

By the Committees on Health Regulation; and Regulated Industries; and Senator Hays

588-03528-12

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1                                   A bill to be entitled  
2           An act relating to disposition of human remains;  
3           creating s. 406.49, F.S.; providing definitions;  
4           amending s. 406.50, F.S.; revising procedures for the  
5           reporting and disposition of unclaimed remains;  
6           prohibiting certain uses or dispositions of the  
7           remains of deceased persons whose identities are not  
8           known; amending s. 406.51, F.S.; requiring that local  
9           governmental contracts for the final disposition of  
10          unclaimed remains comply with certain federal  
11          regulations; conforming provisions to changes in  
12          terminology; conforming a cross-reference; amending s.  
13          406.52, F.S.; revising procedures for the anatomical  
14          board's retention of human remains before their use;  
15          providing for claims by, and the release of human  
16          remains to, legally authorized persons after payment  
17          of certain expenses; authorizing county ordinances or  
18          resolutions for the final disposition of the unclaimed  
19          remains of indigent persons; limiting the liability of  
20          certain licensed persons for cremating or burying  
21          human remains under certain circumstances; amending s.  
22          406.53, F.S.; revising exceptions from requirements  
23          for notice to the anatomical board of the death of  
24          indigent persons; deleting a requirement that the  
25          Department of Health assess fees for the burial of  
26          certain bodies; amending s. 406.58, F.S.; conforming  
27          provisions to changes made by the act; requiring that  
28          the anatomical board keep a complete record of all  
29          fees and other financial transactions; requiring that

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30 the University of Florida audit the anatomical board  
31 and provide a copy of the audit to the Department of  
32 Financial Services within a specified time;  
33 authorizing the university to contract with a  
34 certified public accounting firm for the audit;  
35 authorizing the anatomical board to pay for the audit  
36 with the fees that the board collects; amending ss.  
37 406.55, 406.56, 406.57, and 406.59, F.S.; conforming  
38 provisions to changes made by the act; amending s.  
39 406.60, F.S.; authorizing certain facilities to  
40 dispose of human remains by cremation; amending s.  
41 406.61, F.S.; authorizing certain accredited schools  
42 and organizations to convey human remains in or out of  
43 the state for medical or research purposes; deleting  
44 provisions relating to procedures for the conveyance  
45 of plastinated human remains into or out of the state  
46 pursuant to their scheduled expiration; conforming  
47 terminology; repealing s. 406.54, F.S., relating to  
48 claims of bodies after delivery to the anatomical  
49 board; amending s. 765.513, F.S.; revising the list of  
50 donees who may accept anatomical gifts and the  
51 purposes for which such a gift may be used; amending  
52 ss. 382.002 and 497.005, F.S.; redefining the term  
53 "final disposition" as it relates to vital statistics  
54 and the Florida Funeral, Cemetery, and Consumer  
55 Services Act; providing an effective date.

56  
57 Be It Enacted by the Legislature of the State of Florida:  
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59 Section 1. Section 406.49, Florida Statutes, is created to  
60 read:

61 406.49 Definitions.—As used in this part, the term:

62 (1) "Anatomical board" means the anatomical board of the  
63 state headquartered at the University of Florida Health Science  
64 Center.

65 (2) "Cremated remains" has the same meaning as in s.  
66 497.005.

67 (3) "Final disposition" has the same meaning as in s.  
68 497.005.

69 (4) "Human remains" or "remains" has the same meaning as in  
70 s. 497.005.

71 (5) "Indigent person" means a person whose family income  
72 does not exceed 100 percent of the current federal poverty  
73 guidelines prescribed for the family's household size by the  
74 United States Department of Health and Human Services.

75 (6) "Legally authorized person" has the same meaning as in  
76 s. 497.005.

77 (7) "Unclaimed remains" means human remains that are not  
78 claimed by a legally authorized person, other than a medical  
79 examiner or the board of county commissioners, for final  
80 disposition at the person's expense.

81 Section 2. Section 406.50, Florida Statutes, is amended to  
82 read:

83 ~~406.50 Unclaimed dead bodies or human remains; disposition,~~  
84 ~~procedure.—~~

85 (1) A person or entity that comes ~~All public officers,~~  
86 ~~agents, or employees of every county, city, village, town, or~~  
87 ~~municipality and every person in charge of any prison, morgue,~~

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88 ~~hospital, funeral parlor, or mortuary and all other persons~~  
89 ~~coming~~ into possession, charge, or control of unclaimed ~~any dead~~  
90 ~~human body or remains that~~ which are unclaimed or which are  
91 required to be buried or cremated at public expense shall ~~are~~  
92 ~~hereby required to notify,~~ immediately notify, the anatomical  
93 board, unless:

94 (a) The unclaimed remains are decomposed or mutilated by  
95 wounds;

96 (b) An autopsy is performed on the remains;

97 (c) The remains contain ~~whenever any such body, bodies, or~~  
98 ~~remains come into its possession, charge, or control.~~

99 ~~Notification of the anatomical board is not required if the~~  
100 ~~death was caused by crushing injury, the deceased had a~~  
101 ~~contagious disease;~~

102 (d) A legally authorized person, ~~an autopsy was required to~~  
103 ~~determine cause of death, the body was in a state of severe~~  
104 ~~decomposition, or a family member objects to use of the~~ remains  
105 body for medical education or and research; or

106 (e) The deceased person was a veteran of the United States  
107 Armed Forces, United States Reserve Forces, or National Guard  
108 and is eligible for burial in a national cemetery or was the  
109 spouse or dependent child of a veteran eligible for burial in a  
110 national cemetery.

111 (2)-(1) Before the final disposition of unclaimed remains,  
112 the person or entity in charge or control of the ~~dead body or~~  
113 ~~human~~ remains shall make a reasonable effort to ~~determine:~~

114 (a) Determine the identity of the deceased person and ~~shall~~  
115 ~~further make a reasonable effort to~~ contact any relatives of the  
116 such deceased person.

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117 (b) Determine whether ~~or not~~ the deceased person is  
118 eligible under 38 C.F.R. s. 38.620 for ~~entitled to~~ burial in a  
119 national cemetery as a veteran of the armed forces and, if  
120 eligible so, to cause the deceased person's remains or cremated  
121 remains to be delivered to a national cemetery ~~shall make~~  
122 ~~arrangements for such burial services in accordance with the~~  
123 ~~provisions of 38 C.F.R.~~

124

125 For purposes of this subsection, "a reasonable effort" includes  
126 contacting the National Cemetery Scheduling Office, the county  
127 veterans service office, or the regional office of the United  
128 States Department of Veterans Affairs.

129 ~~(3)(2) Unclaimed remains~~ Such dead human bodies as  
130 ~~described in this chapter~~ shall be delivered to the anatomical  
131 board as soon as possible after death. When no family exists or  
132 is available, a funeral director licensed under chapter 497 may  
133 assume the responsibility of a legally authorized person and  
134 may, after 24 hours have elapsed from the time of death,  
135 authorize arterial embalming for the purposes of storage and  
136 delivery of unclaimed remains to the anatomical board. A funeral  
137 director licensed under chapter 497 is not liable for damages  
138 under this subsection.

139 (4) The remains of a deceased person whose identity is not  
140 known may not be cremated, donated as an anatomical gift, buried  
141 at sea, or removed from the state.

142 (5) If the anatomical board does not accept the unclaimed  
143 remains, the county commission, or its designated county  
144 department, of the county in which the remains are found or the  
145 death occurred may authorize and arrange for the burial or

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146 cremation of the entire remains. A board of county commissioners  
147 may, in accordance with applicable laws and rules, prescribe  
148 policies and procedures for final disposition of unclaimed  
149 remains by resolution or ordinance.

150 ~~(6)(3) This part does not~~ Nothing herein shall affect the  
151 right of a medical examiner to hold human ~~such dead body or~~  
152 remains for the purpose of investigating the cause of death or  
153 ~~nor shall this chapter affect~~ the right of any court of  
154 competent jurisdiction to enter an order affecting the  
155 disposition of such ~~body or~~ remains.

156 ~~(4) In the event more than one legally authorized person~~  
157 ~~claims a body for interment, the requests shall be prioritized~~  
158 ~~in accordance with s. 732.103.~~

159  
160 ~~For purposes of this chapter, the term "anatomical board" means~~  
161 ~~the anatomical board of this state located at the University of~~  
162 ~~Florida Health Science Center, and the term "unclaimed" means a~~  
163 ~~dead body or human remains that is not claimed by a legally~~  
164 ~~authorized person, as defined in s. 497.005, for interment at~~  
165 ~~that person's expense.~~

166 Section 3. Section 406.51, Florida Statutes, is amended to  
167 read:

168 406.51 Final disposition of unclaimed deceased veterans;  
169 contract requirements.—Any contract by a local governmental  
170 entity for the final disposition ~~disposal~~ of unclaimed human  
171 remains must provide for compliance with s. 406.50(2)(1) and  
172 require that the procedures in 38 C.F.R. s. 38.620, relating to  
173 disposition of unclaimed deceased veterans, are ~~be~~ followed.

174 Section 4. Section 406.52, Florida Statutes, is amended to

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175 read:

176 (Substantial rewording of section. See  
177 s. 406.52, F.S., for present text.)

178 406.52 Retention of human remains before use; claim after  
179 delivery to anatomical board; procedures for unclaimed remains  
180 of indigent persons.—

181 (1) The anatomical board shall keep in storage all human  
182 remains that it receives for at least 48 hours before allowing  
183 their use for medical education or research. Human remains may  
184 be embalmed when received. The anatomical board may, for any  
185 reason, refuse to accept unclaimed remains or the remains of an  
186 indigent person.

187 (2) At any time before their use for medical education or  
188 research, human remains delivered to the anatomical board may be  
189 claimed by a legally authorized person. The anatomical board  
190 shall release the remains to the legally authorized person after  
191 payment of the anatomical board's expenses incurred for  
192 transporting, embalming, and storing the remains.

193 (3) (a) A board of county commissioners may, in accordance  
194 with applicable laws and rules, prescribe policies and  
195 procedures for the burial or cremation of the entire unclaimed  
196 remains of an indigent person whose remains are found, or whose  
197 death occurred in the county, by resolution or ordinance.

198 (b) A person licensed under chapter 497 is not liable for  
199 any damages resulting from cremating or burying such human  
200 remains at the written direction of the board of county  
201 commissioners or its designee.

202 Section 5. Section 406.53, Florida Statutes, is amended to  
203 read:

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204       (Substantial rewording of section. See  
205       s. 406.53, F.S., for present text.)  
206       406.53 Unclaimed remains of indigent person; exemption from  
207       notice to the anatomical board.—A county commission or  
208       designated county department that receives a report of the  
209       unclaimed remains of an indigent person, notwithstanding s.  
210       406.50(1), is not required to notify the anatomical board of the  
211       remains if:

212       (1) The indigent person's remains are decomposed or  
213       mutilated by wounds or if an autopsy is performed on the  
214       remains;

215       (2) A legally authorized person or a relative by blood or  
216       marriage claims the remains for final disposition at his or her  
217       expense or, if such relative or legally authorized person is  
218       also an indigent person, in a manner consistent with the  
219       policies and procedures of the board of county commissioners of  
220       the county in which the remains are found or the death occurred;

221       (3) The deceased person was a veteran of the United States  
222       Armed Forces, United States Reserve Forces, or National Guard  
223       and is eligible for burial in a national cemetery or was the  
224       spouse or dependent child of a veteran eligible for burial in a  
225       national cemetery; or

226       (4) A funeral director licensed under chapter 497 certifies  
227       that the anatomical board has been notified and either accepted  
228       or declined the remains.

229       Section 6. Section 406.55, Florida Statutes, is amended to  
230       read:

231       406.55 Contracts for delivery of human remains ~~body~~ after  
232       death prohibited.—The anatomical board may not enter is



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233 ~~specifically prohibited from entering~~ into any contract, oral or  
234 written, that provides for ~~whereby~~ any sum of money to ~~shall~~ be  
235 paid to any living person in exchange for ~~which~~ the delivery of  
236 that person's remains ~~body of said person shall be delivered~~ to  
237 the anatomical board when the ~~such living~~ person dies.

238 Section 7. Section 406.56, Florida Statutes, is amended to  
239 read:

240 406.56 Acceptance of human remains ~~bodies~~ under will.—If  
241 any person ~~being~~ of sound mind executes ~~shall execute~~ a will  
242 leaving his or her remains ~~body~~ to the anatomical board for ~~the~~  
243 ~~advancement of~~ medical education or research ~~science~~ and the  
244 ~~such~~ person dies within the geographical limits of the state,  
245 the anatomical board may ~~is hereby empowered to~~ accept and  
246 receive the person's remains ~~such body~~.

247 Section 8. Section 406.57, Florida Statutes, is amended to  
248 read:

249 406.57 Distribution of human remains ~~dead bodies~~.—The  
250 anatomical board or its duly authorized agent shall take and  
251 receive human remains ~~the bodies~~ delivered to it as provided in  
252 ~~under the provisions of~~ this chapter and shall:

253 (1) Distribute the remains ~~them~~ equitably ~~to and~~ among the  
254 medical and dental schools, teaching hospitals, medical  
255 institutions, and health-related teaching programs that require  
256 cadaveric material for study; or

257 (2) Loan the remains ~~same may be loaned for examination or~~  
258 ~~study purposes~~ to accredited colleges of mortuary science  
259 ~~recognized associations of licensed embalmers or funeral~~  
260 ~~directors,~~ or medical or dental examining boards for educational  
261 or research purposes ~~at the discretion of the anatomical board~~.

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262 Section 9. Section 406.58, Florida Statutes, is amended to  
263 read:

264 406.58 Fees; authority to accept additional funds; annual  
265 audit.—

266 (1) The anatomical board may:

267 (a) Adopt ~~is empowered to prescribe~~ a schedule of fees to  
268 be collected from the institutions ~~institution or association~~ to  
269 which the human remains ~~bodies, as described in this chapter,~~  
270 are distributed or loaned to defray the costs of obtaining and  
271 preparing the remains ~~such bodies~~.

272 (b) (2) ~~The anatomical board is hereby empowered to~~ Receive  
273 money from public or private sources, in addition to the fees  
274 collected from the institutions ~~institution or association~~ to  
275 which human remains ~~the bodies~~ are distributed, to be used to  
276 defray the costs of embalming, handling, shipping, storing,  
277 cremating, and otherwise ~~storage, cremation, and other costs~~  
278 ~~relating to the obtaining and~~ using the remains. ~~use of such~~  
279 ~~bodies as described in this chapter; the anatomical board is~~  
280 ~~empowered to~~

281 (c) Pay or reimburse the reasonable expenses, as determined  
282 by the anatomical board, incurred by a funeral establishment or  
283 removal service licensed under chapter 497, for the removal,  
284 storage, and transportation of unclaimed human remains ~~any~~  
285 ~~person delivering the bodies as described in this chapter to the~~  
286 ~~anatomical board.~~ and is further empowered to

287 (d) Enter into contracts and perform such other acts ~~as are~~  
288 necessary for ~~to~~ the proper performance of its duties. †

289 (2) The anatomical board shall keep a complete record of  
290 all fees and other financial transactions ~~of said anatomical~~

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291 ~~board shall be kept and audited annually by the Department of~~  
292 ~~Financial Services, and a report of such audit shall be made~~  
293 ~~annually to the University of Florida. The University of Florida~~  
294 ~~shall conduct an audit of the financial records of the~~  
295 ~~anatomical board at least once every 3 years, or more frequently~~  
296 ~~if the university deems it necessary. Within 90 days after~~  
297 ~~completing the audit, the university shall provide a copy of the~~  
298 ~~audit to the Department of Financial Services. The university~~  
299 ~~may contract with a certified public accounting firm to provide~~  
300 ~~for the audit, which may be paid from the fees collected by the~~  
301 ~~anatomical board.~~

302 Section 10. Section 406.59, Florida Statutes, is amended to  
303 read:

304 406.59 Institutions receiving human remains ~~bodies~~. ~~A No~~  
305 ~~university, school, college, teaching hospital, or institution~~  
306 ~~may not, or association shall be allowed or permitted to receive~~  
307 ~~any human remains from the anatomical board such body or bodies~~  
308 ~~as described in this chapter until its facilities are have been~~  
309 ~~inspected and approved by the anatomical board. Human remains~~  
310 ~~All such bodies received by such university, school, college,~~  
311 ~~teaching hospital, or institution may not, or association shall~~  
312 ~~be used for any no other purpose other than the promotion of~~  
313 ~~medical education or research science.~~

314 Section 11. Section 406.60, Florida Statutes, is amended to  
315 read:

316 406.60 Disposition of human remains ~~bodies~~ after use. ~~At~~  
317 ~~any time When human remains any body or bodies or part or parts~~  
318 ~~of any body or bodies, as described in this chapter, shall have~~  
319 ~~been used for, and are not deemed of any no further value to,~~

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320 medical or dental education or research ~~science~~, then the  
321 anatomical board or a cinerator facility licensed under chapter  
322 497 ~~person or persons having charge of said body or parts of~~  
323 ~~said body~~ may dispose of the remains or any part thereof by  
324 cremation.

325 Section 12. Section 406.61, Florida Statutes, is amended to  
326 read:

327 406.61 Selling, buying, or conveying bodies outside state  
328 prohibited; exceptions, penalty.-

329 (1) Any person who sells or buys any body or parts of  
330 bodies as described in this chapter or any person except a  
331 recognized Florida medical or dental school who transmits or  
332 conveys or causes to be transmitted or conveyed such body or  
333 parts of bodies to any place outside this state commits a  
334 misdemeanor of the first degree, punishable as provided in ss.  
335 775.082 and 775.083. However, this chapter does not prohibit the  
336 anatomical board from transporting human specimens outside the  
337 state for educational or scientific purposes or prohibit the  
338 transport of bodies, parts of bodies, or tissue specimens in  
339 furtherance of lawful examination, investigation, or autopsy  
340 conducted pursuant to s. 406.11.

341 (2) Any nontransplant anatomical donation organization  
342 accredited by the American Association of Tissue Banks or an  
343 accredited medical or dental college or university may convey  
344 human remains ~~person, institution, or organization that conveys~~  
345 ~~bodies~~ or any part thereof within, ~~parts of bodies~~ into, or out  
346 of the state for medical or dental education or research  
347 purposes. A nontransplant anatomical donation organization need  
348 not be accredited as required by this section until July 1, 2013

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349 shall ~~notify the anatomical board of such intent and receive~~  
350 ~~approval from the board.~~

351 (3)~~(2)~~ Any entity accredited by the American Association of  
352 Museums may convey plastinated human remains ~~bodies~~ or any part  
353 thereof within, ~~parts of bodies~~ into, or out of the state for  
354 exhibition and public educational purposes without the consent  
355 of the anatomical board if the accredited entity:

356 (a) Notifies the anatomical board of the conveyance and the  
357 duration and location of the exhibition at least 30 days before  
358 the intended conveyance.

359 (b) Submits to the anatomical board a description of the  
360 remains ~~bodies~~ or any part thereof ~~parts of bodies~~ and the name  
361 and address of the company providing the remains ~~bodies~~ or any  
362 part thereof ~~parts of bodies~~.

363 (c) Submits to the anatomical board documentation that the  
364 remains or each part thereof ~~body~~ was donated by the decedent or  
365 his or her next of kin for purposes of plastination and public  
366 exhibition, or, in lieu of such documentation, an affidavit  
367 stating that the remains or each part thereof ~~body~~ was donated  
368 directly by the decedent or his or her next of kin for such  
369 purposes to the company providing the remains ~~body~~ and that such  
370 company has a donation form on file for the remains ~~body~~.

371 ~~(3) Notwithstanding paragraph (2) (c) and in lieu of the~~  
372 ~~documentation or affidavit required under paragraph (2) (c), for~~  
373 ~~a plastinated body that, before July 1, 2009, was exhibited in~~  
374 ~~this state by any entity accredited by the American Association~~  
375 ~~of Museums, such an accredited entity may submit an affidavit to~~  
376 ~~the board stating that the body was legally acquired and that~~  
377 ~~the company providing the body has acquisition documentation on~~

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378 ~~file for the body. This subsection expires January 1, 2012.~~

379 Section 13. Section 406.54, Florida Statutes, is repealed.

380 Section 14. Subsection (1) of section 765.513, Florida  
381 Statutes, is amended to read:

382 765.513 Donees; purposes for which anatomical gifts may be  
383 made.—

384 (1) The following persons or entities may become donees of  
385 anatomical gifts of bodies or parts of them for the purposes  
386 stated:

387 (a) Any procurement organization or accredited medical or  
388 dental school, college, or university for education, research,  
389 therapy, or transplantation.

390 (b) Any individual specified by name for therapy or  
391 transplantation needed by him or her.

392 (c) The anatomical board as defined in s. 406.49(1) for  
393 donation of the whole body for medical or dental education or  
394 research.

395 Section 15. Subsection (7) of section 382.002, Florida  
396 Statutes, is amended to read:

397 382.002 Definitions.—As used in this chapter, the term:

398 (7) "Final disposition" means the burial, interment,  
399 cremation, removal from the state, donation, or other authorized  
400 disposition of a dead body or a fetus as described in subsection  
401 (6). In the case of cremation, dispersion of ashes or cremation  
402 residue is considered to occur after final disposition; the  
403 cremation itself is considered final disposition. In the case of  
404 anatomical donation of a dead body, the donation itself is  
405 considered final disposition.

406 Section 16. Subsection (32) of section 497.005, Florida

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407 Statutes, is amended to read:

408 497.005 Definitions.—As used in this chapter, the term:

409 (32) "Final disposition" means the final disposal of a dead  
410 human body by earth interment, aboveground interment, cremation,  
411 burial at sea, anatomical donation, or delivery to a medical  
412 institution for lawful dissection if the medical institution or  
413 entity receiving the anatomical donation assumes responsibility  
414 for disposition after use pursuant to s. 406.60 ~~disposal~~. "Final  
415 disposition" does not include the disposal or distribution of  
416 cremated remains and residue of cremated remains.

417 Section 17. This act shall take effect July 1, 2012.