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SENATE BILL NO. 1055

Offered January 8, 2025

Prefiled January 7, 2025

A BILL to amend and reenact § 57-27.1:1 of the Code of Virginia, relating to interment rights; public property.

Patron—Roem

Referred to Committee on General Laws and Technology

Be it enacted by the General Assembly of Virginia:

1. That § 57-27.1:1 of the Code of Virginia is amended and reenacted as follows:

§ 57-27.1:1. Family cemeteries; interment rights of immediate family members and descendants.

A. For purposes of this section:

"Family cemetery" means a private burying ground or cemetery, not operated for profit, that contains a collection of graves of people who descend from the same immediate family and that is exempt from taxation pursuant to Article X, § 6 (a) (3) of the Constitution of Virginia.

"Immediate family member or descendant" means a spouse, child, parent, sibling, grandchild, grandparent, and parent-in-law of a deceased person buried in a family cemetery.

"Interment" means the same as that term is defined in § 54.1-2310.

B. Any immediate family member or descendant of a deceased person who died prior to July 1, 2024, and is buried in an identified family cemetery located on (i) private property owned by someone other than such immediate family member or descendant or (ii) public property owned by a county, city, town, or other locality or held in trust for such a locality for use as a cemetery may petition the circuit court of the county or city wherein the property is located for interment rights upon such property. Those seeking interment rights shall be considered within the existing perimeter of a family cemetery. The perimeter of a family cemetery shall be determined by a survey agreed upon by the petitioner and the property owner. The surveying costs, including the cost of the survey and of preparing the original and one copy of the plat, shall be shared equally by the petitioner and the property owner.

C. Upon satisfactory showing of proof of kinship, the court shall award the immediate family member or descendant interment rights upon such property. Such immediate family member or descendant shall, in addition to the rights provided for in § 57-27.1, have interment rights concerning himself and other immediate family members and descendants. The immediate family member or descendant may prove kinship to a deceased person buried in the family cemetery by proffering official documentation or evidence of kinship or nonofficial documentation, such as obituaries, family Bibles or other documents with family signatures, journals or letters of the deceased family person, family photographs, or other official or nonofficial documentation deemed by the court to be reliable.

D. The court may order the petitioner to pay the reasonable costs and fees of the private cemetery property owner incurred pursuant to an action under this section.

E. The provisions of this section shall not apply to any cemetery, mausoleum, columbarium, or similar interment facility located on the property of any church or religious association, denomination, or body. For purposes of this subsection, the property of any church or religious association, denomination, or body owned or leased by (i) an incorporated church or religious body or corporation, as described in § 57-16.1; (ii) a duly designated ecclesiastical officer; or (iii) a trustee of an unincorporated church or religious body shall be deemed to be owned by such church or religious association, denomination, or body.

F. Nothing in this section shall be construed to prohibit a property owner from petitioning a circuit court for removal of remains from a previously unidentified graveyard or an abandoned family graveyard as permitted by § 57-38.1.

INTRODUCED

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