



## **VFDA RESPONSES IN RED BELOW**

01/14/2021

TO: SENATE GENERAL LAWS COMMITTEE and LEADERSHIP, SENATE OF VIRGINIA

FROM: BRUCE AND BO KEENEY, Representing the ASSOCIATION OF INDEPENDENT FUNERAL HOME

**OPPOSITION TO SB 1268 - Disposition of the remains of a decedent; persons to make arrangements for funeral and disposition.**

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IFHV, the Association of Independent Funeral Homes of Virginia (**owners and managers** of Virginia's independent funeral homes) strongly encourage your **defeat** of Senator Creigh Deeds **legislation to change the definition of "next of kin."** The bill establishes a rigid hierarchy of which next of kin is authorized to make funeral arrangements.

- SB1268/HB2005 does in fact create a ***much-needed*** rigid hierarchy that defines Next of Kin, establishing better, more concise priorities in the next of kin process. SB1268/HB2005 was drafted to follow the same outline used in §64.2-200 Wills, Trusts, and Fiduciaries section of the Code of Virginia.

As owners and managers of independent funeral homes, IFHV (by an overwhelming vote of its Board) believe this bill will:

The IFHV represents ***some***, not all, owners or managers of independent funeral homes in Virginia. Additionally, a lot of the IFHV members are also members of the VFDA, the oldest and largest professional association for funeral homes in Virginia. The VFDA represents all types of funeral homes, from small mom & pop type operations to multi-location privately owned firms to larger corporately controlled companies. Whereas, their **board** voted overwhelmingly against this bill, the membership was not polled on their opinion of this matter.

- Remove often needed flexibility in determining which relative is responsible for arrangements
  - When they talk about flexibility, they are referring to the ability for *anyone on any level of kinship* to control disposition of a decedent. For example, your elderly mother is visiting a relative out in the opposite end of the Virginia from your home and she dies, that relative, who is trying to save you the anguish of arranging her funeral, has your mother cremated and the ashes disposed of.
  - SB1268/HB2005 establish clearer, more concise next of kin priorities, set expectations of the next of kin, and create stronger consumer protections.
  - Currently 32 of 50 states have laws that better clarify priority of the next of kin than Virginia.
  - SB1268/HB2005 also clearly defines what happens if there is no remaining family in that order of succession.
- Increase the funeral home's liability
  - SB1268/HB2005 does the *opposite* by establishing clearer, more concise prioritization of next of kin. A funeral professional can then show a list to family members, which will set expectations for the family members and provide protections for the funeral service establishments who may otherwise be called upon to mediate a family's disagreement about their loved one's final disposition.

- SB1268/HB2005 defines the responsibilities of the *family*, not the funeral home, to find surviving relatives of equal or greater kinship, including the means that can be used to communicate with them.
- Cause unnecessary delay of arrangements
  - There are many reasons for “delay of arrangements,” SB1268/HB2005 won’t be one of them.
    - Often, services are delayed because the process of arranging for disposition, i.e., earth burial, cremation, or burial at sea is not a quick process. Also, more and more, families are choosing to take time between the death and making the arrangements. Additionally, services are often delayed waiting for necessary legal paperwork, such as death certificates.
    - Showing a family the prioritized next of kin list established in SB1268/HB2005 may prevent family disagreement and discord and counteract a family conflict being adjudicated in our already overworked judicial system.
- increase family disputes
  - Again, not true. SB1268/HB2005 establishes clearer, more concise next of kin priorities that set expectations of the family members and create stronger protections for the rightful next of kin.
  - SB1268/HB2005 also establishes solutions for multiples members of next of kin priority (such as children or siblings), which may alleviate any court proceedings.
  - unnecessarily increase the cost of funeral arrangements.
  - Untrue, SB1268/HB2005 will not increase the cost of funeral arrangements. This law protects the consumer first, and when a dispute arises and legal action must be taken, a judge will have a more clear and concise law to make a decision. This law also clarifies what actions a funeral home may take during the time a legal dispute is settled. Which is no different than the current law.

Simply put, the “**bill is a solution looking for a problem.**”

- **This is in fact a solution to an ever-increasing problem.** With more blended and fractured families, funeral professionals are having to address and mediate family disputes without the clear guidance established in SB1268/HB2005

Considering the expected rapid pace now facing the 2021 session, we wanted to give you advance notice of our client’s opposition. And in the near future, we will provide additional specifics regarding SB 1268 and even more reasons by this measure should be soundly defeated.

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