

**PROPOSED AMENDMENTS TO  
HOUSE BILL 3243**

1 On page 1 of the printed bill, line 2, after “97.180,” delete the rest of the  
2 line and line 3 and insert “97.190, 97.200, 97.990, 413.825 and 692.040; and de-  
3 claring and emergency.”.

4 Delete lines 5 through 29 and delete pages 2 and 3 and insert:

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 le-  
11 gal right to direct and the means to pay for disposition of the deceased  
12 person’s body;

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 the**  
15 **disposition of the deceased person’s body; or**

16 **“(c) For whom no person other than a person described in para-**  
17 **graph (a) or (b) of this subsection wishes to direct and pay for the**  
18 **disposition of the deceased person’s body.**

19 “[*(2)(a) The Oregon Health and Science University shall appoint a Dem-*  
20 *onstrator of Anatomy from the staff of the university.*]

21 “[*(b)*] **(2) The** [*Demonstrator of Anatomy*] **State Mortuary and Cemetery**  
22 **Board** shall maintain a list of institutions that may accept or process bodies

1 for education or research purposes.

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

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

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

20 **“(A) Obtain all known contact information from the medical ex-**  
21 **aminer, a health care facility or law enforcement regarding persons**  
22 **listed in ORS 97.130;**

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

25 **“(C) Arrange with any person listed in ORS 97.130 who will pay the**  
26 **expenses to make disposition of the body;**

27 **“(D) Determine whether the Department of State Lands or other**  
28 **person is appointed as the personal representative of the deceased**  
29 **person pursuant to ORS 113.085; and**

30 **“(E) Contact the Department of Veterans’ Affairs to determine**

1 **whether the decedent is eligible for any state or federal benefits.**

2 “[(c)] **(b)** If no one claims the body within [*five*] **10** days after the funeral  
3 [*service practitioner*] **establishment** takes custody of the body, or if the  
4 persons notified acquiesce, the funeral [*service practitioner*] **establishment**  
5 may transfer the body to an institution [*approved by the Demonstrator of*  
6 *Anatomy under*] **on the list of institutions described in** subsection (2) of  
7 this section that desires the body for education or research purposes. [*The*  
8 *funeral service practitioner shall arrange with an institution that desires the*  
9 *body to pay for care, preparation and transportation of the body to the insti-*  
10 *tution.*]

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

22 “[(5)] **(4)** [*When*] **If** the deceased person is a child over whom the De-  
23 partment **of Human Services** held guardianship at the time of death, the  
24 department shall promptly attempt to locate and notify the relatives of the  
25 deceased child or any other person who has an interest in the deceased child  
26 and shall arrange with any person who will pay the expenses to make dis-  
27 position of the body. If no relatives or interested persons claim the body,  
28 the department may transfer the body to an institution that is on the list  
29 maintained by the [*Demonstrator of Anatomy*] **board** under subsection (2) of  
30 this section that desires the body for education or research purposes, or may

1 authorize burial or cremation of the body. The department shall pay expenses  
2 related to burial or cremation authorized by the department under this sub-  
3 section.

4 “[~~(6)~~] (5) Upon receipt of [*an itemized statement of expenses and proof*] a  
5 **qualifying statement** as required by the [*department*] **board** by rule that  
6 the deceased person is an indigent person, the [*department*] **board** shall re-  
7 imburse a funeral [*service practitioner*] **establishment** the reasonable costs  
8 for disposition of the body of any unclaimed deceased indigent person. The  
9 method of disposition must be in the least costly and most environmentally  
10 sound manner that complies with law. The [*department may*] **board shall**  
11 adopt rules establishing the **requirements and** process for reimbursement  
12 and setting the [*maximum*] amount that may be reimbursed to a funeral  
13 [*service practitioner*] **establishment** under this subsection.

14 **“SECTION 2.** ORS 97.180 is amended to read:

15 “97.180. [*Upon receipt of any body by a school or college pursuant to ORS*  
16 *97.170, it shall be properly embalmed for anatomical purposes, but shall be*  
17 *retained 30 days before being used or dismembered. If it is claimed by any*  
18 *relative or friend within that period, it shall be delivered to the claimant.*]  
19 **An institution that receives a body pursuant to ORS 97.170 and that**  
20 **intends to use the body for ongoing research may properly preserve**  
21 **the body upon receipt for anatomical purposes, but may not use or**  
22 **dismember the body for at least 30 days after receipt. If a relative or**  
23 **friend of the deceased person claims the body within the 30 days**  
24 **specified in this section, the institution with custody of the body shall**  
25 **release the body to a funeral establishment licensed under ORS 692.146**  
26 **on behalf of the relative or friend.**

27 **“SECTION 3.** ORS 97.190 is amended to read:

28 “97.190. Unless required by a medical examiner to determine the cause of  
29 death or specifically authorized and ordered by the superintendent of the  
30 hospital or institution in which any person coming under the provisions of

1 ORS 97.170 may die, no such body as is mentioned in ORS 97.170 is subject  
2 to post-mortem examination, except by consent of the [*Demonstrator of*  
3 *Anatomy*] **State Mortuary and Cemetery Board.**

4 **“SECTION 4.** ORS 97.200 is amended to read:

5 *“97.200. (1) [The remains of any corpse used for the purposes authorized*  
6 *by ORS 97.170 shall, upon completion of such use, be decently buried or*  
7 *cremated and the ashes, in case of cremation, shall be delivered to any relative*  
8 *who claims them, after establishing relationship. All expenses incident to*  
9 *burial and cremation and the delivery of ashes to any relative shall be borne*  
10 *by the educational institution which used the body for educational purposes.]*

11 **An institution that uses a body for ongoing research pursuant to ORS**  
12 **97.170 shall bury respectfully or cremate the remains upon completion**  
13 **of use. If the institution cremates the remains, the institution shall**  
14 **deliver the ashes to a relative of the deceased person if a relative is**  
15 **known to the institution. If no relative is known to the institution,**  
16 **the institution shall hold the ashes for three years after cremation and**  
17 **may then dispose of the ashes in a respectful manner. The institution**  
18 **shall pay burial, cremation, storage and delivery expenses for a body**  
19 **the institution used pursuant to ORS 97.170.**

20 **“(2) Notwithstanding subsection (1) of this section, an institution**  
21 **that uses a body pursuant to ORS 97.170 only for instruction on pres-**  
22 **ervation of a body shall, upon completion of use, return the body to**  
23 **the funeral establishment from where the institution received the**  
24 **body.**

25 **“SECTION 5.** ORS 97.990 is amended to read:

26 *“97.990. (1) Violation of ORS 97.160 is a Class A misdemeanor.*

27 *“(2) Every officer, agent or employee of this state or of any county, city*  
28 *or any other municipal subdivision thereof who willfully neglects to notify*  
29 *the [*Demonstrator of Anatomy*] **State Mortuary and Cemetery Board** of the*  
30 *existence of a body as required by ORS 97.170 to 97.210 or who refuses to*

1 deliver possession of such body according to the provisions of ORS 97.170 to  
2 97.210 or who mutilates or permits any such body to be mutilated so that it  
3 is not valuable for anatomical purposes or who refuses or neglects to perform  
4 any of the duties enjoined upon the officer, agent or employee by ORS 97.170  
5 to 97.210, commits a Class A misdemeanor.

6 “(3) Violation of ORS 97.520, 97.530 or 97.540 is a Class A misdemeanor.

7 “(4) Any person, association or corporation who operates a cemetery,  
8 mausoleum or columbarium contrary to the provisions of ORS 97.020 to  
9 97.040, 97.110 to 97.130, 97.145, 97.150, 97.220, 97.310 to 97.360 (1), 97.440, 97.510  
10 to 97.560, 97.710, 97.720, 97.810, 97.820, 97.830 and 97.840 to 97.860 commits a  
11 Class B misdemeanor.

12 “(5)(a) Violation of ORS 97.745 is a Class C felony.

13 “(b) In addition to any other sentence provided by law for criminal vio-  
14 lations of ORS 97.745, the judge shall impose a penalty not to exceed \$10,000  
15 on any person convicted of a criminal violation of ORS 97.745.

16 “(6) In addition to the penalty of subsection (5) of this section, any native  
17 Indian artifacts or human remains taken by, or in possession of, any person  
18 sentenced under subsection (5) of this section and all equipment used in the  
19 violation may be ordered forfeited by the court in which conviction occurs,  
20 and may be disposed of as the court directs.

21 “**SECTION 6.** ORS 413.825 is amended to read:

22 “413.825. (1) The [*Oregon Health Authority*] **State Mortuary and Ceme-**  
23 **tery Board** shall impose and collect a filing fee of \$20 for each report of  
24 death **and shall deposit the total amount of the fee collected to the**  
25 **credit of the State Mortuary and Cemetery Board Account established**  
26 **under ORS 692.375.** Of the fee, [*\$6 shall be deposited to the credit of the*  
27 *Public Health Account and used to carry out the purposes of ORS 97.170 (6)*  
28 *and \$14 shall be deposited to the credit of the State Mortuary and Cemetery*  
29 *Board Account and used]* **at least \$6 must be used by the board to carry**  
30 **out the purposes of ORS 97.170 (5). The board shall use the remainder**

1 **of the fee** in the same manner as **other** funds credited to the account under  
2 ORS 692.375.

3 “(2) **The board shall adopt rules regarding the use of the fee de-**  
4 **scribed in subsection (1) of this section and shall consider historical**  
5 **data related to expenditures made for the purposes of carrying out**  
6 *[The expenditures under] ORS 97.170 [(6)] (5) and 692.375 [may not exceed the*  
7 *funds collected under subsection (1) of this section, and in no event may ex-*  
8 *penditure on the administration of the funds exceed five percent of the moneys*  
9 *collected].*

10 “**SECTION 7.** ORS 692.040 is amended to read:

11 “692.040. This chapter does not apply to any of the following:

12 “(1) A public institution, medical college, county medical society, ana-  
13 tomical association, college of embalming or institution approved by the  
14 *[Demonstrator of Anatomy]* **State Mortuary and Cemetery Board** to accept  
15 bodies for education or research purposes under ORS 97.170.

16 “(2) The customs or rites of any religious sect except as to the burial or  
17 other disposition of their dead.

18 “(3) A person who picks up dead human bodies under the direction of a  
19 licensed funeral service practitioner for delivery to a licensed funeral service  
20 practitioner, a licensed funeral establishment, an authorized cemetery, an  
21 authorized crematorium or another authorized facility for final disposition  
22 of human remains pursuant to an agreement with the funeral service prac-  
23 titioner, if the person is not otherwise engaged in any of the activities of a  
24 funeral service practitioner, an embalmer, a funeral establishment, a death  
25 care consultant, a cemetery or a crematorium as described in ORS 692.025  
26 or another authorized facility for final disposition of human remains as de-  
27 scribed in ORS 692.275.

28 “(4) A person who picks up dead human bodies under the direction of a  
29 licensed funeral service practitioner employed by a funeral establishment  
30 registered under ORS 692.270 for transportation out of the state or for de-

1 livery out of the state to a funeral service practitioner, funeral establish-  
2 ment, cemetery or crematorium pursuant to an agreement with the funeral  
3 service practitioner, if the person is not otherwise engaged in any of the  
4 activities of a funeral service practitioner, an embalmer, a funeral estab-  
5 lishment, a death care consultant, a cemetery or a crematorium as described  
6 in ORS 692.025 or another authorized facility for final disposition of human  
7 remains as described in ORS 692.275.

8 **“SECTION 8. (1) The amendments to ORS 97.170, 97.180, 97.190,**  
9 **97.200, 97.990, 413.825 and 692.040 by sections 1 to 7 of this 2015 Act be-**  
10 **come operative on January 1, 2016.**

11 **“(2) The State Mortuary and Cemetery Board may take action be-**  
12 **fore the operative date specified in subsection (1) of this section that**  
13 **is necessary to enable the board to exercise, on or after the operative**  
14 **date specified in subsection (1) of this section, all of the duties, func-**  
15 **tions and powers conferred on the board by the amendments to ORS**  
16 **97.170, 97.180, 97.190, 97.200, 97.990, 413.825 and 692.040 by sections 1 to**  
17 **7 of this 2015 Act.**

18 **“SECTION 9. This 2015 Act being necessary for the immediate**  
19 **preservation of the public peace, health and safety, an emergency is**  
20 **declared to exist, and this 2015 Act takes effect on its passage.”.**

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