

HOUSE BILL NO. 279

INTRODUCED BY A. ROSENDALE

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE PERIOD OF TIME THAT MORTUARIES MUST KEEP THE UNCLAIMED REMAINS OF VETERANS; AND AMENDING SECTION 10-2-111, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 10-2-111, MCA, is amended to read:

"10-2-111. Disposal of unclaimed veterans' remains -- limits on liability of mortuaries and veterans' service organizations -- notice -- definitions. (1) A mortuary is not liable for simple negligence in the disposition of the human remains or cremated remains of a veteran to a veterans' service organization for the purposes of interment by that organization if:

~~(a) the remains have been in the possession of the mortuary for a period of at least 20 years, all or any part of which period may occur or may have occurred before or after October 1, 2001;~~

~~(b) the mortuary has given notice, as provided in subsection (2)(a) or (2)(b), to the veteran's next of kin of the matters provided in subsection (3); and~~

~~(c) the remains have not been claimed by the next of kin of the veteran within the period of time provided for in subsection (3) following notice to the next of kin the mortuary complies with the provisions of this section.~~

(2) ~~In~~ Except as provided in subsection (4)(b), in order for the immunity provided in subsection (1) to apply, a mortuary shall take the following action, alone or in conjunction with a veterans' service organization, to provide notice to the next of kin of the deceased veteran:

(a) give written notice by mail to the next of kin of the veteran for whom the address of the next of kin is known or can reasonably be ascertained by the mortuary giving the notice; or

(b) if the address of the next of kin is not known or cannot reasonably be ascertained, give notice to the next of kin by publication once each week for 3 successive weeks in a newspaper of general circulation:

(i) in the county of the veteran's residence; or

(ii) if the residence of the veteran is unknown, in the county in which the veteran died; or

(iii) if the county in which the veteran died is unknown, in the county in which the mortuary giving notice is located.



1           (3) The notice required by subsection (2) must include a statement to the effect that the remains of the  
 2 veteran must be claimed by the veteran's next of kin within ~~30 days after the date of mailing of the written notice~~  
 3 ~~provided for in subsection (2)(a) or within 4 6 months of the date of the first publication of the notice provided for~~  
 4 ~~in subsection (2)(b), as applicable;~~ notice under subsection (2) and that if the remains are not claimed within that  
 5 time, the remains may be given to a veterans' service organization for interment.

6           (4) (a) A mortuary must hold the unclaimed remains of a veteran for at least 6 months unless a nonprofit  
 7 organization FOR VETERANS or a state or federal agency verifies IN A WRITING PROVIDED TO THE MORTUARY THAT  
 8 there are no surviving family members to claim the remains.

9           (b) If a nonprofit organization FOR VETERANS or a state or federal agency verifies IN A WRITING PROVIDED  
 10 TO THE MORTUARY THAT there are no surviving family members to claim the remains, the mortuary is not required  
 11 to provide notice under subsection (2) AND THE MORTUARY IS IMMEDIATELY COVERED BY THE PROTECTIONS IN  
 12 SUBSECTION (1).

13           (c) After retaining the unclaimed remains of a veteran for at least 6 months or after verification by a  
 14 nonprofit organization FOR VETERANS or a state or federal agency that there are no surviving family members to  
 15 claim the remains, the mortuary may release the remains to a veterans' service organization for interment.

16           ~~(4)~~(5) A veterans' service organization receiving human remains or cremated remains of a veteran from  
 17 a mortuary for the purposes of interment is not liable for simple negligence in the custody or interment of the  
 18 remains if the veterans' service organization inters and does not scatter the remains and does not know and has  
 19 no reason to know that the remains do not satisfy the requirements of subsection (1)(a) or (1)(c) or that the  
 20 mortuary has not complied with the notice requirements of subsection (2)(a) or (2)(b), as applicable.

21           ~~(5)~~(6) By accepting the remains of a veteran for interment, a veterans' service organization does not  
 22 agree to pay storage or other charges applied by the mortuary for the keeping or preservation of the remains.

23           ~~(6)~~(7) A veterans' service organization accepting remains pursuant to this section shall take all  
 24 reasonable steps to inter the remains in a veterans' cemetery. However, the organization is not liable for any  
 25 additional expense for interment in a veterans' cemetery and interment in a veterans' cemetery is not a condition  
 26 for immunity under this section.

27           ~~(7)~~(8) (a) As used in this section, the following definitions apply:

28           (i) "Mortuary" includes a mortuary as defined in 37-19-101, a funeral home, a funeral director, a  
 29 mortician, an undertaker, or an employee of any of the individuals or entities.

30           (ii) "Veterans' service organization" means an association or other entity organized for the benefit of

1 veterans that has been recognized or chartered by the United States congress, including the disabled American  
2 veterans, veterans of foreign wars, the American legion, the legion of honor, and the Vietnam veterans of  
3 America. The term includes a member or employee of any of those associations or entities.

4 (b) Terms not defined in this subsection (~~7~~) (8) have the meaning given them in 37-19-101."

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