
OFA Bill Analysis

SHB 5381 (File 637, as amended by House "A")

AN ACT ESTABLISHING AN ACCOUNT TO COMPENSATE VICTIMS OF UNLAWFUL FUNERAL SERVICE PRACTICES.

SUMMARY:

The bill makes various changes regarding funeral services laws, described below.

*House Amendment "A" (1) adds to the requirements the Department of Consumer Protection (DCP) must follow when administering the funeral service guaranty account, (2) requires DCP to adopt regulations, (3) alters the requirements of funeral service contracts, and (4) creates a working group to study prepaid funeral service contracts.

EFFECTIVE DATE: Sections 1 and 3 are effective from passage, section 2 is effective July 1, 2026.

Funeral Service Guaranty Account

The bill establishes a separate, non-lapsing account, called the "funeral service guaranty account." The account must contain (1) any amounts appropriated or made available by the state, (2) any monies required to be deposited in the account, and (3) gifts, grants, donations, or bequests. Investment earnings shall become part of the assets of the account and the State Treasurer is required to administer the account.

The bill allows DCP to deduct and retain up to two percent of the balance in the account for costs incurred by the department for administering the account.

Beginning July 1, 2027, DCP is required to use the funds in the account to provide restitution to eligible persons who were victims of fraudulent or unlawful practices when purchasing funeral services. DCP cannot provide restitution that exceeds the balance in the account.

An eligible person may make a claim from the account by submitting the following documents to DCP:

1. A copy of the original funeral service contract,
2. Proof of any funeral services provided under the contract,
3. Proof that the person is a beneficiary or purchaser of a contract, the estate of a beneficiary, or a legally authorized agent of a beneficiary,
4. Proof of any payment for funeral or burial services not provided in the contract.

DCP may consider a court order entered against the provider of the funeral service contract with the eligible person but will not require the document to be submitted.

Payments from the Funeral Service Guaranty Account

DCP must follow these requirements when dispersing funds from the account:

1. No payment over \$10,000 will be made from the account for any one contract.
2. To preserve the integrity of the account DCP may order payment in an amount less than the eligible person's actual loss or damages or less than the restitution awarded.
3. If the account has insufficient funds to satisfy a claim, DCP shall satisfy any unpaid claim amounts once sufficient funds have been deposited into the account, in the order that the claims or portions of claims were determined.
4. Once an eligible person has been paid from the account, DCP shall be subrogated to all the rights of the eligible person up to the amount paid plus reasonable interest. Any funds recovered by DCP shall be deposited into the account.

5. If DCP orders payment of any amount to an eligible person against a provider of a funeral services contract, DCP will determine if the provider has assets liable to be sold or applied in satisfaction of the claim. If DCP discovers any assets, the agency may request the Attorney General to take any action necessary to reimburse the account.

Regulations

The bill requires DCP to adopt regulations concerning requirements for obtaining restitution for eligible persons no later than April 1, 2028 or ninety days after the issued report from the working group. DCP will also adopt policies and procedures to implement the provisions of the bill not later than June 1, 2027.

Funeral Services Contracts

The bill makes the following changes to funeral services contracts:

1. That the notice from the escrow agent acknowledging receipt of the initial deposit be in bold type and state the amount of the deposit.
2. The contract is required to include a statement signed by the purchaser saying that prior to executing the contract the purchaser received: (1) the DCP fact sheet on funeral service contracts and (2) had time to review the fact sheet.

Prepaid Funeral Service Contracts Working Group

The bill creates a working group to study issues related to prepaid funeral service contracts, the creation of consumer protections for these contracts, and the establishment and implementation of the guaranty fund for these consumers.

The working group consists of twelve members appointed by various legislators, commissioners, and associations. All initial appointments shall be made within thirty days of the effective date of the section.

The administrative staff of the General Law Committee shall serve as the administrative staff to the working group.

The working group will submit its initial report to the General Law committee by December 1, 2027 and shall submit its final report to the General Law committee by January 1, 2028. The working group shall terminate the day it submits its final report or by January 1, 2028, whichever is later.

COMMITTEE ACTION

Appropriations Committee

Joint Favorable Substitute

Yea 49 Nay 2