

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; 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
 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

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. 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
 203 from notice to the anatomical board.—A county commission or
 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
 223 certifies that the anatomical board has been notified and either

224 accepted 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~~
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.—

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~~
 283 ~~are 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
 291 to 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
 303 to 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,

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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
 314 | to 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
 319 | remains or any part thereof, ~~body or parts of bodies as~~
 320 | ~~described in this chapter~~ or any person except a recognized
 321 | Florida medical or dental school who transmits or conveys or
 322 | causes to be transmitted or conveyed such remains ~~body~~ or part
 323 | thereof ~~parts of bodies~~ to any place outside or within this
 324 | state, commits a misdemeanor of the first degree, punishable as
 325 | provided in s. ss. 775.082 or s. ~~and~~ 775.083. However, this
 326 | chapter does not prohibit the anatomical board from transporting
 327 | human remains ~~specimens~~ outside or within the state for
 328 | educational or scientific purposes or prohibit the transport of
 329 | human remains, any part of such remains ~~bodies, parts of bodies,~~
 330 | or tissue specimens for purposes ~~in furtherance~~ of lawful
 331 | examination, investigation, or autopsy conducted pursuant to s.
 332 | 406.11.

333 | (2) Any nontransplant anatomical donation organization
 334 | accredited by the American Association of Tissue Banks or an
 335 | accredited medical or dental college or university may convey

336 human remains ~~person, institution, or organization that conveys~~
337 ~~bodies~~ or any part thereof within, parts of bodies into, or out
338 of the state for medical or dental education or research
339 purposes. The organization or accredited medical or dental
340 college or university must ~~shall~~ notify the anatomical board at
341 least 3 business days before the entity intends to convey ~~of~~
342 such remains ~~intent~~ and must receive approval from the
343 anatomical board before conveyance. If the 3rd business day
344 falls on a weekend or legal holiday, the next business day is
345 deemed to be the 3rd business day. The anatomical board shall
346 require the following information to be submitted by the entity
347 before approval:

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

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

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

357 (d) Documentation from a legally authorized person who may
358 make an anatomical gift pursuant to s. 765.512 authorizing its
359 use in medical or dental education or research. If the remains
360 or any part thereof is to be segmented or disarticulated, such
361 documentation must include the legally authorized person's
362 specific consent and must describe any part of the remains that
363 is to be segmented or disarticulated. An exception to the

364 documentation requirements of this paragraph may be made for
365 specimens being shipped into the state, in which case an
366 affidavit may be submitted by an accredited nontransplant
367 anatomical organization as provided in this section stating that
368 the organization has donation and consent forms on file for the
369 remains from which each specimen has been provided specifically
370 authorizing segmentation or disarticulation of the remains. The
371 affidavit must also state that no specimen being shipped into
372 the state has been received from a second party.

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

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

383
384 The anatomical board shall grant or deny requests for approval
385 within 3 business days after receipt of the required
386 information. Failure to provide such information is grounds for
387 denial of the request. If the request is not approved or denied
388 within 3 business days after receipt, it is deemed approved. If
389 the 3rd business day falls on a weekend or legal holiday, the
390 next business day is deemed to be the 3rd business day. If the

391 anatomical board denies a request, it must provide a written
 392 statement of the reasons for denial.

393 ~~(3)-(2)~~ Any entity accredited by the American Association
 394 of Museums may convey plastinated human remains ~~bodies~~ or any
 395 part thereof within, ~~parts of bodies~~ into, or out of the state
 396 for exhibition and public educational purposes without the
 397 consent of the anatomical board if the accredited entity:

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

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

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

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

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

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

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

424 765.513 Donees; purposes for which anatomical gifts may be
 425 made.—

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

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

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

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

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