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Tuesday, November 09, 2010
By Michael Kleps, a Bellingham, WA attorney helping
people face challenges related to aging, death, and disability.

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Burial Instructions

A death can cause significant stress in a family. The tension can exacerbate existing communication struggles. By giving your family guidance about your wishes you can reduce the risk of conflict during this emotional time.

Two Ways to Plan

Under RCW 68.50.160, a person may create a valid written document expressing their wishes regarding the place or method of disposition of their remains. This document should be signed by the decedentⁱ in the presence of a witness.

Under RCW 18.39.280 through 18.39.345 and chapter 68.46 RCW, “prearrangements that are prepaid or filed with a licensed funeral establishment or cemetery authority are not subject to cancellation or substantial revision by survivors.”

When there is no Plan

Under RCW 68.50.160(1), if there has been no direction by decedent then the following people have the right to controlⁱⁱ disposition of such remains in the following priority: (1) Surviving Spouse or state registered domestic partner; (2) surviving adult children of the decedent; (3) surviving parents of the decedent; (4) the surviving siblings of the decedent; (5) a person acting as a representative of the decedent under a signed authorization of the decedent.

Proposed Legislation

House Bill 2705 would have amended RCW 68.50.160 in several helpful ways (but died in committee). First, it would have allowed a person to appoint an agent to control their arrangements. Second, it would have allowed a majority of a class of decision makers (i.e. children, siblings) to make a decision rather than the currently required unanimity. Finally, it would have added other classes of decision makers like nieces/nephews, Guardian, and adult grandchildren.

Conclusion

Disagreements regarding the disposition of remains can be emotional and tense. After a death these decisions must be resolved almost immediately after death. Potential disputes can revolve around divorced parents of a decedent or a domestic partnership. By giving your family guidance about your wishes for burial or cremation you can ease the burdens on your family during a stressful time.

ⁱ Decedent – one who has just died.

ⁱⁱ Right to control is limited to persons who have not been arrested or charged with a connected first/second degree murder/manslaughter, and the cemetery can find with a good faith effort to locate them.