

HOUSE BILL NO. HB0087

Burial arrangements.

Sponsored by: Representative(s) Zwonitzer, Dv. and McOmie
and Senator(s) Barrasso, Cooper and Geis

A BILL

for

1 AN ACT relating to burials and cremations; specifying
2 persons authorized to consent to burial or cremation;
3 providing for immunity as specified; providing for state
4 assistance for the cremation of decedents receiving state
5 aid; and providing for an effective date.

6

7 *Be It Enacted by the Legislature of the State of Wyoming:*

8

9 **Section 1.** W.S. 33-16-319 and 33-16-320 are created to
10 read:

11

12 **33-16-319. Authority to authorize burial or**
13 **cremation; immunity for funeral directors and undertakers.**

14

15 (a) If a decedent leaves instructions on his
16 entombment, burial or cremation, the funeral director or

1 undertaker to whom the body is entrusted shall proceed with
2 the disposition of the body in accordance with those
3 instructions. In the event a decedent does not leave
4 instructions on his entombment, burial or cremation, the
5 funeral director or undertaker to whom the body is
6 entrusted shall obtain a signed consent before the
7 entombment, burial or cremation can proceed.

8
9 (b) Any of the following persons, in order of
10 priority as stated, may consent to the entombment, burial
11 or cremation of the decedent:

12
13 (i) The decedent's spouse at the time of death;

14
15 (ii) An adult child of the decedent;

16
17 (iii) Either parent of the decedent;

18
19 (iv) An adult sibling of the decedent;

20
21 (v) A grandparent of the decedent;

22
23 (vi) A guardian of the decedent in accordance
24 with W.S. 3-2-201(x).

1

2 (c) If a funeral director or undertaker receives
3 written consent from a person specified in subsection (a)
4 of this section, he may act in accordance with the consent,
5 unless a person with a higher or equal priority provides
6 the funeral director or undertaker a contrary written
7 consent. If the funeral director or undertaker has been
8 provided contrary written consents from members of the
9 class with the highest priority as to the entombment,
10 burial or cremation of the decedent, the director or
11 undertaker shall act in accordance with the directive of
12 the greatest number of consents received from members of
13 the class. If that number is equal, the director or
14 undertaker shall act in accordance with the earlier consent
15 unless the person providing the later consent is granted an
16 order from the district court for the county in which the
17 funeral home or mortuary is located. The district court
18 shall order disposition in accordance with the later
19 consent only if it is shown by a preponderance of the
20 evidence such disposition is in accordance with the
21 decedent's wishes.

22

23 (d) If the decedent is not survived by any member of
24 the classes listed, any person who comes forward and

1 legitimately identifies himself as another level of
2 relation or friend of the decedent is authorized to sign
3 the consent. If no consent is received within seven (7)
4 days of the decedent's death, the coroner for the county in
5 which the funeral home or mortuary is located is authorized
6 to sign the consent.

7
8 (e) A funeral director or undertaker acting in
9 accordance with this section, or attempting in good faith
10 to act in accordance with this section, shall be immune
11 from civil liability.

12
13 (f) Nothing in this section abrogates or amends the
14 intestate succession laws of W.S. 2-4-101 through 2-4-214.

15
16 **33-16-320. Disposition of remains optional form.**

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18 A person may leave instructions for the disposition of his
19 remains in substantially the following form, but in
20 addition may include other specific directions:

21
22 Disposition of Remains
23

1 Upon my death it is my wish that my remains be:
2 (initial the applicable box)

3

4 [] Embalmed and buried. I have made prior
5 arrangements for this service with _____.

6

7 [] Cremated. I have made prior arrangements for this
8 service with _____.

9

10 [] If I have not made prior arrangements for the
11 disposition of my remains at death, subject to any
12 arrangements for the donation of my organs, I designate
13 _____ to make arrangements for the disposition of
14 my remains in accordance with my wishes as follows _____

15

16 _____
17

17

18 **Section 2.** W.S. 42-2-103(c) is amended to read:

19

20 **42-2-103. Provision of assistance and services;**
21 **duties of department; burial assistance; state supplemental**
22 **security income program.**

23

1 (c) Notwithstanding any other provision of this
2 article, the department shall pay the burial or cremation
3 expenses of any recipient of aid under the personal
4 opportunities with employment responsibilities (POWER)
5 program, supplemental security income or Medicaid at the
6 time of his death and without sufficient means in his own
7 estate or other resources to provide burial or cremation.
8 The amount paid under this subsection shall not exceed one
9 thousand dollars (\$1,000.00) after consideration of funds
10 available to the recipient from all other sources. In
11 determining eligibility under this subsection, the
12 department shall not consider as available funds, an amount
13 up to or equal to one thousand five hundred dollars
14 (\$1,500.00) of the corpus of a Medicaid qualifying trust
15 meeting the requirements of W.S. 42-4-113. No board of
16 county commissioners shall be responsible for any burial or
17 cremation expenses in excess of the amount paid under this
18 subsection. Burial or cremation expenses under this
19 subsection shall not include those expenses relating to
20 cemetery costs.

21

22 **Section 3.** This act is effective July 1, 2007.

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24

(END)