

10101285D

HOUSE BILL NO. 301

Offered January 13, 2010

Prefiled January 11, 2010

A *BILL to amend and reenact §§ 32.1-283 and 32.1-284 of the Code of Virginia, relating to autopsy; retention and disposal of specimens.*

Patron—O'Bannon

Referred to Committee on Health, Welfare and Institutions

Be it enacted by the General Assembly of Virginia:**1. That §§ 32.1-283 and 32.1-284 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. *The Chief Medical Examiner, assistant chief medical examiners, or their designees may perform an autopsy or any examination that they deem necessary and in the public interest to determine the identity of the deceased or cause or manner of death of the deceased, or to obtain evidence necessary for forensic examination. All specimens collected during an autopsy or examination, including but not limited to tissues, organs, blood, other bodily fluids, and gases, may be retained and shall be disposed of in accordance with state and federal law.*

D. 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 Behavioral Health and Developmental Services and to the Inspector General for Behavioral Health and Developmental 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

INTRODUCED

HB301

59 at the discretion of the Chief Medical Examiner, to the following persons in the following order of
60 priority: (i) the spouse of the decedent, (ii) an adult son or daughter of the decedent, (iii) either parent
61 of the decedent, (iv) an adult sibling of the decedent, (v) any other adult relative of the decedent in
62 order of blood relationship, or (vi) any appropriate health facility quality assurance program.

63 *DE*. For each investigation under this article, including the making of the required reports, the
64 medical examiner shall receive a fee established by the Board within the limitations of appropriations for
65 the purpose. Such fee shall be paid by the Commonwealth, if the deceased is not a legal resident of the
66 county or city in which his death occurred. In the event the deceased is a legal resident of the county or
67 city in which his death occurred, such county or city shall be responsible for the fee up to \$20. If the
68 deceased is a patient or resident of a state mental health or mental retardation facility, the fee shall be
69 paid by the Department of Behavioral Health and Developmental Services.

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

72 § 32.1-284. Cremations and burials at sea.

73 No dead human body whose death occurred in Virginia shall be cremated or buried at sea,
74 irrespective of the cause and manner of death, unless a medical examiner shall determine that there is no
75 further need for medicolegal inquiry into the death and shall so certify upon a form supplied by the
76 Chief Medical Examiner. For this service the medical examiner shall be entitled to a fee established by
77 the Board, not to exceed the fee provided for in subsection *DE* of § 32.1-283, to be paid by the
78 applicant for the certificate.
79