Senate Engrossed House Bill

FILED
JANICE K. BREWER
SECRETARY OF STATE

State of Arizona
House of Representatives
Forty-sixth Legislature
Second Regular Session
2004

CHAPTER 212

HOUSE BILL 2565

AN ACT

AMENDING SECTION 36-831, ARIZONA REVISED STATUTES; RELATING TO BURIAL RESPONSIBILITY.

(TEXT OF BILL BEGINS ON NEXT PAGE)

Be it enacted by the Legislature of the State of Arizona:

Section 1. Section 36-831, Arizona Revised Statutes, is amended to read:

36-831. Duty to bury body of dead person; failure to perform duty; definitions

A. Except as provided pursuant to subsection F, the duty of burying the body of or providing other funeral and disposition arrangements for a dead person devolves in the following order:

1. If the dead person was married, on the surviving spouse.

2. If the dead person was a minor, on the parents.

3. If the dead person has no surviving spouse, on the adult children of the dead person.

4. If none of the persons named in paragraphs 1, 2 and 3 of this subsection are financially capable of providing for the burial or other funeral and disposition arrangements, or cannot be located on reasonable inquiry, on any person or fraternal, charitable or religious organization willing to assume responsibility.

B. If none of the persons named in subsection A is willing or financially able to bury or provide other funeral and disposition arrangements for a dead person, the county in which death occurs shall bury or place in a permanent care crypt the dead body or cremated remains of a dead body unless otherwise directed by a person named in subsection A, paragraph 1, 2 or 3, or by the written testamentary instruction of the decedent.

C. IF THE COUNTY MEDICAL EXAMINER OR PERSON PERFORMING THE DUTIES OF THE COUNTY MEDICAL EXAMINER KNOWS THAT THE DEAD PERSON IS A MEMBER OF A FEDERALLY RECOGNIZED NATIVE AMERICAN TRIBE LOCATED IN THIS STATE, THE COUNTY MEDICAL EXAMINER OR PERSON PERFORMING THE DUTIES OF THE COUNTY MEDICAL EXAMINER MUST NOTIFY THE TRIBE AND GIVE THE TRIBE THE OPPORTUNITY TO PROVIDE FOR THE PERSON'S BURIAL OR OTHER FUNERAL AND DISPOSITION ARRANGEMENTS. IF AN AUTOPSY IS REQUIRED BY SECTION 11-597, THE COUNTY MEDICAL EXAMINER OR PERSON PERFORMING THE DUTIES OF THE COUNTY MEDICAL EXAMINER SHALL, IF POSSIBLE, COMPLETE THE AUTOPSY AND RETURN THE REMAINS TO THE FEDERALLY RECOGNIZED NATIVE AMERICAN TRIBE LOCATED IN THIS STATE WITHIN FOUR CALENDAR DAYS AFTER THE DETERMINED DATE OF DEATH.

~~C.~~ D. A person on whom the duty prescribed in subsection A is imposed who omits to perform that duty within a reasonable time or is prohibited from performing that duty under subsection ~~F~~ G is liable to the person performing the duty in an amount of two times the expenses the person incurred in providing for the burial or other funeral and disposition arrangements. The person who performs this duty may recover this amount in a civil action.

~~D.~~ E. Notwithstanding the probate requirements of title 14, If a county is required to bury a person pursuant to subsection B, the county may recover the burial costs from the decedent's estate. A financial institution in possession of monies in an account in the decedent's name must reimburse

the county for the burial costs on presentation by the county of an affidavit that certifies:

1. The date of the decedent's death.

2. That pursuant to this section, the county performed the decedent's burial.

3. The total burial costs incurred by the county.

~~E.~~ F. A person, a corporation or an agency of government that provides for the burial or other funeral and disposition arrangements on the instructions of a person described in subsection A is immune from civil liability:

1. For failing to honor the wishes of the decedent or the wishes of a person having a higher priority in subsection A or B if the person, corporation or agency of government was not aware, after reasonable inquiry, of the contrary wishes.

2. For refusing to follow conflicting directions of persons having the same priority in subsection A.

3. For following directions of a personal representative that are consistent with the written testamentary instructions of the decedent.

~~F.~~ G. The duty to bury or to provide other funeral and disposition arrangements devolves to the next person in the order prescribed pursuant to subsection A if the person who is otherwise responsible for performing this duty is charged with the criminal death of the person to whom the duty is owed. The person who performs this duty may recover costs as prescribed in subsection ~~C~~ D. If the charges against the person on whom this duty originally fell are subsequently dismissed or are resolved in that person's favor on the merits, the person is responsible for only the actual costs.

~~G.~~ H. For purposes of this section, "person" includes a natural person, A corporation, A company, A partnership, A firm, AN association, A society, the United States, this state, ~~or~~ any territory, state or country, AN ARIZONA FEDERALLY RECOGNIZED NATIVE AMERICAN TRIBE, ~~or~~ any political subdivision of this state~~,~~ or a public or private corporation~~,~~ or partnership or association.

I. FOR THE PURPOSES OF THIS ARTICLE, "BURIAL" INCLUDES CREMATION.

APPROVED BY THE GOVERNOR MAY 10, 2004.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 10, 2004.