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House Bill 5850 (Substitute H-1 as passed by the House)

Sponsor: Representative Fred Miller

House Committee: Military and Veterans Affairs and Homeland Security

Senate Committee: Senior Citizens and Veterans Affairs

Date Completed: 9-14-10

CONTENT

The bill would amend the Estates and Protected Individuals Code to authorize a person to make decisions about the remains of a deceased service member, if the person met certain criteria and the decedent had designated him or her to make decisions about the service member's remains according to a Federal law, notwithstanding provisions in the Code giving certain individuals priority in such decision-making. The bill also would allow a funeral establishment to rely on that designation.

Subject to various exceptions, the Code lists the priority of individuals who are presumed to have the right and power to make decisions about funeral arrangements and the handling, disposition, or disinterment of a decedent's body, including decisions about cremation, and the right to possess cremated remains. The bill would make an additional exception to this provision.

Under the bill, if the decedent were a service member who had designated a person to direct disposition of his or her remains according to a statute of the United States or a regulation, policy, directive, or instruction of the U.S. Department of Defense, and if the designated person were the surviving spouse, an adult blood relative, or an adoptive relative of the decedent, or a person standing in loco parentis if the surviving spouse, adult blood relative, or adoptive relative could not be found, and the designated person were willing and able to exercise the rights and powers to make the decisions described above, he or she would have those rights and powers and the Code's list of individuals with priority would not apply.

The bill would define "service member" as an individual described in 10 USC 1481(a)(1)-(8). (That section lists the following:

- -- Any regular of an armed force under the jurisdiction of the Secretary concerned who dies while on active duty.
- -- A member of a reserve component of an armed force who dies while on active duty, performing inactive-duty training, or hospitalized or undergoing treatment for an injury, illness, or disease incurred or aggravated while on active duty or performing inactive-duty training, or under other specified circumstances.
- -- A member of a reserve officers' training camp who dies under specified circumstances.
- -- A accepted applicant for enlistment in an armed force under the Secretary's jurisdiction.
- -- A person who has been discharged from an enlistment in an armed force while a patient in a United States hospital, and who continues to be a patient until his or her death.

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- -- A person who dies as a retired member of an armed force under the Secretary's jurisdiction during a continuous hospitalization, under circumstances described in the law.
- -- Any military prisoner who dies while in his or her custody.)

MCL 700.3206 & 700.3209 Legislative Analyst: Suzanne Lowe

FISCAL IMPACT

The bill would have no fiscal impact on State or local government.

Fiscal Analyst: Bill Bowerman