

House Bill 3243

Sponsored by COMMITTEE ON BUSINESS AND LABOR

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Permits funeral establishment to take custody of unclaimed body of indigent person. Directs State Mortuary and Cemetery Board to reimburse funeral establishment for costs related to disposal of unclaimed body of indigent person. Requires educational institution that uses unclaimed body of deceased person to pay costs related to use of unclaimed body. Directs board to collect fee upon report of death. Specifies use of fee. Directs board to adopt rules.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to deceased persons; creating new provisions; amending ORS 97.170, 97.180, 97.200 and
3 413.825; and declaring an emergency.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1.** ORS 97.170 is amended to read:

6 97.170. (1) As used in this section, "indigent person" means a deceased person who does not have
7 a death or final expense benefit or insurance policy that pays for disposition of the deceased
8 person's body or other means to pay for disposition of the deceased person's body and:

9 (a) Who **does not have a** [*has no*] relative or other person with the legal right to direct and
10 the means to pay for disposition of the deceased person's body; **or**

11 (b) **Whose relative, or other person, with the legal right to direct the disposition of the**
12 **deceased person's body refuses to pay for or direct the disposition of the deceased person's**
13 **body.**

14 (2)(a) The Oregon Health and Science University shall appoint a Demonstrator of Anatomy from
15 the staff of the university.

16 (b) The Demonstrator of Anatomy shall maintain a list of institutions that may accept or process
17 bodies for education or research purposes.

18 [(3) *A medical examiner as defined in ORS 146.003 or a health care facility as defined in ORS*
19 *442.015 that has charge of an unclaimed body of a deceased person shall promptly attempt to locate*
20 *and notify the relatives of the deceased person or other persons who have an interest in the deceased*
21 *person and shall arrange with any person who will pay the expenses to make disposition of the body.*
22 *If the medical examiner or health care facility cannot locate a person who will pay the expenses of*
23 *disposition of the body, the medical examiner or health care facility may transfer the body to a licensed*
24 *funeral service practitioner.*]

25 [(4)(a)] (3)(a) A [*licensed funeral service practitioner who*] **funeral establishment licensed under**
26 **ORS 692.146 that** takes custody of the unclaimed body of a deceased person shall [*promptly verify*
27 *that a medical examiner or health care facility attempted to locate relatives and interested persons as*
28 *provided in subsection (3) of this section.*]

29 [(b) *If a medical examiner or health care facility has not attempted to locate relatives and interested*

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted.
New sections are in **boldfaced** type.

1 *persons as provided in subsection (3) of this section, the funeral service practitioner shall*, within five
2 days after taking custody of the body[.]:

3 **(A) Verify any information provided by the medical examiner, a health care facility or law**
4 **enforcement regarding the location of persons listed in ORS 97.130;**

5 **(B) Attempt to locate and notify** *[relatives and interested persons and shall]* **the persons listed**
6 **in ORS 97.130; and**

7 **(C) Arrange with any person listed in ORS 97.130** who will pay the expenses to make disposi-
8 tion of the body.

9 *[(c)]* **(b)** If no one claims the body within *[five]* **10** days after the funeral *[service practitioner]*
10 **establishment** takes custody of the body, or if the persons notified acquiesce, the funeral *[service*
11 *practitioner]* **establishment** may transfer the body to an institution approved by the Demonstrator
12 of Anatomy under subsection (2) of this section that desires the body for education or research
13 purposes. *[The funeral service practitioner shall arrange with an institution that desires the body to*
14 *pay for care, preparation and transportation of the body to the institution.]*

15 *[(d)]* **(c)** If no *[relative, interested]* person **listed in ORS 97.130** or institution claims the body as
16 provided in paragraphs *[(b) and (c)]* **(a) and (b)** of this subsection, the funeral *[service practitioner]*
17 **establishment** may cremate or bury the body without the consent of persons listed in ORS 97.130
18 and is indemnified from any liability arising from having made such disposition. The method of dis-
19 position must be in the least costly and most environmentally sound manner that complies with law,
20 and that does not conflict with known wishes of the deceased. If the deceased person is an indigent
21 person, the *[Department of Human Services]* **State Mortuary and Cemetery Board** shall reimburse
22 the funeral *[service practitioner]* **establishment** for the costs of disposition under subsection *[(6)]* **(5)**
23 of this section.

24 *[(5)]* **(4)** *[When]* **If** the deceased person is a child over whom the Department **of Human Services**
25 held guardianship at the time of death, the department shall promptly attempt to locate and notify
26 the relatives of the deceased child or any other person who has an interest in the deceased child
27 and shall arrange with any person who will pay the expenses to make disposition of the body. If no
28 relatives or interested persons claim the body, the department may transfer the body to an institu-
29 tion that is on the list maintained by the Demonstrator of Anatomy under subsection (2) of this
30 section that desires the body for education or research purposes, or may authorize burial or
31 cremation of the body. The department shall pay expenses related to burial or cremation authorized
32 by the department under this subsection.

33 *[(6)]* **(5)** Upon receipt of *[an itemized statement of expenses and proof]* **a qualifying statement**
34 as required by the *[department]* **board** by rule that the deceased person is an indigent person, the
35 *[department]* **board** shall reimburse a funeral *[service practitioner]* **establishment** the reasonable
36 costs for disposition of the body of any unclaimed deceased indigent person. The method of disposi-
37 tion must be in the least costly and most environmentally sound manner that complies with law. The
38 *[department may]* **board shall** adopt rules establishing the **requirements and** process for re-
39 imbursement and setting the *[maximum]* amount that may be reimbursed to a funeral *[service prac-*
40 *titioner]* **establishment** under this subsection.

41 **SECTION 2.** ORS 97.180 is amended to read:

42 97.180. *[Upon receipt of any body by a school or college pursuant to ORS 97.170, it shall be*
43 *properly embalmed for anatomical purposes, but shall be retained 30 days before being used or dis-*
44 *membered. If it is claimed by any relative or friend within that period, it shall be delivered to the*
45 *claimant.]* **An institution that receives a body pursuant to ORS 97.170 and that intends to use**

1 the body for ongoing research may properly embalm the body upon receipt for anatomical
 2 purposes, but may not use or dismember the body for at least 30 days after receipt. If a
 3 relative or friend of the deceased person claims the body within the 30 days specified in this
 4 section, the institution with custody of the body shall release the body to the relative or
 5 friend.

6 **SECTION 3.** ORS 97.200 is amended to read:

7 97.200. *[The remains of any corpse used for the purposes authorized by ORS 97.170 shall, upon*
 8 *completion of such use, be decently buried or cremated and the ashes, in case of cremation, shall be*
 9 *delivered to any relative who claims them, after establishing relationship. All expenses incident to*
 10 *burial and cremation and the delivery of ashes to any relative shall be borne by the educational insti-*
 11 *tution which used the body for educational purposes.] An institution that uses a body pursuant*
 12 **to ORS 97.170 shall bury respectfully or cremate the remains upon completion of use. If the**
 13 **institution cremates the remains, the institution shall deliver the ashes to a relative of the**
 14 **deceased person if a relative is known to the institution. If no relative is known to the in-**
 15 **stitution, the institution shall hold the ashes for three years after cremation and may then**
 16 **dispose of the ashes in a respectful manner. The institution shall pay burial, cremation,**
 17 **storage and delivery expenses for a body the institution used pursuant to ORS 97.170.**

18 **SECTION 4.** ORS 413.825 is amended to read:

19 413.825. (1) The *[Oregon Health Authority]* **State Mortuary and Cemetery Board** shall impose
 20 and collect a filing fee *[of \$20]* for each report of death **and shall deposit the total amount of the**
 21 **fee collected to the credit of the State Mortuary and Cemetery Board Account established**
 22 **under ORS 692.375.** Of the fee, *[\$6 shall be deposited to the credit of the Public Health Account and*
 23 *used to carry out the purposes of ORS 97.170 (6) and \$14 shall be deposited to the credit of the State*
 24 *Mortuary and Cemetery Board Account and used]* **at least \$7 must be used by the board to carry**
 25 **out the purposes of ORS 97.170(5). The board shall use the remainder of the fee in the same**
 26 **manner as other funds credited to the account under ORS 692.375.**

27 (2)(a) **The board shall adopt rules establishing the fee described in subsection (1) of this**
 28 **section.**

29 (b) **When establishing the fee, the board shall consider historical data related to expen-**
 30 **ditures made for the purposes of carrying out** *[The expenditures under]* ORS 97.170 *[(6)]* (5) and
 31 692.375 *[may not exceed the funds collected under subsection (1) of this section, and in no event may*
 32 *expenditure on the administration of the funds exceed five percent of the moneys collected].*

33 **SECTION 5.** (1) **The amendments to ORS 97.170, 97.180, 97.200 and 413.825 by sections 1**
 34 **to 4 of this 2015 Act become operative on January 1, 2016.**

35 (2) **The State Mortuary and Cemetery Board may take action before the operative date**
 36 **specified in subsection (1) of this section that is necessary to enable the board to exercise,**
 37 **on or after the operative date specified in subsection (1) of this section, all of the duties,**
 38 **functions and powers conferred on the board by the amendments to ORS 97.170, 97.180, 97.200**
 39 **and 413.825 by sections 1 to 4 of this 2015 Act.**

40 **SECTION 6.** **This 2015 Act being necessary for the immediate preservation of the public**
 41 **peace, health and safety, an emergency is declared to exist, and this 2015 Act takes effect**
 42 **on its passage.**