

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 ss. 406.55, 406.56, 406.57,
27 406.58, and 406.59, F.S.; conforming provisions to
28 changes made by the act; amending s. 406.60, F.S.;

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29 | authorizing certain facilities to dispose of human
30 | remains by cremation; amending s. 406.61, F.S.;
31 | revising provisions prohibiting the selling, buying,
32 | or bartering of human remains or the transmitting or
33 | conveying of such remains outside the state to include
34 | application to transmissions and conveyances within
35 | the state; providing penalties; allowing certain
36 | accredited schools and organizations to convey human
37 | remains in or out of state for medical or research
38 | purposes; requiring the anatomical board to establish
39 | criteria to approve the conveyance of human remains;
40 | requiring documentation authorizing the use of an
41 | anatomical gift for medical or dental education or
42 | research purposes; deleting provisions relating to
43 | procedures for the conveyance of plastinated human
44 | remains into or out of the state pursuant to their
45 | scheduled expiration; conforming terminology;
46 | repealing s. 406.54, F.S., relating to claims of
47 | bodies after delivery to the anatomical board;
48 | amending s. 765.513, F.S.; revising the list of donees
49 | who may accept anatomical gifts and the purposes for
50 | which such a gift may be used; providing an effective
51 | date.

52 |
53 | Be It Enacted by the Legislature of the State of Florida:

54 |
55 | Section 1. Section 406.49, Florida Statutes, is created to
56 | read:

- 57 | 406.49 Definitions.—As used in this part, the term:
 58 | (1) "Anatomical board" means the anatomical board of the
 59 | state headquartered at the University of Florida Health Science
 60 | Center.
 61 | (2) "Cremated remains" has the same meaning as in s.
 62 | 497.005.
 63 | (3) "Final disposition" has the same meaning as in s.
 64 | 497.005.
 65 | (4) "Human remains" or "remains" has the same meaning as
 66 | in s. 497.005.
 67 | (5) "Indigent person" means a person whose family income
 68 | does not exceed 100 percent of the current federal poverty
 69 | guidelines prescribed for the family's household size by the
 70 | United States Department of Health and Human Services.
 71 | (6) "Legally authorized person" has the same meaning as in
 72 | s. 497.005.
 73 | (7) "Unclaimed remains" means human remains that are not
 74 | claimed by a legally authorized person, other than a medical
 75 | examiner or the board of county commissioners, for final
 76 | disposition at the person's expense.

77 | Section 2. Section 406.50, Florida Statutes, is amended to
 78 | read:

79 | 406.50 Unclaimed ~~dead bodies or human~~ remains;
 80 | disposition, procedure.—

- 81 | (1) A person or entity that comes ~~All public officers,~~
 82 | ~~agents, or employees of every county, city, village, town, or~~
 83 | ~~municipality and every person in charge of any prison, morgue,~~
 84 | ~~hospital, funeral parlor, or mortuary and all other persons~~

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85 ~~coming~~ into possession, charge, or control of unclaimed ~~any dead~~
 86 ~~human body or remains~~ that ~~which are unclaimed or which are~~
 87 required to be buried or cremated at public expense shall are
 88 ~~hereby required to notify,~~ immediately notify, the anatomical
 89 board, unless:

90 (a) The unclaimed remains are decomposed or mutilated by
 91 wounds;

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

93 (c) The remains contain ~~whenever any such body, bodies, or~~
 94 ~~remains come into its possession, charge, or control.~~
 95 ~~Notification of the anatomical board is not required if the~~
 96 ~~death was caused by crushing injury, the deceased had a~~
 97 ~~contagious disease;~~

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

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

107 (2)-(1) Before the final disposition of unclaimed remains,
 108 ~~the person or entity in charge or control of the dead body or~~
 109 ~~human remains shall make a reasonable effort to determine:~~

110 (a) Determine the identity of the deceased person and
 111 ~~shall further make a reasonable effort to contact any relatives~~
 112 of the ~~such~~ deceased person.

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

120
 121 For purposes of this subsection, "a reasonable effort" includes
 122 contacting the National Cemetery Scheduling Office, the county
 123 veterans service office, or the regional office of the United
 124 States Department of Veterans Affairs.

125 (3)~~(2)~~ Unclaimed remains ~~Such dead human bodies as~~
 126 ~~described in this chapter~~ shall be delivered to the anatomical
 127 board as soon as possible after death. When no family exists or
 128 is available, a funeral director licensed under chapter 497 may
 129 assume the responsibility of a legally authorized person and
 130 may, after 24 hours have elapsed from the time of death,
 131 authorize arterial embalming for the purposes of storage and
 132 delivery of unclaimed remains to the anatomical board. A funeral
 133 director licensed under chapter 497 is not liable for damages
 134 under this subsection.

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

138 (5) If the anatomical board does not accept the unclaimed
 139 remains, the county commission, or its designated county
 140 department, of the county in which the remains are found or the

141 death occurred may authorize and arrange for the burial or
 142 cremation of the entire remains. A board of county commissioners
 143 may, in accordance with applicable laws and rules, prescribe
 144 policies and procedures for final disposition of unclaimed
 145 remains by resolution or ordinance.

146 ~~(6)(3)~~ This part does not ~~Nothing herein shall~~ affect the
 147 right of a medical examiner to hold human ~~such dead body or~~
 148 remains for the purpose of investigating the cause of death or
 149 ~~nor shall this chapter affect~~ the right of any court of
 150 competent jurisdiction to enter an order affecting the
 151 disposition of such ~~body or~~ remains.

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

155
 156 ~~For purposes of this chapter, the term "anatomical board" means~~
 157 ~~the anatomical board of this state located at the University of~~
 158 ~~Florida Health Science Center, and the term "unclaimed" means a~~
 159 ~~dead body or human remains that is not claimed by a legally~~
 160 ~~authorized person, as defined in s. 497.005, for interment at~~
 161 ~~that person's expense.~~

162 Section 3. Section 406.51, Florida Statutes, is amended to
 163 read:

164 406.51 Final disposition of unclaimed deceased veterans;
 165 contract requirements.—Any contract by a local governmental
 166 entity for the final disposition ~~disposal~~ of unclaimed ~~human~~
 167 remains must provide for compliance with s. 406.50(2) ~~(1)~~ and

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168 require that the procedures in 38 C.F.R. s. 38.620, relating to
169 disposition of unclaimed deceased veterans, are ~~be~~ followed.

170 Section 4. Section 406.52, Florida Statutes, is amended to
171 read:

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

174 406.52 Retention of human remains before use; claim after
175 delivery to anatomical board; procedures for unclaimed remains
176 of indigent persons.—

177 (1) The anatomical board shall keep in storage all human
178 remains that it receives for at least 48 hours before allowing
179 their use for medical education or research. The anatomical
180 board may, for any reason, refuse to accept unclaimed remains or
181 the remains of an indigent person.

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

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

193 (b) A person licensed under chapter 497 is not liable for
194 any damages resulting from cremating or burying such human
195 remains at the written direction of the board of county

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196 commissioners or its designee.

197 Section 5. Section 406.53, Florida Statutes, is amended to
198 read:

199 (Substantial rewording of section. See
200 s. 406.53, F.S., for present text.)

201 406.53 Unclaimed remains of indigent person; exemption
202 from notice to the anatomical board.—A county commission or
203 designated county department that receives a report of the
204 unclaimed remains of an indigent person, notwithstanding s.
205 406.50(1), is not required to notify the anatomical board of the
206 remains if:

207 (1) The indigent person's remains are decomposed or
208 mutilated by wounds or if an autopsy is performed on the
209 remains;

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

216 (3) The deceased person was a veteran of the United States
217 Armed Forces, United States Reserve Forces, or National Guard
218 and is eligible for burial in a national cemetery or was the
219 spouse or dependent child of a veteran eligible for burial in a
220 national cemetery; or

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

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224 Section 6. Section 406.55, Florida Statutes, is amended to
 225 read:

226 406.55 Contracts for delivery of human remains ~~body~~ after
 227 death prohibited.—The anatomical board may not enter ~~is~~
 228 ~~specifically prohibited from entering~~ into any contract, oral or
 229 written, that provides for ~~whereby~~ any sum of money to ~~shall~~ be
 230 paid to any living person in exchange for ~~which~~ the delivery of
 231 that person's remains ~~body of said person shall be delivered~~ to
 232 the anatomical board when the ~~such living~~ person dies.

233 Section 7. Section 406.56, Florida Statutes, is amended to
 234 read:

235 406.56 Acceptance of human remains ~~bodies~~ under will.—If
 236 any person ~~being~~ of sound mind executes ~~shall execute~~ a will
 237 leaving his or her remains ~~body~~ to the anatomical board for ~~the~~
 238 ~~advancement of~~ medical education or research ~~science~~ and the
 239 ~~such~~ person dies within the geographical limits of the state,
 240 the anatomical board may ~~is hereby empowered to~~ accept and
 241 receive the person's remains ~~such body~~.

242 Section 8. Section 406.57, Florida Statutes, is amended to
 243 read:

244 406.57 Distribution of human remains ~~dead bodies~~.—The
 245 anatomical board or its duly authorized agent shall take and
 246 receive human remains ~~the bodies~~ delivered to it as provided in
 247 ~~under the provisions of~~ this chapter and shall:

248 (1) Distribute the remains ~~them~~ equitably ~~to and~~ among the
 249 medical and dental schools, teaching hospitals, medical
 250 institutions, and health-related teaching programs that require
 251 cadaveric material for study; or

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

257 Section 9. Section 406.58, Florida Statutes, is amended to
 258 read:

259 406.58 Fees; authority to accept additional funds; annual
 260 audit.—

261 (1) The anatomical board may:

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

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

276 (c) Pay the reasonable expenses, as determined by the
 277 anatomical board, incurred by a funeral establishment licensed
 278 under chapter 497 transporting unclaimed human remains ~~any~~
 279 ~~person delivering the bodies as described in this chapter to the~~

280 anatomical board. ~~and is further empowered to~~

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

283 (2) The Department of Financial Services shall keep and
 284 annually audit a complete record of all fees and other financial
 285 transactions of ~~the said~~ anatomical board and shall annually
 286 submit ~~be kept and audited annually by the Department of~~
 287 ~~Financial Services,~~ and a report of the such audit ~~shall be made~~
 288 annually to the University of Florida.

289 Section 10. Section 406.59, Florida Statutes, is amended
 290 to read:

291 406.59 Institutions receiving human remains ~~bodies.~~ ~~A~~ ~~No~~
 292 university, school, college, teaching hospital, or institution
 293 ~~may not,~~ ~~or association shall be allowed or permitted to receive~~
 294 any human remains from the anatomical board ~~such body or bodies~~
 295 ~~as described in this chapter~~ until its facilities are ~~have been~~
 296 inspected and approved by the anatomical board. Human remains
 297 ~~All such bodies~~ received by such university, school, college,
 298 teaching hospital, or institution ~~may not,~~ ~~or association shall~~
 299 be used for any ~~no other~~ purpose other than ~~the promotion of~~
 300 medical education or research ~~science.~~

301 Section 11. Section 406.60, Florida Statutes, is amended
 302 to read:

303 406.60 Disposition of human remains ~~bodies~~ after use. ~~At~~
 304 ~~any time~~ When human remains ~~any body or bodies or part or parts~~
 305 ~~of any body or bodies,~~ as described in this chapter, shall have
 306 been used for, and are not ~~deemed~~ of any ~~no~~ further value to,
 307 medical or dental education or research ~~science,~~ then the

308 anatomical board or a cinerator facility licensed under chapter
 309 497 ~~person or persons having charge of said body or parts of~~
 310 ~~said body~~ may dispose of the remains or any part thereof by
 311 cremation.

312 Section 12. Section 406.61, Florida Statutes, is amended
 313 to read:

314 406.61 Selling, buying, bartering, or conveying human
 315 remains ~~bodies~~ outside or within state prohibited; exceptions;
 316 penalty.-

317 (1) Any person who sells, ~~or~~ buys, or barters human
 318 remains or any part thereof, ~~body or parts of bodies as~~
 319 ~~described in this chapter~~ or any person except a recognized
 320 Florida medical or dental school who transmits or conveys or
 321 causes to be transmitted or conveyed such remains ~~body~~ or part
 322 thereof ~~parts of bodies~~ to any place outside or within this
 323 state, commits a misdemeanor of the first degree, punishable as
 324 provided in s. ss. 775.082 or s. ~~and~~ 775.083. However, this
 325 chapter does not prohibit the anatomical board from transporting
 326 human remains ~~specimens~~ outside or within the state for
 327 educational or scientific purposes or prohibit the transport of
 328 human remains, any part of such remains ~~bodies, parts of bodies,~~
 329 or tissue specimens for purposes ~~in furtherance~~ of lawful
 330 examination, investigation, or autopsy conducted pursuant to s.
 331 406.11.

332 (2) Any nontransplant anatomical donation organization
 333 accredited by the American Association of Tissue Banks or an
 334 accredited medical or dental college or university may convey
 335 human remains ~~person, institution, or organization that conveys~~

336 ~~bodies~~ or any part thereof within, ~~parts of bodies~~ into, or out
 337 of the state for medical or dental education or research
 338 purposes. The organization must ~~shall~~ notify the anatomical
 339 board at least 72 hours before the organization intends to
 340 convey ~~of~~ such remains ~~intent~~ and must receive approval from the
 341 anatomical board before conveyance. The anatomical board shall:

342 (a) Establish criteria for the information required to be
 343 submitted by the organization to ensure the health and safety of
 344 the public and grant requests for approval. Failure to provide
 345 such information shall be grounds for denial of the request.

346 (b) Require documentation from a legally authorized person
 347 who may make an anatomical gift pursuant to s. 765.512
 348 authorizing its use in medical or dental education or research.
 349 If the remains or any part thereof is to be segmented or
 350 disarticulated, such documentation must include the legally
 351 authorized person's specific consent and must describe any part
 352 of the remains that is to be segmented or disarticulated.

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

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

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

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364 part thereof ~~parts of bodies~~.

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

373 ~~(3) Notwithstanding paragraph (2)(c) and in lieu of the~~
374 ~~documentation or affidavit required under paragraph (2)(c), for~~
375 ~~a plastinated body that, before July 1, 2009, was exhibited in~~
376 ~~this state by any entity accredited by the American Association~~
377 ~~of Museums, such an accredited entity may submit an affidavit to~~
378 ~~the board stating that the body was legally acquired and that~~
379 ~~the company providing the body has acquisition documentation on~~
380 ~~file for the body. This subsection expires January 1, 2012.~~

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

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

384 765.513 Donees; purposes for which anatomical gifts may be
385 made.—

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

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

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

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

397 Section 15. This act shall take effect July 1, 2012.