

By the Committee on Regulated Industries; and Senator Hays

580-03066-12

2012956c1

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.;
29 authorizing certain facilities to dispose of human

580-03066-12

2012956c1

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; establishing criteria for the anatomical

39 board 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

580-03066-12

2012956c1

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

580-03066-12

2012956c1

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

580-03066-12

2012956c1

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.

580-03066-12

2012956c1

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

580-03066-12

2012956c1

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. Human remains may
180 be embalmed when received. The anatomical board may, for any
181 reason, refuse to accept unclaimed remains or the remains of an
182 indigent person.

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

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

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

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

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

202 406.53 Unclaimed remains of indigent person; exemption from
203 notice to the anatomical board.-A county commission or

580-03066-12

2012956c1

204 designated county department that receives a report of the
205 unclaimed remains of an indigent person, notwithstanding s.
206 406.50(1), is not required to notify the anatomical board of the
207 remains if:

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

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

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

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

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

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

580-03066-12

2012956c1

233 the anatomical board when the ~~such living~~ person dies.

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

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

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

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

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

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

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

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

580-03066-12

2012956c1

262 (1) The anatomical board may:

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

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

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

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

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

290 Section 10. Section 406.59, Florida Statutes, is amended to

580-03066-12

2012956c1

291 read:

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

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

304 406.60 Disposition of human remains ~~bodies~~ after use. ~~At~~
305 ~~any time~~ When human remains ~~any body or bodies or part or parts~~
306 ~~of any body or bodies, as described in this chapter,~~ shall have
307 been used for, and are not deemed of any no further value to,
308 medical or dental education or research ~~science~~, ~~then~~ the
309 anatomical board or a cinerator facility licensed under chapter
310 497 ~~person or persons having charge of said body or parts of~~
311 ~~said body~~ may dispose of the remains or any part thereof by
312 cremation.

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

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

318 (1) Any person who sells, ~~or~~ buys, or barters human remains
319 or any part thereof, ~~body or parts of bodies as described in~~

580-03066-12

2012956c1

320 ~~this chapter~~ or any person except a recognized Florida medical
321 or dental school who transmits or conveys or causes to be
322 transmitted or conveyed such remains ~~body~~ or part thereof ~~parts~~
323 ~~of bodies~~ to any place outside or within this state, commits a
324 misdemeanor of the first degree, punishable as provided in s.
325 ~~ss.~~ 775.082 or s. ~~and~~ 775.083. However, this chapter does not
326 prohibit the anatomical board from transporting human remains
327 ~~specimens~~ outside or within the state for educational or
328 scientific purposes or prohibit the transport of human remains,
329 any part of such remains ~~bodies, parts of bodies,~~ or tissue
330 specimens for purposes ~~in furtherance~~ of lawful examination,
331 investigation, or autopsy conducted pursuant to s. 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. A nontransplant anatomical donation organization need
339 not be accredited as required by this section until July 1,
340 2013. The organization or accredited medical or dental college
341 or university must ~~shall~~ notify the anatomical board at least 3
342 business days before the entity intends to convey ~~of~~ such
343 remains ~~intent~~ and must receive approval from the anatomical
344 board before conveyance. If the 3rd business day falls on a
345 weekend or legal holiday, the next business day is deemed to be
346 the 3rd business day. The anatomical board shall require the
347 following information to be submitted by the entity before
348 approval:

580-03066-12

2012956c1

349 (a) The name, physical location, and date of the course,
350 conference, or seminar and the organization or facility
351 receiving the remains or specimens, including the physical
352 address and telephone number.

353 (b) A description and intended use of the remains or
354 specimens.

355 (c) The name, physical address, and telephone number of the
356 organization or facility supplying specimens and handling the
357 transfer of the remains or specimens.

358 (d) Documentation from a legally authorized person who may
359 make an anatomical gift pursuant to s. 765.512 authorizing its
360 use in medical or dental education or research. If the remains
361 or any part thereof is to be segmented or disarticulated, such
362 documentation must include the legally authorized person's
363 specific consent and must describe any part of the remains that
364 is to be segmented or disarticulated. An exception to the
365 documentation requirements of this paragraph may be made for
366 specimens being shipped into the state, in which case an
367 affidavit may be submitted by an accredited nontransplant
368 anatomical organization as provided in this section stating that
369 the organization has donation and consent forms on file for the
370 remains from which each specimen has been provided specifically
371 authorizing segmentation or disarticulation of the remains. The
372 affidavit must also state that no specimen being shipped into
373 the state has been received from a second party.

374 (e) An outline of the security measures in place for
375 maintaining control of and safeguarding the remains or specimens
376 at the organization or facility before, during, and after the
377 course, conference, or seminar.

580-03066-12

2012956c1

378 (f) The procedures for disposal of the remains or specimens
379 after the course, conference, or seminar is concluded or after
380 the organization or facility receiving the remains or specimens
381 has completed their use, including the name, address, and
382 telephone number of the entity responsible for performing
383 cremation.

384
385 The anatomical board shall grant or deny requests for approval
386 within 3 business days after receipt of the required
387 information. Failure to provide such information is grounds for
388 denial of the request. If the request is not approved or denied
389 within 3 business days after receipt, it is deemed approved. If
390 the 3rd business day falls on a weekend or legal holiday, the
391 next business day is deemed to be the 3rd business day. If the
392 anatomical board denies a request, it must provide a written
393 statement of the reasons for denial.

394 (3)~~(2)~~ Any entity accredited by the American Association of
395 Museums may convey plastinated human remains ~~bodies~~ or any part
396 thereof within, parts of bodies into, or out of the state for
397 exhibition and public educational purposes without the consent
398 of the anatomical board if the accredited entity:

399 (a) Notifies the anatomical board of the conveyance and the
400 duration and location of the exhibition at least 30 days before
401 the intended conveyance.

402 (b) Submits to the anatomical board a description of the
403 remains ~~bodies~~ or any part thereof ~~parts of bodies~~ and the name
404 and address of the company providing the remains ~~bodies~~ or any
405 part thereof ~~parts of bodies~~.

406 (c) Submits to the anatomical board documentation that the

580-03066-12

2012956c1

407 remains or each part thereof ~~body~~ was donated by the decedent or
408 his or her next of kin for purposes of plastination and public
409 exhibition, or, in lieu of such documentation, an affidavit
410 stating that the remains or each part thereof ~~body~~ was donated
411 directly by the decedent or his or her next of kin for such
412 purposes to the company providing the remains ~~body~~ and that such
413 company has a donation form on file for the remains ~~body~~.

414 ~~(3) Notwithstanding paragraph (2) (c) and in lieu of the~~
415 ~~documentation or affidavit required under paragraph (2) (c), for~~
416 ~~a plastinated body that, before July 1, 2009, was exhibited in~~
417 ~~this state by any entity accredited by the American Association~~
418 ~~of Museums, such an accredited entity may submit an affidavit to~~
419 ~~the board stating that the body was legally acquired and that~~
420 ~~the company providing the body has acquisition documentation on~~
421 ~~file for the body. This subsection expires January 1, 2012.~~

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

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

425 765.513 Donees; purposes for which anatomical gifts may be
426 made.—

427 (1) The following persons or entities may become donees of
428 anatomical gifts of bodies or parts of them for the purposes
429 stated:

430 (a) Any procurement organization or accredited medical or
431 dental school, college, or university for education, research,
432 therapy, or transplantation.

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

435 (c) The anatomical board as defined in s. 406.49(1) for

580-03066-12

2012956c1

436 donation of the whole body for medical or dental education or
437 research.

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