

# VIRGINIA ACTS OF ASSEMBLY -- 2007 RECONVENED SESSION

## CHAPTER 868

*An Act to amend and reenact §§ 32.1-283 and 32.1-283.4 of the Code of Virginia, relating to Medical Examiner reports and findings.*

[H 2393]

Approved April 4, 2007

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 32.1-283 and 32.1-283.4 of the Code of Virginia are amended and reenacted as follows:**

§ 32.1-283. Investigation of deaths; obtaining consent to removal of organs, etc.; fees.

A. Upon the death of any person from trauma, injury, violence, poisoning, accident, suicide or homicide, or suddenly when in apparent good health, or when unattended by a physician, or in jail, prison, other correctional institution or in police custody, or who is a patient or resident of a state mental health or mental retardation facility, or suddenly as an apparent result of fire, or in any suspicious, unusual or unnatural manner, or the sudden death of any infant less than eighteen months of age whose death is suspected to be attributable to Sudden Infant Death Syndrome (SIDS), the medical examiner of the county or city in which death occurs shall be notified by the physician in attendance, hospital, law-enforcement officer, funeral director or any other person having knowledge of such death. Good faith efforts shall be made by such person or institution having custody of the dead body to identify the next of kin of the decedent, and such identity, if determined, shall be provided to the Chief Medical Examiner upon transfer of the dead body. After identification of the next of kin, the person or institution, or agent of such person or institution, having custody of the dead body shall attempt to obtain consent for removal of the pituitary or other organs, glands, eyes or tissues for use in transplants or therapy.

B. Upon being notified of a death as provided in subsection A, the medical examiner shall take charge of the dead body, make an investigation into the cause and manner of death, reduce his findings to writing, and promptly make a full report to the Chief Medical Examiner. In order to facilitate his investigation, the medical examiner is authorized to inspect and copy the pertinent medical records of the decedent whose death he is investigating. Full directions as to the nature, character and extent of the investigation to be made in such cases shall be furnished each medical examiner by the Chief Medical Examiner, together with appropriate forms for the required reports and instructions for their use. The facilities and personnel under the Chief Medical Examiner shall be made available to medical examiners in such investigations. *Reports and findings of the Medical Examiner shall be confidential and shall not under any circumstance be disclosed or made available for discovery pursuant to a court subpoena or otherwise, except as provided in this chapter. Nothing in this subsection shall prohibit the Chief Medical Examiner from releasing the cause or manner of death, or prohibit disclosure of reports or findings to the parties in a criminal case.*

C. A copy of each report pursuant to this section shall be delivered to the appropriate attorney for the Commonwealth and to the appropriate law-enforcement agency investigating the death. A copy of any such report regarding the death of a victim of a traffic accident shall be furnished upon request to the State Police and the Highway Safety Commission. In addition, a copy of any autopsy report concerning a patient or resident of a state mental health or mental retardation facility shall be delivered to the Commissioner of Mental Health, Mental Retardation and Substance Abuse Services and to the Inspector General for Mental Health, Mental Retardation and Substance Abuse Services. *A copy of any autopsy report concerning a prisoner committed to the custody of the Director of the Department of Corrections shall, upon request of the Director of the Department of Corrections, be delivered to the Director of the Department of Corrections. A copy of any autopsy report concerning a prisoner committed to any local correctional facility shall be delivered to the local sheriff or superintendent. Upon request, the Chief Medical Examiner shall release such autopsy report to the decedent's attending physician and to the personal representative or executor of the decedent or, if no personal representative or executor is appointed, then at the discretion of the Chief Medical Examiner, to the following persons in the following order of priority: (i) the spouse of the decedent, (ii) an adult son or daughter of the decedent, (iii) either parent of the decedent, (iv) an adult sibling of the decedent, (v) any other adult relative of the decedent in order of blood relationship, or (vi) any appropriate health facility quality assurance program.*

D. For each investigation under this article, including the making of the required reports, the medical examiner shall receive a fee established by the Board within the limitations of appropriations for the purpose. Such fee shall be paid by the Commonwealth, if the deceased is not a legal resident of the county or city in which his death occurred. In the event the deceased is a legal resident of the county or city in which his death occurred, such county or city shall be responsible for the fee; however, the

Commonwealth shall reimburse such county or city to the extent such fee exceeds \$20. If the deceased is a patient or resident of a state mental health or mental retardation facility, the fee shall be paid by the Department of Mental Health, Mental Retardation and Substance Abuse Services.

E. Nothing herein shall be construed to interfere with the autopsy procedure or with the routine obtaining of consent for removal of organs as conducted by surgical teams or others.

§ 32.1-283.4. Confidentiality of certain information and records collected and maintained by the Office of the Chief Medical Examiner.

A. Confidential records and information obtained from private and public entities and provided to the Office of the Chief Medical Examiner during the course of a death investigation shall remain confidential and shall not be subject to the provisions of the Virginia Freedom of Information Act (§ 2.2-3700 et seq.).

B. Information and records concerning a decedent collected and maintained by the Office of the Chief Medical Examiner during the course of surveillance programs or research or studies of deaths having public health importance shall be confidential and may only be published in summary or aggregate form or as authorized by the Chief Medical Examiner.

C. The confidential records and information set forth in subsections A and B shall not be subject to subpoena, subpoena duces tecum, or discovery when in the possession of the Office of the Chief Medical Examiner, or be admissible in any criminal or civil proceeding through any discovery relating to the Office. If available from other sources, however, such records and information shall not be immune from subpoena duces tecum, or discovery when obtained through such other sources solely because the records and information were presented to the Office during a death investigation.

D. Nothing in this section shall be construed to prohibit the disclosure or publication of the findings of investigations, surveillance programs, research, and studies in aggregate, *or* statistical, ~~or other~~ form from which personal identifiers have been removed.