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**HOUSE BILL NO. 924**

House Amendments in [ ] — January 30, 2014

A *BILL to amend and reenact §§ 32.1-263, 32.1-264, 32.1-277, 32.1-279, 32.1-281 through 32.1-283.3, 32.1-283.5, 32.1-284, 32.1-285, 32.1-286, 32.1-288, 32.1-291.22, 32.1-291.23, 32.1-298, 32.1-301, 54.1-2807, 54.1-2818.1, 54.1-2972, and 54.1-2973 of the Code of Virginia and to repeal § 32.1-280 of the Code of Virginia, relating to Office of the Chief Medical Examiner; medicolegal death examinations.*

Patron Prior to Engrossment—Delegate O'Bannon

Referred to Committee on Health, Welfare and Institutions

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

1. That §§ 32.1-263, 32.1-264, 32.1-277, 32.1-279, 32.1-281 through 32.1-283.3, 32.1-283.5, 32.1-284, 32.1-285, 32.1-286, 32.1-288, 32.1-291.22, 32.1-291.23, 32.1-298, 32.1-301, 54.1-2807, 54.1-2818.1, 54.1-2972, and 54.1-2973 of the Code of Virginia are amended and reenacted as follows:

**§ 32.1-263. Filing death certificates; medical certification; investigation by Office of the Chief Medical Examiner.**

A. A death certificate, including, if known, the social security number or control number issued by the Department of Motor Vehicles pursuant to § 46.2-342 of the deceased, shall be filed for each death which occurs in this Commonwealth with the registrar of the district in which the death occurred within three days after such death and prior to final disposition or removal of the body from the Commonwealth, and shall be registered by such registrar if it has been completed and filed in accordance with the following requirements:

1. If the place of death is unknown, but the dead body is found in this Commonwealth, a death certificate shall be filed in the registration district in which the dead body is found in accordance with this section. The place where the dead body is found shall be shown as the place of death. If the date of death is unknown, it shall be determined by approximation, taking into consideration all relevant information, including but not limited to, information provided by the immediate family regarding the date and time that the deceased was last seen alive, if the individual died in his home; and

2. When death occurs in a moving conveyance, in the United States of America and the body is first removed from the conveyance in this Commonwealth, the death shall be registered in this Commonwealth and the place where it is first removed shall be considered the place of death. When a death occurs on a moving conveyance while in international waters or air space or in a foreign country or its air space and the body is first removed from the conveyance in this Commonwealth, the death shall be registered in this Commonwealth but the certificate shall show the actual place of death insofar as can be determined.

B. The licensed funeral director, funeral service licensee, office of the state anatomical program, or next of kin as defined in § 54.1-2800 who first assumes custody of a dead body shall file the certificate of death with the registrar. He shall obtain the personal data, including the social security number of the deceased or control number issued to the deceased by the Department of Motor Vehicles pursuant to § 46.2-342, from the next of kin or the best qualified person or source available and obtain the medical certification from the person responsible therefor.

C. The medical certification shall be completed, signed in black or dark blue ink, and returned to the funeral director within 24 hours after death by the physician in charge of the patient's care for the illness or condition which resulted in death except when inquiry or investigation by a ~~medical examiner~~ *the Office of the Chief Medical Examiner* is required by § 32.1-283 or 32.1-285.1, or by the physician that pronounces death pursuant to § 54.1-2972.

In the absence of such physician or with his approval, the certificate may be completed and signed by the following: (i) another physician employed or engaged by the same professional practice; (ii) a physician assistant supervised by such physician; (iii) a nurse practitioner practicing as part of a patient care team as defined in § 54.1-2900; (iv) the chief medical officer or medical director, or his designee, of the institution, hospice, or nursing home in which death occurred; (v) a physician specializing in the delivery of health care to hospitalized or emergency department patients who is employed by or engaged by the facility where the death occurred; (vi) the physician who performed an autopsy upon the decedent; or (vii) an individual to whom the physician has delegated authority to complete and sign the certificate, if such individual has access to the medical history of the case and death is due to natural causes.

D. When inquiry or investigation by a ~~medical examiner~~ *the Office of the Chief Medical Examiner* is

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59 required by § 32.1-283 or 32.1-285.1, the ~~medical examiner~~ *Chief Medical Examiner* shall ~~investigate~~  
60 ~~cause an investigation of the cause of death to be made and shall complete and sign~~ the medical  
61 certification portion of the death certificate ~~to be completed and signed~~ within 24 hours after being  
62 notified of the death. If the ~~medical examiner~~ *Office of the Chief Medical Examiner* refuses jurisdiction,  
63 the physician last furnishing medical care to the deceased shall prepare and sign the medical certification  
64 portion of the death certificate.

65 E. If the death is a natural death and a death certificate is being prepared pursuant to § 54.1-2972  
66 and the physician, nurse practitioner, or physician assistant is uncertain about the cause of death, he  
67 shall use his best medical judgment to certify a reasonable cause of death or contact the health district  
68 physician director in the district where the death occurred to obtain guidance in reaching a determination  
69 as to a cause of death and document the same.

70 If the cause of death cannot be determined within 24 hours after death, the medical certification shall  
71 be completed as provided by regulations of the Board. The attending physician or ~~the Chief Medical~~  
72 ~~Examiner, an Assistant Chief Medical Examiner, or a medical examiner appointed pursuant to~~  
73 § 32.1-282 shall give the funeral director or person acting as such notice of the reason for the delay, and  
74 final disposition of the body shall not be made until authorized by the attending physician ~~or, the Chief~~  
75 ~~Medical Examiner, an Assistant Chief Medical Examiner, or a medical examiner appointed pursuant to~~  
76 § 32.1-282.

77 F. A physician, nurse practitioner, or physician assistant who, in good faith, signs a certificate of  
78 death or determines the cause of death shall be immune from civil liability, only for such signature and  
79 determination of causes of death on such certificate, absent gross negligence or willful misconduct.

80 **§ 32.1-264. Reports of fetal deaths; medical certification; investigation by the Office of the Chief**  
81 **Medical Examiner; confidentiality of information concerning abortions.**

82 A. A fetal death report for each fetal death which occurs in this Commonwealth shall be filed, on a  
83 form furnished by the State Registrar, with the registrar of the district in which the delivery occurred or  
84 the abortion was performed within three days after such delivery or abortion and shall be registered with  
85 such registrar if it has been completed and filed in accordance with this section; provided that:

86 1. If the place of fetal death is unknown, a fetal death report shall be filed in the registration district  
87 in which a dead fetus was found within three days after discovery of such fetus; and

88 2. If a fetal death occurs in a moving conveyance, a fetal death report shall be filed in the  
89 registration district in which the fetus was first removed from such conveyance.

90 B. The funeral director or person who first assumes custody of a dead fetus or, in the absence of a  
91 funeral director or such person, the hospital representative who first assumes custody of a fetus shall file  
92 the fetal death report; in the absence of such a person, the physician or other person in attendance at or  
93 after the delivery or abortion shall file the report of fetal death. The person completing the forms shall  
94 obtain the personal data from the next of kin or the best qualified person or source available, and he  
95 shall obtain the medical certification of cause of death from the person responsible for preparing the  
96 same as provided in this section. In the case of induced abortion, such forms shall not identify the  
97 patient by name.

98 C. The medical certification portion of the fetal death report shall be completed and signed within  
99 ~~twenty-four~~ 24 hours after delivery or abortion by the physician in attendance at or after delivery or  
100 abortion except when inquiry or investigation by a ~~medical examiner~~ *the Office of the Chief Medical*  
101 *Examiner* is required.

102 D. When a fetal death occurs without medical attendance upon the mother at or after the delivery or  
103 abortion or when inquiry or investigation by a ~~medical examiner~~ *the Office of the Chief Medical*  
104 *Examiner* is required, the ~~medical examiner~~ *Chief Medical Examiner* shall ~~investigate cause an~~  
105 ~~investigation of the cause of fetal death to be made and shall complete and sign~~ the medical certification  
106 portion of the fetal death report ~~to be completed and signed~~ within ~~twenty-four~~ 24 hours after being  
107 notified of a fetal death.

108 E. The reports required pursuant to this section are statistical reports to be used only for medical and  
109 health purposes and shall not be incorporated into the permanent official records of the system of vital  
110 records. A schedule for the disposition of these reports may be provided by regulation.

111 F. The physician or facility attending an individual who has delivered a dead fetus shall maintain a  
112 copy of the fetal death report for one year and, upon written request by the individual and payment of  
113 an appropriate fee, shall furnish the individual a copy of such report.

114 **§ 32.1-277. Office of the Chief Medical Examiner; central and district offices and facilities.**

115 The Commissioner shall establish and maintain, for ~~the purpose of conducting~~ medicolegal  
116 ~~investigation~~ *investigations* of deaths and postmortem examinations, ~~an Office of the Chief Medical~~  
117 *Examiner, which shall include* a central office and facilities in the City of Richmond and such district  
118 offices and facilities in such localities in the Commonwealth as ~~are~~ *may be* necessary to carry out the  
119 *provisions of this article. The central office and each district office established pursuant to this section*  
120 *shall be under the supervision of the Chief Medical Examiner. Each such office and facility shall have*

adequate professional, technical, and medical investigative personnel and physical facilities for the conduct of such examinations and investigations as may be authorized or required by law.

**§ 32.1-279. Duties of Chief Medical Examiner; teaching legal medicine.**

A. The Chief Medical Examiner shall carry out the provisions of this article under the direction of the Commissioner. ~~The central and district offices and facilities established as provided in § 32.1-277 shall be under the supervision of the Chief Medical Examiner may, with the approval of the Commissioner, employ forensic pathologists to serve as Assistant Chief Medical Examiners in the central and district offices established pursuant to § 32.1-277.~~

B. The Chief Medical Examiner and ~~his assistants~~ Assistant Chief Medical Examiners shall be available to Virginia Commonwealth University, the University of Virginia, the Eastern Virginia Medical School, and other institutions of higher education providing instruction in health science or law for teaching legal medicine and other subjects related to their duties.

**§ 32.1-281. Commissioner may obtain additional services and facilities.**

In the investigation of any death or for the performance of any autopsy authorized or required pursuant to this article, the Commissioner may, ~~in addition to the central and district office personnel and medical investigators, employ and pay, out of funds appropriated for such purpose, enter into an agreement for the provision of services with a qualified pathologist or consultant, designated by the~~ Chief Medical Examiner, to perform such autopsy or to make such ~~pathological~~ studies and investigations as may be deemed necessary or advisable by the Chief Medical Examiner and may arrange for the use of mortuary facilities. *In any case in which the Commissioner enters into an agreement for the provision of services with a qualified pathologist or consultant in accordance with this section, the cost of such services shall be paid out of funds appropriated for such purpose.*

**§ 32.1-282. Medical examiners.**

A. The Chief Medical Examiner shall appoint for each county and city one or more medical examiners, ~~who shall be licensed to practice medicine in the Commonwealth [ and appointed as agents of the Commonwealth ]~~, to take office on the first day of October of the year of appointment assist the Office of the Chief Medical Examiner with medicolegal death investigations.

B. Each medical examiner shall be licensed to practice medicine in this Commonwealth and shall be appointed from a list of two or more nominations submitted by the medical society for the county or city for which the appointment is to be made. If no list of names is submitted, the Chief Medical Examiner shall select the medical examiner or medical examiners.

C. ~~Each medical examiner appointed pursuant to subsection A shall take office on the first day of October of the year of appointment.~~ The term of each medical examiner so appointed shall be three years and until his successor is appointed and has qualified.

D. C. The Chief Medical Examiner shall fill any ~~medical examiner~~ vacancy in the office of medical examiner for the unexpired term and shall make any necessary temporary appointments.

E. ~~In the event the medical examiner of any county or city is unable to serve in any particular case or for any period of time on account of illness, enforced absence or personal interest, the Chief Medical Examiner shall designate some other qualified doctor of medicine to serve in the place of such medical examiner in such particular case or for such period of time.~~

**§ 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 an individual receiving services in a state hospital or training center operated by the Department of Behavioral Health and Developmental Services, 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 18 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~~ the Office of the Chief Medical Examiner 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~~ any person or institution having initial 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 Office of 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~~ Office of the Chief Medical Examiner shall take charge of the dead body, ~~make and the Chief Medical Examiner shall cause an investigation into the cause and manner of death, reduce his findings to writing, and promptly make to be made and a full report to the Chief Medical Examiner, which shall include written findings, to be prepared.~~ In order to facilitate ~~his~~ the investigation, the ~~medical examiner~~ Office of the Chief

182 *Medical Examiner* is authorized to inspect and copy the pertinent medical records of the decedent whose  
183 death ~~he is investigating the subject of the investigation~~. Full directions as to the nature, character, and  
184 extent of the investigation to be made in such cases shall be furnished each medical examiner *appointed*  
185 *pursuant to § 32.1-282* by the *Office of the Chief Medical Examiner*, together with appropriate forms for  
186 the required reports and instructions for their use. The facilities and personnel ~~under of the Office of the~~  
187 Chief Medical Examiner shall be made available to *any medical examiners in such investigations*  
188 *examiner investigating a death in accordance with this section*. Reports and findings of the *Office of the*  
189 Chief Medical Examiner shall be confidential and shall not under any circumstance be disclosed or made  
190 available for discovery pursuant to a court subpoena or otherwise, except as provided in this chapter.  
191 Nothing in this subsection shall prohibit the *Office of the Chief Medical Examiner* from releasing the  
192 cause or manner of death, or prohibit disclosure of reports or findings to the parties in a criminal case.

193 C. A copy of each report pursuant to this section shall be delivered to the appropriate attorney for  
194 the Commonwealth and to the appropriate law-enforcement agency investigating the death. A copy of  
195 any such report regarding the death of a victim of a traffic accident shall be furnished upon request to  
196 the State Police and the Highway Safety Commission. In addition, a copy of any autopsy report  
197 concerning an individual receiving services in a state hospital or training center operated by the  
198 Department of Behavioral Health and Developmental Services shall be delivered to the Commissioner of  
199 Behavioral Health and Developmental Services and to the State Inspector General. A copy of any  
200 autopsy report concerning a prisoner committed to the custody of the Director of the Department of  
201 Corrections shall, upon request of the Director of the Department of Corrections, be delivered to the  
202 Director of the Department of Corrections. A copy of any autopsy report concerning a prisoner  
203 committed to any local correctional facility shall be delivered to the local sheriff or superintendent.  
204 Upon request, the *Office of the Chief Medical Examiner* shall release such autopsy report to the  
205 decedent's attending physician and to the personal representative or executor of the decedent ~~or, if no~~  
206 ~~personal representative or executor is appointed, then at~~. At the discretion of the Chief Medical  
207 Examiner, *an autopsy report may be released* to the following persons in the following order of priority:  
208 (i) the spouse of the decedent, (ii) an adult son or daughter of the decedent, (iii) either parent of the  
209 decedent, (iv) an adult sibling of the decedent, (v) any other adult relative of the decedent in order of  
210 blood relationship, or (vi) any appropriate health facility quality assurance program.

211 D. For each investigation under this article, including the making of the required reports, the medical  
212 examiner *appointed pursuant to § 32.1-282* shall receive a fee established by the Board within the  
213 limitations of appropriations for the purpose. Such fee shall be paid by the Commonwealth, if the  
214 deceased is not a legal resident of the county or city in which his death occurred. In the event the  
215 deceased is a legal resident of the county or city in which his death occurred, such county or city shall  
216 be responsible for the fee up to \$20. If the deceased is an individual who receives services in a state  
217 hospital or training center operated by the Department of Behavioral Health and Developmental  
218 Services, the fee shall be paid by the Department of Behavioral Health and Developmental Services.

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

221 **§ 32.1-283.1. State Child Fatality Review Team; membership; access to and maintenance of**  
222 **records; confidentiality; etc.**

223 A. There is hereby created the State Child Fatality Review Team, ~~hereinafter~~ referred to *in this*  
224 *section* as "the "Team," which shall develop and implement procedures to ensure that child deaths  
225 occurring in Virginia are analyzed in a systematic way. The Team shall review (i) violent and unnatural  
226 child deaths, (ii) sudden child deaths occurring within the first 18 months of life, and (iii) those fatalities  
227 for which the cause or manner of death was not determined with reasonable medical certainty. No child  
228 death review shall be initiated by the Team until conclusion of any law-enforcement investigation or  
229 criminal prosecution. The Team shall (i) develop and revise as necessary operating procedures for the  
230 review of child deaths, including identification of cases to be reviewed and procedures for coordination  
231 among the agencies and professionals involved, (ii) improve the identification, data collection, and  
232 record keeping of the causes of child death, (iii) recommend components for prevention and education  
233 programs, (iv) recommend training to improve the investigation of child deaths, and (v) provide  
234 technical assistance, upon request, to any local child fatality teams that may be established. The  
235 operating procedures for the review of child deaths shall be exempt from the Administrative Process Act  
236 (§ 2.2-4000 et seq.) pursuant to subdivision 17 of ~~subsection B 17~~ of § 2.2-4002.

237 B. The 16-member Team shall be chaired by the Chief Medical Examiner and shall be composed of  
238 the following persons or their designees: the Commissioner of Behavioral Health and Developmental  
239 Services; the Director of Child Protective Services within the Department of Social Services; the  
240 Superintendent of Public Instruction; the State Registrar of Vital Records; and the Director of the  
241 Department of Criminal Justice Services. In addition, one representative from each of the following  
242 entities shall be appointed by the Governor to serve for a term of three years: local law-enforcement  
243 agencies, local fire departments, local departments of social services, the Medical Society of Virginia,

the Virginia College of Emergency Physicians, the Virginia Pediatric Society, ~~Virginia Sudden Infant Death Syndrome Alliance~~, local emergency medical services personnel, ~~Commonwealth's attorneys for the Commonwealth~~, and community services boards.

C. Upon the request of the Chief Medical Examiner in his capacity as chair of the Team, made after the conclusion of any law-enforcement investigation or prosecution, information and records regarding a child whose death is being reviewed by the Team may be inspected and copied by the Chief Medical Examiner or his designee, including, but not limited to, any report of the circumstances of the event maintained by any state or local law-enforcement agency or medical examiner, and information or records maintained on such child by any school, social services agency or court. Information, records, or reports maintained by any ~~Commonwealth's Attorney~~ *attorney for the Commonwealth* shall be made available for inspection and copying by the Chief Medical Examiner pursuant to procedures which shall be developed by the Chief Medical Examiner and the Commonwealth's Attorneys' Services Council established by § 2.2-2617. Any presentence report prepared pursuant to § 19.2-299 for any person convicted of a crime that led to the death of the child shall be made available for inspection and copying by the *Office of the* Chief Medical Examiner pursuant to procedures which shall be developed by the Chief Medical Examiner. In addition, the *Office of the* Chief Medical Examiner may inspect and copy from any Virginia health care provider, on behalf of the Team, (i) without obtaining consent, the health and mental health records of the child and those perinatal medical records of the child's mother that related to such child and (ii) upon obtaining consent from each adult regarding his personal records, or from a parent regarding the records of a minor child, the health and mental health records of the child's family. All such information and records shall be confidential and shall be excluded from the Virginia Freedom of Information Act (§ 2.2-3700 et seq.) pursuant to subdivision 9 of § 2.2-3705.5. Upon the conclusion of the child death review, all information and records concerning the child and the child's family shall be shredded or otherwise destroyed by the *Office of the* Chief Medical Examiner in order to ensure confidentiality. Such information or records shall not be subject to subpoena or discovery or be admissible in any criminal or civil proceeding. If available from other sources, however, such information and records shall not be immune from subpoena, discovery, or introduction into evidence when obtained through such other sources solely because the information and records were presented to the Team during a child death review. Further, the findings of the Team may be disclosed or published in statistical or other form which shall not identify individuals. The portions of meetings in which individual child death cases are discussed by the Team shall be closed pursuant to subdivision A 21 of § 2.2-3711. In addition to the requirements of § 2.2-3712, all team members, persons attending closed team meetings, and persons presenting information and records on specific child deaths to the Team during closed meetings shall execute a sworn statement to honor the confidentiality of the information, records, discussions, and opinions disclosed during any closed meeting to review a specific child death. Violations of this subsection ~~shall be~~ *are* punishable as a Class 3 misdemeanor.

D. Upon notification of a child death, any state or local government agency maintaining records on such child or such child's family which are periodically purged shall retain such records for the longer of 12 months or until such time as the State Child Fatality Review Team has completed its child death review of the specific case.

E. The Team shall compile annual data which shall be made available to the Governor and the General Assembly as requested. These statistical data compilations shall not contain any personally identifying information and shall be public records.

**§ 32.1-283.2. Local and regional child fatality review teams established; membership; authority; confidentiality; immunity.**

A. Upon the initiative of any local or regional law-enforcement agency, fire department, department of social services, emergency medical services agency, ~~attorney for the Commonwealth's attorney's~~ office, or community services board, local or regional child fatality teams may be established for the purpose of conducting contemporaneous reviews of local child deaths in order to develop interventions and strategies for prevention specific to the locality or region. Each team shall establish rules and procedures to govern the review process. Agencies may share information but shall be bound by confidentiality and execute a sworn statement to honor the confidentiality of the information they share. Violations ~~shall be~~ *are* punishable as a Class 3 misdemeanor. The State Child Fatality Review Team shall provide technical assistance and direction as provided for in subsection A of § 32.1-283.1.

B. Local and regional teams may be composed of the following persons from the localities represented on a particular board or their designees: a ~~local or regional~~ medical examiner *appointed pursuant to § 32.1-282*, a local social services official in charge of child protective services, a director of the relevant local or district health department, a chief law-enforcement officer, a local fire marshal, the attorney for the Commonwealth, an executive director of the local community services board or other local mental health agency, and such additional persons, not to exceed five, as may be appointed to serve by the chairperson of the local or regional team. The chairperson shall be elected from among the

305 designated membership. The additional members appointed by the chairperson may include, but are not  
306 restricted to, representatives of local human services agencies; local public education agencies; local  
307 pediatricians, psychiatrists and psychologists; and local child advocacy organizations.

308 C. Each team shall establish local rules and procedures to govern the review process prior to  
309 conducting the first child fatality review. The review of a death shall be delayed until any criminal  
310 investigations connected with the death are completed or the Commonwealth consents to the  
311 commencement of such review prior to the completion of the criminal investigation.

312 D. All information and records obtained or created regarding the review of a fatality shall be  
313 confidential and shall be excluded from the Virginia Freedom of Information Act (§ 2.2-3700 et seq.)  
314 pursuant to subdivision 9 of § 2.2-3705.5. All such information and records shall be used by the team  
315 only in the exercise of its proper purpose and function and shall not be disclosed. Such information or  
316 records shall not be subject to subpoena, subpoena duces tecum, or discovery or be admissible in any  
317 criminal or civil proceeding. If available from other sources, however, such information and records  
318 shall not be immune from subpoena, subpoena duces tecum, discovery, or introduction into evidence  
319 when obtained through such other sources solely because the information and records were presented to  
320 the team during a fatality review. No person who participated in the reviews nor any member of the  
321 team shall be required to make any statement as to what transpired during the review or what  
322 information was collected during the review. Upon the conclusion of the fatality review, all information  
323 and records concerning the victim and the family shall be returned to the originating agency or  
324 destroyed. However, the findings of the team may be disclosed or published in statistical or other form  
325 which shall not identify individuals. The portions of meetings in which individual cases are discussed by  
326 the team shall be closed pursuant to subdivision A 21 of § 2.2-3711. All team members, persons  
327 attending closed team meetings, and persons presenting information and records on specific fatalities to  
328 the team during closed meetings shall execute a sworn statement to honor the confidentiality of the  
329 information, records, discussions, and opinions disclosed during any closed meeting to review a specific  
330 death. Violations of this subsection shall be are punishable as a Class 3 misdemeanor.

331 E. Members of teams, as well as their agents and employees, shall be immune from civil liability for  
332 any act or omission made in connection with participation in a child fatality review team review, unless  
333 such act or omission was the result of gross negligence or willful misconduct. Any organization,  
334 institution, or person furnishing information, data, testimony, reports or records to review teams as part  
335 of such review, shall be immune from civil liability for any act or omission in furnishing such  
336 information, unless such act or omission was the result of gross negligence or willful misconduct.

337 **§ 32.1-283.3. Family violence fatality review teams established; model protocol and data**  
338 **management; membership; authority; confidentiality, etc.**

339 A. The *Office of the Chief Medical Examiner* shall develop a model protocol for the development  
340 and implementation of local family violence fatality review teams (~~hereinafter~~ teams) ~~which and such~~  
341 ~~model protocol~~ shall include relevant procedures for conducting reviews of fatal family violence  
342 incidents. A "fatal family violence incident" means any fatality, whether homicide or suicide, occurring  
343 as a result of abuse between family members or intimate partners. The *Office of the Chief Medical*  
344 *Examiner* shall provide technical assistance to the local teams and serve as a clearinghouse for  
345 information.

346 B. Subject to available funding, the *Office of the Chief Medical Examiner* shall provide ongoing  
347 surveillance of fatal family violence occurrences and promulgate an annual report based on accumulated  
348 data.

349 C. Any county or city, or combination of counties, cities, or counties and cities, may establish a  
350 family violence fatality review team to examine fatal family violence incidents and to create a body of  
351 information to help prevent future family violence fatalities. The team shall have the authority to review  
352 the facts and circumstances of all fatal family violence incidents that occur within its designated  
353 geographic area.

354 D. Membership in the team may include, but shall not be limited to, health care professionals,  
355 representatives from the local bar, attorneys for the Commonwealth, judges, law-enforcement officials,  
356 criminologists, ~~the medical examiner~~ *examiners appointed pursuant to § 32.1-282*, other experts in  
357 forensic medicine and pathology, family violence victim advocates, health department professionals,  
358 probation and parole professionals, adult and child protective services professionals, and representatives  
359 of family violence local coordinating councils.

360 E. Each team shall establish local rules and procedures to govern the review process prior to the first  
361 fatal family violence incident review conducted. The review of a death shall be delayed until any  
362 criminal investigations or prosecutions connected with the death are completed.

363 F. All information and records obtained or created regarding the review of a fatality shall be  
364 confidential and shall be excluded from the Virginia Freedom of Information Act (§ 2.2-3700 et seq.)  
365 pursuant to subdivision 9 of § 2.2-3705.5. All such information and records shall be used by the team  
366 only in the exercise of its proper purpose and function and shall not be disclosed. Such information or

records shall not be subject to subpoena, subpoena duces tecum or discovery or be admissible in any criminal or civil proceeding. If available from other sources, however, such information and records shall not be immune from subpoena, subpoena duces tecum, discovery or introduction into evidence when obtained through such other sources solely because the information and records were presented to the team during a fatality review. No person who participated in the review nor any member of the team shall be required to make any statement as to what transpired during the review or what information was collected during the review. Upon the conclusion of the fatality review, all information and records concerning the victim and the family shall be returned to the originating agency or destroyed. However, the findings of the team may be disclosed or published in statistical or other form which shall not identify individuals. The portions of meetings in which individual cases are discussed by the team shall be closed pursuant to subdivision A 21 of § 2.2-3711. All team members, persons attending closed team meetings, and persons presenting information and records on specific fatalities to the team during closed meetings shall execute a sworn statement to honor the confidentiality of the information, records, discussions, and opinions disclosed during any closed meeting to review a specific death. Violations of this subsection ~~shall be~~ *are* punishable as a Class 3 misdemeanor.

G. Members of teams, as well as their agents and employees, shall be immune from civil liability for any act or omission made in connection with participation in a family violence fatality review, unless such act or omission was the result of gross negligence or willful misconduct. Any organization, institution, or person furnishing information, data, testimony, reports or records to review teams as part of such review, shall be immune from civil liability for any act or omission in furnishing such information, unless such act or omission was the result of gross negligence or willful misconduct.

**§ 32.1-283.5. Adult Fatality Review Team; duties; membership; confidentiality; penalties; report; etc.**

A. There is hereby created the Adult Fatality Review Team, ~~hereinafter~~ referred to *in this section* as "the Team," which shall develop and implement procedures to ensure that adult deaths occurring in the Commonwealth are analyzed in a systematic way. The Team shall review the death of any person age 60 years or older, or any adult age 18 years or older who is incapacitated, who resides in the Commonwealth, or who does not reside in the Commonwealth but who is temporarily in the Commonwealth and who is in need of temporary or emergency protective services (i) who was the subject of an adult protective services investigation, (ii) whose death was due to abuse or neglect or acts suggesting abuse or neglect, or (iii) whose death came under the jurisdiction of or was investigated by the Office of the Chief Medical Examiner pursuant to § 32.1-283. The Team shall not initiate an adult death review until the conclusion of any law-enforcement investigation or criminal prosecution.

B. The 16-member team shall consist of the following persons or their designees: the Chief Medical Examiner; the Commissioner of Behavioral Health and Developmental Services; the Commissioner for Aging and Rehabilitative Services; the Director of the Office of Licensure and Certification of the Department of Health; and the State Long-Term Care Ombudsman. In addition, the Governor shall appoint one representative from each of the following entities: a licensed funeral services provider, the Medical Society of Virginia, and local departments of social services, emergency medical services, attorneys for the Commonwealth, law-enforcement agencies, nurses specializing in geriatric care, psychiatrists specializing in geriatric care, and long-term care providers. The Team further shall include two members appointed by the Governor who are advocates for elderly or disabled populations in Virginia. The Chief Medical Examiner shall serve as chair of the Team.

After the initial staggering of terms, members appointed by the Governor shall be appointed for a term of four years. Appointments to fill vacancies, other than by expiration of a term, shall be for the unexpired terms. Vacancies shall be filled in the same manner as the original appointments. All members may be reappointed. The Chief Medical Examiner *and other ex officio members of the Team* shall serve terms coincident with ~~his term in~~ *their terms of office*.

C. Upon the request of the chair of the Team, made after the conclusion of any law-enforcement investigation or prosecution, information and records regarding an adult whose death is being reviewed by the Team shall be inspected and copied by the chair or his designee, including but not limited to any report of the circumstances of the event maintained by any state or local law-enforcement agency or ~~medical examiner~~ *the Office of the Chief Medical Examiner* and information or records on the adult maintained by any facility that provided services to the adult, by any social services agency, or by any court. Information, records, or reports maintained by any attorney for the Commonwealth shall be made available for inspection and copying by the chair or his designee pursuant to procedures that shall be developed by the Chief Medical Examiner and the Commonwealth Attorneys Services Council established by § 2.2-2617. In addition, a health care provider shall provide the Team, upon request, with access to the health and mental health records of (i) the adult whose death is subject to review, without authorization; (ii) any adult relative of the deceased, with authorization; and (iii) any minor child of the deceased, with the authorization of the minor's parent or guardian. The chair of the Team also may copy

428 and inspect the presentence report, prepared pursuant to § 19.2-299, of any person convicted of a crime  
429 that led to the death of the adult who is the subject of review by the Team.

430 D. All information obtained or generated by the Team regarding a review shall be confidential and  
431 excluded from the Virginia Freedom of Information Act (§ 2.2-3700 et seq.) pursuant to subdivision 9 of  
432 § 2.2-3705.5. Such information shall not be subject to subpoena or discovery or be admissible in any  
433 civil or criminal proceeding. If available from other sources, however, such information and records  
434 shall not be immune from subpoena, discovery, or introduction into evidence when obtained through  
435 such other sources solely because the information and records were presented to the Team during an  
436 adult death review. The Team shall compile all information collected during a review. The findings of  
437 the Team may be disclosed or published in statistical or other form, but shall not identify any  
438 individuals.

439 E. All Team members and other persons attending closed Team meetings, including any persons  
440 presenting information or records on specific fatalities, shall execute a sworn statement to honor the  
441 confidentiality of the information, records, discussions, and opinions disclosed during meetings at which  
442 the Team reviews a specific death. No Team member or other person who participates in a review shall  
443 be required to make any statement regarding the review or any information collected during the review.  
444 Upon conclusion of a review, all information and records concerning the victim and the family shall be  
445 shredded or otherwise destroyed in order to ensure confidentiality. Violations of this subsection ~~shall be~~  
446 *are* punishable as a Class 3 misdemeanor.

447 F. Upon notification of an adult death, any state or local government agency or facility that provided  
448 services to the adult or maintained records on the adult or the adult's family shall retain the records for  
449 the longer of 12 months or until such time as the Team has completed its review of the case.

450 G. The Team shall compile an annual report by October 1 of each year that shall be made available  
451 to the Governor and the General Assembly. The annual report shall include any policy, regulatory, or  
452 budgetary recommendations developed by the Team. Any statistical compilations prepared by the Team  
453 shall be public record and shall not contain any personally identifying information.

454 **§ 32.1-284. Cremations and burials at sea.**

455 No dead human body whose death occurred in Virginia shall be cremated or buried at sea,  
456 irrespective of the cause and manner of death, unless *the Chief Medical Examiner, an Assistant Chief*  
457 *Medical Examiner, or a medical examiner shall determine appointed pursuant to § 32.1-282 has*  
458 *determined* that there is no further need for medicolegal inquiry into the death and ~~shall so certify~~  
459 *certified* upon a form supplied by the *Office of the Chief Medical Examiner*. For this service the *Chief*  
460 *Medical Examiner, an Assistant Chief Medical Examiner, or a medical examiner appointed pursuant to*  
461 *§ 32.1-282* shall be entitled to a fee established by the Board, not to exceed the fee provided for in  
462 subsection D of § 32.1-283, to be paid by the applicant for the certificate.

463 **§ 32.1-285. Autopsies.**

464 A. If, in the opinion of the ~~medical examiner investigating the death or of the Office of the Chief~~  
465 *Medical Examiner*, it is advisable and in the public interest that an autopsy be made *as part of the*  
466 *investigation of the death*, or if an autopsy is requested by the attorney for the Commonwealth or by a  
467 judge of the circuit court of the county or city wherein such body is or where death occurred or wherein  
468 any injury contributing to or causing death was sustained, an autopsy shall be performed by the Chief  
469 *Medical Examiner, an assistant chief medical examiner Assistant Chief Medical Examiner, or a*  
470 *pathologist employed as provided with whom the Commissioner has entered into an agreement in*  
471 *accordance with § 32.1-281*. Upon petition of a member of the immediate family or the spouse of the  
472 deceased in a case of death by injury, such circuit court may, for good cause shown, order an autopsy,  
473 after providing notice and an opportunity to be heard to the attorney for the Commonwealth for the  
474 jurisdiction wherein the injury contributing to or causing death was sustained or where death occurred.  
475 Further, in all cases of death suspected to be attributable to Sudden Infant Death Syndrome (SIDS), an  
476 autopsy shall be advisable and in the public interest and shall be performed as required by § 32.1-285.1.  
477 A full record and report of the facts developed by the autopsy and findings of the person making such  
478 autopsy shall be promptly made and filed with the *Office of the Chief Medical Examiner* and a copy  
479 furnished the judge or attorney for the Commonwealth requesting such autopsy. In the discretion of the  
480 Chief Medical Examiner or ~~the medical examiner~~ *an Assistant Chief Medical Examiner*, a copy of any  
481 autopsy report or findings may be furnished to any appropriate attorney for the Commonwealth and to  
482 the appropriate law-enforcement agency investigating the death.

483 B. In the case of a child death ~~for which an autopsy is performed and the autopsy investigation that~~  
484 *indicates child abuse or neglect contributed to the cause of the death, or that the child suffered from*  
485 *abuse and neglect, the medical examiner conducting the autopsy shall report the case shall be*  
486 *immediately reported to the child protective services unit of the local Department of Social Services by*  
487 *the Chief Medical Examiner, an Assistant Chief Medical Examiner, or a medical examiner appointed*  
488 *pursuant to § 32.1-282.*

489 **§ 32.1-286. Exhumations.**



A. In any case of death described in subsection A of § 32.1-283, where the body is buried without investigation by *the Chief Medical Examiner, an Assistant Chief Medical Examiner, or a medical examiner as to appointed pursuant to § 32.1-282 into the cause and manner of death or where sufficient cause develops for further investigation after a body is buried, the Chief Medical Examiner shall authorize such investigation and shall send a copy of the report to the appropriate attorney for the Commonwealth who shall communicate such report to a judge of the appropriate circuit court. Such judge may order that the body be exhumed and an autopsy performed thereon by the Chief Medical Examiner or by, an Assistant Chief Medical Examiner, or a pathologist with whom the Commissioner has entered into an agreement pursuant to § 32.1-281.* The pertinent facts disclosed by the autopsy shall be communicated to the judge who ordered it.

B. In any case of death in which a private person has an interest, such person may petition the judge of the circuit court exercising jurisdiction over the place of interment and, upon proper showing of sufficient cause, such judge may order the body exhumed. Such petition or exhumation or both shall not require the participation of the Chief Medical Examiner or *his any Assistant Chief Medical Examiner*. Costs shall be paid by the party requesting the exhumation.

C. Upon the petition of a party attempting to prove, in accordance with the provisions of §§ 64.2-102 and 64.2-103, that he is the issue of a dead person, a court may order the exhumation of the body of any dead person for the conduct of scientifically reliable genetic tests, including DNA tests, to prove a biological relationship. The petition shall be accompanied by the petitioner's sworn statement that sets forth facts establishing a reasonable possibility of a biological relationship between the petitioner and his alleged ancestors. The costs of exhumation, testing, and reinterment shall be paid by the petitioner unless, for good cause shown, the court orders such costs paid from the estate in which the petitioner is claiming an interest. This provision is intended to provide a procedural mechanism for obtaining posthumous samples for reliable genetic testing and shall not require substantive proof of parentage to obtain the exhumation order.

**§ 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. ~~However, if the claimant is financially unable to pay the reasonable costs of disposition of the body, the costs shall be borne (i) by the county or city in which the deceased person resided at the time of death if the deceased person was a resident of Virginia or (ii) by the county or city in which the death occurred if the deceased person was not a resident of Virginia or the location of the deceased person's residence cannot reasonably be determined.~~

B. ~~If no person claims the body of the deceased person or if, upon being notified by the sheriff or other person or institution having initial custody of the dead body of the death of the person and their right to claim the body for disposition, the next of kin of the deceased person fail or refuse to claim the body within 30 days of receipt of such notice, the Commissioner may accept the body for scientific study as provided in Article 3 (§ 32.1-298 et seq.). 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 and, except as provided in subsection C or D, the reasonable expenses of disposition of the body incurred by such sheriff shall be borne (i) by the county or city in which the deceased person resided at the time of death if the deceased person was a resident of Virginia or (ii) by the county or city where death occurred if the deceased person was not a resident of Virginia or the location of the deceased person's residence cannot reasonably be determined. However, 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; ~~and 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. In the case of a person who has been committed to the custody of the Department of Behavioral Health and Developmental Services and died prior to his release; ~~and whose body is unclaimed and whose body the Commissioner refuses to accept for scientific study,~~ the Department of Behavioral Health and Developmental Services shall bear the reasonable expenses for cremation or other disposition of the body. In the case of a person who has been committed to the custody of the Department of

551 Behavioral Health and Developmental Services and died prior to his release and whose claimant is  
552 financially unable to pay reasonable expenses of disposition, the expenses shall be borne by the county  
553 or city where the claimant resides.

554 E. Unless such act, decision, or omission resulted from bad faith or malicious intent, the  
555 Commissioner, the Chief Medical Examiner, the funeral service establishment, *the* funeral service  
556 licensee, or *the* registered crematory shall be immune from civil liability for any act, decision, or  
557 omission resulting from the acceptance of any dead body for cremation or other disposition.

558 F. Unless such act, decision, or omission resulted from bad faith or malicious intent, the sheriff of  
559 any county or city who accepts a dead body for disposition pursuant to subsection B shall be immune  
560 from civil liability for any act, decision, or omission resulting from acceptance and disposition of the  
561 dead body in accordance with this section.

562 **§ 32.1-291.22. Cooperation between Office of the Chief Medical Examiner and procurement**  
563 **organization.**

564 A. ~~A medical examiner~~ *The Office of the Chief Medical Examiner* and procurement organizations  
565 shall cooperate with each other to maximize the opportunity to recover anatomical gifts for the purpose  
566 of transplantation, therapy, research, or education.

567 B. If a ~~medical examiner~~ *the Office of the Chief Medical Examiner* receives notice from a  
568 procurement organization that an anatomical gift might be available or was made with respect to a  
569 decedent whose body is under the jurisdiction of the ~~medical examiner~~ *Office of the Chief Medical*  
570 *Examiner* and a postmortem examination is going to be performed, unless the ~~medical examiner~~ *Chief*  
571 *Medical Examiner or an Assistant Chief Medical Examiner* denies recovery in accordance with  
572 § 32.1-291.23, the ~~medical examiner or designee~~ *Office of the Chief Medical Examiner* shall conduct,  
573 when practicable, *cause* a postmortem examination of the body or the part *to be conducted* in a manner  
574 and within a period compatible with its preservation for the purposes of the gift.

575 C. A part may not be removed from the body of a decedent under the jurisdiction of a ~~medical~~  
576 ~~examiner~~ *the Office of the Chief Medical Examiner* for transplantation, therapy, research, or education  
577 unless the part is the subject of an anatomical gift. The body of a decedent under the jurisdiction of the  
578 ~~medical examiner~~ *Office of the Chief Medical Examiner* may not be delivered to a person for research or  
579 education unless the body is the subject of an anatomical gift. This subsection does not preclude a  
580 ~~medical examiner~~ *the Chief Medical Examiner or an Assistant Chief Medical Examiner* from performing  
581 the medicolegal autopsy upon the body or parts of a decedent under the jurisdiction of the ~~medical~~  
582 ~~examiner~~ *Office of the Chief Medical Examiner* or from using the body or parts of a decedent under the  
583 jurisdiction of the ~~medical examiner~~ *Office of the Chief Medical Examiner* for the purposes of education,  
584 training, and research *required by the medical examiner*.

585 **§ 32.1-291.23. Facilitation of anatomical gift from decedent whose body is under jurisdiction of**  
586 **the Office of the Chief Medical Examiner.**

587 A. Upon request of a procurement organization, a ~~medical examiner~~ *the Office of the Chief Medical*  
588 *Examiner* shall release to the procurement organization the name, contact information, and available  
589 medical and social history of a decedent whose body is under the jurisdiction of the ~~medical examiner~~  
590 *Office of the Chief Medical Examiner*. If the decedent's body or part is medically suitable for  
591 transplantation, therapy, research, or education, the ~~medical examiner~~ *Office of the Chief Medical*  
592 *Examiner* shall release postmortem examination results to the procurement organization. The  
593 procurement organization may make a subsequent disclosure of the postmortem examination results or  
594 other information received from the ~~medical examiner~~ *Office of the Chief Medical Examiner* only if  
595 relevant to transplantation, therapy, research, or education.

596 B. The ~~medical examiner~~ *Office of the Chief Medical Examiner* may conduct a medicolegal  
597 investigation by reviewing all medical records, laboratory test results, x-rays, other diagnostic results,  
598 and other information that any person possesses about a donor or prospective donor whose body is  
599 under the jurisdiction of the ~~medical examiner~~ *that the medical examiner determines may be relevant to*  
600 *the investigation* *Office of the Chief Medical Examiner*.

601 C. A person that has any information requested by a ~~medical examiner~~ *the Office of the Chief*  
602 *Medical Examiner* pursuant to subsection B shall provide that information as expeditiously as possible to  
603 allow the ~~medical examiner~~ *Office of the Chief Medical Examiner* to conduct the medicolegal  
604 investigation within a period compatible with the preservation of parts for the purpose of transplantation,  
605 therapy, research, or education.

606 D. If an anatomical gift has been or might be made of a part of a decedent whose body is under the  
607 jurisdiction of the ~~medical examiner~~ *Office of the Chief Medical Examiner* and a postmortem  
608 examination is not required, or the ~~medical examiner~~ *Office of the Chief Medical Examiner* determines  
609 that a postmortem examination is required but that the recovery of the part that is the subject of an  
610 anatomical gift will not interfere with the examination, the ~~medical examiner~~ *Office of the Chief Medical*  
611 *Examiner* and procurement organization shall cooperate in the timely removal of the part from the  
612 decedent for the purpose of transplantation, therapy, research, or education.

E. The ~~medical examiner~~ *Office of the Chief Medical Examiner* and procurement organizations shall enter into an agreement setting forth protocols and procedures to govern relations between the parties when an anatomical gift of a part from a decedent under the jurisdiction of the ~~medical examiner~~ *Office of the Chief Medical Examiner* has been or might be made, but the ~~medical examiner~~ *Office of the Chief Medical Examiner* believes that the recovery of the part could interfere with the postmortem investigation into the decedent's cause or manner of death. Decisions regarding the recovery of organs, tissue and eyes from such a decedent shall be made in accordance with the agreement. In the event that the ~~medical examiner~~ *an Assistant Chief Medical Examiner* denies recovery of an anatomical gift, the procurement organization may request the Chief Medical Examiner to reconsider the denial and to permit the recovery to proceed. The parties shall evaluate the effectiveness of the protocols and procedures at regular intervals but no less frequently than every two years.

F. If the ~~medical examiner or designee~~ *Office of the Chief Medical Examiner* allows recovery of a part under subsection D or E, the procurement organization, upon request, shall cause the physician or technician who removes the part to provide the ~~medical examiner~~ *Office of the Chief Medical Examiner* with a record describing the condition of the part, a biopsy, a photograph, and any other information and observations that would assist in the postmortem examination.

G. If a ~~medical examiner or designee~~ *the Office of the Chief Medical Examiner* is required to be present at a removal procedure under subsection E, upon request the procurement organization requesting the recovery of the part shall reimburse the ~~medical examiner or designee~~ *Office of the Chief Medical Examiner* for the additional costs incurred in complying with subsection E.

**§ 32.1-298. Notification of Commissioner and delivery of bodies.**

Any person having charge or control of any dead human body ~~which is unclaimed for disposition, which is required to be buried at the public expense, or which~~ *that* has been lawfully donated for scientific study shall notify the Commissioner whenever and as soon as any such body comes to his possession, charge, or control and shall, without fee or reward, permit the Commissioner or his agents to remove such body, to be used for the advancement of health science.

**§ 32.1-301. Burial, cremation, or return of bodies after scientific study.**

After the bodies distributed pursuant to § 32.1-299 have been used for the purpose of instruction, they shall be decently interred or cremated by the institution or individual receiving them. However, if the decedent has stipulated in writing before his death that the cremated remains of his body, lawfully donated for scientific study, shall be returned to relatives for disposition after scientific study has been completed, or if the decedent's next of kin, who lawfully donated the body for scientific study, requests the ~~office of the Chief Medical Examiner~~ in writing at the time of donation that the decedent's cremated remains shall be returned to relatives after scientific study has been completed, the institution or individual that received the body shall return the decedent's cremated remains to his next of kin or relatives. Any such writing shall acknowledge the responsibility to maintain the current name, address, and telephone number of the relatives to whom the decedent's cremated remains are to be returned.

The written request of the decedent's next of kin shall include the name of the next of kin, the current address to which the cremated remains shall be delivered, and the current telephone number of the next of kin or relatives where they may be contacted. The costs of transporting and delivering the cremated remains shall be borne by the institution or individual receiving the body. The institution or individual that received the decedent's body and who has received such a written request shall not be obligated to return the decedent's cremated remains if the name, address, and telephone number of the next of kin or relatives have not been provided in such written request, or are no longer current.

**§ 54.1-2807. Other prohibited activities.**

A. A person licensed for the practice of funeral service shall not (i) remove or embalm a body when he has information indicating the death was such that a ~~medical examiner's~~ *an investigation by the Office of the Chief Medical Examiner* is required pursuant to § 32.1-283 or 32.1-285.1 or (ii) cremate or bury at sea a body until he has obtained permission of the ~~medical examiner~~ *Office of the Chief Medical Examiner* as required by § 32.1-284.

B. Except as provided in §§ 32.1-288 and 32.1-301, funeral service establishments shall not accept a dead human body from any public officer, except *the Chief Medical Examiner, an Assistant Chief Medical Examiner, or a medical examiner appointed pursuant to § 32.1-282*, or from any public or private facility or person having a professional relationship with the decedent without having first inquired about the desires of the next of kin and the persons liable for the funeral expenses of the decedent. The authority and directions of any next of kin shall govern the disposal of the body, subject to the provisions of § 54.1-2807.01 or 54.1-2825.

Any funeral service establishment violating this subsection shall not charge for any service delivered without the directions of the next of kin. However, in cases of accidental or violent death, the funeral service establishment may charge and be reimbursed for the removal of bodies and rendering necessary professional services until the next of kin or the persons liable for the funeral expenses have been

674 notified.

675 C. No company, corporation, or association engaged in the business of paying or providing for the  
676 payment of the expenses for the care of the remains of deceased certificate holders or members or  
677 engaged in providing life insurance when the contract might or could give rise to an obligation to care  
678 for the remains of the insured shall contract to pay or pay any benefits to any licensee of the Board or  
679 other individual in a manner which could restrict the freedom of choice of the representative or next of  
680 kin of a decedent in procuring necessary and proper services and supplies for the care of the remains of  
681 the decedent.

682 D. No person licensed for the practice of funeral service or preneed funeral planning or any of his  
683 agents shall interfere with the freedom of choice of the general public in the choice of persons or  
684 establishments for the care of human remains or of preneed funeral planning or preneed funeral  
685 contracts.

686 E. This section shall not be construed to apply to the authority of any administrator, executor,  
687 trustee, or other person having a fiduciary relationship with the decedent.

688 **§ 54.1-2818.1. Prerequisites for cremation.**

689 No dead human body shall be cremated without permission of the ~~medical examiner~~ *Office of the*  
690 *Chief Medical Examiner* as required by § 32.1-284 and visual identification of the deceased by the  
691 next-of-kin or his representative, who may be any person designated to make arrangements for the  
692 decedent's burial or the disposition of his remains pursuant to § 54.1-2825, an agent named in an  
693 advance directive pursuant to § 54.1-2984, or a sheriff, upon court order, if no next-of-kin, designated  
694 person, or agent is available. When visual identification is not feasible, other positive identification of  
695 the deceased may be used as a prerequisite for cremation.

696 **§ 54.1-2972. When person deemed medically and legally dead; determination of death; nurses'**  
697 **or physician assistants' authority to pronounce death under certain circumstances.**

698 A. A person shall be medically and legally dead if:

699 1. In the opinion of a physician duly authorized to practice medicine in this Commonwealth, based  
700 on the ordinary standards of medical practice, there is the absence of spontaneous respiratory and  
701 spontaneous cardiac functions and, because of the disease or condition which directly or indirectly  
702 caused these functions to cease, or because of the passage of time since these functions ceased, attempts  
703 at resuscitation would not, in the opinion of such physician, be successful in restoring spontaneous  
704 life-sustaining functions, and, in such event, death shall be deemed to have occurred at the time these  
705 functions ceased; or

706 2. In the opinion of a physician, who shall be duly licensed and a specialist in the field of neurology,  
707 neurosurgery, electroencephalography, or critical care medicine, when based on the ordinary standards of  
708 medical practice, there is the absence of brain stem reflexes, spontaneous brain functions and  
709 spontaneous respiratory functions and, in the opinion of another physician and such specialist, based on  
710 the ordinary standards of medical practice and considering the absence of brain stem reflexes,  
711 spontaneous brain functions and spontaneous respiratory functions and the patient's medical record,  
712 further attempts at resuscitation or continued supportive maintenance would not be successful in  
713 restoring such reflexes or spontaneous functions, and, in such event, death shall be deemed to have  
714 occurred at the time when these conditions first coincide.

715 B. A registered nurse or a physician assistant who practices under the supervision of a physician may  
716 pronounce death if the following criteria are satisfied: (i) the nurse is employed by or the physician  
717 assistant works at (a) a home health organization as defined in § 32.1-162.7, (b) a hospice as defined in  
718 § 32.1-162.1, (c) a hospital or nursing home as defined in § 32.1-123, including state-operated hospitals  
719 for the purposes of this section, (d) the Department of Corrections, or (e) a continuing care retirement  
720 community registered with the State Corporation Commission pursuant to Chapter 49 (§ 38.2-4900 et  
721 seq.) of Title 38.2; (ii) the nurse or physician assistant is directly involved in the care of the patient; (iii)  
722 the patient's death has occurred; (iv) the patient is under the care of a physician when his death occurs;  
723 (v) the patient's death has been anticipated; (vi) the physician is unable to be present within a reasonable  
724 period of time to determine death; and (vii) there is a valid Do Not Resuscitate Order pursuant to  
725 § 54.1-2987.1 for the patient who has died. The nurse or physician assistant shall inform the patient's  
726 attending and consulting physicians of his death as soon as practicable.

727 The nurse or physician assistant shall have the authority to pronounce death in accordance with such  
728 procedural regulations, if any, as may be promulgated by the Board of Medicine; however, if the  
729 circumstances of the death are not anticipated or the death requires an investigation by a ~~medical~~  
730 ~~examiner~~ *the Office of the Chief Medical Examiner*, the nurse or physician assistant shall notify the ~~chief~~  
731 ~~medical examiner~~ *Office of the Chief Medical Examiner* of the death and the body shall not be released  
732 to the funeral director.

733 This subsection shall not authorize a nurse or physician assistant to determine the cause of death.  
734 Determination of cause of death shall continue to be the responsibility of the attending physician, except  
735 as provided in § 32.1-263. Further, this subsection shall not be construed to impose any obligation to

carry out the functions of this subsection.

This subsection shall not relieve any registered nurse or physician assistant from any civil or criminal liability that might otherwise be incurred for failure to follow statutes or Board of Nursing or Board of Medicine regulations.

C. Death, as defined in subdivision A 2, shall be determined by one of the two physicians and recorded in the patient's medical record and attested by the other physician. One of the two physicians determining or attesting to brain death may be the attending physician regardless of his specialty so long as at least one of the physicians is a specialist, as set out in subdivision A 2.

D. The alternative definitions of death provided in subdivisions A 1 and A 2 may be utilized for all purposes in the Commonwealth, including the trial of civil and criminal cases.

**§ 54.1-2973. Persons who may authorize postmortem examination of decedent's body.**

Any of the following persons, in order of priority stated, may authorize and consent to a postmortem examination and autopsy on a decedent's body for the purpose of determining the cause of death of the decedent, for the advancement of medical or dental education and research, or for the general advancement of medical or dental science, if: (i) no person in a higher class exists or no person in a higher class is available at the time authorization or consent is given, (ii) there is no actual notice of contrary indications by the decedent, and (iii) there is no actual notice of opposition by a member of the same or a prior class.

The order of priority shall be as follows: (1) any person designated to make arrangements for the disposition of the decedent's remains upon his death pursuant to § 54.1-2825; (2) the spouse; (3) an adult son or daughter; (4) either parent; (5) an adult brother or sister; (6) a guardian of the person of the decedent at the time of his death; or (7) any other person authorized or under legal obligation to dispose of the body.

If the physician or surgeon has actual notice of contrary indications by the decedent or of opposition to an autopsy by a member of the same or a prior class, the autopsy shall not be performed. The persons authorized herein may authorize or consent to the autopsy after death or before death.

In cases of death where official inquiry is authorized or required by law, the provisions of Article 1 (§ 32.1-277 et seq.) of Chapter 8 of Title 32.1 shall apply. If at the time of death, a postmortem examination is authorized or required by law, any prior authorization or consent pursuant to this section shall not be valid unless the body is released by the *Office of the Chief Medical Examiner* or ~~one of his~~ ~~assistants~~.

A surgeon or physician acting in accordance with the terms of this section shall not have any liability, civil or criminal, for the performance of the autopsy.

**2. That § 32.1-280 of the Code of Virginia is repealed.**

**3. That an emergency exists and this act is in force from its passage.**

ENGROSSED

HB924E