.39.280  
36 through 18.39.345 and chapter 68.46 RCW are not subject to  
37 cancellation or substantial revision by survivors. Absent actual  
38 knowledge of contrary legal authorization under this section, a

1 licensed funeral establishment or cemetery authority may not be held  
2 criminally nor civilly liable for acting upon such prearrangements.

3 (3) If the decedent has not made a prearrangement as set forth in  
4 subsection (2) of this section or the costs of executing the  
5 decedent's wishes regarding the disposition of the decedent's remains  
6 exceeds a reasonable amount or directions have not been given by the  
7 decedent, the right to control the disposition of the remains of a  
8 deceased person vests in, and the duty of disposition and the  
9 liability for the reasonable cost of preparation, care, and  
10 disposition of such remains devolves upon the following in the order  
11 named:

12 (a) The person designated by the decedent as authorized to direct  
13 disposition as listed on the decedent's United States department of  
14 defense record of emergency data, DD form 93, or its successor form,  
15 if the decedent died while serving in military service as described  
16 in 10 U.S.C. Sec. 1481(a) (1)-(8) in any branch of the United States  
17 armed forces, United States reserve forces, or national guard;

18 (b) The designated agent of the decedent as directed through a  
19 written document signed and dated by the decedent in the presence of  
20 a witness. The direction of the designated agent is sufficient to  
21 direct the type, place, and method of disposition;

22 (c) The surviving spouse or state registered domestic partner;

23 (d) The majority of the surviving adult children of the decedent;

24 (e) The surviving parents of the decedent;

25 (f) The majority of the surviving siblings of the decedent;

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

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

34 (5) If a cemetery authority as defined in RCW 68.04.190 or a  
35 funeral establishment licensed under chapter 18.39 RCW has made a  
36 good faith effort to locate the person cited in subsection (3)(a)  
37 through (g) of this section or the legal representative of the  
38 decedent's estate, the cemetery authority or funeral establishment  
39 has the right to rely on an authority to bury or make final  
40 disposition of the human remains, executed by the most responsible

1 party available, and the cemetery authority or funeral establishment  
2 may not be held criminally or civilly liable for burying or  
3 performing final disposition of the human remains. In the event any  
4 government agency or charitable organization provides the funds for  
5 the disposition of any human remains, the cemetery authority,  
6 crematory, alkaline hydrolysis, natural organic reduction facility,  
7 or funeral establishment may not be held criminally or civilly liable  
8 for making final disposition of the human remains.

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

13 **Sec. 4.** RCW 68.50.270 and 2019 c 432 s 27 are each amended to  
14 read as follows:

15 The person or persons determined under RCW 68.50.160 as having  
16 authority to order disposition is entitled to possession of the  
17 reduced human remains without further intervention by the state or  
18 its political subdivisions.

19 **Sec. 5.** RCW 68.64.120 and 2019 c 432 s 28 are each amended to  
20 read as follows:

21 (1) When a hospital refers an individual at or near death to a  
22 procurement organization, the organization shall make a reasonable  
23 search of the records of the department of licensing and any donor  
24 registry that it knows exists for the geographical area in which the  
25 individual resides to ascertain whether the individual has made an  
26 anatomical gift.

27 (2) A procurement organization must be allowed reasonable access  
28 to information in the records of the department of licensing to  
29 ascertain whether an individual at or near death is a donor.

30 (3) When a hospital refers an individual at or near death to a  
31 procurement organization, the organization may conduct any reasonable  
32 examination necessary to ensure the medical suitability of a part  
33 that is or could be the subject of an anatomical gift for  
34 transplantation, therapy, research, or education from a donor or a  
35 prospective donor. During the examination period, measures necessary  
36 to ensure the medical suitability of the part may not be withdrawn  
37 unless the hospital or procurement organization knows that the  
38 individual expressed a contrary intent.

1 (4) Unless prohibited by law other than this chapter, at any time  
2 after a donor's death, the person to which a part passes under RCW  
3 68.64.100 may conduct any reasonable examination necessary to ensure  
4 the medical suitability of the body or part for its intended purpose.

5 (5) Unless prohibited by law other than this chapter, an  
6 examination under subsection (3) or (4) of this section may include  
7 an examination of all medical records of the donor or prospective  
8 donor.

9 (6) Upon the death of a minor who was a donor or had signed a  
10 refusal, unless a procurement organization knows the minor is  
11 emancipated, the procurement organization shall conduct a reasonable  
12 search for the parents of the minor and provide the parents with an  
13 opportunity to revoke or amend the anatomical gift or revoke the  
14 refusal.

15 (7) Upon referral by a hospital under subsection (1) of this  
16 section, a procurement organization shall make a reasonable search  
17 for any person listed in RCW 68.64.080 having priority to make an  
18 anatomical gift on behalf of a prospective donor. If a procurement  
19 organization receives information that an anatomical gift to any  
20 other person was made, amended, or revoked, it shall promptly advise  
21 the other person of all relevant information.

22 (8) Subject to RCW 68.64.100(9), 68.64.190, and 68.64.901, the  
23 rights of the person to which a part passes under RCW 68.64.100 are  
24 superior to the rights of all others with respect to the part. The  
25 person may accept or reject an anatomical gift in whole or in part.  
26 Subject to the terms of the document of gift and this chapter, a  
27 person that accepts an anatomical gift of an entire body may allow  
28 embalming, burial, cremation, alkaline hydrolysis, natural organic  
29 reduction, and use of remains in a funeral service. If the gift is of  
30 a part, the person to which the part passes under RCW 68.64.100, upon  
31 the death of the donor and before embalming or final disposition,  
32 must cause the part to be removed without unnecessary mutilation.

33 (9) Neither the physician who attends the decedent at death nor  
34 the physician who determines the time of the decedent's death may  
35 participate in the procedures for removing or transplanting a part  
36 from the decedent.

37 (10) A physician or technician may remove a donated part from the  
38 body of a donor that the physician or technician is qualified to  
39 remove.

1       **Sec. 6.** RCW 70.58.230 and 2019 c 432 s 30 are each amended to  
2 read as follows:

3       It is unlawful for any person to inter; deposit in a vault,  
4 grave, or tomb; cremate or perform alkaline hydrolysis or natural  
5 organic reduction as defined in RCW 68.04.310; or otherwise dispose  
6 of, or disinter or remove from one registration district to another,  
7 or hold for more than three business days after death, the human  
8 remains of any person whose death occurred in this state or any human  
9 remains which shall be found in this state, without obtaining, from  
10 the local registrar of the district in which the death occurred or in  
11 which the human remains were found, a permit for the burial,  
12 disinterment, or removal of the human remains. However, a licensed  
13 funeral director or embalmer of this state or a funeral establishment  
14 licensed in another state contiguous to Washington, with a current  
15 certificate of removal registration issued by the director of the  
16 department of licensing, may remove human remains from the district  
17 where the death occurred to another registration district or Oregon  
18 or Idaho without having obtained a permit but in such cases the  
19 funeral director or embalmer must at the time of removing human  
20 remains file with or mail to the local registrar of the district  
21 where the death occurred a notice of removal upon a blank to be  
22 furnished by the state registrar. The notice of removal must be  
23 signed or electronically approved by the funeral director or embalmer  
24 and must contain the name and address of the local registrar with  
25 whom the certificate of death will be filed and the burial-transit  
26 permit secured. Every local registrar, accepting a death certificate  
27 and issuing a burial-transit permit for a death that occurred outside  
28 his or her district, is entitled to a fee of one dollar to be paid by  
29 the funeral director or embalmer at the time the death certificate is  
30 accepted and the permit is secured. It is unlawful for any person to  
31 bring into or transport within the state or inter, deposit in a  
32 vault, grave, or tomb, or cremate or otherwise dispose of human  
33 remains of any person whose death occurred outside this state unless  
34 the human remains are accompanied by a removal or transit permit  
35 issued in accordance with the law and health regulations in force  
36 where the death occurred, or unless a special permit for bringing the  
37 human remains into this state is obtained from the state registrar.

1        NEW SECTION.    **Sec. 7.**    The following acts or parts of acts, as  
2 now existing or hereafter amended, are each repealed, effective  
3 January 1, 2021:  
4        (1) 2020 c ... s 6 (section 6 of this act); and  
5        (2) 2019 c 432 s 30.

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