WEST virginia legislature

2021 regular session

Committee Substitute

for

House Bill 2981

By Delegates Reynolds, Steele, Cooper, Rohrbach, J. Jeffries, Ferrell, Storch, Conley, Zatezalo, D. Kelly and Barnhart

[Originating in the Committee on Health and Human Resources; reported on March 22, 2021]

A BILL to amend and reenact §9A-1-9 and §9A-1-10 of the Code of West Virginia, 1931, as amended; and to amend and reenact §16-5-19 of said code, all relating to establishing suicide prevention assistance to veterans in this state; requiring the Department of Veterans’ Assistance to create program; requiring the medical examiner to share information; and providing an internal effective date.

Be it enacted by the Legislature of West Virginia:

CHAPTER 9A. VETERANS’ AFFAIRS.

ARTICLE 1. DIVISION OF VETERANS’ AFFAIRS.

§9A-1-9. Duties of department.

The Department of Veterans’ Assistance shall:

(1) Assist veterans, their widows, widowers, dependents, and orphans within the state, in properly presenting their claims before the United States Veterans’ Administration, its administrator, or any federal agency, the State of West Virginia, or any of the several states of the United States, when the claims arise out of service with the armed forces of the United States as defined in section one of this article;

(2) Contact all veterans’ organizations in this state through their duly elected or appointive officers to effectuate the purposes of this article and aid in the efficiency of the operations of the department;

(3) Render all possible and proper advice, assistance and counsel to veterans, their families, and their widows, dependents and orphans, within the state, and furnish them information on compensation, allowances, pensions, insurance, rehabilitation, hospitalization, education, vocational training, or refresher or retraining courses in education or training, employment, loans or aid for the purchase, acquisition or construction of homes, farms, farm equipment and business property, preference in the purchase of property and preference in employment, as provided or may be provided by any federal act, any federal agency, this state or other states;

(4) Make careful inquiry into all claims presented for payment out of the State Treasury from any appropriation made for the benefit of veterans, their widows, widowers, dependents, and orphans; and,

(5) Provide veterans within the state with suicide prevention assistance by developing a suicide prevention assistance program. The Department’s suicide prevention assistance program shall be annually reviewed and revised as necessary in accordance with statistical data on veteran suicide within the state of West Virginia to be provided to the Department of Veterans’ Assistance from the section of Vital Statistics.

§9A-1-10. Powers and duties of secretary.

The secretary is the executive and administrative head of the department and has the power and duty, subject to ~~the provisions of~~ §9A-1-4 of this code, to:

(a) Supervise and put into effect the purposes and provisions of this article and the rules for the government of the department;

(b) Prescribe methods pertaining to investigations and reinvestigations of all claims and to the rights and interests of all veterans, their widows, widowers, dependents, and orphans:

(c) Prescribe uniform methods of keeping all records and case records of the veterans, their widows, widowers, dependents, and orphans;

(d) Sign and execute, in the name of the state by West Virginia Department of Veterans’ Assistance, any contract or agreement with the federal government or its agencies, other states, subdivisions of this state, corporations, associations, partnerships or individuals;

(e) Supervise the fiscal affairs and responsibilities of the department;

(f) Organize the department to comply with the requirements of this article and with the standards required by any federal act or any federal agency;

(g) Establish any regional or area offices throughout the state that are necessary to promote efficiency and economy in administration;

(h) Make reports that comply with the requirements of any federal act or federal agency and the provisions of this article;

(i) Cooperate with the federal and state governments for the more effective attainment of the purposes of this article;

(j) Keep a complete and accurate record of all proceedings; record and file all contracts and agreements and assume responsibility for the custody and preservation of all papers and documents pertaining to his or her office and the department;

(k) Prepare for the Veterans’ Council the annual reports to the Governor of the condition, operation and functioning of the department;

(l) Exercise any other powers necessary and proper to standardize the work; to expedite the service and business; to assure fair consideration of the rights and interests and claims of veterans, their widows, widowers, dependents, and orphans; to provide resources for a program which will promote a greater outreach to veterans, and which will advise them of the benefits and services that are available; and to promote the efficiency of the department;

(m) Invoke any legal, equitable or special remedies for the enforcement of his or her orders or the provisions of this article;

(n) Appoint the officers and heads of divisions of the department, and of regional or area offices, and employ assistants and employees, including case managers and counselors, that are necessary for the efficient operation of the department;

(o) Provide resources and assistance in the development of an Internet website which is to be used to inform veterans of programs and services available to them through the department and the state and federal governments;

(p) Delegate to all or any of his or her appointees, assistants, or employees all powers and duties vested in the secretary, except the power to sign and execute contracts and agreements: *Provided,* That the secretary shall be responsible for the acts of his or her appointees, assistants, and employees; ~~and~~

(q) Award grants, in his or her discretion, subject to available appropriations, to provide for the transportation of veterans to veterans’ hospitals from the veteran’s home or local Veterans’ Assistance offices;

(r) Enter into an agreement with the Commissioner of the Department of Agriculture to transfer without consideration all or part of the approximately seventeen acres of the Department of Agriculture property in Beckley, West Virginia, located adjacent to the Jackie Withrow Hospital, which was formerly known as Pinecrest Hospital, for construction of a veterans skilled nursing facility; and

(s) Shall establish a program of suicide prevention assistance, as set forth in §9A-1-9(5), of this code for veterans within the state, no later than July 1, 2021. The Secretary may initiate the suicide prevention assistance program as soon as authorized, even if statistical data on veteran suicide within this state to be provided to the department from the section of Vital Statistics is not immediately available.

**CHAPTER 16. PUBLIC HEALTH**

**ARTICLE 5. VITAL STATISTICS.**

**§16-5-19. Death registration.**

(a) A certificate of death for each death which occurs in this state shall be filed with the section of vital statistics, or as otherwise directed by the State Registrar, within five days after death, and prior to final disposition, and shall be registered if it has been completed and filed in accordance with this section.

(1) If the place of death is unknown, but the dead body is found in this state, the place where the body was found shall be shown as the place of death.

(2) If the date of death is unknown, it shall be approximated. If the date cannot be approximated, the date found shall be shown as the date of death.

(3) If death occurs in a moving conveyance in the United States and the body is first removed from the conveyance in this state, the death shall be registered in this state and the place where it is first removed shall be considered the place of death.

(4) If death occurs in a moving conveyance while in international waters or air space or in a foreign country or its air space and the body is first removed from the conveyance in this state, the death shall be registered in this state but the certificate shall show the actual place of death insofar as can be determined.

(5) In all other cases, the place where death is pronounced shall be considered the place where death occurred.

(b) The funeral director or other person who assumes custody of the dead body shall:

(1) Obtain the personal data from the next of kin or the best qualified person or source available including the deceased person’s social security number or numbers, which shall be placed in the records relating to the death and recorded on the certificate of death;

(2) Within forty-eight hours after death, provide the certificate of death containing sufficient information to identify the decedent to the physician nurse responsible for completing the medical certification as provided in subsection (c) of this section; and

(3) Upon receipt of the medical certification, file the certificate of death: *Provided*, That for implementation of electronic filing of death certificates, the person who certifies to cause of death will be responsible for filing the electronic certification of cause of death as directed by the State Registrar and in accordance with legislative rule.

(c) The medical certification shall be completed and signed within twenty-four hours after receipt of the certificate of death by the physician, physician assistant or advanced practice registered nurse in charge of the patient’s care for the illness or condition which resulted in death except when inquiry is required pursuant to chapter sixty-one, article twelve or other applicable provisions of this code.

(1) In the absence of the physician, physician assistant or advanced practice registered nurse or with his or her approval, the certificate may be completed by his or her associate physician, any physician who has been placed in a position of responsibility for any medical coverage of the decedent, the chief medical officer of the institution in which death occurred, or the physician who performed an autopsy upon the decedent, provided inquiry is not required pursuant to chapter sixty-one, article twelve of this code.

(2) The person completing the cause of death shall attest to its accuracy either by signature or by an approved electronic process.

(3) The State Registrar shall provide all veteran suicide and suspected veteran suicide statistics compiled annually by the section of Vital Statistics to the Secretary of the Department of Veterans’ Assistance in accordance with §9A-1-9(5) and §9A-1-10(b) of the Code of West Virginia.

(d) When inquiry is required pursuant to article twelve, chapter sixty-one or other applicable provisions of this code, the state Medical Examiner or designee or county medical examiner or county coroner in the jurisdiction where the death occurred or where the body was found shall determine the cause of death and shall complete the medical certification within forty-eight hours after taking charge of the case.

(1) If the cause of death cannot be determined within forty-eight hours after taking charge of the case, the medical examiner shall complete the medical certification with a “Pending” cause of death to be amended upon completion of medical investigation.

(2) After investigation of a report of death for which inquiry is required, if the state Medical Examiner or designee or county medical examiner or county coroner decline jurisdiction, the state Medical Examiner or designee or county medical examiner or county coroner may direct the decedent’s family physician or the physician who pronounces death to complete the certification of death: *Provided*, That the physician is not civilly liable for inaccuracy or other incorrect statement of death unless the physician willfully and knowingly provides information he or she knows to be false.

(e) When death occurs in an institution and the person responsible for the completion of the medical certification is not available to pronounce death, another physician may pronounce death. If there is no physician available to pronounce death, then a designated licensed health professional who views the body may pronounce death, attest to the pronouncement by signature or an approved electronic process and, with the permission of the person responsible for the medical certification, release the body to the funeral director or other person for final disposition: *Provided*, That if the death occurs in an institution during court-ordered hospitalization, in a correctional facility or under custody of law-enforcement authorities, the death shall be reported directly to a medical examiner or coroner for investigation, pronouncement and certification.

(f) If the cause of death cannot be determined within the time prescribed, the medical certification shall be completed as provided by legislative rule. The attending physician or medical examiner, upon request, shall give the funeral director or other person assuming custody of the body notice of the reason for the delay, and final disposition of the body may not be made until authorized by the attending physician, medical examiner or other persons authorized by this article to certify the cause of death.

(g) Upon receipt of autopsy results, additional scientific study, or where further inquiry or investigation provides additional information that would change the information on the certificate of death from that originally reported, the certifier or any State Medical Examiner who provides such inquiry under authority of article twelve, chapter sixty-one of this code shall immediately file a supplemental report of cause of death or other information with the section of vital statistics to amend the record, but only for purposes of accuracy.

(h) When death is presumed to have occurred within this state but the body cannot be located, a certificate of death may be prepared by the State Registrar only upon receipt of an order of a court of competent jurisdiction which shall include the finding of facts required to complete the certificate of death. The certificate of death will be marked “Presumptive” and will show on its face the date of death as determined by the court and the date of registration, and shall identify the court and the date of the order.

(i) The local registrar shall transmit each month to the county clerk of his or her county a copy of the certificates of all deaths occurring in the county, and if any person dies in a county other than the county within the state in which the person last resided prior to death, then the state Registrar shall furnish a copy of the death certificate to the clerk of the county commission of the county where the person last resided, from which copies the clerk shall compile a register of deaths, in a form prescribed by the State Registrar. The register shall be a public record.

CHAPTER 61. CRIMES AND THEIR PUNISHMENT.

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.

(a) When any person dies in this state from violence, or by apparent suicide, or suddenly when in apparent good health, or when unattended by a physician, or when an inmate of a public institution, or from some disease which might constitute a threat to public health, or in any suspicious, unusual or unnatural manner, the chief medical examiner, or his or her designee or the county medical examiner, or the coroner of the county in which death occurs shall be immediately notified by the physician in attendance, or if no physician is in attendance, by any law-enforcement officer having knowledge of the death, or by the funeral director, or by any other person present or having knowledge. Any physician or law-enforcement officer, funeral director or embalmer who willfully fails to comply with this notification requirement is guilty of a misdemeanor and, upon conviction, shall be fined not less than $100 nor more than $500. Upon notice of a death under this section, the chief medical examiner, or his or her designee or the county medical examiner, shall take charge of the body and any objects or articles which, in his or her opinion, may be useful in establishing the cause or manner of death, and deliver them to the law-enforcement agency having jurisdiction in the case. In the course of an investigation of a death required to be reported by this section, the chief medical examiner shall, upon written request to any law-enforcement agency or any state or regional correctional facility, be provided with all records of the investigation of decedent’s death and all records of decedent’s incarceration. Where a decedent received therapeutic, corrective or medical treatment prior to death, the chief medical examiner may request in writing that any person or other entity which rendered the treatment promptly provide all records within its possession or control pertaining to the decedent and the treatment rendered: *Provided,* That nothing contained in this section may be construed as precluding the chief medical examiner from directly inspecting or obtaining investigation records, incarceration records or medical records related to the case. Where records of a decedent become part of the chief medical examiner’s file, they are not subject to subpoena or a request for production directed to the chief medical examiner.

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

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

(d) The State Medical Examiner’s Office shall notify one of the four local VA Medical Centers of the suicide death of a veteran upon finalization of the investigation and determination of cause and manner of death in the case.

NOTE: The purpose of this bill is to provide suicide prevention assistance to veterans in this state veterans within the state.

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