

## HOUSE BILL NO. HB0087

Burial arrangements.

Sponsored by: Representative(s) Zwonitzer, Dv., McOmie,  
Quarberg, Walsh and White and Senator(s)  
Barrasso, Cooper, Geis and Von Flatern

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. 2-17-101 and 2-17-102 are created to  
10 read:

11

12

CHAPTER 17

13

BURIAL ARRANGEMENTS

14

15 **2-17-101. Authority to authorize burial or cremation;**  
16 **immunity for funeral directors and undertakers.**

1

2       (a) If a decedent leaves written instructions  
3 regarding his entombment, burial or cremation, the funeral  
4 director or undertaker to whom the body is entrusted shall  
5 proceed with the disposition of the body in accordance with  
6 those instructions. In the event a decedent does not leave  
7 written instructions regarding his entombment, burial or  
8 cremation, the funeral director or undertaker to whom the  
9 body is entrusted shall obtain a signed consent before the  
10 entombment, burial or cremation can proceed.

11

12       (b) Any of the following persons, in order of  
13 priority as stated, may consent to the entombment, burial  
14 or cremation of the decedent, provided no written  
15 instructions were left by the decedent:

16

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

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19               (ii) An adult child of the decedent;

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21               (iii) Either parent of the decedent;

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23               (iv) An adult sibling of the decedent;

24

1           (v) A grandparent of the decedent;

2

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

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

1 preponderance of the evidence such disposition is in  
2 accordance with the decedent's wishes.

3

4 (d) If the decedent is not survived by any member of  
5 the classes listed or no member of those classes is  
6 competent to sign a consent, any person who comes forward  
7 and legitimately identifies himself as another level of  
8 relation or friend of the decedent is authorized to sign  
9 the consent. If no consent is received within seven (7)  
10 days of the decedent's death, the coroner for the county in  
11 which the funeral home or mortuary is located is authorized  
12 to sign the consent.

13

14 (e) A funeral director or undertaker acting in  
15 accordance with this section, or attempting in good faith  
16 to act in accordance with this section, shall be immune  
17 from civil liability.

18

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

21

22 **2-17-102. Disposition of remains optional form.**

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1 A person may leave instructions for the disposition of his  
2 remains in substantially the following form, but in  
3 addition may include other specific directions:

4

5

Disposition of Remains

6

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

9

10 ☐ Embalmed and buried. I have made prior  
11 arrangements for this service with \_\_\_\_\_.

12

13 ☐ Cremated. I have made prior arrangements for this  
14 service with \_\_\_\_\_.

15

16 ☐ If I have not made prior arrangements for the  
17 disposition of my remains at death, subject to any  
18 arrangements for the donation of my organs, I designate  
19 \_\_\_\_\_ to make arrangements for the disposition of  
20 my remains in accordance with my wishes as follows \_\_\_\_\_

21

22

23

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

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

5

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

1 subsection shall not include those expenses relating to  
2 cemetery costs.

3

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

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(END)