S T A T E O F N E W Y O R K

6372--D

2015-2016 Regular Sessions

I N A S S E M B L Y

March 20, 2015

Introduced by M. of A. SIMANOWITZ, MILLER -- read once and referred to the Committee on Health -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- again reported from said committee with amendments, ordered reprinted as amended and recommitted to said committee -- recommitted to the Committee on Health in accordance with Assembly Rule 3, sec. 2 -- reported and referred to the Committee on Codes -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- again reported from said committee with amendments, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the public health law, in relation to limiting the release of a body to a university, college, school or institute in a city having a population of one million or more

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Section 4211 of the public health law is amended by adding a new subdivision 3-a to read as follows:

3-A. (A) IN A CITY HAVING A POPULATION OF ONE MILLION OR MORE, NO BODY OF A DECEASED PERSON SHALL BE DELIVERED OR RELEASED TO OR RECEIVED BY, ANY UNIVERSITY, COLLEGE, SCHOOL OR INSTITUTE, INCLUDING ANY MORTUARY SCHOOL UNLESS:

(I) THE PERSON AUTHORIZED TO CONSENT TO MAKE AN ANATOMICAL GIFT WITH RESPECT TO THE DECEDENT UNDER ARTICLE FORTY-THREE OF THIS CHAPTER MAKES SUCH AN ANATOMICAL GIFT THAT WOULD ENCOMPASS SUCH DELIVERY OR RELEASE;

(II) THE PERSON AUTHORIZED TO CONTROL THE DISPOSITION OF SUCH BODY UNDER SECTION FORTY-TWO HUNDRED ONE OF THIS ARTICLE CONSENTS IN WRITING TO THE DELIVERY AND RELEASE OF THE BODY OF SUCH PERSON TO THE UNIVERSITY, COLLEGE, SCHOOL OR INSTITUTE FOR THE PURPOSE OF EMBALMING, DISSECTION OR AUTOPSY, PROVIDED THAT A CHIEF FISCAL OFFICER OF A COUNTY OR A PUBLIC ADMINISTRATOR SHALL NOT BE AUTHORIZED TO PROVIDE SUCH CONSENT; OR

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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(III) THE DECEDENT HAS THROUGH A LAWFULLY EXECUTED WRITTEN INSTRUMENT, WILL OR TRUST, CONSENTED TO SUCH DELIVERY OR RELEASE;

(B) IN NO EVENT SHALL SUCH DELIVERY OR RELEASE FOR THE PURPOSE OF EMBALMING, DISSECTION OR AUTOPSY BE AUTHORIZED WHERE THE PROVISIONS OF SECTION FORTY-TWO HUNDRED NINE-A OR FORTY-TWO HUNDRED TEN-C OF THIS TITLE APPLY.

(C) THE PERSON OR ENTITY HAVING POSSESSION, CHARGE, CUSTODY OR CONTROL OF THE BODY OF A DECEASED PERSON UNDER SUBDIVISION ONE OF THIS SECTION SHALL HAVE NO DUTY TO LOCATE AND/OR OBTAIN THE WRITTEN CONSENT FROM ANY PERSON UNDER THIS SUBDIVISION. ADDITIONALLY, A CHIEF FISCAL OFFICER OF A COUNTY OR A PUBLIC ADMINISTRATOR SHALL NOT BE AUTHORIZED TO PROVIDE SUCH CONSENT. IN THE EVENT THAT SUCH BODY IS NOT DELIVERED OR RELEASED TO A UNIVERSITY, COLLEGE, SCHOOL OR INSTITUTE UNDER THIS SECTION, THE BODY SHALL BE RELEASED FOR BURIAL OR OTHER LAWFUL DISPOSITION CONSISTENT WITH THIS ARTICLE AND ANY OTHER APPLICABLE PROVISION OF LAW.

(D) THE PERSON HAVING LAWFUL POSSESSION OF A BODY UNDER THIS SECTION SHALL NOT BE HELD LIABLE FOR ACTIONS TAKEN REASONABLY AND IN GOOD FAITH UPON DELIVERY OF A BODY PURSUANT TO SUBPARAGRAPH (I) OF PARAGRAPH (A) OF THIS SUBDIVISION, PRESENTATION OF A WRITTEN CONSENT PURSUANT TO SUBPARAGRAPH (II) OF SUCH PARAGRAPH, OR A WRITTEN INSTRUMENT, WILL OR TRUST PURSUANT TO SUBPARAGRAPH (III) OF SUCH PARAGRAPH.

(E) THE PROVISIONS OF THIS SECTION SHALL APPLY NOTWITHSTANDING ANY INCONSISTENT PROVISION OF GENERAL, SPECIAL OR LOCAL LAW.

S 2. This act shall take effect on the thirtieth day after it shall have become a law and shall apply to the delivery and release of bodies on and after such date.