

HOUSE BILL NO. 652

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Health and Human Services

on _____)

(Patron Prior to Substitute--Delegate Coyner)

A BILL to amend and reenact § 54.1-2807.01 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 54.1-2807.03, relating to funeral arrangements; disputes between next of kin; proof of next of kin status.

Be it enacted by the General Assembly of Virginia:

1. That § 54.1-2807.01 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered 54.1-2807.03 as follows:

§ 54.1-2807.01. When next of kin disagree.

A. In the absence of a designation under § 54.1-2825, when there is a disagreement among a decedent's next of kin concerning the arrangements for his funeral or the disposition of his remains, any of the next of kin may petition the circuit court where the decedent resided at the time of his death to determine which of the next of kin shall have the authority to make arrangements for the decedent's funeral or the disposition of his remains. The court may require notice to and the convening of such of the next of kin as it deems proper.

B. In determining the matter before it, the court shall consider the expressed wishes, if any, of the decedent, the legal and factual relationship between or among the disputing next of kin and between each of the disputing next of kin and the decedent, and any other factor the court considers relevant to determine who should be authorized to make the arrangements for the decedent's funeral or the disposition of his remains.

C. When there is a disagreement among a decedent's next of kin concerning the arrangements for his funeral or the disposition of his remains, at least one of the next of kin shall, within 48 hours of the funeral service establishment receiving the decedent's remains, notify such funeral service establishment

27 of the dispute, at which time the funeral service establishment shall immediately stop making
28 arrangements for the decedent's funeral or for the disposition of the decedent's remains until such time as
29 an agreement is reached by the disputing next of kin or a court of appropriate jurisdiction has ruled on any
30 petition filed by such disputing next of kin.

31 D. If there is a dispute regarding the identity of any persons who have the right to make
32 arrangements and otherwise be responsible for the decedent's funeral and the disposition of such
33 decedent's remains, a funeral service establishment shall not be liable for refusing to dispose of the
34 decedent's remains or complete the arrangements for the final disposition of such remains until the funeral
35 service establishment receives a court order or written agreement signed by the disputing next of kin that
36 establishes the final disposition of the decedent's remains. If the funeral service establishment retains the
37 decedent's remains for final disposition while any such dispute is pending, the funeral service
38 establishment may embalm or refrigerate and shelter the decedent's body for preservation purposes until
39 the dispute is resolved. Any person or persons adjudged or agreed to have the right to make arrangements
40 and otherwise be responsible for the decedent's funeral and the disposition of the decedent's remains shall
41 be responsible for any costs incurred by the funeral service establishment pursuant to this subsection.

42 **§ 54.1-2807.03. Proof of next of kin status.**

43 A. A funeral service licensee may require that a person claiming next of kin status, in accordance
44 with the definition of next of kin in § 54.1-2800, execute a document affirming that such person is the
45 next of kin. Upon execution of this form, the funeral service licensee is exempt from any liability for
46 allowing such person to proceed with funeral planning for the decedent.

47 B. A funeral service licensee may, as a part of affirming that such person is next of kin under this
48 section, rely on the decedent's will that names such person as the individual the decedent wishes to serve
49 as next of kin for making funeral and burial arrangements, regardless of whether the will has been
50 probated.

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