

D R A F T

SUMMARY

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,
3 97.180, 97.200 and 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
7 person who does not have a death or final expense benefit or insurance pol-
8 icy that pays for disposition of the deceased person’s body or other means
9 to pay for disposition of the deceased person’s body and:

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

13 (b) **Whose relative, or other person, with the legal right to direct**
14 **the disposition of the deceased person’s body refuses to pay for or di-**
15 **rect the disposition of the deceased person’s body.**

16 (2)(a) The Oregon Health and Science University shall appoint a Demon-
17 strator of Anatomy from the staff of the university.

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

3 [(3) A medical examiner as defined in ORS 146.003 or a health care facility
4 as defined in ORS 442.015 that has charge of an unclaimed body of a deceased
5 person shall promptly attempt to locate and notify the relatives of the deceased
6 person or other persons who have an interest in the deceased person and shall
7 arrange with any person who will pay the expenses to make disposition of the
8 body. If the medical examiner or health care facility cannot locate a person
9 who will pay the expenses of disposition of the body, the medical examiner or
10 health care facility may transfer the body to a licensed funeral service practi-
11 tioner.]

12 [(4)(a)] **(3)(a)** A [licensed funeral service practitioner who] **funeral estab-**
13 **lishment licensed under ORS 692.146 that** takes custody of the unclaimed
14 body of a deceased person shall [promptly verify that a medical examiner or
15 health care facility attempted to locate relatives and interested persons as
16 provided in subsection (3) of this section.]

17 [(b) If a medical examiner or health care facility has not attempted to locate
18 relatives and interested persons as provided in subsection (3) of this section,
19 the funeral service practitioner shall], within five days after taking custody
20 of the body[,]:

21 **(A) Verify any information provided by the medical examiner, a**
22 **health care facility or law enforcement regarding the location of per-**
23 **sons listed in ORS 97.130;**

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

26 **(C) Arrange with any person listed in ORS 97.130 who will pay the ex-**
27 **penses to make disposition of the body.**

28 [(c)] **(b)** If no one claims the body within [five] **10** days after the funeral
29 [service practitioner] **establishment** takes custody of the body, or if the
30 persons notified acquiesce, the funeral [service practitioner] **establishment**
31 may transfer the body to an institution approved by the Demonstrator of

1 Anatomy under subsection (2) of this section that desires the body for edu-
2 cation or research purposes. [*The funeral service practitioner shall arrange*
3 *with an institution that desires the body to pay for care, preparation and*
4 *transportation of the body to the institution.*]

5 [(d)] (c) If no [*relative, interested*] person **listed in ORS 97.130** or insti-
6 tution claims the body as provided in paragraphs [(b) and (c)] (a) and (b)
7 of this subsection, the funeral [*service practitioner*] **establishment** may
8 cremate or bury the body without the consent of persons listed in ORS 97.130
9 and is indemnified from any liability arising from having made such dispo-
10 sition. The method of disposition must be in the least costly and most envi-
11 ronmentally sound manner that complies with law, and that does not conflict
12 with known wishes of the deceased. If the deceased person is an indigent
13 person, the [*Department of Human Services*] **State Mortuary and Cemetery**
14 **Board** shall reimburse the funeral [*service practitioner*] **establishment** for
15 the costs of disposition under subsection [(6)] (5) of this section.

16 [(5)] (4) [*When*] **If** the deceased person is a child over whom the Depart-
17 ment **of Human Services** held guardianship at the time of death, the de-
18 partment shall promptly attempt to locate and notify the relatives of the
19 deceased child or any other person who has an interest in the deceased child
20 and shall arrange with any person who will pay the expenses to make dis-
21 position of the body. If no relatives or interested persons claim the body, the
22 department may transfer the body to an institution that is on the list main-
23 tained by the Demonstrator of Anatomy under subsection (2) of this section
24 that desires the body for education or research purposes, or may authorize
25 burial or cremation of the body. The department shall pay expenses related
26 to burial or cremation authorized by the department under this subsection.

27 [(6)] (5) Upon receipt of [*an itemized statement of expenses and proof*] **a**
28 **qualifying statement** as required by the [*department*] **board** by rule that
29 the deceased person is an indigent person, the [*department*] **board** shall re-
30 imburse a funeral [*service practitioner*] **establishment** the reasonable costs
31 for disposition of the body of any unclaimed deceased indigent person. The

1 method of disposition must be in the least costly and most environmentally
2 sound manner that complies with law. The [*department may*] **board shall**
3 adopt rules establishing the **requirements and** process for reimbursement
4 and setting the [*maximum*] amount that may be reimbursed to a funeral
5 [*service practitioner*] **establishment** under this subsection.

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

7 97.180. [*Upon receipt of any body by a school or college pursuant to ORS*
8 *97.170, it shall be properly embalmed for anatomical purposes, but shall be*
9 *retained 30 days before being used or dismembered. If it is claimed by any*
10 *relative or friend within that period, it shall be delivered to the claimant.*]

11 **An institution that receives a body pursuant to ORS 97.170 and that**
12 **intends to use the body for ongoing research may properly embalm the**
13 **body upon receipt for anatomical purposes, but may not use or dis-**
14 **member the body for at least 30 days after receipt. If a relative or**
15 **friend of the deceased person claims the body within the 30 days**
16 **specified in this section, the institution with custody of the body shall**
17 **release the body to the relative or friend.**

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

19 97.200. [*The remains of any corpse used for the purposes authorized by ORS*
20 *97.170 shall, upon completion of such use, be decently buried or cremated and*
21 *the ashes, in case of cremation, shall be delivered to any relative who claims*
22 *them, after establishing relationship. All expenses incident to burial and*
23 *cremation and the delivery of ashes to any relative shall be borne by the edu-*
24 *cational institution which used the body for educational purposes.*]

25 **An insti-**
26 **tution that uses a body pursuant to ORS 97.170 shall bury respectfully**
27 **or cremate the remains upon completion of use. If the institution**
28 **cremates the remains, the institution shall deliver the ashes to a rel-**
29 **ative of the deceased person if a relative is known to the institution.**
30 **If no relative is known to the institution, the institution shall hold the**
31 **ashes for three years after cremation and may then dispose of the**
ashes in a respectful manner. The institution shall pay burial,

1 **cremation, storage and delivery expenses for a body the institution**
2 **used pursuant to ORS 97.170.**

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

4 413.825. (1) The [*Oregon Health Authority*] **State Mortuary and Ceme-**
5 **tery Board** shall impose and collect a filing fee [*of \$20*] for each report of
6 death and shall deposit the total amount of the fee collected to the
7 **credit of the State Mortuary and Cemetery Board Account established**
8 **under ORS 692.375.** Of the fee, [*\$6 shall be deposited to the credit of the*
9 *Public Health Account and used to carry out the purposes of ORS 97.170 (6)*
10 *and \$14 shall be deposited to the credit of the State Mortuary and Cemetery*
11 *Board Account and used*] **at least \$7 must be used by the board to carry**
12 **out the purposes of ORS 97.170(5).** The board shall use the remainder
13 **of the fee** in the same manner as **other** funds credited to the account under
14 ORS 692.375.

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

17 (b) **When establishing the fee, the board shall consider historical**
18 **data related to expenditures made for the purposes of carrying out**
19 [*The expenditures under*] ORS 97.170 [(6)] (5) and 692.375 [*may not exceed the*
20 *funds collected under subsection (1) of this section, and in no event may ex-*
21 *penditure on the administration of the funds exceed five percent of the moneys*
22 *collected*].

23 **SECTION 5.** (1) **The amendments to ORS 97.170, 97.180, 97.200 and**
24 **413.825 by sections 1 to 4 of this 2015 Act become operative on January**
25 **1, 2016.**

26 (2) **The State Mortuary and Cemetery Board may take action before**
27 **the operative date specified in subsection (1) of this section that is**
28 **necessary to enable the board to exercise, on or after the operative**
29 **date specified in subsection (1) of this section, all of the duties, func-**
30 **tions and powers conferred on the board by the amendments to ORS**
31 **97.170, 97.180, 97.200 and 413.825 by sections 1 to 4 of this 2015 Act.**

1 **SECTION 6. This 2015 Act being necessary for the immediate pres-**
2 **ervation of the public peace, health and safety, an emergency is de-**
3 **clared to exist, and this 2015 Act takes effect on its passage.**

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