

By Senator Hays

20-00931-12

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1                                   A bill to be entitled  
2           An act relating to the 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.;  
29          authorizing certain facilities to dispose of human

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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

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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 in  
66 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; disposition,  
80 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~~  
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~~

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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 to~~  
99 ~~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 ~~shall~~  
111 ~~further make a reasonable effort to~~ contact any relatives of the  
112 ~~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

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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.

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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~~r~~  
 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  
 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

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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  
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 from  
202 notice to the anatomical board.-A county commission or  
203 designated county department that receives a report of the

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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 certifies  
222 that the anatomical board has been notified and either accepted  
223 or declined the remains.

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.



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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:

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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 are~~  
282 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 to  
290 read:

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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 to  
302 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 to  
313 read:

314           406.61 Selling, buying, bartering, or conveying human  
315 remains ~~bodies~~ outside or within state prohibited; exceptions; 7  
316 penalty.—

317           (1) Any person who sells, ~~or~~ buys, or barters human remains  
318 or any part thereof, ~~body or parts of bodies as described in~~  
319 ~~this chapter~~ or any person except a recognized Florida medical

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

331 (2) Any nontransplant anatomical donation organization  
332 accredited by the American Association of Tissue Banks or an  
333 accredited medical or dental college or university may convey  
334 human remains ~~person, institution, or organization that conveys~~  
335 ~~bodies~~ or any part thereof within, ~~parts of bodies~~ into, or out  
336 of the state for medical or dental education or research  
337 purposes. The organization must ~~shall~~ notify the anatomical  
338 board at least 72 hours before the organization intends to  
339 convey ~~of~~ such remains ~~intent~~ and must receive approval from the  
340 anatomical board before conveyance. The anatomical board shall:

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

345 (b) Require documentation from a legally authorized person  
346 who may make an anatomical gift pursuant to s. 765.512  
347 authorizing its use in medical or dental education or research.  
348 If the remains or any part thereof is to be segmented or

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349 disarticulated, such documentation must include the legally  
350 authorized person's specific consent and must describe any part  
351 of the remains that is to be segmented or disarticulated.

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

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

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

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

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

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378 ~~the company providing the body has acquisition documentation on~~  
379 ~~file for the body. This subsection expires January 1, 2012.~~

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

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

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

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

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

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

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

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