

VIRGINIA ACTS OF ASSEMBLY -- 2013 SESSION

CHAPTER 370

An Act to amend and reenact § 32.1-286 of the Code of Virginia, relating to basis for exhumation.

[S 916]

Approved March 14, 2013

Be it enacted by the General Assembly of Virginia:

1. That § 32.1-286 of the Code of Virginia is amended and reenacted as follows:

§ 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 a medical examiner as to 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. 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 Assistant Chief Medical Examiners. 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 ~~dead and buried~~, a court may order the exhumation of the body of a *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 ~~of the exhumed deceased~~ *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.