

SB

288

ALASKA STATE LEGISLATURE

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Charlie Huggins
Senator

March 9, 2010

received
03/09/10 3:20pm

To: Senator Linda Menard, Chair
Senate State Affairs Committee

From: Senator Charlie Huggins

Subject: Request to Schedule SB 288, Disposition of Human Remains, for Hearing

I respectfully request the scheduling of SB 288, "An Act relating to the disposition of human remains," for a hearing before the Senate State Affairs Committee, at your earliest convenience.

Please contact my staff member, Edra Morledge, with any questions on the details of this bill. Her phone number is 465-6419.

Please find attached pertinent information for the committee.

Thank you.

Attachments

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Sponsor Statement SB 288 – Disposition of Human Remains

"An Act relating to the disposition of human remains."

SB 288 provides rules for the disposition of a person's remains. Currently in Alaska, there is no law giving citizens the right to expect their funeral wishes to be honored or the right to appoint someone to act as their agent. Naturally, this can cause uncertainty in this area and this legislation aims to provide clarity. Alaska is one of only two states in the nation that do not have any such law.

The legislation enables a person to provide binding instructions regarding the disposition of his or her remains. SB 288 also provides rules for determining who has authority to dispose of a person's remains if the deceased failed to make a designation. Additionally, the bill empowers a person to insure compliance with those preferences.

Costly litigation among the person's survivors will be less likely with the passage of this legislation.

Contact:
Edra Morledge
465-6419
SB 289/26-LS1383\R
March 9, 2010

LEGAL SERVICES

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LEGISLATIVE AFFAIRS AGENCY
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MEMORANDUM

February 23, 2010

SUBJECT: SB 288, relating to the disposition of human remains
(Work Order No. 26-LS1488\A)

TO: Senator Charlie Huggins
Attn: Edra Morledge

FROM:  Theresa Bannister
Legislative Counsel

You have requested a sectional summary of the above-described bill. As a preliminary matter, note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents.

Section 1. Adds a new chapter relating to the disposition of human remains.

Sec. 13.75.010. Allows a person to give directions for the disposition of the person's remains by using a disposition document. Allows these directions to include, or be limited to, naming an agent to control the disposition.

Requires the document to be signed and acknowledged and to contain the form and contents required by sec. 13.75.030. Allows the document to be a separate document or in another document, including a will. Requires any change or revocation to be in a disposition document that complies with this section.

Sec. 13.75.020. Sets out a prioritized list of the persons who may control the disposition of a decedent's remains. Makes a person who takes control under this section liable for the reasonable costs of the disposition. Defines "adult" and "competent" for the section.

Sec. 13.75.030. Sets out the form for a disposition document. Requires a disposition document to be in substantially this form. In Part 1 of the form, allows for naming an agent and for the agent's acceptance. In Part 2 of the form, allows for disposition directions, including whether cremation is an option. In Part 3 of the form, provides general provisions and a place for the maker's signature.

Sec. 13.75.040. Allows the agent designated in a disposition document to sign the document at any time, but requires the agent's signature in order for the agent's authority to become effective.

Senator Charlie Huggins

February 23, 2010

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Sec. 13.75.050. Sets up a time frame for requiring persons to exercise their authority to control disposition. Provides for a person with the next listed priority to take control when the person prioritized ahead of the person does not exercise the authority within the specified time frame.

Sec. 13.75.060. Prohibits a person from exercising control if (1) the person is charged with a felonious killing connected with the decedent's death and (2) if the funeral director or the cemetery knows about the charge. Provides for the authority to pass to the person next in priority.

Sec. 13.75.070. Prohibits a person from authorizing cremation if a decedent has said in a disposition document that the decedent doesn't want cremation.

Sec. 13.75.080. Directs the person authorized to control disposition to carry out the decedent's directions as far as the person or the decedent's estate can financially carry out the directions.

If a disposition document is in a will, requires that the directions be carried out immediately without the need for probate. If the will is not probated or is invalidated, validates disposition acts that have been carried out in good faith.

Sec. 13.75.090. States that a person guarantees the identity of a decedent and is liable for any damages resulting from that guarantee, if the person represents to know the decedent and, with intent to procure disposition of the remains, signs a statement (other than a death certificate) identifying the decedent.

Sec. 13.75.100. States that a disposition organization (see definition in sec. 13.75.190) is not liable for carrying out a decedent's directions or the directions of a person entitled to control the disposition. Prohibits interpreting this section to reduce or eliminate the liability of the disposition organization for its negligence or reckless acts.

Sec. 13.75.110. Provides that a person on the priority list who is involved in a dispute about authority with another person on the priority list may bring a court action to resolve the dispute. States that a cemetery organization or funeral establishment is not liable for refusing to take action to dispose of the decedent's remains until the dispute is resolved.

Sec. 13.75.190. Defines the terms for the new chapter.

Sec. 13.75.195. Calls the new chapter the Disposition of Human Remains Act.

If I may be of further assistance, please advise.

TLB:ljw
10-126.ljw

FISCAL NOTE

STATE OF ALASKA
2010 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: SB288
 () Publish Date: _____

Identifier (file name): SB288-DHSS-SMEO-03-15-10 Dept. Affected: Health & Social Services
 Title: Disposition of Human Remains RDU: Public Health
 Component: State Medical Examiner
 Sponsor: Huggins
 Requester: Senate STA Component Number: 293

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

	Appropriation Required	Information						
		FY 2011	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016
OPERATING EXPENDITURES								
Personal Services								
Travel								
Contractual								
Supplies								
Equipment								
Land & Structures								
Grants & Claims								
Miscellaneous								
TOTAL OPERATING		0.0	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES								
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CHANGE IN REVENUES ()								
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts								
1003 GF Match								
1004 GF								
1005 GF/Program Receipts								
1037 GF/Mental Health								
Other Interagency Receipts								
TOTAL		0.0	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2010) cost: _____

POSITIONS

Full-time								
Part-time								
Temporary								

ANALYSIS: (Attach a separate page if necessary)

This bill provides for a statutory disposition document and a process by which a person may provide directions for the disposition of his or her remains following death. This bill has no direct programmatic or fiscal impact on the State Medical Examiner's Office (SMEO) as written. Therefore, this is a "zero" fiscal note.

Prepared by: Ward B. Hurlburt, MD, MPD, Chief Medical Officer / Director Phone 907-269-8126
 Division: Public Health Date/Time 3/12/10 6:00 PM
 Approved by: Alison Elgee, Assistant Commissioner Date 3/15/2010
DHSS Finance & Management Services