WEST VIRGINIA CODE: §61-12-9

§61-12-9. Permits required for cremation; fee.

(a) It is the duty of any person cremating, or causing, or requesting the cremation of, the body of any dead person who died in this state, to secure a permit for the cremation from the Chief Medical Examiner, the county medical examiner, or county coroner of the county wherein the death occurred. Any person, excluding those persons set forth in subsection (d) of this section, who willfully fails to secure a permit for a cremation, is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than $200. A permit for cremation shall be acted upon by the Chief Medical Examiner, the county medical examiner, or the county coroner after review of the circumstances surrounding the death, as indicated by the death certificate. The person requesting issuance of a permit for cremation shall pay a reasonable fee, as determined by the Chief Medical Examiner, to the county medical examiner or coroner, or to the Office of the Chief Medical Examiner, as appropriate, for issuance of the permit.

(b) Any person operating a crematory who does not perform a cremation pursuant to the terms of a cremation contract, or pursuant to the order of a court of competent jurisdiction, within the time contractually agreed upon, or, if the cremation contract does not specify a time period, within 21 days of receipt of the deceased person's remains by the crematory, whichever time is less, is guilty of a misdemeanor.

(c) Any person operating a crematory who fails to deliver the cremated remains of a deceased person, pursuant to the terms of a cremation contract, or pursuant to the order of a court of competent jurisdiction, within the time contractually agreed upon, or, if the cremation contract does not specify a time period, within 35 days of receipt of the deceased person's remains by the crematory, whichever time is less, is guilty of a misdemeanor.

(d) Any representative of an institution who is charged with arranging the final disposition of a decedent who donated his or her body to science is exempt from the provisions of this section: *Provided*, That all representatives charged with arranging the final disposition of a decedent who donated his or her body to science shall make the Office of Chief Medical Examiner aware of any foul play regarding the decedent prior to any final disposition.

(e) Any person convicted of a violation of the provisions of subsection (b) or (c) of this section shall be fined not less than $1,000 nor more than $5,000 or confined in jail for a period not to exceed six months, or both.

(f) In any criminal proceeding alleging that a person violated the time requirements of this section, it is a defense to the charge that a delay beyond the time periods provided for in this section were caused by circumstances wholly outside the control of the defendant.

(g) For purposes of this section, "cremation contract" means an agreement to perform a

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cremation, as a "cremation" is defined in §30-6-3 of this code. A cremation contract is an agreement between a crematory and any authorized person or entity, including, but not limited to, the following persons in order of precedence:

(1) The deceased, who has expressed his or her wishes regarding the disposal of their remains through a last will and testament, an advance directive, or preneed funeral contract, as defined in §47-14-2 of this code;

(2) The surviving spouse of the deceased, unless a petition to dissolve the marriage was pending at the time of decedent's death;

(3) An individual previously designated by the deceased as the person with the right to control disposition of the deceased's remains in a writing signed and notarized by the deceased: *Provided*, That no person may be designated to serve in such capacity for more than one nonrelative at any one time;

(4) The deceased person's next of kin;

(5) A public official charged with arranging the final disposition of an indigent deceased person or an unclaimed corpse;

(6) A representative of an institution who is charged with arranging the final disposition of a deceased who donated his or her body to science;

(7) A public officer required by statute to arrange the final disposition of a deceased person;

(8) Another funeral establishment; or

(9) An executor, administrator, or other personal representative of the deceased.

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