

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, and
27 406.57, F.S.; conforming provisions; amending s.
28 406.58, F.S.; requiring audits of the financial

29 records of the anatomical board; conforming
30 provisions; amending s. 406.59, F.S.; conforming
31 provisions; amending s. 406.60, F.S.; authorizing
32 certain facilities to dispose of human remains by
33 cremation; amending s. 406.61, F.S.; revising
34 provisions prohibiting the selling or buying of human
35 remains or the transmitting or conveying of such
36 remains outside the state; providing penalties;
37 excepting accredited nontransplant anatomical donation
38 organizations from the requirement for notification of
39 and approval from the anatomical board for the
40 conveyance of human remains for specified purposes;
41 requiring human remains received by the anatomical
42 board to be accompanied by a certain permit;
43 prohibiting the dissection, segmentation, or
44 disarticulation of remains before approval by the
45 district medical examiner; prohibiting the offer of
46 any monetary inducement or other valuable
47 consideration in exchange for human remains; defining
48 the term "valuable consideration"; allowing certain
49 accredited schools and organizations to convey human
50 remains within, into, or out of the state for medical
51 or research purposes; requiring certain documentation
52 before the use of human remains received in the state;
53 providing exemptions for certain costs; providing an
54 exemption; deleting provisions relating to procedures
55 for the conveyance of plastinated human remains into
56 or out of the state pursuant to their scheduled

57 | expiration; conforming terminology; repealing s.
58 | 406.54, F.S., relating to claims of bodies after
59 | delivery to the anatomical board; amending s. 765.513,
60 | F.S.; revising the list of donees who may accept
61 | anatomical gifts and the purposes for which such a
62 | gift may be used; amending ss. 382.002 and 497.005,
63 | F.S.; revising the definition of the term "final
64 | disposition" for purposes of the Florida Vital
65 | Statistics Act and the Florida Funeral, Cemetery, and
66 | Consumer Services Act to include anatomical donations;
67 | providing an effective date.

68 |
69 | Be It Enacted by the Legislature of the State of Florida:

70 |
71 | Section 1. Section 406.49, Florida Statutes, is created to
72 | read:

73 | 406.49 Definitions.—As used in this part, the term:

74 | (1) "Anatomical board" means the anatomical board of the
75 | state headquartered at the University of Florida Health Science
76 | Center.

77 | (2) "Cremated remains" has the same meaning as in s.
78 | 497.005.

79 | (3) "Final disposition" has the same meaning as in s.
80 | 497.005.

81 | (4) "Human remains" or "remains" has the same meaning as
82 | in s. 497.005.

83 | (5) "Indigent person" means a person whose family income
84 | does not exceed 100 percent of the current federal poverty

85 guidelines prescribed for the family's household size by the
 86 United States Department of Health and Human Services.

87 (6) "Legally authorized person" has the same meaning as in
 88 s. 497.005.

89 (7) "Unclaimed remains" means human remains that are not
 90 claimed by a legally authorized person, other than a medical
 91 examiner or the board of county commissioners, for final
 92 disposition at the person's expense.

93 Section 2. Section 406.50, Florida Statutes, is amended to
 94 read:

95 406.50 Unclaimed ~~dead bodies or human~~ remains;
 96 disposition, procedure.-

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

106 (a) The unclaimed remains are decomposed or mutilated by
 107 wounds;

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

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

111 ~~Notification of the anatomical board is not required if the~~
 112 ~~death was caused by crushing injury, the deceased had a~~

113 contagious disease;

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

118 (e) The deceased person was a veteran of the United States
 119 Armed Forces, United States Reserve Forces, or National Guard
 120 and is eligible for burial in a national cemetery or was the
 121 spouse or dependent child of a veteran eligible for burial in a
 122 national cemetery.

123 (2) ~~(1)~~ Before the final disposition of unclaimed remains,
 124 the person or entity in charge or control of the ~~dead body or~~
 125 ~~human~~ remains shall make a reasonable effort to ~~determine:~~

126 (a) Determine the identity of the deceased person and
 127 ~~shall further make a reasonable effort to contact any relatives~~
 128 ~~of the such deceased person.~~

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

136
 137 For purposes of this subsection, "a reasonable effort" includes
 138 contacting the National Cemetery Scheduling Office, the county
 139 veterans service office, or the regional office of the United
 140 States Department of Veterans Affairs.

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

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

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

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

168 ~~(4) In the event more than one legally authorized person~~

169 ~~claims a body for interment, the requests shall be prioritized~~
 170 ~~in accordance with s. 732.103.~~

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

178 Section 3. Section 406.51, Florida Statutes, is amended to
 179 read:

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

186 Section 4. Section 406.52, Florida Statutes, is amended to
 187 read:

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

190 406.52 Retention of human remains before use; claim after
 191 delivery to anatomical board; procedures for unclaimed remains
 192 of indigent persons.—

193 (1) The anatomical board shall keep in storage all human
 194 remains that it receives for at least 48 hours before allowing
 195 their use for medical education or research. Human remains may
 196 be embalmed when received. The anatomical board may, for any

197 reason, refuse to accept unclaimed remains or the remains of an
 198 indigent person.

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

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

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

214 Section 5. Section 406.53, Florida Statutes, is amended to
 215 read:

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

218 406.53 Unclaimed remains of indigent person; exemption
 219 from notice to the anatomical board.—A county commission or
 220 designated county department that receives a report of the
 221 unclaimed remains of an indigent person, notwithstanding s.
 222 406.50(1), is not required to notify the anatomical board of the
 223 remains if:

224 (1) The indigent person's remains are decomposed or

225 mutilated by wounds or if an autopsy is performed on the
 226 remains;

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

233 (3) The deceased person was a veteran of the United States
 234 Armed Forces, United States Reserve Forces, or National Guard
 235 and is eligible for burial in a national cemetery or was the
 236 spouse or dependent child of a veteran eligible for burial in a
 237 national cemetery; or

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

241 Section 6. Section 406.55, Florida Statutes, is amended to
 242 read:

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

250 Section 7. Section 406.56, Florida Statutes, is amended to
 251 read:

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

259 Section 8. Section 406.57, Florida Statutes, is amended to
 260 read:

261 406.57 Distribution of human remains ~~dead bodies~~.—The
 262 anatomical board or its duly authorized agent shall take and
 263 receive human remains ~~the bodies~~ delivered to it as provided in
 264 ~~under the provisions of~~ this chapter and shall:

265 (1) Distribute the remains ~~them~~ equitably ~~to and~~ among the
 266 medical and dental schools, teaching hospitals, medical
 267 institutions, and health-related teaching programs that require
 268 cadaveric material for study; or

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

274 Section 9. Section 406.58, Florida Statutes, is amended to
 275 read:

276 406.58 Fees; authority to accept additional funds; annual
 277 audit.—

278 (1) The anatomical board may:

279 (a) Adopt ~~is empowered to~~ prescribe a schedule of fees to

280 be collected from the institutions ~~institution or association~~ to
 281 which the human remains ~~bodies, as described in this chapter,~~
 282 are distributed or loaned to defray the costs of obtaining and
 283 preparing the remains ~~such bodies~~.

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

293 (c) Pay or reimburse the reasonable expenses, as
 294 determined by the anatomical board, incurred by a funeral
 295 establishment or removal service licensed under chapter 497 for
 296 the removal, storage, and transportation any person delivering
 297 ~~the bodies as described in this chapter~~ to the anatomical board
 298 of unclaimed human remains. and is further empowered to

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

301 (2) The anatomical board shall keep a complete record of
 302 all fees and other financial transactions. The University of
 303 Florida shall conduct an audit of the financial records of the
 304 anatomical board at least once every 3 years or more frequently
 305 as the university deems necessary. Within 90 days after
 306 completing an audit, the university shall provide a copy of the
 307 audit to the Department of Financial Services. The university

308 may contract with a licensed public accounting firm to provide
 309 for the audit, which firm may be paid from the fees collected by
 310 the of said anatomical board shall be kept and audited annually
 311 by the Department of Financial Services, and a report of such
 312 audit shall be made annually to the University of Florida.

313 Section 10. Section 406.59, Florida Statutes, is amended
 314 to read:

315 406.59 Institutions receiving human remains ~~bodies.~~ ~~A No~~
 316 ~~university, school, college, teaching hospital, or institution~~
 317 ~~may not, or association shall be allowed or permitted to receive~~
 318 ~~any human remains from the anatomical board such body or bodies~~
 319 ~~as described in this chapter until its facilities are have been~~
 320 ~~inspected and approved by the anatomical board. Human remains~~
 321 ~~All such bodies received by such university, school, college,~~
 322 ~~teaching hospital, or institution may not, or association shall~~
 323 ~~be used for any no other purpose other than the promotion of~~
 324 ~~medical education or research science.~~

325 Section 11. Section 406.60, Florida Statutes, is amended
 326 to read:

327 406.60 Disposition of human remains ~~bodies~~ after use. ~~At~~
 328 ~~any time~~ When human remains ~~any body or bodies or part or parts~~
 329 ~~of any body or bodies, as described in this chapter, shall have~~
 330 ~~been used for, and are not deemed of any no further value to,~~
 331 ~~medical or dental education or research science, then the~~
 332 anatomical board or a cinerator facility licensed under chapter
 333 497 person or persons having charge of said body or parts of
 334 said body may dispose of the remains or any part thereof by
 335 cremation.

336 Section 12. Section 406.61, Florida Statutes, is amended
 337 to read:

338 406.61 Selling, buying, or conveying human remains ~~bodies~~
 339 outside state prohibited; exceptions; ~~7~~ penalty.-

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

347 However, this chapter does not prohibit the anatomical board
 348 from transporting human remains ~~specimens~~ outside the state for
 349 educational or scientific purposes or prohibit the transport of
 350 human remains, any part of such remains ~~bodies, parts of bodies,~~
 351 or tissue specimens for purposes ~~in furtherance~~ of lawful
 352 examination, investigation, or autopsy conducted pursuant to s.
 353 406.11. Any person, institution, or organization that conveys
 354 human remains ~~bodies~~ or any part thereof ~~parts of bodies~~ into or
 355 out of the state for medical or dental education or research
 356 purposes, except a nontransplant anatomical donation
 357 organization accredited by the American Association of Tissue
 358 Banks, shall notify the anatomical board of such intent and
 359 receive approval from the board.

360 (2) Human remains received in this state by the anatomical
 361 board or a nontransplant anatomical donation organization must
 362 be accompanied by the original burial-transit permit issued
 363 pursuant to s. 382.007. The remains may not be dissected,

364 segmented, or disarticulated until the district medical examiner
 365 of the county in which the death occurred has granted approval
 366 pursuant to s. 406.11.

367 (3) A person may not offer in exchange for human remains
 368 any monetary inducement or other valuable consideration,
 369 including goods or services, to a donor, legally authorized
 370 person, the donor's estate, or other third party. As used in
 371 this subsection, the term "valuable consideration" does not
 372 include, and this subsection does not prohibit, payment or
 373 reimbursement of the reasonable costs associated with the
 374 removal, storage, and transportation of human remains, including
 375 payment or reimbursement of a funeral establishment or removal
 376 service licensed under chapter 497 or the reasonable costs after
 377 use, including payment or reimbursement for the disposition of
 378 human remains pursuant to s. 406.60.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

425 382.002 Definitions.—As used in this chapter, the term:

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

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

436 497.005 Definitions.—As used in this chapter, the term:

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

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