

House Bill 3412

Sponsored by Representative SMITH DB (at the request of former Representative, Douglas County Commissioner Tim Freeman)

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**.

Directs county governing body of each county to designate person to ensure interment of unclaimed cremated remains of veteran or spouse, dependent or survivor of veteran. Limits civil liability for negligence in certain situations.

Requires cemetery association, cemetery authority, licensed funeral service practitioner or other entity in possession of unclaimed cremated remains of veteran or spouse, dependent or survivor of veteran to release cremated remains and associated veteran status information upon request to veterans' remains coordinator or person designated by county governing body. Limits civil liability for release of veteran status information except for gross negligence.

Directs county veterans' service officer to report information about veteran or spouse, dependent 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 or person designated by county governing body.

A BILL FOR AN ACT

1
2 Relating to veterans; creating new provisions; and amending ORS 97.170.

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

4 **SECTION 1. Sections 2 to 6 of this 2021 Act are added to and made a part of ORS 97.110**
5 **to 97.450.**

6 **SECTION 2. As used in sections 2 to 6 of this 2021 Act:**

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

9 (2) "Eligible decedent" means the unclaimed cremated remains of a veteran or spouse,
10 dependent or survivor of a veteran that are entitled to interment under federal law at a na-
11 tional cemetery administered by the United States Department of Veterans Affairs.

12 (3) "Veteran" has the meaning given that term in ORS 408.225.

13 (4) "Veteran status information" means the data required by the Department of
14 Veterans' Affairs to verify that cremated remains are those of a veteran or spouse, depend-
15 ent or survivor of a veteran for purposes of eligibility for interment in a national cemetery,
16 including the person's name, service number, Social Security number, date of birth, date of
17 death, place of birth, branch of the service and military rank.

18 (5) "Veterans' remains coordinator" means a person recognized by a county as a volun-
19 teer authorized to verify and inter unclaimed cremated remains of a veteran or spouse, de-
20 pendent or survivor of a veteran.

21 **SECTION 3. (1) The county governing body of each county shall designate one or more**
22 **veterans' remains coordinators who, without compensation, shall exercise due diligence to:**

23 (a) **Identify unclaimed cremated remains located in the county in consultation with the**
24 **county veterans' service officer, a national cemetery administered by the United States De-**

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 department of Veterans Affairs, the United States Social Security Administration, the United
 2 States Department of Veterans Affairs or another entity;

3 (b) Establish that the unclaimed cremated remains meet the definition of “eligible
 4 decedent”; and

5 (c) For an eligible decedent who died in the county, cause interment at a national ceme-
 6 tery administered by the United States Department of Veterans Affairs.

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

9 **SECTION 4.** (1) Before causing the interment of an eligible decedent under section 3 of
 10 this 2021 Act, the person designated by the county governing body under section 3 of this
 11 2021 Act shall report to the county veterans’ service officer:

12 (a) The facts relied upon to establish eligibility for interment under section 3 of this 2021
 13 Act;

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

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

16 (2) The county veterans’ service officer shall establish and maintain a record of infor-
 17 mation received under subsection (1) of this section.

18 **SECTION 5.** (1) A cemetery authority, cemetery association, funeral service practitioner
 19 licensed under ORS chapter 692 or other entity in possession of an eligible decedent shall,
 20 upon request of a veterans’ remains coordinator or person designated by a county governing
 21 body under section 3 of this 2021 Act, release the veteran status information associated with
 22 the eligible decedent to the veterans’ remains coordinator or to the person designated by the
 23 county governing body.

24 (2) A veterans’ remains coordinator or person designated by the county governing body
 25 may use the veteran status information received under subsection (1) of this section only for
 26 disclosure to the Department of Veterans’ Affairs to verify the interment benefits of an eli-
 27 gible decedent.

28 (3) A cemetery authority, cemetery association, funeral service practitioner licensed un-
 29 der ORS chapter 692 or other entity in possession of unclaimed cremated remains shall, upon
 30 request of a veterans’ remains coordinator or person designated by a county governing body
 31 under section 3 of this 2021 Act, provide reasonable assistance to the veterans’ remains co-
 32 ordinator or the person designated by the county governing body to identify and establish
 33 that the unclaimed cremated remains meet the definition of “eligible decedent” pursuant to
 34 section 3 of this 2021 Act.

35 (4) A cemetery authority, cemetery association, licensed funeral service practitioner or
 36 other entity in possession of an eligible decedent shall, upon request by a veterans’ remains
 37 coordinator or the person designated by the county governing body, release the eligible
 38 decedent to the veterans remains’ coordinator or person designated by the county governing
 39 body for interment under section 3 of this 2021 Act, provided that the following conditions
 40 are satisfied:

41 (a) The veterans’ remains coordinator or person designated by the county governing body
 42 has verified the interment benefits of the eligible decedent with the department or county
 43 veterans’ service officer and provided documentation of that verification to the cemetery
 44 authority, cemetery association, licensed funeral service practitioner or other entity in pos-
 45 session of the eligible decedent.

1 **(b) The veterans’ remains coordinator or person designated by the county governing body**
 2 **has exercised due diligence to provide notice of the plan to inter the eligible decedent to any**
 3 **agents or family members of the eligible decedent with the legal right to control the dispo-**
 4 **sition of the eligible decedent.**

5 **(c) An agent or family member of the eligible decedent with a legal right to control the**
 6 **disposition of the eligible decedent has not exercised that right.**

7 **(d) The cemetery authority, cemetery association, licensed funeral service practitioner**
 8 **or other entity has possessed the eligible decedent for at least one year.**

9 **(5) A cemetery authority, cemetery association, licensed funeral service practitioner or**
 10 **other entity that releases veteran status information under subsection (1) of this section is**
 11 **not subject to civil liability except for gross negligence.**

12 **(6) A veterans’ remains coordinator or person designated by a county governing body**
 13 **under section 3 of this 2021 Act that inters an eligible decedent under section 3 of this 2021**
 14 **Act is not subject to civil liability for acts or omissions arising from the interment unless**
 15 **the veterans’ remains coordinator or person designated by the county governing body knew**
 16 **or should have known that the eligible decedent was released in violation of subsection (3)**
 17 **of this section.**

18 **SECTION 6. (1) A county veterans’ service officer who identifies or locates an eligible**
 19 **decedent shall report to the United States Department of Veterans Affairs:**

20 **(a) Veteran status information known about the veteran associated with the eligible**
 21 **decedent; and**

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

23 **(2) The county veterans’ service officer shall establish and maintain a list of eligible**
 24 **decedents that are reported under subsection (1) of this section and make the list available**
 25 **in person or by telephone upon request by a veterans’ remains coordinator or person desig-**
 26 **nated by a county governing body under section 3 of this 2021 Act.**

27 **SECTION 7. ORS 97.170 is amended to read:**

28 **97.170. (1) As used in this section, “indigent person” means a deceased person who does not have**
 29 **a death or final expense benefit or insurance policy that pays for disposition of the deceased**
 30 **person’s body or other means to pay for disposition of the deceased person’s body and:**

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

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

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

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

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

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

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

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

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

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

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

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

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

15 (c) If no person or institution claims the body as provided in paragraphs (a) and (b) of this
16 subsection, the funeral establishment may cremate or bury the body without the consent of persons
17 listed in ORS 97.130 and is indemnified from any liability arising from having made such disposition.
18 The method of disposition must be in the least costly and most environmentally sound manner that
19 complies with law, and that does not conflict with known wishes of the deceased. If the deceased
20 person is an indigent person, the board shall reimburse the funeral establishment for the costs of
21 disposition under subsection (5) of this section.

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

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

37 **(6) This section does not apply to an indigent person who is an eligible decedent as de-**
38 **defined in section 2 of this 2021 Act and is entitled to interment under section 3 of this 2021**
39 **Act.**

40 **SECTION 8.** ORS 97.170, as amended by section 53, chapter 678, Oregon Laws 2019, is amended
41 to read:

42 97.170. (1) As used in this section, "indigent person" means a deceased person who does not have
43 a death or final expense benefit or insurance policy that pays for disposition of the deceased
44 person's body or other means to pay for disposition of the deceased person's body and:

45 (a) Who does not have a relative or other person with the legal right to direct and the means

1 to pay for disposition of the deceased person's body;

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

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

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

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

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

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

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

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

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

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

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

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

29 (c) If no person or institution claims the body as provided in paragraphs (a) and (b) of this
 30 subsection, the funeral establishment may cremate or bury the body without the consent of persons
 31 listed in ORS 97.130 and is indemnified from any liability arising from having made such disposition.
 32 The method of disposition must be in the least costly and most environmentally sound manner that
 33 complies with law, and that does not conflict with known wishes of the deceased. If the deceased
 34 person is an indigent person, the board shall reimburse the funeral establishment for the costs of
 35 disposition under subsection (5) of this section.

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

45 (5) Upon receipt of a qualifying statement as required by the board by rule that the deceased

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

6 **(6) This section does not apply to an indigent person who is an eligible decedent as de-**
7 **defined in section 2 of this 2021 Act and is entitled to interment under section 3 of this 2021**
8 **Act.**

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