

HOUSE CONSUMER AND PUBLIC AFFAIRS COMMITTEE SUBSTITUTE FOR
HOUSE BILL 309

49TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2010

AN ACT

RELATING TO THE PUBLIC PEACE, HEALTH, SAFETY AND WELFARE;
PROVIDING FOR UNCLAIMED HUMAN REMAINS; PROVIDING FOR THE
IDENTIFICATION OF HUMAN REMAINS AS THOSE OF A VETERAN;
PROVIDING FOR TRANSPORTATION TO A MILITARY CEMETERY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. SHORT TITLE.--This act may be cited as the
"Disposition of Veterans' Cremains Act".

Section 2. DEFINITIONS.--As used in the Disposition of
Veterans' Cremains Act:

A. "armed forces" means the United States army,
navy, air force, marine corps or coast guard;

B. "authorizing agent" means a person who is
legally entitled to order the cremation and final disposition
of the remains of a deceased person;

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underscored material = new
[bracketed material] = delete

1 C. "cremains" means cremated remains of a human
2 body;

3 D. "funeral service practitioner" means a funeral
4 service practitioner or an assistant funeral service
5 practitioner licensed pursuant to the Thanatopractice Act;

6 E. "veteran" means a New Mexico resident who has
7 served as a member of the armed forces or a member of the
8 national guard of New Mexico and who has received an honorable
9 discharge; and

10 F. "veterans organization" means an association or
11 other entity organized for the benefit of veterans that has
12 been recognized or chartered by the congress of the United
13 States and includes the American legion, the legion of honor,
14 the patriot guard, the missing in America project and the
15 Vietnam veterans of America.

16 Section 3. FUNERAL SERVICE PRACTITIONER
17 RESPONSIBILITIES.--

18 A. A funeral service practitioner shall make a
19 reasonable effort to determine whether a deceased person whose
20 remains have been submitted to a funeral establishment for
21 final disposition by cremation is one of the following:

- 22 (1) a veteran;
- 23 (2) a spouse of a veteran; or
- 24 (3) the dependent child of a veteran.

25 B. The actions of a funeral service practitioner

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1 required pursuant to Subsection A of this section shall be
2 initiated within seventy-two hours after an order of
3 disposition for cremation has been signed by the authorizing
4 agent. The funeral service practitioner shall initiate the
5 inquiry with the authorizing agent and shall notify the
6 authorizing agent of the funeral service practitioner's
7 responsibilities pursuant to the Disposition of Veterans'
8 Cremains Act.

9 C. If the funeral service practitioner cannot
10 determine with certainty the deceased person's status as a
11 veteran, spouse of a veteran or the dependent child of a
12 veteran, and no authorizing agent exists, the funeral service
13 practitioner may allow the national cemetery administration of
14 the United States department of veterans affairs, a veterans
15 organization whose primary purpose is to locate, identify and
16 inter the unclaimed cremains of veterans or any federally
17 chartered veterans service organization to have access to all
18 information regarding the deceased person in the possession of
19 the funeral service practitioner so that it may attempt to
20 determine whether the deceased person qualifies pursuant to
21 Subsection A of this section.

22 D. If the funeral service practitioner determines
23 that the deceased person is either a veteran, a spouse of a
24 veteran or the dependent child of a veteran, the funeral
25 service practitioner shall immediately notify the authorizing

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1 agent of this finding and advise the authorizing agent that the
2 deceased person may be eligible to be interred at an
3 appropriate veterans' cemetery.

4 E. If the cremains of a veteran, spouse of a
5 veteran or dependent child of a veteran are not claimed by an
6 authorizing agent, the funeral service practitioner shall hold
7 any cremains for at least two years. After two years have
8 expired, the funeral service practitioner shall then send
9 written notice to an authorizing agent requesting disposition
10 instructions. If the funeral service practitioner does not
11 receive a written response from an authorizing agent within
12 thirty days after this written notice is sent, the funeral
13 service practitioner shall then contact any veterans
14 organization whose primary purpose is to locate, identify and
15 inter the unclaimed cremains of American veterans or any
16 federally chartered veterans service organization so that
17 arrangements for the disposition of the cremains of the
18 veteran, spouse of a veteran or dependent child of a veteran
19 may be made in a state or national veterans' cemetery.

20 F. The funeral service practitioner may release any
21 relevant information to the United States department of
22 veterans affairs or any veterans' organization to affect the
23 timely and accurate identification and interment of a decedent
24 as a veteran, the spouse of a veteran or the dependent child of
25 a veteran.

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