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SENATE BILL NO. 403

Offered January 8, 2014

Prefiled January 7, 2014

A *BILL to amend and reenact § 32.1-288 of the Code of Virginia, relating to the disposition of dead bodies.*

Patron—Alexander

Referred to Committee on Education and Health

Be it enacted by the General Assembly of Virginia:**1. That § 32.1-288 of the Code of Virginia is amended and reenacted as follows:****§ 32.1-288. Disposition of dead body; how expenses paid.**

A. After any investigation authorized or required pursuant to this article has been completed, including an autopsy if one is performed, the sheriff or other person or institution having initial custody of the dead body shall make good faith efforts, pursuant to § 32.1-283, to identify the next of kin of the decedent, and the dead body may be claimed by the relatives or friends of the deceased person for disposition. The claimant shall bear the expenses of such disposition. However, if the claimant is financially unable to pay the reasonable costs of disposition of the body, the costs shall be borne (i) by the county or city in which the deceased person resided at the time of death if the deceased person was a resident of Virginia or (ii) by the county or city in which the death occurred if the deceased person was not a resident of Virginia or the location of the deceased person's residence cannot reasonably be determined.

B. If, upon being notified by the sheriff or other person or institution having initial custody of the dead body of the death of the person and their right to claim the body for disposition, the next of kin of the deceased person fail or refuse to claim the body within 30 days of receipt of such notice, the Commissioner may accept the body for scientific study as provided in Article 3 (§ 32.1-298 et seq.). If the Commissioner refuses to accept the body for scientific study, the dead body shall be accepted by the sheriff of the county or city where death occurred for proper disposition ~~and~~, except as provided in subsection C ~~or D~~. *Except as provided in subsection C or D*, the reasonable expenses of disposition of the body incurred by such sheriff shall be borne (i) by the county or city in which the deceased person resided at the time of death if the deceased person was a resident of Virginia or (ii) by the county or city where death occurred if the deceased person was not a resident of Virginia or the location of the deceased person's residence cannot reasonably be determined. However, no such expenses shall be paid by such county or city until allowed by an appropriate court in such county or city. If the deceased person has an estate out of which burial expenses can be paid, either in whole or in part, such estate shall be taken for such purpose.

C. In the case of a person who has been received into the state corrections system and died prior to his release, whose body is unclaimed and whose body the Commissioner refuses to accept for scientific study, the Department of Corrections shall *accept the body for proper disposition and shall* bear the reasonable expenses for cremation or other disposition of the body. In the case of a person who has been received into the state corrections system and died prior to his release and whose claimant is financially unable to pay reasonable expenses of disposition, the expenses shall be borne by the county or city where the claimant resides.

D. In the case of a person who has been committed to the custody of the Department of Behavioral Health and Developmental Services and died prior to his release, whose body is unclaimed and whose body the Commissioner refuses to accept for scientific study, the Department of Behavioral Health and Developmental Services shall bear the reasonable expenses for cremation or other disposition of the body. In the case of a person who has been committed to the custody of the Department of Behavioral Health and Developmental Services and died prior to his release and whose claimant is financially unable to pay reasonable expenses of disposition, the expenses shall be borne by the county or city where the claimant resides.

E. Unless such act, decision, or omission resulted from bad faith or malicious intent, the Commissioner, the Chief Medical Examiner, the funeral service establishment, funeral service licensee or registered crematory shall be immune from civil liability for any act, decision, or omission resulting from the acceptance of any dead body for cremation or other disposition.

F. Unless such act, decision, or omission resulted from bad faith or malicious intent, the sheriff of any county or city who accepts a dead body for disposition pursuant to subsection B, *or the Department of Corrections when it accepts a dead body for disposition pursuant to subsection C*, shall be immune

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59 from civil liability for any act, decision, or omission resulting from acceptance and disposition of the
60 dead body in accordance with this section.