

054278348

HOUSE BILL NO. 1683

Offered January 12, 2005

Prefiled December 20, 2004

A BILL to amend and reenact § 32.1-288 of the Code of Virginia, relating to immunity for disposition of dead bodies pursuant to court order.

Patron—Janis

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:**1. That § 32.1-288 of the Code of Virginia is amended and reenacted as follows:**

§ 32.1-288. Disposition of dead body; how expenses paid.

A. After any investigation authorized or required pursuant to this article has been completed, including an autopsy if one is performed, the sheriff or other person or institution having initial custody of the dead body shall make good faith efforts, pursuant to § 32.1-283, to identify the next of kin of the decedent, and the dead body may be claimed by the relatives or friends of the deceased person for disposition. The claimant shall bear the expenses of such disposition except as provided herein. If no person claims the body, the Commissioner may accept the body for scientific study as provided in Article 3 (§ 32.1-298 et seq.) of this chapter. If the Commissioner refuses to accept the body for scientific study, the dead body shall be accepted by the sheriff of the county or city where death occurred for proper disposition.

B. Except as provided in subsection C, the reasonable expenses of disposition of the body incurred by such sheriff or by the claimant to the extent such claimant is financially unable to pay them shall be borne by the county or city where death occurred, or, if the deceased person was a resident of Virginia at the time of death, by the county or city of residence. No such expenses shall be paid by such county or city until allowed by an appropriate court in such county or city. If the deceased person has an estate out of which burial expenses can be paid, either in whole or in part, such estate shall be taken for such purpose.

C. In the case of a person who has been received into the state corrections system and died prior to his release, whose body is unclaimed and whose body the Commissioner refuses to accept for scientific study, the Department of Corrections shall bear the reasonable expenses for cremation or other disposition of the body. In the case of a person who has been received into the state corrections system and died prior to his release and whose claimant is financially unable to pay reasonable expenses of disposition, the expenses shall be borne by the county or city where the claimant resides.

D. Unless such act, decision, or omission resulted from bad faith or malicious intent, the Commissioner and the Chief Medical Examiner shall be immune from civil liability for any act, decision, or omission resulting from the acceptance of any dead body for cremation or other disposition. *Further, unless such act, decision, or omission resulted from bad faith or malicious intent, any funeral service establishment or crematory shall be immune from civil liability for the disposition of any dead body when acting in accordance with an order of the appropriate court as provided in subsection B.*

INTRODUCED

HB1683