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HOUSE BILL NO. 789

Offered January 13, 2016

Prefiled January 12, 2016

A BILL to amend and reenact § 32.1-286 of the Code of Virginia, relating to exhumations; notice to next of kin.

 Patron—Adams

 Referred to Committee on Health, Welfare and Institutions

Be it enacted by the General Assembly of Virginia:**1. That § 32.1-286 of the Code of Virginia is amended and reenacted as follows:****§ 32.1-286. Exhumations.**

A. In any case of death described in subsection A of § 32.1-283, where the body is buried without investigation by the Chief Medical Examiner, an Assistant Chief Medical Examiner, or a medical examiner appointed pursuant to § 32.1-282 into the cause and manner of death or where sufficient cause develops for further investigation after a body is buried, the Chief Medical Examiner shall authorize such investigation and shall send a copy of the report to the appropriate attorney for the Commonwealth who shall communicate such report to *the clerk and* a judge of the appropriate circuit court. ~~Such~~ *Upon receipt of such report, the clerk of the court shall send notice of the investigation and the request for exhumation to the next of kin, as defined in § 54.1-2800, of the dead person who is the subject of the investigation and of the request for exhumation. The judge may order that the body be exhumed and an autopsy performed thereon by the Chief Medical Examiner, an Assistant Chief Medical Examiner, or a pathologist with whom the Commissioner has entered into an agreement pursuant to § 32.1-281. The pertinent facts disclosed by the autopsy shall be communicated to the judge who ordered it.*

B. In any case of death in which a private person has an interest, such person may petition the judge of the circuit court exercising jurisdiction over the place of interment and, upon proper showing of sufficient cause, such judge may order the body exhumed. ~~Such petition or exhumation or both~~ *Upon receipt of the petition and upon issuance of a decision regarding the petition, the clerk of the court shall send notice of the petition and decision to the next of kin, as defined in § 54.1-2800, of the dead person who is the subject of the petition. Petitions and exhumations pursuant to this subsection shall not require the participation of the Chief Medical Examiner or any Assistant Chief Medical Examiner. Costs shall be paid by the party requesting the exhumation.*

C. Upon the petition of a party attempting to prove, in accordance with the provisions of §§ 64.2-102 and 64.2-103, that he is the issue of a dead person, a court may order the exhumation of the body of any dead person for the conduct of scientifically reliable genetic tests, including DNA tests, to prove a biological relationship. The petition shall be accompanied by the petitioner's sworn statement that sets forth facts establishing a reasonable possibility of a biological relationship between the petitioner and his alleged ancestors. *Upon receipt of the petition, the clerk of the court shall send notice that the petition has been filed to the next of kin, as defined in § 54.1-2800, of the dead person.* The costs of exhumation, testing, and reinterment shall be paid by the petitioner unless, for good cause shown, the court orders such costs paid from the estate in which the petitioner is claiming an interest. This provision is intended to provide a procedural mechanism for obtaining posthumous samples for reliable genetic testing and shall not require substantive proof of parentage to obtain the exhumation order.

INTRODUCED

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