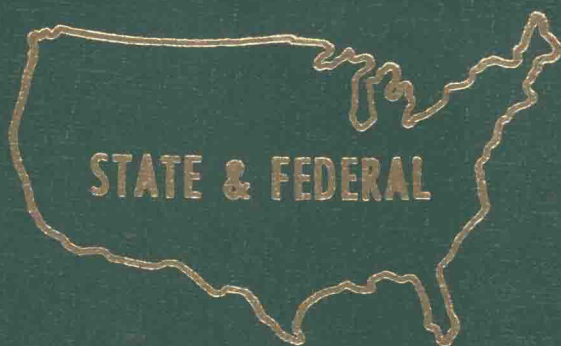


AMERICAN JURISPRUDENCE 2d



DEAD BODIES
—
DECLARATORY JUDGMENTS

AMERICAN JURISPRUDENCE

SECOND EDITION

A MODERN COMPREHENSIVE TEXT STATEMENT
OF AMERICAN LAW

STATE AND FEDERAL

COMPLETELY REVISED AND REWRITTEN
IN THE LIGHT OF MODERN AUTHORITIES AND DEVELOPMENTS
BY THE EDITORIAL STAFF OF THE PUBLISHERS

VOLUME 22A

DEAD BODIES
TO
DECLARATORY JUDGMENTS

1988



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FOREWORD

Revised volumes 22 and 22A of Am Jur 2d bring litigation attorneys thoroughly updated materials on Damages, Wrongful Death (in the article Death), and Declaratory Judgments. The articles on **Damages** and **Death** each contain an entirely new review of dollar verdicts in selected cases decided since 1970, which may be used, not only to argue on appeal that a verdict was excessive or inadequate, but also when evaluating a case to decide whether it is worth accepting or settling. The **Damages** article also treats such emerging problems as accounting for inflation in awards for future losses, damages for breach of computer service contracts, damages for loss of feelings in noncommercial contract settings, and apportionment of damages among several defendants in comparative negligence jurisdictions.

Besides discussing wrongful death statutes and procedure in wrongful death cases, the article **Death** also deals with the determination of death under such statutes as the Uniform Determination of Death Act (which focuses on brain death), and with such “right to die” issues as the right to refuse lifesaving treatment and liability for withholding treatment from a minor.

The topic **Declaratory Judgments** incorporates recent cases construing the Federal Declaratory Judgment Act and the Uniform Declaratory Judgments Act.

Volume 22A also contains a revised article on **Dead Bodies**, with new coverage of the Uniform Anatomical Gifts Act.

Each article contains *Observations*, *Cautions*, *Recommendations*, *Practice guides*, and *Form drafting guides* providing detailed advice and procedures for evaluating and litigating a claim, as well as research references to such practice works as Am Jur Proof of Facts and Am Jur Trials. A **Table of Statutes and Rules Cited** and a **Table of Parallel References** are contained at the front of each volume, and an **Index** covering the topics in a volume is contained at the end of each volume.

THE PUBLISHERS

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Also consult the volume index for detail and for matters not appearing in the earlier edition.

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DEAD BODIES

by

Mitchell J. Waldman, J.D.

Scope of topic: This article discusses the law with regard to dead bodies of human beings, examining rights, duties, and liabilities as to burial or disposal, delivery or transportation, mutilation, dissection, and the conducting of particular post-mortem medical procedures on corpses, as well as the disturbance of repose, disinterment and reinterment, the donation of body or body parts upon death, and other particular matters regarding dead bodies.

Federal aspects: This article covers the federal law pertaining to the disposition of dead bodies of public employees or of persons who have died on federal lands or in particular federal facilities. (See "Federal Legislation," *infra*, for USCS citations. As to federal taxation relating to the topic, see "Tax References," *infra*.)

Treated elsewhere:

Cemetery, manner and expense of removal of bodies upon abandonment or discontinuance of, see 14 Am Jur 2d, CEMETERIES § 23; right of burial in cemetery, see 14 Am Jur 2d, CEMETERIES §§ 31 et seq.; actions for damages for desecration of, or trespass on, cemetery lots, graves, and tombstones, see 14 Am Jur 2d, CEMETERIES §§ 40-42; tort liability of cemetery proprietor or authority, see 14 Am Jur 2d, CEMETERIES § 8

Charities, immunity from tort liability as applicable to unlawful possession of dead body, see 15 Am Jur 2d, CHARITIES §§ 213, 214

Autopsy, authority of coroner or medical examiner to conduct autopsy, see 18 Am Jur 2d, CORONERS OR MEDICAL EXAMINERS § 10; liability of coroner or medical examiner for unauthorized or wrongful autopsy, see 18 Am Jur 2d, CORONERS OR MEDICAL EXAMINERS § 5; misrepresentations as to law relating to autopsy, see 37 Am Jur 2d, FRAUD AND DECEIT § 74; use of autopsy in prosecutions for homicide, see 40 Am Jur 2d, HOMICIDE §§ 276, 284, 398, 410, 433; applicability of physician-patient privilege to autopsy, see 81 Am Jur 2d, WITNESSES § 245

Rescue, or attempt to rescue, dead body of executed criminal offender, as criminal offense, see 27 Am Jur 2d, ESCAPE, PRISON BREAKING, AND RESCUE § 3

Funeral expenses, liability for, see 31 Am Jur 2d, EXECUTORS AND ADMINISTRATORS §§ 320-322; 41 Am Jur 2d, HUSBAND AND WIFE § 380; 59 Am Jur 2d, PARENT AND CHILD §§ 49, 99

Burial permits, prerequisites for, see 38 Am Jur 2d, FUNERAL DIRECTORS AND EMBALMERS § 16

Undertakers and embalmers, civil rights and liabilities, generally, see 38 Am Jur 2d, FUNERAL DIRECTORS AND EMBALMERS §§ 17 et seq.

Disinterment and autopsy authorized as to proof of loss under insurance contract, see 44 Am Jur 2d, INSURANCE §§ 1367-1370

Workmen's compensation proceeding, disinterment and autopsy in, see 82 Am Jur 2d, WORKMEN'S COMPENSATION § 543

Research References

Text References:

Speiser, Krause, and Gans, The American Law of Torts §§ 16:31-16:34

10 Federal Procedure, L Ed, Discovery and Depositions § 26:237

Annotation References:

ALR Digest to 3d, 4th, and Federal: Cemeteries; Corpse

Index to Annotations: Autopsies; Dead Bodies; Exhumation and Disinterment; Funerals and Funeral Directors; Transplantation

Practice References:

5 Am Jur Pl & Pr Forms (Rev), Cemeteries; 8 Am Jur Pl & Pr Forms (Rev), Dead Bodies; 12 Am Jur Pl & Pr Forms (Rev), Funeral Directors and Embalmers

4 Am Jur Legal Forms 2d, Cemeteries; 7 Am Jur Legal Forms 2d, Dead Bodies; 8 Am Jur Legal Forms 2d, Funeral Directors and Embalmers

36 Am Jur POF2d 285, Fingerprint Identification §§ 8, 24 et seq.; 39 Am Jur POF2d 1, Cause of Death as Determined from Autopsy

3 Am Jur Trials 637, Selecting the Remedy § 31; 4 Am Jur Trials 441, Solving Statute of Limitations Problems § 45; 7 Am Jur Trials 477, Homicide §§ 157-159

Tax References:

34 Am Jur 2d, Federal Taxation ¶ 7901 (tax-exempt status of nonprofit cemetery and burial corporations)

RIA Federal Tax Coordinator 2d ¶¶ K-2102 (deductibility of funeral and burial expenses), D-5414 (tax-exempt status of certain burial associations)

Federal Legislation:

8 USCS § 1353 (expenses of transporting remains of immigration officers and employees who die outside of United States)

10 USCS § 1483 (care and disposition of remains of prisoners of war and interned enemy aliens)

16 USCS § 17e (care and transportation of dead bodies found in national forests)

18 USCS § 3567 (dissection of body prescribed in death sentence)

42 USCS § 300cc-5 (Public Health Service—transportation of remains of officers)

VERALEX®:

Cases and annotations referred to herein can be further researched through the **VERALEX®** electronic retrieval system's two services, **Auto-Cite®** and **SHOWME®**. Use Auto-Cite to check citations for form, parallel references, prior and later history, and annotation references. Use SHOWME to display the full text of cases and annotations.

Table of Parallel References:

To convert General Index references to section references in this volume, or to ascertain the disposition (or current equivalent) of sections of the articles in the prior edition of this publication, see the Table of Parallel References beginning at p ix.