



# Natural Transitions

Volume 5 Issue 1

Conscious, holistic approaches to end of life



Who Controls the Dead?

---

Law and Sausage: Physician-Assisted  
Death

---

Death Café Build Out: A Piece of Cake?

---

Field Notes of a Buddhist Home Vigil  
Guide

**Death and the Law**

# Unintended ? Consequences

## *Virginia Bill Casts Spotlight on How Funeral Laws Are Made*

When the Virginia assembly took up a seemingly innocuous bill in the 2016 session, legislators were unprepared for the enormous public outcry that eventually changed the trajectory of the bill and may contribute to the way funeral laws are made.

SB595 called for mandatory refrigeration of dead bodies after 48 hours of their dispatch to a professional. It was the legislative answer to a situation reported to the bill's sponsor, Senator Kenneth Alexander (R), a funeral director who saw it through the lens of his own experience. He was informed about a body that was awaiting autopsy and was allegedly left for the weekend in a cramped hospital room with no attention to preservation measures of any kind.

Before home funeral advocates could launch efforts to educate lawmakers about the bill's far-reaching consequences for Virginia's home funeral families, it passed the first of the Senate's three readings. By the time the bill crossed over from the Senate to the House, a storm was raging in the form of a Change.org petition floated by Springfield resident and National Home Funeral Alliance member Denise Klasen. Registered letters, emails, and phone calls from Virginia citizens along with NHFA leadership and members inundated House delegates and members of the subcommittee responsible for moving SB595 to the final vote.

Those subcommittee members heard the commotion and made accommodations in the bill to restrict the reach to institutions that may have need of

such direction, leaving home funeral families free to care for their own at home without government interference. In a unanimous vote on February 29, the amended bill passed the House, just five weeks after the effort to stop it began.

\*\*\*

Would it have been the end of the world if the original bill had passed? No. Home funeral families could have continued to stage home vigils for up to 48 hours with no problem: dry ice, Techni-Ice, cool room—business as usual. This was never at issue.

Then what was at the crux of the matter? Why were so many people around the state, the country, and the world up in arms about this proposed law? This is where we have to go down the rabbit hole of the law to see what the potential ramifications might have been, and where the path of home funeral advocacy is leading.

Let's start with the broad stroke this bill would have painted on the home funeral landscape in Virginia. The law, however inadvertently, carried the potential of impeding families by compelling them to hire a professional if they were unable to meet the stringent temperature requirements after 48 hours.

Dry ice and other techniques are effective at 65 degrees for three days, but cannot guarantee a uniform 40-degree temperature that mimics walk-in refrigerators. Although clearly not intending to require refrigeration units in home settings, the bill still posed a problem for would-be home funeral families who feared running afoul of

the law should they not achieve this unreasonable and unnecessary goal.

Additionally, the original bill did not require funeral establishments to ensure that they could achieve the stated temperature either; in point of fact, not all funeral homes even own refrigeration units. And on closer examination, it exempted them from having to follow the law anyway, leaving us to wonder who exactly this bill was written to protect.

It's hard to know what policymakers were thinking when confronting the language of the bill that stated in part, "...any person or institution, other than a funeral service establishment...shall ensure that the dead human body is maintained in refrigeration... or shall enter into an agreement with a local funeral service establishment." But clearly, they were not thinking about fundamental American rights to privacy in their own homes.

Nothing about this law as it pertained to private citizens was enforceable without funeral police standing by with a clock in their hands. And since there is no such thing as funeral police, how were lawmakers planning to compel families to give up their loved ones at the appointed hour?

In what other commercial arena does the government mandate that its citizens incur thousands of dollars of expenses to do something they do not want or need to do? That, in fact, they have historical precedent and right to do. When we are sick, we choose whether to see a doctor or not. When our car

breaks down, we consider our goals, our budget, and our needs, and we choose to fix it or replace it. These are choices. We don't get to choose death; it comes and we deal with it. But we do so according to our own economic circumstances, our own spiritual and emotional needs, our own capacity for managing life and its complicated affairs.

We send young parents with no experience whatsoever home with infants, and the government does not have the power to require how that child will be raised or cared for, how much money his or her parents spend on childcare, schools, weddings, or any other life passage, no less tell them what temperature to keep their home at or insist that they hire a professional for something they do as parents.

No doubt lawmakers considered public health safety and made assumptions according to popular thinking, regardless of the fact that the World Health Organization, the Centers for Disease Control, the Center for Infectious Disease, and the Pan American Health Organization have all issued statements declaring that dead bodies do not pose increased health risks.

What was wrong with this bill was that the citizens of Virginia were never part of the equation beyond the lawmakers erroneously trying to protect them from something they have no reason to fear. We cannot expect all lawmakers to know the scientific facts that inform home funerals, or what exactly home funerals entail. But we do need to make them aware of the fundamental rights

of all Americans to care for their own after death in the privacy of their own homes. 🇺🇸



*Lee Webster is the current president of the National Home Funeral Alliance, treasurer for the Board of Directors of the Green Burial Council, and director of New Hampshire Funeral Resources, Education and Advocacy.*