

SENATE AMENDMENTS TO SENATE BILL 796

By COMMITTEE ON HEALTH CARE AND VETERANS' AFFAIRS

May 8

1 On page 1 of the printed bill, line 2, delete “and” and delete “105.464” and insert “432.312”.

2 In line 3, before the period insert “; and declaring an emergency”.

3 Delete lines 13 through 16 and insert:

4 “(d) A scattering garden or other designated area above or below ground where a person may
5 pay to establish a memorial of cremated remains; or

6 “(e) A cenotaph where a person may pay to establish a memorial to honor a person whose re-
7 mains may be interred elsewhere or whose remains cannot be recovered.”.

8 On page 2, line 8, after the period insert “Regardless of any title used by the individual.”.

9 In line 15, after the period insert “Regardless of any title used by the individual.”.

10 Delete lines 20 through 23 and insert:

11 “(3) An individual may not practice as a death care consultant unless the individual is licensed
12 as a death care consultant under section 4 of this 2009 Act. Regardless of any title used by the in-
13 dividual, an individual practices as a death care consultant if the individual offers, for payment,
14 consultations or workshops to individuals or groups regarding funeral or final disposition
15 services.”.

16 On page 3, delete lines 4 through 42 and insert:

17 “**SECTION 4. The State Mortuary and Cemetery Board shall issue a license to an indi-
18 vidual to practice as a death care consultant if the individual:**

19 “(1) **Applies to the board for a death care consultant license on an application form pro-
20 vided by the board;**

21 “(2) **Passes an examination conducted by the board covering Oregon and federal laws and
22 rules relating to the care, preparation, disposition and transportation of dead human bodies;**

23 “(3) **Pays fees required by the board by rule; and**

24 “(4) **Meets other requirements established by the board by rule.**

25 “**SECTION 5.** ORS 692.275 is amended to read:

26 “692.275. (1) [*The application for a certificate of authority to conduct the business of an operating*
27 *cemetery shall be made*] **A person may not conduct the business of an operating cemetery un-
28 less the person has a certificate of authority to do so. A person may apply for a certificate**
29 **of authority** on a form provided by the State Mortuary and Cemetery Board. The application
30 [*shall*] **must** be accompanied by the application fee established under ORS 692.160. However, any
31 exempt operating cemetery is entitled to receive a certificate of authority to operate upon payment
32 of an initial fee not to exceed \$100 and a fee not to exceed \$50 for registration of all principals re-
33 gardless of the total number of principals. An exempt operating cemetery is not required to pay the
34 renewal fee or the fee for any change in principal other than the cemetery manager.

35 “(2) A cemetery, other than an operating cemetery or a historic cemetery listed with the Oregon

1 Commission on Historic Cemeteries under ORS 97.782, [shall] **must** be registered with the board.
2 An owner of a cemetery, other than an operating cemetery or a historic cemetery listed with the
3 Oregon Commission on Historic Cemeteries under ORS 97.782, [shall] **must** register the cemetery
4 with the board on a form provided by the board. No fee [shall] **may** be required of a cemetery reg-
5 istrant.

6 **“(3) A person may not operate a crematorium unless the person has a certificate of au-
7 thority to do so. A person may apply** [*The person who plans to operate a crematorium shall apply
8 before operation*] for a certificate of authority to operate a crematorium on a form provided by the
9 board. The application [shall] **must** be accompanied by the application fee established under ORS
10 692.160.

11 **“(4)** For purposes of this section and ORS 692.025, each location of a cemetery or crematorium
12 is a separate location and must be licensed separately. Those cemeteries that are subject to regis-
13 tration [shall] **must** be registered separately.

14 **“(5)** The [*recommendation of the Cremation Association of North America shall be used*] **board
15 may consider the recommendations of national associations related to cremation** in adopting
16 rules regulating crematoriums.

17 **“(6) A person may not operate a facility for final disposition of human remains other than
18 a cemetery or a crematorium unless the person has a certificate of authority to do so. A
19 person may apply for a certificate of authority on a form provided by the board. The appli-
20 cation must be accompanied by an application fee established under ORS 692.160.**

21 **“[(6)] (7)** This section applies to operating cemeteries or other cemeteries owned by any city,
22 county or other municipal corporation.

23 **“[(7)] (8)** The board may not subject an exempt operating cemetery to random inspections.”.

24 On page 4, delete lines 30 through 45.

25 On page 5, delete lines 1 through 43 and insert:

26 **“SECTION 8.** ORS 97.170 is amended to read:

27 **“97.170. [(1) Except as set forth in subsection (4) of this section, any licensed funeral service prac-
28 titioner having charge of the body of a deceased person thought to be an unclaimed indigent shall use
29 all reasonable diligence promptly to notify the relatives of the deceased person or any other person
30 having an interest in the deceased person and shall arrange with any relative who claims the body or
31 with any friend of the deceased person who will pay the expenses to make disposition of the body. If
32 no one claims the body within five days after death, or if those notified acquiesce, the funeral service
33 practitioner shall notify, by telephone, the Demonstrator of Anatomy of the Oregon Health and Science
34 University. The Demonstrator of Anatomy, who shall be appointed by the Oregon Health and Science
35 University Board of Directors from the staff of the Oregon Health and Science University, shall im-
36 mediately inform the funeral service practitioner whether the body is deemed to be in fit condition and
37 is desired for medical instruction or the advancement of medical science. If the body is desired for these
38 purposes, the funeral service practitioner shall arrange for a licensed embalmer to make such prepa-
39 ration as is necessary and shall, within 72 hours, deliver it to the Oregon Health and Science Univer-
40 sity, or any other school or college within the State of Oregon qualifying applicants for examination
41 in the fundamental sciences as required and specified in ORS 683.010 to 683.335 and ORS chapters
42 676 to 681 and 684 to 686, as the Demonstrator of Anatomy directs. The expenses of embalming,
43 transportation of the body to such school or college, filing fees and other related expenses shall be paid
44 from the funds appropriated specifically for the purposes of this section. Such expenses shall not exceed
45 the normal rates charged for such services to the general public.]**

1 “(2) *If the Demonstrator of Anatomy does not require any such body for instruction or research,*
2 *it may be assigned, on request, to any other properly authorized institution within this state or to any*
3 *qualified physician for instruction or research.*”]

4 “(1) **As used in this section, ‘indigent person’ means a deceased person who does not have**
5 **a death or final expense benefit or insurance policy that pays for disposition of the deceased**
6 **person’s body or other means to pay for disposition of the deceased person’s body and who**
7 **has no relative or other person with the legal right to direct and the means to pay for dis-**
8 **position of the deceased person’s body.**

9 “(2)(a) **The Oregon Health and Science University shall appoint a Demonstrator of Anat-**
10 **omy from the staff of the university.**

11 “(b) **The Demonstrator of Anatomy shall maintain a list of institutions that may accept**
12 **or process bodies for education or research purposes.**

13 “(3) **A medical examiner as defined in ORS 146.003 or a health care facility as defined in**
14 **ORS 442.015 that has charge of an unclaimed body of a deceased person shall promptly at-**
15 **tempt to locate and notify the relatives of the deceased person or other persons who have**
16 **an interest in the deceased person and shall arrange with any person who will pay the ex-**
17 **penses to make disposition of the body. If the medical examiner or health care facility cannot**
18 **locate a person who will pay the expenses of disposition of the body, the medical examiner**
19 **or health care facility may transfer the body to a licensed funeral service practitioner.**

20 “(4)(a) **A licensed funeral service practitioner who takes custody of the unclaimed body**
21 **of a deceased person shall promptly verify that a medical examiner or health care facility**
22 **attempted to locate relatives and interested persons as provided in subsection (3) of this**
23 **section.**

24 “(b) **If a medical examiner or health care facility has not attempted to locate relatives**
25 **and interested persons as provided in subsection (3) of this section, the funeral service**
26 **practitioner shall, within five days after taking custody of the body, attempt to locate and**
27 **notify relatives and interested persons and shall arrange with any person who will pay the**
28 **expenses to make disposition of the body.**

29 “(c) **If no one claims the body within five days after the funeral service practitioner takes**
30 **custody of the body, or if the persons notified acquiesce, the funeral service practitioner may**
31 **transfer the body to an institution approved by the Demonstrator of Anatomy under sub-**
32 **section (2) of this section that desires the body for education or research purposes. The fu-**
33 **neral service practitioner shall arrange with an institution that desires the body to pay for**
34 **care, preparation and transportation of the body to the institution.**

35 “[(3)] (d) *[When the body of a deceased person is deemed in unfit condition by the Demonstrator*
36 *of Anatomy and disposition does not take place as set forth in subsections (1) and (2) of this section,*
37 *and no relatives, friends or interested persons claim the body after notification is attempted]* **If no**
38 **relative, interested person or institution claims the body as provided in paragraphs (b) and**
39 **(c) of this subsection, [then] the funeral service practitioner may [commence to] cremate or bury**
40 **the body without the consent of persons listed in ORS 97.130 and is [furthermore] indemnified from**
41 **any liability arising from having made such disposition. The method of disposition must be in the**
42 **least costly and most environmentally sound manner that complies with law, and that does not**
43 **conflict with known wishes of the deceased. [Reimbursement for costs of disposition shall be made**
44 **as set forth in subsection (5) of this section.] If the deceased person is an indigent person, the**
45 **Department of Human Services shall reimburse the funeral service practitioner for the costs**

1 **of disposition under subsection (6) of this section.**

2 “[(4)] (5) When the deceased person is a child over whom the department [*of Human Services*]
3 held guardianship at the time of death, **the department shall promptly attempt to locate and**
4 **notify the relatives of the deceased child or any other person who has an interest in the**
5 **deceased child and shall arrange with any person who will pay the expenses to make dispo-**
6 **sition of the body.** [*and*] **If** no relatives[, *friends*] or interested persons claim the body [*after notifi-*
7 *cation is attempted as set forth in subsection (1) of this section, the department may at its discretion*
8 *notify the Demonstrator of Anatomy and proceed as set forth in subsection (1) of this section*], **the**
9 **department may transfer the body to an institution that is on the list maintained by the**
10 **Demonstrator of Anatomy under subsection (2) of this section that desires the body for ed-**
11 **ucation or research purposes,** or may authorize burial or cremation of the body. **The department**
12 **shall pay** expenses related to burial or cremation authorized by the department under this sub-
13 section [*shall be borne by the department*].

14 “[5)] (6) Upon receipt of an itemized statement of expenses **and proof as required by the de-**
15 **partment by rule that the deceased person is an indigent person,** the department shall reim-
16 burse [*the*] a funeral service practitioner [*within 30 days*] the reasonable costs for disposition of **the**
17 **body of** any unclaimed deceased **indigent** person [*who has insufficient assets and for whom no one*
18 *takes responsibility*]. The method of disposition must be in the least costly [*manner and shall not*
19 *exceed \$450 per disposition*] **and most environmentally sound manner that complies with law.**
20 **The department may adopt rules establishing the process for reimbursement and setting the**
21 **maximum amount that may be reimbursed to a funeral service practitioner under this sub-**
22 **section.**

23 “**SECTION 9.** ORS 97.460 is amended to read:

24 “97.460. (1) [*No association, corporation, cemetery authority, or person shall after February 24,*
25 *1903,*] **A person may not** lay out, open up or use any property for cemetery or burial park
26 purposes[, *without the approval*] **unless the person:**

27 “(a) **Is the owner of the property;**

28 “(b) **Has the written consent** of the planning commission of the county or city having juris-
29 diction under ORS 92.042 or, if there is no such commission in such county or city, the governing
30 body of such county or city[.];

31 “(c) **Agrees to maintain records of the disposition of human remains on the property as**
32 **required by the planning commission or governing body of the county or city having juris-**
33 **diction under ORS 92.042; and**

34 “(d) **Agrees to disclose the disposition of human remains upon sale of the property.**
35 **Failure to disclose the disposition of human remains does not invalidate the sale of the**
36 **property.**

37 “(2) **A planning commission of a county or city or, if there is no planning commission in**
38 **a county or city, the governing body of the county or city, shall provide to the State**
39 **Mortuary and Cemetery Board a list of the requirements for laying out, opening up or using**
40 **property in the county or city for cemetery or burial park purposes.”.**

41 On page 6, delete lines 28 and 29 and insert:

42 “(10) ‘*Cenotaph*’ means a place where a person may pay to establish a memorial to honor a
43 person whose remains may be interred elsewhere or whose remains cannot be recovered.”.

44 On page 8, line 7, after “embalming” delete the rest of the line and delete lines 8 and 9 and
45 insert “or institution approved by the Demonstrator of Anatomy to accept bodies for education or

1 research purposes under ORS 97.170.”.

2 On page 11, delete lines 12 through 45 and delete pages 12 through 20 and insert:

3 “**SECTION 16.** ORS 432.312 is amended to read:

4 “432.312. (1) The Department of Human Services shall impose and collect a filing fee of \$7 for
5 each certificate of death. Of the fee, \$2 shall be deposited to the credit of the Public Health Account
6 and used to carry out the purposes of ORS 97.170 [(5)] (6) and \$5 shall be deposited to the credit
7 of the State Mortuary and Cemetery Board Account and used in the same manner as funds credited
8 to the account under ORS 692.375.

9 “(2) The expenditures under ORS 97.170 [(5)] (6) and 692.375 [shall] **may** not exceed the funds
10 collected under subsection (1) of this section, and in no event [shall] **may** expenditure on the ad-
11 ministration of the funds exceed five percent of the moneys collected.

12 “**SECTION 17.** (1) Section 4 of this 2009 Act and the amendments to ORS 692.010, 692.025,
13 692.040, 692.160, 692.180, 692.260, 692.275 and 692.320 by sections 1, 2, 5, 6 and 11 to 14 of this
14 2009 Act become operative on March 31, 2010.

15 “(2) The State Mortuary and Cemetery Board may take any action before the operative
16 date specified in subsection (1) of this section that is necessary to enable the board to exer-
17 cise, on and after the operative date specified in subsection (1) of this section, all the duties,
18 functions and powers conferred on the board by section 4 of this 2009 Act and the amend-
19 ments to ORS 692.010, 692.025, 692.040, 692.160, 692.180, 692.260, 692.275 and 692.320 by sections
20 1, 2, 5, 6 and 11 to 14 of this 2009 Act.

21 “**SECTION 18.** Section 4 of this 2009 Act and the amendments to ORS 692.025, 692.040,
22 692.160, 692.180 and 692.320 by sections 2, 6 and 11 to 13 of this 2009 Act apply to persons
23 practicing as death care consultants on or after the operative date specified in section 17 of
24 this 2009 Act.

25 “**SECTION 19.** The amendments to ORS 692.010, 692.160, 692.180, 692.275 and 692.320 by
26 sections 1, 5, 6, 12 and 13 of this 2009 Act apply to facilities used for final disposition of hu-
27 man remains, other than cemeteries and crematoriums, on or after the operative date
28 specified in section 17 of this 2009 Act.

29 “**SECTION 20.** The amendments to ORS 97.460 by section 9 of this 2009 Act apply to laying
30 out or opening up property for cemetery or burial park purposes on or after the effective
31 date of this 2009 Act.

32 “**SECTION 21.** The amendments to ORS 97.010 by section 10 of this 2009 Act apply to
33 cenotaphs established on or after the effective date of this 2009 Act.

34 “**SECTION 22.** The amendments to ORS 97.170 and 432.312 by sections 8 and 16 of this 2009
35 Act apply to bodies of deceased persons who die on or after the effective date of this 2009
36 Act.

37 “**SECTION 23.** This 2009 Act being necessary for the immediate preservation of the public
38 peace, health and safety, an emergency is declared to exist, and this 2009 Act takes effect
39 on its passage.”.