

August 2026

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BRINGING YOUR BURIAL BACK HOME BY BETH A. MCDANIEL, JD, CELA

Washington is among the most progressive states in the country when it comes to the disposition of human remains. In 2024, 79.1% of Washington residents chose cremation – putting the state in a virtual dead heat with...

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A NEW FREE FRAUD-PROTECTION SERVICE FOR KING COUNTY PROPERTY OWNERS BY BETH A. MCDANIEL, JD, CELA



Imagine discovering that a scammer has recorded a forged deed transferring the ownership of your real estate into a stranger's name. According to Real estate fraud expert Tom Cronkright, there are scams involving properties in the form of title

theft, title fraud, and seller impersonation. Mr. Cronkright states, "title theft is the perfect crime as everything that the criminal would need to [perpetrate title theft] is publicly available. Property owners are particularly at risk if their property is unoccupied or a vacation home." (Matt Alderton, September 8, 2025,

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COMMUNITY PROPERTY AGREEMENTS – WHAT ARE THEY AND SHOULD I HAVE ONE? BY BETH A. MCDANIEL, JD, CELA

Washington is a "community property state" which means that all assets accumulated from earnings during a marriage (also, a registered partnership...

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CONT: A NEW FREE FRAUD-PROTECTION SERVICE FOR KING COUNTY PROPERTY OWNERS

Do you Own Property? Protect Yourself from Seller Impersonation Fraud, AARP).

As reported in a prior newsletter, there are several counties in our state (Snohomish, Pierce, Clark, and Whatcom), which offer a free property fraud alert system in which e-mail notifications are provided when documents are recorded under a name or property.

Effective March 1, 2026, this service is also available in King County via its Recording Activity Notification System (RANS). RANS is a free service and there is no limit to the number of properties for which an individual can request monitoring. Registration for the service can be under a personal name or business name.

To register, go to the King County Online Records Search Page and click on the Recording Activity Notification System tab. Per its Frequently asked Questions section, you can unsubscribe to the service at any time. E-mail addresses remain private with the caveat that they could be disclosed as part of a Freedom of Information Act request.

Taking advantage of this free service allows you to act quickly to protect your property and identity if you are targeted by a scammer.



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CONT: BRINGING YOUR BURIAL BACK HOME

Nevada (80%) for the highest cremation rate in the country. In May 2020, Washington became the first state which allowed human compositing (AKA natural organic reduction) and aquamation (AKA water cremation or alkaline hydrolysis) as alternatives to traditional fire cremation.

Despite the availability of these newer options, Washington's burial laws have remained largely traditional. For example, Washington law has required that burials are only permitted in a certified cemetery or on the grounds of a building dedicated to related religious practices. That changed on March 24, 2026, when Governor Ferguson signed into law substitute HB 2239, effective June 11, 2026. Under this new law, property owners are allowed to establish small, private family burial grounds without the requirement of registering their

property as a commercial cemetery. With the passage of this law, Washington joins every state except California and Indiana in permitting this type of burial.

According to the website of one of the bill's sponsors, Representative Hunter Abell (R), 77th District, the law was first proposed in December 2022. As Representative Abell states, "The proposal is rooted in the reality that, for many Washington families, land is more than an asset. It is a place of generational connection."

"For many people in our region, the family home place is sacred ground," Abel said. "This legislation simply provides families the freedom to honor loved ones in a personal way while ensuring there are responsible guidelines in place for the community and for those who may own the property in the future." Per testimony given to the state senate law and

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CONT: BRINGING YOUR BURIAL BACK HOME

justice committee, the purpose of the law is to allow farmers and ranchers -- and their descendants -- to be buried on their land.

The new law contains the following provisions:

- The land must be owned by natural persons (not by a corporation or mixed legal entities);
- The burial ground cannot take up more than 10% of the total parcel;
- The burial grounds must be 25 feet from property lines, 50 feet from easements or public rights-of-way, and 150 feet from critical environmental areas;
- Mausoleums, columbaria, or similar structures must be constructed in a manner to ensure their durability and be fireproof, in conformance with applicable laws.
- Landowners cannot sell burial plots or charge fees;
- Landowners must record the burial details with the county auditor and report the burial to the Washington Department of Archaeology and Historic Preservation within 30 days of the burial, including the latitude and longitude coordinates of the grave, as verified by two witnesses, the county coroner, the sheriff, or by a designee of the coroner or sheriff;
- Landowners must disclose the burial site to any future property buyers;
- Cities and counties have the authority to regulate family burial grounds, including imposing temporary moratoriums (on June 16, 2026, Lewis County imposed a six-month moratorium);
- Remains buried in a family private cemetery can be disinterred and reinterred with the consent of

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next of kin, and -- if that is not possible -- by court order;

- The Washington Department of Archaeology and Historic Preservation will issue permits for disinterring and reintering remains;
- The Washington Department of Archaeology and Historic Preservation has until January 1, 2027, to develop regulations for disinterring and reintering remains;

- Landowners are responsible for any expenses associated with disinterring and reintering remains; and
- Having a family burial ground does not exempt the property from taxation.

As the laws and regulations regarding family private cemeteries are developing, it is highly advisable that interested landowners work with attorneys to make sure they are appropriately following the law.

If you have questions about anything in this newsletter, or would like to update your estate plan, please **contact our client care specialist, Margo Passeau** at 425-296-3121 or margo@bethmcdaniel.com.

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CONT: COMMUNITY PROPERTY AGREEMENTS – WHAT ARE THEY AND SHOULD I HAVE ONE?

or committed intimate relationship) are owned 50/50. For purposes of this article, I will use 'marriage,' but mean all forms of these relationships. Property acquired before marriage, or acquired during the marriage by gift or inheritance, is considered 'separate property.'

If you die without an estate plan and are survived by a spouse, your entire 50% interest in the community property will go to your surviving spouse and 25-50% of your separate property, should you have separate property, will also go to your surviving spouse. Note: if you have no surviving children, parents, or siblings, your surviving spouse will receive 100% of your separate property.

It is possible to change the above distribution scheme by stating your wishes in a Last Will. Another way to change the above distribution

scheme is by entering into a Community Property Agreement with your spouse.

A Community Property Agreement is a short agreement between spouses which most commonly states that upon the first death, 'all property will be treated as community property upon the first death regardless of its character.' By signing this agreement, a court process (probate) can be avoided on the first death. In lieu of probate, the Community Property Agreement is recorded with the county recorder along with an affidavit which ties the agreement to the couple's real property.

It is also possible to execute a 'three-prong Community Property Agreement' which states all property is immediately converted to community property, all future acquired property will automatically

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convert to community property, and at death all property vests in the survivor spouse as community property. This type of agreement, however, has become less common.

A Community Property Agreement does not negate the importance for both spouses to execute Last Will and Testaments, especially as this would address what happens to assets should the spouses die together or the possibility that the survivor spouse does not have the legal capacity to later execute a Last Will.

As it generally takes both spouses to revoke a Community Property Agreement, it is important for a Community Property Agreement to state that upon a spouse becoming disabled, the other spouse can unilaterally revoke the agreement for Medicaid purposes.

There are things to seriously consider prior to executing a Community Property Agreement:

- You may want to continue to keep your separate property separate. Reasons to keep separate property separate may include keeping the ability to pass those assets directly to your children upon your death, the ability to protect those assets from your spouse's separate liabilities, or to better assure that those assets will remain with you should your marriage terminate.
- As stated above, should you or your spouse become disabled, you may not want assets to go automatically and directly to the disabled surviving spouse upon the first death as it may be in the survivor spouse's best interest for the assets to instead be directed to a special needs trust for their benefit;

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- If a couple has an estate taxable estate (over \$3 million in Washington), they may not want all assets to go directly to the surviving spouse as the assets would be subject to estate tax upon the survivor spouse's death; rather, you may want to direct assets to a credit shelter trust for the survivor spouse's benefit upon the first death to reduce the survivor spouse's taxable estate. We often assist clients in revoking Community Property Agreements as part of estate tax planning.
- If you stand to inherit assets, you
 - and possibly your parent(s) – may want you to have the full ability to keep those assets separate to ensure they will eventually pass on to your children (versus possibly to the survivor spouse's future new spouse).
 - Just like any contract, with limited exception, it takes both spouses to revoke a Community Property Agreement. Thus, you may want to seriously reconsider entering into a Community Property Agreement with an abusive spouse who may be unwilling to revoke it upon your request.

Disclaimer: this newsletter is informational only and should not be construed as legal advice.
