

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23

**H. B. 2132**

(By Delegate Perry)

[Introduced January 12, 2011; referred to the  
Committee on Finance.]

A BILL to amend and reenact §9-5-18 of the Code of West Virginia,  
1931, as amended, relating to funeral expenses for indigent  
persons; and authorizing cremation.

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

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

**ARTICLE 5. MISCELLANEOUS PROVISIONS.**

**§9-5-18. Funeral and cremation expenses for indigent persons;  
filing of affidavits to certify indigency and notice  
to next of kin; penalties for false swearing; payment  
by division.**

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

1           (b) For purposes of this section, the indigency of a deceased  
2 person is determined by the filing of an affidavit with the  
3 department, in a form provided by and determined in accordance with  
4 the income guidelines as set forth by the department: (1) Signed  
5 by the heir or heirs-at-law which states that the estate of the  
6 deceased person is pecuniarily unable to pay the costs associated  
7 with a funeral; or (2) signed by the county coroner or the county  
8 health officer, the attending physician or other person signing the  
9 death certificate or the state medical examiner stating that the  
10 deceased person has no heirs or that heirs have not been located  
11 after a reasonable search and that the deceased person had no  
12 estate or the estate is pecuniarily unable to pay the costs  
13 associated with a funeral.

14           (c) Payment shall be made by the department to the person or  
15 persons who have furnished the services and supplies for the  
16 indigent person's funeral expenses or to the persons who have  
17 advanced payment for same, as the department may determine,  
18 pursuant to appropriations for expenditures made by the Legislature  
19 for such purpose.

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

23           (e) A funeral director providing for the disposition of human  
24 remains under the provisions of this section is permitted to decide

1 the type of services that will be rendered for the amount paid by  
2 the department, including cremation. If the funeral director  
3 elects to provide for the disposition of the human remains by  
4 cremation, a reasonable effort must be made by the funeral director  
5 to give notice to the next of kin, if any are known. If the next  
6 of kin object to the cremation, the funeral director may proceed  
7 with the cremation only if the next of kin are unwilling or unable  
8 to pay the difference between the cost of cremation and the cost of  
9 the type of service the next of kin desire.

10 The funeral director shall execute an affidavit setting forth  
11 the efforts made to notify the next of kin the intent to cremate  
12 the remains of an individual. In no event may a cremation take  
13 place sooner than twenty-four hours after the funeral director  
14 receives the body.

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

NOTE: The purpose of this bill is to authorize cremation of indigent persons by funeral directors and the payment of this service by the Department of Health and Human Resources.

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