

House Bill 2509

Sponsored by Representative OWENS (at the request of Commissioner Mark Albertson) (Pre-session filed.)

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**.

Modifies definition of "indigent person" for purposes of disposition of unclaimed bodies of deceased indigent persons.

Requires State Mortuary and Cemetery Board to reimburse funeral establishment for costs of disposition of body of indigent person in amount of \$500.

A BILL FOR AN ACT

1
2 Relating to disposition of unclaimed bodies of indigent persons; amending ORS 97.170 and 692.415.

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

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

5 97.170. (1) As used in this section, "indigent person" means a deceased person:

6 (a) Who does not have a death or final expense benefit or insurance policy that pays for dispo-
7 sition of the deceased person's body or other means to pay for disposition of the deceased person's
8 body [*and*.];

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

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

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

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

18 (3)(a) A funeral establishment licensed under ORS 692.146 that takes custody of the unclaimed
19 body of a deceased person shall, within five days after taking custody of the body:

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

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

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

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

26 (E) If no person listed in ORS 97.130 can be located to pay the expenses to make disposition of
27 the body, arrange with a person or institution not listed in ORS 97.130 that will pay the expenses
28 to make disposition of the body;

29 (F) Determine whether the Department of State Lands or other person is appointed as the per-
30 sonal representative of the deceased person pursuant to ORS 113.085; and

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

3 (b) If no one claims the body within 10 days after the funeral establishment takes custody of the
 4 body, or if the persons notified acquiesce, or if the decedent is not eligible for any benefits described
 5 in paragraph (a)(G) of this subsection, the funeral establishment may transfer the body to an insti-
 6 tution on the list of institutions described in subsection (2) of this section that desires the body for
 7 education or research purposes.

8 (c) If no person or institution claims the body as provided in paragraphs (a) and (b) of this
 9 subsection, the funeral establishment may cremate or bury the body without the consent of persons
 10 listed in ORS 97.130 and is indemnified from any liability arising from having made such disposition.
 11 The method of disposition must be in the least costly and most environmentally sound manner that
 12 complies with law, and that does not conflict with known wishes of the deceased. *[If the deceased*
 13 *person is an indigent person, the board shall reimburse the funeral establishment for the costs of dis-*
 14 *position under subsection (5) of this section.]* **Upon receipt of a qualifying statement from a fu-**
 15 **neral establishment that the deceased person is an indigent person, and that the funeral**
 16 **establishment has conducted a diligent search for persons who could direct and pay for the**
 17 **disposition of the deceased person's body, as required by the board by rule, the board shall**
 18 **reimburse the funeral establishment for the costs of disposition in the amount of \$500.**

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

28 *[(5) Upon receipt of a qualifying statement as required by the board by rule that the deceased*
 29 *person is an indigent person, the board shall reimburse a funeral establishment the reasonable costs*
 30 *for disposition of the body of any unclaimed deceased indigent person. The method of disposition must*
 31 *be in the least costly and most environmentally sound manner that complies with law. The board shall*
 32 *adopt rules establishing the requirements and process for reimbursement and setting the amount that*
 33 *may be reimbursed to a funeral establishment under this subsection.]*

34 **SECTION 2.** ORS 97.170, as amended by section 53, chapter 678, Oregon Laws 2019, is amended
 35 to read:

36 97.170. (1) As used in this section, "indigent person" means a deceased person:

37 (a) Who does not have a death or final expense benefit or insurance policy that pays for dispo-
 38 sition of the deceased person's body or other means to pay for disposition of the deceased person's
 39 body *[and:]*;

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

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

45 (c) For whom no person other than a person described in paragraph *[(a) or]* (b) of this subsection

1 wishes to direct and pay for the disposition of the deceased person's body.

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

4 (3)(a) A funeral establishment licensed under ORS 692.146 that takes custody of the unclaimed
5 body of a deceased person shall, within five days after taking custody of the body:

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

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

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

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

12 (E) If no person listed in ORS 97.130 can be located to pay the expenses to make disposition of
13 the body, arrange with a person or institution not listed in ORS 97.130 that will pay the expenses
14 to make disposition of the body;

15 (F) Determine whether the State Treasurer or other person is appointed as the personal repre-
16 sentative of the deceased person pursuant to ORS 113.085; and

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

19 (b) If no one claims the body within 10 days after the funeral establishment takes custody of the
20 body, or if the persons notified acquiesce, or if the decedent is not eligible for any benefits described
21 in paragraph (a)(G) of this subsection, the funeral establishment may transfer the body to an insti-
22 tution on the list of institutions described in subsection (2) of this section that desires the body for
23 education or research purposes.

24 (c) If no person or institution claims the body as provided in paragraphs (a) and (b) of this
25 subsection, the funeral establishment may cremate or bury the body without the consent of persons
26 listed in ORS 97.130 and is indemnified from any liability arising from having made such disposition.
27 The method of disposition must be in the least costly and most environmentally sound manner that
28 complies with law, and that does not conflict with known wishes of the deceased. *[If the deceased*
29 *person is an indigent person, the board shall reimburse the funeral establishment for the costs of dis-*
30 *position under subsection (5) of this section.]* **Upon receipt of a qualifying statement from a fu-**
31 **neral establishment that the deceased person is an indigent person, and that the funeral**
32 **establishment has conducted a diligent search for persons who could direct and pay for the**
33 **disposition of the deceased person's body, as required by the board by rule, the board shall**
34 **reimburse the funeral establishment for the costs of disposition in the amount of \$500.**

35 (4) If the deceased person is a child over whom the Department of Human Services held
36 guardianship at the time of death, the department shall promptly attempt to locate and notify the
37 relatives of the deceased child or any other person who has an interest in the deceased child and
38 shall arrange with any person who will pay the expenses to make disposition of the body. If no
39 relatives or interested persons claim the body, the department may transfer the body to an institu-
40 tion that is on the list maintained by the board under subsection (2) of this section that desires the
41 body for education or research purposes, or may authorize burial or cremation of the body. The
42 department shall pay expenses related to burial or cremation authorized by the department under
43 this subsection.

44 *[(5) Upon receipt of a qualifying statement as required by the board by rule that the deceased*
45 *person is an indigent person, the board shall reimburse a funeral establishment the reasonable costs*

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

5 **SECTION 3.** ORS 692.415 is amended to read:

6 692.415. (1) The State Mortuary and Cemetery Board shall impose and collect a filing fee of \$20
 7 for each report of death and shall deposit the total amount of the fee collected to the credit of the
 8 State Mortuary and Cemetery Board Account established under ORS 692.375. Of the fee, at least \$6
 9 must be used by the board [*to carry out the purposes of ORS 97.170 (5)*] **for the purposes of reim-**
 10 **bursing funeral establishments for disposition of the unclaimed bodies of deceased indigent**
 11 **persons under ORS 97.170.** The board shall use the remainder of the fee in the same manner as
 12 other funds credited to the account under ORS 692.375.

13 (2) The board shall adopt rules regarding the use of the fee described in subsection (1) of this
 14 section and shall consider historical data related to expenditures made for the purposes of [*carrying*
 15 *out ORS 97.170 (5) and*] **ORS 692.375 and reimbursing funeral establishments for disposition**
 16 **of the unclaimed bodies of deceased indigent persons under ORS 97.170.** Expenditures relating
 17 to the administration of the fee may not exceed five percent of the moneys collected.