

By the Committees on Budget Subcommittee on General Government Appropriations; Health Regulation; and Regulated Industries; and Senator Hays

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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.; revising provisions prohibiting the
42 selling or buying of human remains or the transmitting
43 or conveying of such remains outside the state;
44 providing penalties; allowing certain accredited
45 schools and organizations to convey human remains in
46 or out of state for medical or research purposes under
47 certain conditions; requiring documentation prior to
48 use of human remains received in the state; defining
49 the term "valuable consideration" and providing
50 exemptions for certain costs; deleting an expired
51 provision relating to procedures for the conveyance of
52 a plastinated human body that was exhibited by an
53 entity accredited by the American Association of
54 Museums; conforming terminology; repealing s. 406.54,
55 F.S., relating to claims of bodies after delivery to
56 the anatomical board; amending s. 765.513, F.S.;

57 revising the list of donees who may accept anatomical
58 gifts and the purposes for which such a gift may be

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59 used; amending ss. 382.002 and 497.005, F.S.;

60 redefining the term "final disposition" as it relates

61 to vital statistics and the Florida Funeral, Cemetery,

62 and Consumer Services Act; providing an effective

63 date.

64

65 Be It Enacted by the Legislature of the State of Florida:

66

67 Section 1. Section 406.49, Florida Statutes, is created to

68 read:

69 406.49 Definitions.—As used in this part, the term:

70 (1) "Anatomical board" means the anatomical board of the

71 state headquartered at the University of Florida Health Science

72 Center.

73 (2) "Cremated remains" has the same meaning as in s.

74 497.005.

75 (3) "Final disposition" has the same meaning as in s.

76 497.005.

77 (4) "Human remains" or "remains" has the same meaning as in

78 s. 497.005.

79 (5) "Indigent person" means a person whose family income

80 does not exceed 100 percent of the current federal poverty

81 guidelines prescribed for the family's household size by the

82 United States Department of Health and Human Services.

83 (6) "Legally authorized person" has the same meaning as in

84 s. 497.005.

85 (7) "Unclaimed remains" means human remains that are not

86 claimed by a legally authorized person, other than a medical

87 examiner or the board of county commissioners, for final

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88 disposition at the person's expense.

89 Section 2. Section 406.50, Florida Statutes, is amended to
90 read:

91 406.50 Unclaimed ~~dead bodies or human~~ remains; disposition,
92 procedure.-

93 (1) A person or entity that comes ~~All public officers,~~
94 ~~agents, or employees of every county, city, village, town, or~~
95 ~~municipality and every person in charge of any prison, morgue,~~
96 ~~hospital, funeral parlor, or mortuary and all other persons~~
97 ~~coming~~ into possession, charge, or control of unclaimed ~~any dead~~
98 ~~human body or remains~~ that ~~which are unclaimed or which are~~
99 required to be buried or cremated at public expense shall ~~are~~
100 hereby ~~required to notify,~~ immediately notify, the anatomical
101 board, unless:

102 (a) The unclaimed remains are decomposed or mutilated by
103 wounds;

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

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

107 ~~Notification of the anatomical board is not required if the~~
108 ~~death was caused by crushing injury, the deceased had a~~
109 ~~contagious disease;~~

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

114 (e) The deceased person was a veteran of the United States
115 Armed Forces, United States Reserve Forces, or National Guard
116 and is eligible for burial in a national cemetery or was the

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117 spouse or dependent child of a veteran eligible for burial in a
118 national cemetery.

119 (2)~~(1)~~ Before the final disposition of unclaimed remains,
120 the person or entity in charge or control of the ~~dead body or~~
121 ~~human~~ remains shall make a reasonable effort to ~~determine:~~

122 (a) Determine the identity of the deceased person and ~~shall~~
123 ~~further make a reasonable effort to~~ contact any relatives of the
124 ~~such~~ deceased person.

125 (b) Determine whether ~~or not~~ the deceased person is
126 eligible under 38 C.F.R. s. 38.620 for ~~entitled to~~ burial in a
127 national cemetery as a veteran of the armed forces and, if
128 eligible so, to cause the deceased person's remains or cremated
129 remains to be delivered to a national cemetery ~~shall make~~
130 ~~arrangements for such burial services in accordance with the~~
131 ~~provisions of 38 C.F.R.~~

132
133 For purposes of this subsection, "a reasonable effort" includes
134 contacting the National Cemetery Scheduling Office, the county
135 veterans service office, or the regional office of the United
136 States Department of Veterans Affairs.

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

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146 under this subsection.

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

150 (5) If the anatomical board does not accept the unclaimed
151 remains, the county commission, or its designated county
152 department, of the county in which the remains are found or the
153 death occurred may authorize and arrange for the burial or
154 cremation of the entire remains. A board of county commissioners
155 may, in accordance with applicable laws and rules, prescribe
156 policies and procedures for final disposition of unclaimed
157 remains by resolution or ordinance.

158 (6)(3) This part does not ~~Nothing herein shall~~ affect the
159 right of a medical examiner to hold human ~~such dead body or~~
160 remains for the purpose of investigating the cause of death or
161 ~~nor shall this chapter affect~~ the right of any court of
162 competent jurisdiction to enter an order affecting the
163 disposition of such ~~body or~~ remains.

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

167
168 ~~For purposes of this chapter, the term "anatomical board" means~~
169 ~~the anatomical board of this state located at the University of~~
170 ~~Florida Health Science Center, and the term "unclaimed" means a~~
171 ~~dead body or human remains that is not claimed by a legally~~
172 ~~authorized person, as defined in s. 497.005, for interment at~~
173 ~~that person's expense.~~

174 Section 3. Section 406.51, Florida Statutes, is amended to

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175 read:

176 406.51 Final disposition of unclaimed deceased veterans;
177 contract requirements.—Any contract by a local governmental
178 entity for the final disposition ~~disposal~~ of unclaimed ~~human~~
179 remains must provide for compliance with s. 406.50 (2) ~~(1)~~ and
180 require that the procedures in 38 C.F.R. s. 38.620, relating to
181 disposition of unclaimed deceased veterans, are ~~be~~ followed.

182 Section 4. Section 406.52, Florida Statutes, is amended to
183 read:

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

186 406.52 Retention of human remains before use; claim after
187 delivery to anatomical board; procedures for unclaimed remains
188 of indigent persons.—

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

195 (2) At any time before their use for medical education or
196 research, human remains delivered to the anatomical board may be
197 claimed by a legally authorized person. The anatomical board
198 shall release the remains to the legally authorized person after
199 payment of the anatomical board's expenses incurred for
200 transporting, embalming, and storing the remains.

201 (3) (a) A board of county commissioners may, in accordance
202 with applicable laws and rules, prescribe policies and
203 procedures for the burial or cremation of the entire unclaimed

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204 remains of an indigent person whose remains are found, or whose
205 death occurred in the county, by resolution or ordinance.

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

210 Section 5. Section 406.53, Florida Statutes, is amended to
211 read:

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

214 406.53 Unclaimed remains of indigent person; exemption from
215 notice to the anatomical board.—A county commission or
216 designated county department that receives a report of the
217 unclaimed remains of an indigent person, notwithstanding s.
218 406.50(1), is not required to notify the anatomical board of the
219 remains if:

220 (1) The indigent person's remains are decomposed or
221 mutilated by wounds or if an autopsy is performed on the
222 remains;

223 (2) A legally authorized person or a relative by blood or
224 marriage claims the remains for final disposition at his or her
225 expense or, if such relative or legally authorized person is
226 also an indigent person, in a manner consistent with the
227 policies and procedures of the board of county commissioners of
228 the county in which the remains are found or the death occurred;

229 (3) The deceased person was a veteran of the United States
230 Armed Forces, United States Reserve Forces, or National Guard
231 and is eligible for burial in a national cemetery or was the
232 spouse or dependent child of a veteran eligible for burial in a

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233 national cemetery; or

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

237 Section 6. Section 406.55, Florida Statutes, is amended to
238 read:

239 406.55 Contracts for delivery of human remains ~~body~~ after
240 death prohibited.—The anatomical board may not enter is
241 ~~specifically prohibited from entering~~ into any contract, oral or
242 written, that provides for ~~whereby~~ any sum of money to ~~shall~~ be
243 paid to any living person in exchange for ~~which~~ the delivery of
244 that person's remains ~~body of said person shall be delivered to~~
245 the anatomical board when the ~~such living~~ person dies.

246 Section 7. Section 406.56, Florida Statutes, is amended to
247 read:

248 406.56 Acceptance of human remains ~~bodies~~ under will.—If
249 any person ~~being~~ of sound mind executes ~~shall execute~~ a will
250 leaving his or her remains ~~body~~ to the anatomical board for ~~the~~
251 ~~advancement of~~ medical education or research ~~science~~ and the
252 ~~such~~ person dies within the geographical limits of the state,
253 the anatomical board may ~~is hereby empowered to~~ accept and
254 receive the person's remains ~~such body~~.

255 Section 8. Section 406.57, Florida Statutes, is amended to
256 read:

257 406.57 Distribution of human remains ~~dead bodies~~.—The
258 anatomical board or its duly authorized agent shall take and
259 receive human remains ~~the bodies~~ delivered to it as provided in
260 ~~under the provisions of~~ this chapter and shall:

261 (1) Distribute the remains ~~them~~ equitably ~~to~~ and among the

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262 medical and dental schools, teaching hospitals, medical
263 institutions, and health-related teaching programs that require
264 cadaveric material for study; or

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

270 Section 9. Section 406.58, Florida Statutes, is amended to
271 read:

272 406.58 Fees; authority to accept additional funds; annual
273 audit.—

274 (1) The anatomical board may:

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

280 (b) ~~(2)~~ ~~The anatomical board is hereby empowered to~~ Receive
281 money from public or private sources, in addition to the fees
282 collected from the institutions ~~institution or association~~ to
283 which human remains ~~the bodies~~ are distributed, to be used to
284 defray the costs of embalming, handling, shipping, storing,
285 cremating, and otherwise ~~storage, cremation, and other costs~~
286 ~~relating to the obtaining and~~ using the remains. ~~use of such~~
287 ~~bodies as described in this chapter; the anatomical board is~~
288 ~~empowered to~~

289 (c) Pay or reimburse the reasonable expenses, as determined
290 by the anatomical board, incurred by a funeral establishment or

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291 removal service licensed under chapter 497, for the removal,
292 storage, and transportation of unclaimed human remains ~~any~~
293 ~~person delivering the bodies as described in this chapter to the~~
294 ~~anatomical board. and is further empowered to~~

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

297 (2) The anatomical board shall keep a complete record of
298 all fees and other financial transactions ~~of said anatomical~~
299 ~~board shall be kept and audited annually by the Department of~~
300 ~~Financial Services, and a report of such audit shall be made~~
301 ~~annually to the University of Florida. The University of Florida~~
302 shall conduct an audit of the financial records of the
303 anatomical board at least once every 3 years, or more frequently
304 if the university deems it necessary. Within 90 days after
305 completing the audit, the university shall provide a copy of the
306 audit to the Department of Financial Services. The university
307 may contract with a certified public accounting firm to provide
308 for the audit, which may be paid from the fees collected by the
309 anatomical board.

310 Section 10. Section 406.59, Florida Statutes, is amended to
311 read:

312 406.59 Institutions receiving human remains ~~bodies.~~ ~~—A~~ ~~No~~
313 ~~university, school, college, teaching hospital, or institution~~
314 ~~may not, or association shall be allowed or permitted to receive~~
315 ~~any human remains from the anatomical board such body or bodies~~
316 ~~as described in this chapter until its facilities are have been~~
317 ~~inspected and approved by the anatomical board. Human remains~~
318 ~~All such bodies received by such university, school, college,~~
319 ~~teaching hospital, or institution may not, or association shall~~

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320 be used for any ~~no other~~ purpose other than ~~the promotion of~~
321 medical education or research ~~science~~.

322 Section 11. Section 406.60, Florida Statutes, is amended to
323 read:

324 406.60 Disposition of human remains ~~bodies~~ after use. ~~At~~
325 ~~any time~~ When human remains ~~any body or bodies or part or parts~~
326 ~~of any body or bodies, as described in this chapter, shall~~ have
327 been used for, and are not ~~deemed~~ of any ~~no~~ further value to,
328 medical or dental education or research ~~science~~, ~~then~~ the
329 anatomical board or a cinerator facility licensed under chapter
330 497 ~~person or persons having charge of said body or parts of~~
331 ~~said body~~ may dispose of the remains or any part thereof by
332 cremation.

333 Section 12. Section 406.61, Florida Statutes, is amended to
334 read:

335 406.61 Selling, buying, or conveying human remains ~~bodies~~
336 outside state prohibited; exceptions; ~~7~~ penalty.-

337 (1) Any person who sells or buys human remains, or any part
338 thereof, ~~body or parts of bodies as described in this chapter~~ or
339 any person except a recognized Florida medical or dental school
340 who transmits or conveys or causes to be transmitted or conveyed
341 such remains ~~body~~ or part thereof ~~parts of bodies~~ to any place
342 outside this state, commits a misdemeanor of the first degree,
343 punishable as provided in s. ss. 775.082 or s. and 775.083.

344 However, this chapter does not prohibit the anatomical board
345 from transporting human remains ~~specimens~~ outside the state for
346 educational or scientific purposes or prohibit the transport of
347 human remains, any part of such remains ~~bodies, parts of bodies,~~
348 or tissue specimens for purposes ~~in furtherance~~ of lawful

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349 examination, investigation, or autopsy conducted pursuant to s.
350 406.11. Any person, institution, or organization that conveys
351 human remains ~~bodies~~ or any part thereof ~~parts of bodies~~ into or
352 out of the state for medical or dental education or research
353 purposes shall notify the anatomical board of such intent and
354 receive approval from the board; however, the requirement in
355 this subsection to notify or receive approval from the
356 anatomical board is waived and does not apply with respect to
357 any nontransplant anatomical organization accredited by the
358 American Association of Tissue Banks.

359 (2) Human remains received in this state by the anatomical
360 board, or a nontransplant anatomical donation organization, must
361 be accompanied by the original burial-transit permit issued
362 pursuant to s. 382.007. The remains may not be dissected,
363 segmented, or disarticulated until the district medical examiner
364 of the county in which the death occurred has granted approval
365 pursuant to s. 406.11.

366 (3) Monetary inducement or other valuable consideration,
367 including goods or services, may not be offered in exchange for
368 human remains to a donor, legally authorized person, the donor's
369 estate, or other third party. As used in this section, the term
370 "valuable consideration" does not include, and nothing in this
371 section prohibits, the payment or reimbursement of the
372 reasonable costs associated with the removal, storage, and
373 transportation of human remains, including payment or
374 reimbursement to a funeral establishment or removal service
375 licensed under chapter 497, or the reasonable costs after use,
376 including the disposition of human remains, pursuant to s.
377 406.60.

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378 ~~(4)(2)~~ Any entity accredited by the American Association of
379 Museums may convey plastinated human remains ~~bodies~~ or any part
380 thereof within, parts of bodies into, or out of the state for
381 exhibition and public educational purposes without the consent
382 of the anatomical board if the accredited entity:

383 (a) Notifies the anatomical board of the conveyance and the
384 duration and location of the exhibition at least 30 days before
385 the intended conveyance.

386 (b) Submits to the anatomical board a description of the
387 remains ~~bodies~~ or any part thereof ~~parts of bodies~~ and the name
388 and address of the company providing the remains ~~bodies~~ or any
389 part thereof ~~parts of bodies~~.

390 (c) Submits to the anatomical board documentation that the
391 remains or each part thereof ~~body~~ was donated by the decedent or
392 his or her next of kin for purposes of plastination and public
393 exhibition, or, in lieu of such documentation, an affidavit
394 stating that the remains or each part thereof ~~body~~ was donated
395 directly by the decedent or his or her next of kin for such
396 purposes to the company providing the remains ~~body~~ and that such
397 company has a donation form on file for the remains ~~body~~.

398 ~~(3) Notwithstanding paragraph (2)(c) and in lieu of the~~
399 ~~documentation or affidavit required under paragraph (2)(c), for~~
400 ~~a plastinated body that, before July 1, 2009, was exhibited in~~
401 ~~this state by any entity accredited by the American Association~~
402 ~~of Museums, such an accredited entity may submit an affidavit to~~
403 ~~the board stating that the body was legally acquired and that~~
404 ~~the company providing the body has acquisition documentation on~~
405 ~~file for the body. This subsection expires January 1, 2012.~~

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

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

409 765.513 Donees; purposes for which anatomical gifts may be
410 made.—

411 (1) The following persons or entities may become donees of
412 anatomical gifts of bodies or parts of them for the purposes
413 stated:

414 (a) Any procurement organization or accredited medical or
415 dental school, college, or university for education, research,
416 therapy, or transplantation.

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

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

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

424 382.002 Definitions.—As used in this chapter, the term:

425 (7) "Final disposition" means the burial, interment,
426 cremation, removal from the state, donation, or other authorized
427 disposition of a dead body or a fetus as described in subsection
428 (6). In the case of cremation, dispersion of ashes or cremation
429 residue is considered to occur after final disposition; the
430 cremation itself is considered final disposition. In the case of
431 anatomical donation of a dead body, the donation itself is
432 considered final disposition.

433 Section 16. Subsection (32) of section 497.005, Florida
434 Statutes, is amended to read:

435 497.005 Definitions.—As used in this chapter, the term:

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436 (32) "Final disposition" means the final disposal of a dead
437 human body by earth interment, aboveground interment, cremation,
438 burial at sea, anatomical donation, or delivery to a medical
439 institution for lawful dissection if the medical institution or
440 entity receiving the anatomical donation assumes responsibility
441 for disposition after use pursuant to s. 406.60 ~~disposal~~. "Final
442 disposition" does not include the disposal or distribution of
443 cremated remains and residue of cremated remains.

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