

DRAFT

SUMMARY

Directs governing body of each county to designate person to ensure interment of unclaimed human remains of veteran or survivor of veteran. Limits civil liability except for gross negligence.

Requires certain funerary entities in possession of unclaimed human remains of veteran or survivor of veteran, under certain circumstances, to release human remains and associated veteran status information upon request to veterans' remains coordinator, notify county veterans' service officer and apply for state or federal benefits.

Limits civil liability for release of veteran status information except for gross negligence.

Authorizes certain funerary entities in possession of unclaimed human remains of veteran or survivor of veteran to cremate, reduce or inter unclaimed human remains under certain circumstances.

Directs county veterans' service officer to report information about veteran or survivor of veteran to United States Department of Veterans Affairs. Requires county veterans' service officer to establish and maintain list of reported information and to make information available upon request to veterans' remains coordinator.

A BILL FOR AN ACT

Relating to veterans; creating new provisions; and amending ORS 97.170.

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

SECTION 1. Sections 2 to 6 of this 2023 Act are added to and made a part of ORS 97.110 to 97.450.

SECTION 2. As used in sections 2 to 6 of this 2023 Act:

(1) "County veterans' service officer" means a county veterans' service officer appointed under ORS 408.410.

(2) "Eligible decedent" means the unclaimed human remains of a veteran or spouse, dependent or survivor of a veteran that are entitled

1 to interment under federal law at a national cemetery administered
2 by the United States Department of Veterans Affairs.

3 (3) “Entity in possession of an eligible decedent” means a funeral
4 establishment licensed under ORS 692.146, cemetery authority,
5 crematory operator, alternative disposition facility operator, funeral
6 service practitioner licensed under ORS 692.045 or other entity in pos-
7 session of an eligible decedent.

8 (4) “Veteran” has the meaning given that term in ORS 408.225.

9 (5) “Veteran status information” means the data required by the
10 Department of Veterans’ Affairs to verify that human remains are
11 those of a veteran or spouse, dependent or survivor of a veteran for
12 purposes of eligibility for interment in a national cemetery, including
13 the person’s name, service number, Social Security number, date of
14 birth, date of death, place of birth, branch of the service and military
15 rank.

16 (6) “Veterans’ remains coordinator” means a person recognized by
17 a county as a paid employee or unpaid volunteer authorized to verify
18 and inter unclaimed human remains of a veteran or spouse, dependent
19 or survivor of a veteran.

20 SECTION 3. (1) The governing body of each county shall designate
21 one or more veterans’ remains coordinators who shall exercise due
22 diligence to:

23 (a) Identify unclaimed human remains located in the county in
24 consultation with the county veterans’ service officer, the United
25 States Department of Veterans Affairs, a national cemetery adminis-
26 tered by the United States Department of Veterans Affairs, the United
27 States Social Security Administration or another entity;

28 (b) Establish that the unclaimed human remains meet the defi-
29 nition of “eligible decedent”; and

30 (c) For an eligible decedent who died in the county, cause interment
31 at a national cemetery administered by the United States Department

1 of Veterans Affairs.

2 (2) An interment under subsection (1) of this section may not occur
3 at a cemetery used only for the interment of indigent persons.

4 SECTION 4. (1) Before causing the interment of an eligible decedent
5 under section 3 of this 2023 Act, the veterans' remains coordinator
6 shall report to the county veterans' service officer:

7 (a) The facts relied upon to establish eligibility for interment under
8 section 3 of this 2023 Act;

9 (b) The plan for the interment of the eligible decedent; and

10 (c) The date of death and place of interment of the eligible
11 decedent.

12 (2) The county veterans' service officer shall establish and maintain
13 a record of information received under subsection (1) of this section.

14 SECTION 5. (1) An entity in possession of an eligible decedent shall,
15 upon request of a veterans' remains coordinator, release the veteran
16 status information associated with the eligible decedent to the
17 veterans' remains coordinator.

18 (2) A veterans' remains coordinator may use the veteran status in-
19 formation received under subsection (1) of this section only for dis-
20 closure to the Department of Veterans' Affairs to verify the interment
21 benefits of an eligible decedent.

22 (3) If disposition arrangements have not otherwise been made under
23 law, an entity in possession of an eligible decedent shall notify the
24 county veterans' service officer for the county in which the eligible
25 decedent is located of the existence of the eligible decedent no later
26 than six months after the date of death associated with the eligible
27 decedent.

28 (4) An entity in possession of unclaimed human remains shall, upon
29 request of a veterans' remains coordinator, provide reasonable assist-
30 ance to the veterans' remains coordinator to identify and establish
31 that the unclaimed human remains meet the definition of "eligible

1 decedent” under section 3 of this 2023 Act.

2 (5) An entity in possession of an eligible decedent shall, upon re-
3 quest by a veterans’ remains coordinator, release the eligible decedent
4 to the veterans’ remains coordinator for interment under section 3 of
5 this 2023 Act, provided that the following conditions are satisfied:

6 (a) The veterans’ remains coordinator has verified the interment
7 benefits of the eligible decedent with the department or county
8 veterans’ service officer and provided documentation of that verifica-
9 tion to the entity in possession of the eligible decedent.

10 (b) The veterans’ remains coordinator has exercised due diligence
11 to provide notice of the plan to inter the eligible decedent to any
12 agents or family members of the eligible decedent with the legal right
13 to control the disposition of the eligible decedent.

14 (c) An agent or family member of the eligible decedent with a legal
15 right to control the disposition of the eligible decedent has not exer-
16 cised that right.

17 (d) The entity in possession of the eligible decedent has possessed
18 the eligible decedent for at least six months.

19 (6) An entity in possession of an eligible decedent that releases
20 veteran status information under subsection (1) of this section is not
21 subject to civil liability except for gross negligence.

22 (7) A veterans’ remains coordinator who inters an eligible decedent
23 under section 3 of this 2023 Act is not subject to civil liability for acts
24 or omissions arising from the interment except for gross negligence.

25 SECTION 6. (1) A county veterans’ service officer who identifies or
26 locates an eligible decedent shall report to the United States Depart-
27 ment of Veterans Affairs:

28 (a) Veteran status information known about the veteran associated
29 with the eligible decedent; and

30 (b) Contact information for the place and person in possession of
31 the eligible decedent.

(2) The county veterans' service officer shall establish and maintain a list of eligible decedents that are reported under subsection (1) of this section and make the list available in person or by telephone upon request by a veterans' remains coordinator.

SECTION 7. ORS 97.170 is amended to read:

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

(a) Who does not have a relative or other person with the legal right to direct and the means to pay for disposition of the deceased person's body;

(b) Whose relative, or other person, with the legal right to direct the disposition of the deceased person's body does not pay or arrange to pay for, or refuses to direct, the disposition of the deceased person's body within 10 days of being notified of the death; or

(c) For whom no person other than a person described in paragraph (a) or (b) of this subsection wishes to direct and pay for the disposition of the deceased person's body.

(2) The State Mortuary and Cemetery Board shall maintain a list of institutions that may accept or process bodies for education or research purposes.

(3)(a) A funeral establishment licensed under ORS 692.146, **cemetery authority, crematory operator, alternative disposition facility operator or licensed funeral service practitioner** that takes custody of the unclaimed body of a deceased person shall, within five days after taking custody of the body:

(A) Submit a report of death under ORS 432.133;

(B) Obtain all contact information known to the medical examiner, a health care facility or law enforcement regarding persons listed in ORS 97.130;

(C) Attempt to locate and notify the persons listed in ORS 97.130;

(D) Arrange with any person listed in ORS 97.130 who will pay the expenses to make disposition of the body;

(E) **Except as provided in paragraph (d) of this subsection**, if no person listed in ORS 97.130 can be located to pay the expenses to make disposition of the body, arrange with a person or institution not listed in ORS 97.130 that will pay the expenses to make disposition of the body;

(F) Determine whether the State Treasurer or other person is appointed as the personal representative of the deceased person pursuant to ORS 113.085; and

(G) Contact the Department of Veterans' Affairs to determine whether the decedent is eligible for any state or federal benefits.

(b) If no one claims the body within 10 days after the funeral establishment, **cemetery authority, crematory operator, alternative disposition facility operator or licensed funeral service practitioner** takes custody of the body, or if the persons notified acquiesce, or if the decedent is not eligible for any benefits described in paragraph (a)(G) of this subsection, the funeral establishment, **cemetery authority, crematory operator, alternative disposition facility operator or licensed funeral service practitioner** may transfer the body to an institution on the list of institutions described in subsection (2) of this section that desires the body for education or research purposes.

(c) If no person or institution claims the body as provided in paragraphs (a) and (b) of this subsection, the funeral establishment, **cemetery authority, crematory operator, alternative disposition facility operator or licensed funeral service practitioner** may cremate or reduce or bury the body without the consent of persons listed in ORS 97.130 and is indemnified from any liability arising from having made such disposition. The method of disposition must be in the least costly and most environmentally sound manner that complies with law, and that does not conflict with known wishes of the deceased. If the deceased person is an indigent person, the board shall reimburse the funeral establishment for the costs of disposition

1 under subsection (5) of this section.

2 **(d)(A) Notwithstanding paragraphs (b) and (c) of this subsection, if**
3 **the decedent is eligible for state or federal benefits described in para-**
4 **graph (a)(G) of this subsection, the funeral establishment, cemetery**
5 **authority, crematory operator, alternative disposition facility operator**
6 **or licensed funeral service practitioner shall apply for the benefits**
7 **within 10 days of taking custody of the body.**

8 **(B) If no person claims the body within 10 days of taking custody,**
9 **the funeral establishment, cemetery authority, crematory operator,**
10 **alternative disposition facility operator or licensed funeral service**
11 **practitioner may cremate or reduce the body before or after notifying**
12 **the county veterans' service officer under section 5 (3) of this 2023 Act**
13 **or cause the body to be buried or interred at a national cemetery ad-**
14 **ministered by the United States Department of Veterans Affairs.**

15 **(C) The body of a decedent eligible for benefits described in para-**
16 **graph (a)(G) of this subsection may not be transferred to an institu-**
17 **tion described in subsection (2) of this section.**

18 (4) If the deceased person is a child over whom the Department of Human
19 Services held guardianship at the time of death, the department shall
20 promptly attempt to locate and notify the relatives of the deceased child or
21 any other person who has an interest in the deceased child and shall arrange
22 with any person who will pay the expenses to make disposition of the body.
23 If no relatives or interested persons claim the body, the department may
24 transfer the body to an institution that is on the list maintained by the board
25 under subsection (2) of this section that desires the body for education or
26 research purposes, or may authorize burial or cremation or reduction of the
27 body. The department shall pay expenses related to burial or cremation or
28 reduction authorized by the department under this subsection.

29 (5) Upon receipt of a qualifying statement as required by the board by
30 rule that the deceased person is an indigent person, the board shall reim-
31 burse a funeral establishment the reasonable costs for disposition of the body

1 of any unclaimed deceased indigent person. The method of disposition must
2 be in the least costly and most environmentally sound manner that complies
3 with law. The board shall adopt rules establishing the requirements and
4 process for reimbursement and setting the amount that may be reimbursed
5 to a funeral establishment under this subsection.

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