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SENATE BILL NO. 1487

Senate Amendments in [] - February 6, 2023

A *BILL to amend and reenact §§ 32.1-249, 32.1-291.14, 32.1-301, 32.1-309.1, 32.1-309.3, 54.1-2800, 54.1-2803, 54.1-2808.1, 54.1-2808.2, and 54.1-2818.1 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 54.1-2814.2, relating to alkaline hydrolysis; registration; regulations.*

Patron Prior to Engrossment—Senator Morrissey

Referred to Committee on Education and Health

Be it enacted by the General Assembly of Virginia:

1. That §§ 32.1-249, 32.1-291.14, 32.1-301, 32.1-309.1, 32.1-309.3, 54.1-2800, 54.1-2803, 54.1-2808.1, 54.1-2808.2, and 54.1-2818.1 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 54.1-2814.2 as follows:

§ 32.1-249. Definitions.

As used in this chapter:

"Dead body" means a human body or such parts of such human body from the condition of which it reasonably may be concluded that death occurred.

"Fetal death" means death prior to the complete expulsion or extraction from its mother of a product of human conception, regardless of the duration of pregnancy; death is indicated by the fact that after such expulsion or extraction the fetus does not breathe or show any other evidence of life such as beating of the heart, pulsation of the umbilical cord, or definite movement of voluntary muscles.

a. "Induced termination of pregnancy" means the intentional interruption of pregnancy with the intention to produce other than a live-born infant or to remove a dead fetus and which does not result in a live birth.

b. "Spontaneous fetal death" means the expulsion or extraction of a product of human conception resulting in other than a live birth and which is not an induced termination of pregnancy.

"File" means the presentation of a vital record provided for in this chapter for registration by the Department.

"Final disposition" means the burial, interment, cremation, *disposal by alkaline hydrolysis*, removal from the Commonwealth, or other authorized disposition of a dead body or fetus.

"Institution" means any establishment, public or private, which provides inpatient medical, surgical, or diagnostic care or treatment, or nursing, custodial or domiciliary care, or to which persons are committed by law.

"Live birth" means the complete or substantial expulsion or extraction from its mother of a product of human conception, irrespective of the duration of pregnancy, which, after such expulsion or extraction, breathes or shows any other evidence of life such as beating of the heart, pulsation of the umbilical cord, or definite movement of voluntary muscles, whether or not the umbilical cord has been cut or the placenta is attached. As used in this definition, "substantial expulsion or extraction" means, in the case of a headfirst presentation, the infant's entire head is outside the body of the mother or, in the case of a breech delivery, when any part of the infant's trunk past the navel is outside the body of the mother.

"Physician" means a person authorized or licensed to practice medicine or osteopathy in this Commonwealth.

"Registration" means the acceptance by the Department and the incorporation of vital records as provided for in this chapter into its official records.

"System of vital records" means the registration, collection, preservation, amendment, and certification of vital records; the collection of other reports required by this chapter; and related activities.

"Vital records" means certificates or reports of births, deaths, fetal deaths, adoptions, marriages, divorces or annulments and amendment data related thereto.

§ 32.1-291.14. Rights and duties of procurement organization and others.

A. When a hospital refers an individual who is dead or whose death is imminent to a procurement organization, the organization shall make a reasonable search of the records of the Virginia Department of Motor Vehicles and any donor registry that it knows exists for the geographical area in which the individual resides to ascertain whether the individual has made an anatomical gift.

B. A procurement organization shall be allowed reasonable access to information in the records of the Virginia Department of Motor Vehicles to ascertain whether an individual who is dead or whose

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59 death is imminent is a donor.

60 C. When a hospital refers an individual who is dead or whose death is imminent to a procurement
61 organization, the organization may conduct any reasonable examination necessary to ensure the medical
62 suitability of a part that is or could be the subject of an anatomical gift for transplantation, therapy,
63 research, or education from a donor or a prospective donor. During the examination period, measures
64 necessary to ensure the medical suitability of the part may not be withdrawn unless the hospital or
65 procurement organization knows that the individual expressed a contrary intent.

66 D. Unless prohibited by law other than this Act, at any time after a donor's death, the person to
67 which a part passes under § 32.1-291.11 may conduct any reasonable examination necessary to ensure
68 the medical suitability of the body or part for its intended purpose.

69 E. Unless prohibited by law other than this Act, an examination under subsection C or D may
70 include an examination of all medical and dental records of the donor or prospective donor.

71 F. Upon the death of a minor who was a donor or had signed a refusal, unless a procurement
72 organization knows the minor is emancipated, the procurement organization shall conduct a reasonable
73 search for the parents of the minor and provide the parents with an opportunity to revoke or amend the
74 anatomical gift or revoke the refusal.

75 G. Upon referral by a hospital under subsection A, a procurement organization shall make a
76 reasonable search for any person listed in § 32.1-291.9 having priority to make an anatomical gift on
77 behalf of a prospective donor. If a procurement organization receives information that an anatomical gift
78 to any other person was made, amended, or revoked, it shall promptly advise the other person of all
79 relevant information.

80 H. Subject to subsection I of § 32.1-291.11 and § 32.1-291.23, the rights of the person to which a
81 part passes under § 32.1-291.11 are superior to the rights of all others with respect to the part. The
82 person may accept or reject an anatomical gift in whole or in part. Subject to the terms of the document
83 of gift and this Act, a person that accepts an anatomical gift of an entire body may allow embalming,
84 burial ~~or~~, cremation, *or disposal by alkaline hydrolysis*, and use of remains in a funeral service. If the
85 gift is of a part, the person to which the part passes under § 32.1-291.11, upon the death of the donor
86 and before embalming, burial, ~~or~~ cremation, *or disposal by alkaline hydrolysis*, shall cause the part to be
87 removed without unnecessary mutilation.

88 I. Neither the physician who attends the decedent at death nor the physician who determines the time
89 of the decedent's death may participate in the procedures for removing or transplanting a part from the
90 decedent.

91 J. A donated part from the body of a donor may be removed only by a physician or technician. The
92 physician or technician performing the removal shall be qualified to remove the donated part from the
93 body. For the purposes of this section, "qualified" means:

94 1. If the part is an organ, a physician or technician who is authorized by the appropriate organ
95 procurement organization;

96 2. If the part is an eye, a physician or technician who is approved by an eye bank as qualified to
97 perform the act of eye recovery; or

98 3. If the part is tissue, any physician or technician who is approved by LifeNet as qualified to
99 perform the act of tissue recovery.

100 An organ procurement organization may screen, test, and recover eyes and tissue on behalf of an eye
101 bank or tissue bank. Any person authorized by this subsection to recover organs, tissues or eyes may
102 draw blood from the donor and order such tests as may be appropriate to protect his health and the
103 health of the recipients of the organs, tissues or eyes.

104 **§ 32.1-301. Burial, cremation, or return of bodies after scientific study.**

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

116 The written request of the decedent's next of kin shall include the name of the next of kin, the
117 current address to which the cremated *or hydrolyzed* remains shall be delivered, and the current
118 telephone number of the next of kin or relatives where they may be contacted. The costs of transporting
119 and delivering the cremated *or hydrolyzed* remains shall be borne by the institution or individual
120 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 *or hydrolyzed* 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.

§ 32.1-309.1. Identification of decedent, next of kin; disposition of claimed dead body.

A. As used in this chapter, unless the context requires a different meaning:

"Disposition" means the burial, interment, entombment, cremation, *disposal by alkaline hydrolysis*, or other authorized disposition of a dead body permitted by law.

"Next of kin" has the same meaning assigned to it in § 54.1-2800.

B. In the absence of a next of kin, a person designated to make arrangements for disposition of the decedent's remains pursuant to § 54.1-2825, an agent named in an advance directive pursuant to § 54.1-2984, or any guardian appointed pursuant to Chapter 20 (§ 64.2-2000 et seq.) of Title 64.2 who may exercise the powers conferred in the order of appointment or by § 64.2-2019, or upon the failure or refusal of such next of kin, designated person, agent, or guardian to accept responsibility for the disposition of the decedent, then any other person 18 years of age or older who is able to provide positive identification of the deceased and is willing to pay for the costs associated with the disposition of the decedent's remains shall be authorized to make arrangements for such disposition of the decedent's remains. If a funeral service establishment or funeral service licensee makes arrangements with a person other than a next of kin, designated person, agent, or guardian in accordance with this section, then the funeral service licensee or funeral service establishment shall be immune from civil liability unless such act, decision, or omission resulted from bad faith or malicious intent.

C. Upon the death of any person, irrespective of the cause and manner of death, and irrespective of whether a medical examiner's investigation is required pursuant to § 32.1-283 or 32.1-285.1, the person or institution having initial custody of the dead body shall make good faith efforts to determine the identity of the decedent, if unknown, and to identify and notify the next of kin of the decedent regarding the decedent's death. If, upon notification of the death of the decedent, the next of kin of the decedent or other person authorized by law to make arrangements for disposition of the decedent's remains is willing and able to claim the body, the body may be claimed by the next of kin or other person authorized by law to make arrangements for disposition of the decedent's remains for disposition, and the claimant shall bear the expenses of such disposition. If the next of kin of the decedent or other person authorized by law to make arrangements for disposition of the decedent's remains fails or refuses to claim the body within 10 days of receiving notice of the death of the decedent, the body shall be disposed of in accordance with § 32.1-309.2.

D. If the person or institution having initial custody of the dead body is unable to determine the identity of the decedent or to identify and notify the next of kin of the decedent regarding the decedent's death, the person or institution shall contact the primary law-enforcement agency for the locality in which the person or institution is located, which shall make good faith efforts to determine the identity of the decedent and to identify and notify the next of kin of the decedent. However, in cases in which the identity of the decedent and the county or city in which the decedent resided at the time of death are known, the person or institution having initial custody of the dead body shall notify the primary law-enforcement agency for the county or city in which the decedent resided regarding the decedent's death, and the law-enforcement agency for the county or city in which the decedent resided shall make good faith efforts to identify and notify the next of kin of the decedent.

If the identity of the decedent is known to the primary law-enforcement agency or the primary law-enforcement agency is able to identify the decedent, the primary law-enforcement agency is able to identify and notify the next of kin of the decedent or other person authorized by law to make arrangements for disposition of the decedent's remains, and the next of kin of the decedent or other person authorized by law to make arrangements for disposition of the decedent's remains is willing and able to claim the body, the body may be claimed by the next of kin or other person authorized by law to make arrangements for disposition of the decedent's remains for disposition, and the claimant shall bear the expenses of such disposition.

If the identity of the decedent is known or the primary law-enforcement agency is able to determine the identity of the decedent but the primary law-enforcement agency is unable, despite good faith efforts, to identify and notify the decedent's next of kin or other person authorized by law to make arrangements for disposition of the decedent's remains within 10 days of the date of contact by the person or institution having initial custody of the dead body, or the primary law-enforcement agency is able to identify and notify the decedent's next of kin or other person authorized by law to make arrangements for disposition of the decedent's remains but the next of kin or other person authorized by law to make arrangements for disposition of the decedent's remains fails or refuses to claim the body within 10 days, the primary law-enforcement agency shall notify the person or institution having initial custody of the dead body, and the body shall be disposed of in accordance with § 32.1-309.2.

E. In cases in which a dead body is claimed by the decedent's next of kin or other person authorized

182 by law to make arrangements for disposition of the decedent's remains but the next of kin or other
183 person authorized by law to make arrangements for disposition of the decedent's remains is unable to
184 pay the reasonable costs of disposition of the body and the costs are paid by the county or city in which
185 the decedent resided or in which the death occurred in accordance with this section, and the decedent
186 has an estate out of which disposition expenses may be paid, in whole or in part, such assets shall be
187 seized for such purpose.

188 F. No dead body that is the subject of an investigation pursuant to § 32.1-283 or autopsy pursuant to
189 § 32.1-285 shall be transferred for purposes of disposition until such investigation or autopsy has been
190 completed.

191 G. Any sheriff or primary law-enforcement officer, county, city, health care provider, funeral service
192 establishment, funeral service licensee, or other person or institution that acts in accordance with the
193 requirements of this chapter shall be immune from civil liability for any act, decision, or omission
194 resulting from acceptance and disposition of the dead body in accordance with this section, unless such
195 act, decision, or omission resulted from bad faith or malicious intent.

196 H. Nothing in this section shall prevent a law-enforcement agency other than the primary
197 law-enforcement agency from performing the duties established by this section if so requested by the
198 primary law-enforcement agency and agreed to by the other law-enforcement agency.

199 **§ 32.1-309.3. Cremations, disposal by alkaline hydrolysis, and burials at sea.**

200 No dead human body whose death occurred in Virginia shall be cremated, *hydrolyzed*, or buried at
201 sea, irrespective of the cause and manner of death, unless the Chief Medical Examiner, an Assistant
202 Chief Medical Examiner, or a medical examiner appointed pursuant to § 32.1-282 has determined that
203 there is no further need for medicolegal inquiry into the death and so certifies upon a form supplied by
204 the Office of the Chief Medical Examiner. For this service the Chief Medical Examiner, an Assistant
205 Chief Medical Examiner, or a medical examiner appointed pursuant to § 32.1-282 shall be entitled to a
206 fee established by the Board, not to exceed the fee provided for in subsection D of § 32.1-283, to be
207 paid by the applicant for the certificate.

208 **§ 54.1-2800. Definitions.**

209 As used in this chapter, unless the context requires a different meaning:

210 "Advertisement" means any information disseminated or placed before the public.

211 "*Alkaline hydrolysis*" means *final disposition by reduction of a dead human body to essential*
212 *elements through a water-based dissolution process using alkaline chemicals, heat, agitation, and*
213 *pressure to accelerate natural decomposition.*

214 "At-need" means at the time of death or while death is imminent.

215 "Board" means the Board of Funeral Directors and Embalmers.

216 "Cremate" means to reduce a dead human body to ashes and bone fragments by the action of fire.

217 "Cremator" means a person or establishment that owns or operates a crematory or crematorium or
218 cremates dead human bodies.

219 "Crematory" or "crematorium" means a facility containing a furnace for cremation of dead human
220 bodies.

221 "Embalmer" means any person engaged in the practice of embalming.

222 "Embalming" means the process of chemically treating the dead human body by arterial injection and
223 cavity treatment or, when necessary, hypodermic tissue injection to reduce the presence and growth of
224 microorganisms to temporarily retard organic decomposition.

225 "Funeral directing" means the for-profit profession of directing or supervising funerals, preparing
226 human dead for burial by means other than embalming, or making arrangements for funeral services or
227 the financing of funeral services.

228 "Funeral director" means any person engaged in the practice of funeral directing.

229 "Funeral service establishment" means any main establishment, branch, or chapel that is permanently
230 affixed to the real estate and for which a certificate of occupancy has been issued by the local building
231 official where any part of the profession of funeral directing, the practice of funeral services, or the act
232 of embalming is performed.

233 "Funeral service intern" means a person who is preparing to be licensed for the practice of funeral
234 services under the direct supervision of a practitioner licensed by the Board.

235 "Funeral service licensee" means a person who is licensed in the practice of funeral services.

236 "In-person communication" means face-to-face communication and telephonic communication.

237 "Next of kin" means any of the following persons, regardless of the relationship to the decedent: any
238 person designated to make arrangements for the disposition of the decedent's remains upon his death
239 pursuant to § 54.1-2825, the legal spouse, child aged 18 years or older, parent of a decedent aged 18
240 years or older, custodial parent or noncustodial parent of a decedent younger than 18 years of age,
241 siblings over 18 years of age, guardian of minor child, guardian of minor siblings, maternal
242 grandparents, paternal grandparents, maternal siblings over 18 years of age and paternal siblings over 18
243 years of age, or any other relative in the descending order of blood relationship.

"Practice of funeral services" means engaging in the care and disposition of the human dead, the preparation of the human dead for the funeral service, burial or cremation, the making of arrangements for the funeral service or for the financing of the funeral service and the selling or making of financial arrangements for the sale of funeral supplies to the public.

"Preneed" means at any time other than at-need.

"Preneed funeral contract" means any agreement where payment is made by the consumer prior to the receipt of services or supplies contracted for, which evidences arrangements prior to death for (i) the providing of funeral services or (ii) the sale of funeral supplies.

"Preneed funeral planning" means the making of arrangements prior to death for (i) the providing of funeral services or (ii) the sale of funeral supplies.

"Solicitation" means initiating contact with consumers with the intent of influencing their selection of a funeral plan or funeral service provider.

§ 54.1-2803. Specific powers and duties of Board.

In addition to the general powers and duties conferred in this subtitle, the Board shall have the following specific powers and duties to:

1. Establish standards of service and practice for the funeral service profession in the Commonwealth.

2. Regulate and inspect funeral service establishments, their operation and licenses.

3. Require licensees and funeral service interns to submit all information relevant to their practice or business.

4. Enforce the relevant regulations of the Board of Health.

5. Enforce local ordinances relating to funeral service establishments.

6. Advise the Department of Health Professions of any training appropriate for inspectors serving as the Board's agents.

7. Establish, supervise, regulate and control, in accordance with the law, programs for funeral service interns.

8. Establish standards for and approve schools of mortuary science or funeral service.

9. Regulate preneed funeral contracts and preneed funeral trust accounts as prescribed by this chapter, including, but not limited to, the authority to prescribe preneed contract forms, disclosure requirements and disclosure forms and to require reasonable bonds to insure performance of preneed contracts.

10. Inspect crematories and their operations.

11. *Inspect alkaline hydrolysis providers and their operations.*

§ 54.1-2808.1. Disposition of cremains and hydrolyzed remains.

Except as otherwise provided in § 54.1-2808.2, a funeral director may dispose of the cremains *or hydrolyzed remains* of an individual by interment, entombment, inurnment, or by scattering of the cremains *or hydrolyzed remains*, if after 120 days from the date of cremation *or disposal by alkaline hydrolysis*, the contracting agent has not claimed the cremains *or hydrolyzed remains* or instructed the funeral director as to final disposition. The funeral director shall keep a permanent record of all cremains *and hydrolyzed remains* which identifies the method and site of final disposition. The costs and all reasonable expenses incurred in disposing of the cremains *or hydrolyzed remains* shall be borne by the contracting agent. Upon the disposition of the cremains *or hydrolyzed remains*, the funeral director shall not be liable for the cremains *or hydrolyzed remains* or for the method of final disposition. Except as otherwise provided in § 54.1-2808.2, any funeral director in possession of unclaimed cremains *or hydrolyzed remains* prior to July 1, 1993, may dispose of such cremains *or hydrolyzed remains* in accordance with the provisions of this section. However, no funeral director shall, without written permission of the contracting agent, dispose of cremains *or hydrolyzed remains* in a manner or a location in which the cremains *or hydrolyzed remains* of the deceased are commingled, except in the scattering of cremains *or hydrolyzed remains* at sea, by air, or in an area used exclusively for such purpose, or place, temporarily, the cremains *or hydrolyzed remains* of persons in the same container or urn.

For the purposes of this section and § 54.1-2808.2, "contracting agent" means any person, organization, association, institution, or group of persons who contracts with a funeral director or funeral establishment for funeral services.

§ 54.1-2808.2. Identification of unclaimed cremains and hydrolyzed remains of veterans and eligible dependents.

A. For the purposes of this section:

"Eligible dependent" means a veteran's spouse, a veteran's unmarried child younger than 21 years of age, or veteran's unmarried adult child who before the age of 21 became permanently incapable of self-support because of physical or mental disability.

"Veterans service organization" means an association or other entity organized for the benefit of veterans that has been recognized by the U.S. Department of Veterans Affairs or chartered by Congress

and any employee or representative of such association or entity.

B. If the contracting agent has not claimed the cremains *or hydrolyzed remains* or instructed the funeral director as to final disposition within 90 days from the date of cremation *or disposal by alkaline hydrolysis*, the funeral director shall provide names and any other identifying information of the unclaimed cremains *or hydrolyzed remains* to the Department of Veterans Services or a veterans service organization in order for the Department or organization to determine if the unclaimed cremains *or hydrolyzed remains* are those of a veteran or eligible dependent. The names and any personal identifying information submitted by a funeral director to the Department of Veterans Services or veterans service organization in compliance with this section shall be exempt from disclosure under the Virginia Freedom of Information Act (§ 2.2-3700 et seq.).

C. The Department of Veterans Services or veterans service organization shall notify the funeral director within 45 days of receipt of the information required by subsection B if the cremains *or hydrolyzed remains* are those of a veteran or eligible dependent and, if so, whether such veteran or eligible dependent is eligible for burial in a veterans cemetery in order to permit the transfer of the unclaimed cremains *or hydrolyzed remains* to a veterans cemetery. If the cremains *or hydrolyzed remains* are those of an eligible veteran or eligible dependent, a funeral director may transfer the cremains *or hydrolyzed remains* to the Department of Veterans Services or a veterans service organization for the purpose of disposition of such cremains *or hydrolyzed remains*.

D. No disposal of the unclaimed cremains *or hydrolyzed remains* of an eligible veteran or eligible dependent shall be made until the funeral director has notified the Department of Veterans Services or a veterans service organization and has received a determination as to whether the cremains *or hydrolyzed remains* are those of an eligible veteran or eligible dependent. Absent bad faith or malicious intent, no funeral director who transfers the cremains *or hydrolyzed remains* of a veteran or eligible dependent to the Department of Veterans Services or a veterans service organization for purposes of disposition or a veterans service organization that receives cremains *or hydrolyzed remains* for the purposes of disposition as provided in this section shall be liable for civil negligence.

§ 54.1-2814.2. Registration to provide alkaline hydrolysis.

A. No crematorium, cemeterian, memorial society, or other establishment, organization, or person shall dispose of a dead human body through alkaline hydrolysis without having registered with the Board as an alkaline hydrolysis provider.

B. The Board shall prescribe the procedures for registration under this section. Such procedures shall include a requirement that any alkaline hydrolysis provider registered with the Board that engages in the practice of funeral services operate in compliance with the provisions of § 54.1-2810. However, nothing in this subsection shall require an alkaline hydrolysis provider registered with the Board to obtain a license as a funeral service establishment as long as the alkaline hydrolysis provider provides alkaline hydrolysis services directly to or for a licensed funeral service establishment only and not to the general public. [The Board shall consult with the Department of Environmental Quality, the Department of Health, and representatives of waste water treatment facilities and funeral service associations to promulgate regulations for (i) alkaline hydrolysis, including for alkaline hydrolysis units; (ii) alkaline hydrolysis containers for transport, storage, and process; (iii) requirements for disposal of waste from alkaline hydrolysis process and wastewater emissions of effluent; (iv) processes for cleaning undissolved tissue or residue in alkaline hydrolysis units after each process to prevent commingling of human remains; and (v) posting of relevant permits and approvals.]

C. The Board may suspend or revoke any alkaline hydrolysis provider registration or deny any application for such registration, or refuse to issue or renew any such registration, if the Board finds that the applicant or registrant has violated any provision of this chapter or the Board's regulations, or if the Board finds that the alkaline hydrolysis provider has operated or is operating in a manner that endangers the health, safety, or welfare of the public.

§ 54.1-2818.1. Prerequisites for cremation and disposal by alkaline hydrolysis.

No dead human body shall be cremated *or hydrolyzed* without permission of the Office of the Chief Medical Examiner as required by § 32.1-309.3 and visual identification of the deceased by the next-of-kin or his representative, who may be any person designated to make arrangements for the disposition of the decedent's remains pursuant to § 54.1-2825, an agent named in an advance directive pursuant to § 54.1-2984, or any guardian appointed pursuant to Chapter 20 (§ 64.2-2000 et seq.) of Title 64.2 who may exercise the powers conferred in the order of appointment or by § 64.2-2019, or, in cases in which the next of kin or his representative fails or refuses to provide visual identification of the deceased, by any other person 18 years of age or older who is able to provide positive identification of the deceased. If no such next of kin or his representative or other person 18 years of age or older is available or willing to make visual identification of the deceased, such identification shall be made by a member of the primary law-enforcement agency of the city or county in which the person or institution having initial custody of the body is located, pursuant to court order. When visual identification is not feasible, other positive identification of the deceased may be used as a prerequisite for cremation *or*

367 *disposal by alkaline hydrolysis*. Unless such act, decision, or omission resulted from bad faith or
368 malicious intent, the funeral service establishment, funeral service licensee, crematory, cemetery, primary
369 law-enforcement officer, sheriff, county, or city shall be immune from civil liability for any act,
370 decision, or omission resulting from cremation *or disposal by alkaline hydrolysis*. Nothing in this section
371 shall prevent a law-enforcement agency other than the primary law-enforcement agency from performing
372 the duties established by this section if so requested by the primary law-enforcement agency and agreed
373 to by the other law-enforcement agency.

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