

**H. B. 2420**

(By Delegate Perry)

[Introduced February 13, 2013; referred to the  
Committee on Health and Human Resources then Finance.]

**FISCAL  
NOTE**

10 A BILL to amend and reenact §9-5-18 of the Code of West Virginia,  
11 1931, as amended, relating to permitting funeral directors to  
12 decide the type of services that will be rendered for the  
13 amount paid by the Department of Health and Human Resources  
14 for funeral expenses for indigent persons, including  
15 cremation; requiring a funeral director to make a reasonable  
16 effort to give notice to the next of kin if he or she elects  
17 to provide for the disposition of the human remains by  
18 cremation; permitting the funeral director to proceed with  
19 cremation if the next of kin does not pay the difference  
20 between the cost of cremation and the cost of the type of  
21 service the next of kin desires; requiring a funeral director  
22 to execute an affidavit setting forth the efforts made to  
23 notify the next of kin concerning the intent to cremate the  
24 remains of an individual; establishing a criminal penalty for

1 making a false affidavit; and prohibiting a cremation from  
2 taking place sooner than twenty-four hours after the funeral  
3 director has received a body.

4 *Be it enacted by the Legislature of West Virginia:*

5 That §9-5-18 of the Code of West Virginia, 1931, as amended,  
6 be amended and reenacted to read as follows:

7 **ARTICLE 5. MISCELLANEOUS PROVISIONS.**

8 **§9-5-18. Funeral and cremation expenses for indigent persons;**  
9 **filing of affidavits to certify indigency and notice**  
10 **to next of kin; permitting funeral directors to**  
11 **decide type of service; penalties for false swearing;**  
12 **payment by division.**

13 (a) The Department of Health and Human Resources shall pay for  
14 reasonable funeral service expenses for indigent persons, in an  
15 amount not to exceed \$1,250.

16 (b) For purposes of this section, the indigency of a deceased  
17 person is determined by the filing of an affidavit with the  
18 department, in a form provided by and determined in accordance with  
19 the income guidelines as set forth by the department: (1) Signed  
20 by the heir or heirs-at-law which states that the estate of the  
21 deceased person is pecuniarily unable to pay the costs associated  
22 with a funeral; or (2) signed by the county coroner or the county  
23 health officer, the attending physician or other person signing the

1 death certificate or the state medical examiner stating that the  
2 deceased person has no heirs or that heirs have not been located  
3 after a reasonable search and that the deceased person had no  
4 estate or the estate is pecuniarily unable to pay the costs  
5 associated with a funeral.

6 (c) Payment shall be made by the department to the person or  
7 persons who have furnished the services and supplies for the  
8 indigent person's funeral expenses or to the persons who have  
9 advanced payment for same, as the department may determine,  
10 pursuant to appropriations for expenditures made by the Legislature  
11 for such purpose.

12 (d) For purposes of this section, "reasonable funeral service  
13 expenses" means expenses for services provided by a funeral  
14 director for the disposition of human remains.

15 (e) (1) A funeral director providing for the disposition of  
16 human remains under this section is permitted to decide the type of  
17 services that will be rendered for the amount paid by the  
18 department, including cremation. If the funeral director elects to  
19 provide for the disposition of the human remains by cremation, a  
20 reasonable effort must be made by the funeral director to give  
21 notice to the next of kin, if any are known. If the next of kin  
22 object to the cremation, the funeral director may proceed with the  
23 cremation only if the next of kin are unwilling or unable to pay  
24 the difference between the cost of cremation and the cost of the

1 type of service the next of kin desire.

2 (2) The funeral director shall execute an affidavit setting  
3 forth the efforts made to notify the next of kin concerning the  
4 intent to cremate the remains of an individual. In no event may a  
5 cremation take place sooner than twenty-four hours after the  
6 funeral director receives the body.

7 ~~(e)~~ (f) Any person who knowingly swears falsely in an affidavit  
8 required by this section ~~shall be~~ is guilty of a misdemeanor and, upon  
9 conviction thereof, shall be fined not more than \$1,000 or confined  
10 in ~~the county or regional~~ jail for a period of not more than six  
11 months, or both fined and confined.

NOTE: The purpose of this bill is to permit funeral directors to decide the type of services that will be rendered for the amount paid by the Department of Health and Human Resources for funeral expenses for indigent persons, including cremation. The bill requires a funeral director to make a reasonable effort to give notice to the next of kin if he or she elects to provide for the disposition of the human remains by cremation. The bill permits the funeral director to proceed with cremation only if the next of kin does not pay the difference between the cost of cremation and the cost of the type of service the next of kin desires. The bill requires a funeral director to execute an affidavit sets forth the efforts made to notify the next of kin concerning the intent to cremate the remains of an individual. The bill establishing a criminal penalty for making a false affidavit. The bill prohibits a cremation from taking place sooner than twenty-four hours after the funeral director has received a body.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.