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SENATE BILL NO. 822

Offered January 14, 2009

Prefiled December 9, 2008

A BILL to amend and reenact § 32.1-283 of the Code of Virginia, relating to autopsy reports; release to mental health facilities.

Patrons—Cuccinelli and Barker

Referred to Committee on Education and Health

Be it enacted by the General Assembly of Virginia:**1. That § 32.1-283 of the Code of Virginia is 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 and to notify the next of kin of the decedent. Notification shall include informing the person presumed to be the next of kin that he has a right to have identification of the decedent confirmed without due delay and without being held financially responsible for any procedures performed for the purpose of the identification. Identity of the next of kin, if determined, shall be provided to the Chief Medical Examiner upon transfer of the dead body.

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, *including a program at a mental health facility, community services board, or behavioral health authority.*

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59 D. For each investigation under this article, including the making of the required reports, the medical
60 examiner shall receive a fee established by the Board within the limitations of appropriations for the
61 purpose. Such fee shall be paid by the Commonwealth, if the deceased is not a legal resident of the
62 county or city in which his death occurred. In the event the deceased is a legal resident of the county or
63 city in which his death occurred, such county or city shall be responsible for the fee up to \$20. If the
64 deceased is a patient or resident of a state mental health or mental retardation facility, the fee shall be
65 paid by the Department of Mental Health, Mental Retardation and Substance Abuse Services.
66 E. Nothing herein shall be construed to interfere with the autopsy procedure or with the routine
67 obtaining of consent for removal of organs as conducted by surgical teams or others.