

# 2009 SESSION

## HOUSE SUBSTITUTE

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### HOUSE BILL NO. 2258

#### AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Health, Welfare and Institutions  
on January 27, 2009)

(Patron Prior to Substitute—Delegate Massie)

*A BILL to amend and reenact § 32.1-127.1 of the Code of Virginia, relating to exemption from liability for routine organ and tissue donation; funeral homes.*

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

**1. That § 32.1-127.1 of the Code of Virginia is amended and reenacted as follows:**

§ 32.1-127.1. Immunity from liability for routine referral for organ and tissue donation.

Any chief administrative officer of a hospital or his designee who administers the routine referral required by § 32.1-127 and any representative of any organ procurement organization or eye or tissue bank who receives notice of a death or imminent death, determines the suitability of the decedent or patient for organ donation, makes contact with the family of a decedent or patient to request the donation of organs, tissues or eyes, or assists or performs the removal of any donated organs, tissues or eyes shall be immune from civil liability for any act, decision, or omission or statement made in accordance with the provisions of § 32.1-127, the regulations of the Board, and the provisions of the Health Care Financing Administration's regulations on routine referral and organ donation, unless he was grossly negligent or acted in bad faith or with malicious intent.

*Unless such act, decision, or omission resulted from bad faith or malicious intent, the funeral service establishment, funeral service licensee, crematory, or registered crematory that receives a body following routine donation of organs, tissues, or eyes, and provides embalming, cremation, or other funeral services, shall be immune from civil liability for any act, decision, or omission related to the handling, processing, or presentation of the decedent, including any failure to restore such decedent's form or features in a manner acceptable for viewing prior to the final disposition of the remains.*

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