

VIRGINIA ACTS OF ASSEMBLY -- 2012 SESSION

CHAPTER 120

An Act to amend and reenact § 54.1-2808.1 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 54.1-2808.2, relating to the disposal of unclaimed cremains belonging to veterans.

[S 433]

Approved March 6, 2012

Be it enacted by the General Assembly of Virginia:

1. That § 54.1-2808.1 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered 54.1-2808.2 as follows:

§ 54.1-2808.1. Disposition of cremains.

A Except as otherwise provided in § 54.1-2808.2, a funeral director may dispose of the cremains of an individual by interment, entombment, inurnment, or by scattering of the cremains, if after ~~ninety~~ 120 days from the date of cremation, the contracting agent has not claimed the cremains, or instructed the funeral director as to final disposition. The funeral director shall keep a permanent record of all cremains which identifies the method and site of final disposition. The costs and all reasonable expenses incurred in disposing of the cremains shall be borne by the contracting agent. Upon the disposition of the cremains, the funeral director shall not be liable for the cremains or for the method of final disposition. ~~Any~~ Except as otherwise provided in § 54.1-2808.2, any funeral director in possession of unclaimed cremains prior to July 1, 1993, may dispose of such cremains in accordance with the provisions of this section. However, no funeral director shall, without written permission of the contracting agent, dispose of cremains in a manner or a location in which the cremains of the deceased are commingled, except in the scattering of cremains at sea, by air, or in an area used exclusively for such purpose, or place, temporarily, the cremains of persons in the same container or urn.

For the purposes of this section, "contracting agent" means any person, organization, association, institution, or group of persons who contracts with a funeral director or funeral establishment for funeral services.

§ 54.1-2808.2. Identification of unclaimed cremains of veterans.

A. If the contracting agent has not claimed the cremains or instructed the funeral director as to final disposition within 90 days from the date of cremation, the funeral director shall provide names and any other identifying information of the unclaimed cremains to the Department of Veterans Services in order for the Department to determine if the unclaimed cremains are those of a veteran. The names and any personal identifying information submitted by a funeral director to the Department of Veterans Services in compliance with this section shall be exempt from disclosure under the Virginia Freedom of Information Act (§ 2.2-3700 et seq.).

B. Commencing July 1, 2014, the Department of Veterans Services shall notify the funeral director within 30 days of receipt of the information required by subsection A if the cremains are those of a veteran, and if so, whether such veteran is eligible for burial in a veterans cemetery in order to permit the transfer of the unclaimed cremains to a veterans cemetery.

C. No disposal of the unclaimed cremains of an eligible veteran shall be made until the funeral director has notified the Virginia Department of Veterans Services and has received a determination as to whether the cremains are those of an eligible veteran. Absent bad faith or malicious intent, no funeral director who transfers the cremains of a veteran to the Virginia Department of Veterans Services for purposes of disposition as provided in this section shall be liable for civil negligence.

2. That the Virginia Department of Veterans Services shall use every effort to verify the veteran status of the large volume of existing cremains given the limitations set by the U.S. Department of Veterans Affairs on the number of names that can be screened to determine veteran status and eligibility, which is currently five to 10 names per week. Beginning on July 1, 2014, the Department of Veterans Services shall comply with the 30-day requirement as provided in subsection B of § 54.1-2808.2 of this act.