

WEST VIRGINIA LEGISLATURE

2020 REGULAR SESSION

Introduced

House Bill 4638

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SPONAUGLE, BIBBY, HOUSEHOLDER, ROWAN AND KUMP

[Introduced January 31, 2020; Referred to the
Committee on Political Subdivisions then Health and
Human Resources then the Judiciary]

1 A BILL to amend and reenact §61-12-8 of the Code of West Virginia, 1931, as amended, relating
2 to modifying the authority of medical examiners regarding the disposition of bodies.

Be it enacted by the Legislature of West Virginia:

ARTICLE 12. POSTMORTEM EXAMINATIONS.

§61-12-8. Certain deaths to be reported to medical examiners; failure to report deaths; investigations and reports; authority of medical examiners to administer oaths, etc., fees.

1 (a) When any person dies in this state from violence, or by apparent suicide, or suddenly
2 when in apparent good health, or when unattended by a physician, or when an inmate of a public
3 institution, or from some disease which might constitute a threat to public health, or in any
4 suspicious, unusual or unnatural manner, the chief medical examiner, or his or her designee or
5 the county medical examiner, or the coroner of the county in which death occurs shall be
6 immediately notified by the physician in attendance, or if no physician is in attendance, by any
7 law-enforcement officer having knowledge of the death, or by the funeral director, or by any other
8 person present or having knowledge. Any physician or law-enforcement officer, funeral director
9 or embalmer who willfully fails to comply with this notification requirement is guilty of a
10 misdemeanor and, upon conviction, shall be fined not less than \$100 nor more than \$500.
11 Notwithstanding any other provision of this code to the contrary, when the chief medical examiner
12 or his or her designee, or the county medical examiner, assistant county medical examiner or the
13 county coroner is notified that a death has occurred from any cause, and is additionally notified
14 that no person has been located that will make arrangements with a funeral home or otherwise to
15 remove, transport, store, and subsequently arrange for the final care of the body, the chief medical
16 examiner or his or her designee, or the county medical examiner, assistant county medical
17 examiner or county coroner shall take charge of the body and make arrangement to remove,
18 transport, store, and subsequently arrange for final care of the body. Upon notice of a death under
19 this section, the chief medical examiner, or his or her designee or the county medical examiner,

20 shall take charge of the body and any objects or articles which, in his or her opinion, may be
21 useful in establishing the cause or manner of death, and deliver them to the law-enforcement
22 agency having jurisdiction in the case. In the course of an investigation of a death required to be
23 reported by this section, the chief medical examiner shall, upon written request to any law-
24 enforcement agency or any state or regional correctional facility, be provided with all records of
25 the investigation of decedent's death and all records of decedent's incarceration. Where a
26 decedent received therapeutic, corrective or medical treatment prior to death, the chief medical
27 examiner may request in writing that any person or other entity which rendered the treatment
28 promptly provide all records within its possession or control pertaining to the decedent and the
29 treatment rendered: *Provided*, That nothing contained in this section may be construed as
30 precluding the chief medical examiner from directly inspecting or obtaining investigation records,
31 incarceration records or medical records related to the case. Where records of a decedent
32 become part of the chief medical examiner's file, they are not subject to subpoena or a request
33 for production directed to the chief medical examiner.

34 (b) A county medical examiner, or his or her assistant, shall make inquiries regarding the
35 cause and manner of death, reduce his or her findings to writing, and promptly make a full report
36 thereof to the chief medical examiner on forms prescribed by the chief medical examiner, retaining
37 one copy of the report for his or her own office records and providing one copy to the prosecuting
38 attorney of the county in which the death occurred.

39 (c) A county medical examiner or assistant medical examiner shall receive a fee for each
40 investigation performed under the provisions of this article, including the making of required
41 reports, which fee shall be determined by the chief medical examiner and paid out of funds
42 appropriated therefor.

NOTE: The purpose of this bill is to permit the chief medical examiner, or the county medical examiner, assistant county medical examiner or county coroner to arrange for the final care of a body in the absence of a person willing to make arrangements with a funeral

home or otherwise to remove, transport, store, and subsequently arrange for final care of the body.

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