

1 STATE OF OKLAHOMA

2 2nd Session of the 52nd Legislature (2010)

3 COMMITTEE SUBSTITUTE
4 FOR ENGROSSED
5 HOUSE BILL NO. 2571

By: Wesselhoft, Billy,
McAffrey, Banz, Brown,
(Walker and Luttrell) of
the House

6
7 and

8 Russell of the Senate
9

10 COMMITTEE SUBSTITUTE

11 An Act relating to professions and occupations;
12 enacting the Oklahoma Missing in America Act;
13 amending 63 O.S. 2001, Section 1-328, as amended by
14 Section 24, Chapter 57, O.S.L. 2003, and as
15 renumbered by Section 31, Chapter 57, O.S.L. 2003 (59
16 O.S. Supp. 2009, Section 396.29), which relates to
17 cremation; requiring certain inquiry of the United
18 States Department of Defense; establishing timeframe
19 to receive certain information; authorizing transfer
20 of certain remains to charitable organizations
21 approved by the Department of Veterans Affairs;
22 requiring certain tax-exempt status of charitable
23 organization; discharging funeral establishment from
24 certain legal obligation or liability upon transfer
of remains to organization; providing for
noncodification; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law not to be
codified in the Oklahoma Statutes reads as follows:

This act shall be known and may be cited as the "Oklahoma
Missing in America Act".

1 SECTION 2. AMENDATORY 63 O.S. 2001, Section 1-328, as
2 amended by Section 24, Chapter 57, O.S.L. 2003, and as renumbered by
3 Section 31, Chapter 57, O.S.L. 2003 (59 O.S. Supp. 2009, Section
4 396.29), is amended to read as follows:

5 Section 396.29 A. The person charged by law with the duty of
6 burying the body of a deceased person may discharge such duty by
7 causing the body to be cremated as authorized and provided for in
8 the following sections of this article, but the body of a deceased
9 person shall not be disposed of by cremation, or other similar
10 means, within the State of Oklahoma, except in a crematory duly
11 licensed as provided for herein, and then only under a special
12 permit for cremation issued in accordance with the provisions
13 hereof.

14 B. Upon the completion of each cremation, and insofar as is
15 practicable, all of the recoverable residue of the cremation process
16 shall be removed from the crematory and placed in a separate
17 container so that the residue may not be commingled with the
18 cremated remains of other persons. Cremated remains of a dead human
19 shall not be divided or separated without the prior written consent
20 of the authorizing agent.

21 C. A funeral director or funeral establishment that has
22 received express written authorization for final disposition or
23 cremation from the authorizing agent shall not be liable if the
24 final disposition or cremation is performed in accordance with the

1 provisions of the Funeral Services Licensing Act. The funeral
2 director or funeral establishment shall not be liable for following
3 in a reasonable fashion the instructions of any persons who falsely
4 represent themselves as the proper authorizing agents.

5 D. Absent the receipt of a court order or other suitable
6 confirmation of resolution, a funeral director or funeral
7 establishment shall not be liable for refusing to accept human
8 remains for final disposition or cremation if the funeral director
9 or other agent of the funeral establishment:

10 1. Is aware of any dispute concerning the final disposition or
11 cremation of the human remains; or

12 2. Has a reasonable basis for questioning any of the
13 representations made by the authorizing agent.

14 E. Each funeral establishment which offers or performs
15 cremations shall maintain an identification system that ensures the
16 ability of the funeral establishment to identify the human remains
17 in its possession throughout all phases of the cremation process.
18 Upon completion of the cremation process, the crematory operator
19 shall attest to the identity of the cremated remains and the date,
20 time, and place the cremation process occurred on a form prescribed
21 by rule of the Oklahoma Funeral Board. The form shall accompany the
22 human remains in all phases of transportation, cremation, and return
23 of the cremated remains.

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1 F. The authorizing agent is responsible for the disposition of
2 the cremated remains. If, after sixty (60) calendar days from the
3 date of cremation, the authorizing agent or the representative of
4 the agent has not specified the ultimate disposition or claimed the
5 cremated remains, the funeral establishment in possession of the
6 cremated remains may dispose of the cremated remains in a dignified
7 and humane manner in accordance with any state, county, or municipal
8 laws or provisions regarding the disposition of cremated remains,
9 except as provided in subsection G of this section. A record of
10 this disposition shall be made and kept by the entity making the
11 disposition. Upon the disposition of unclaimed cremated remains in
12 accordance with this subsection, the funeral establishment and
13 entity which disposed the cremated remains shall be discharged from
14 any legal obligation or liability concerning the disposition of the
15 cremated remains.

16 G. If the authorizing agent determines that the unclaimed
17 cremated remains are those of a military veteran, the funeral
18 establishment shall make an inquiry to the United States Department
19 of Defense regarding the person designated by the deceased person to
20 authorize direct disposition of the deceased person's remains
21 pursuant to Public Law No. 109-163, Section 564, as listed on the
22 deceased person's United States Department of Defense Record of
23 Emergency Data, DD Form 93, or its successor form, if the deceased
24 person died during military service, as provided in 10 U.S.C.,

1 Section 1481 (a)(1) through (8), in any branch of the United States
2 Armed Forces, United States Reserve Forces, or National Guard.

3 If such information is not provided within thirty (30) days the
4 funeral establishment may transfer the remains to a charitable
5 organization approved by the Oklahoma Department of Veterans Affairs
6 for the purpose of providing a dignified and honorable funeral for
7 the veteran at a veterans cemetery. The charitable organization
8 shall be listed as an exempt organization under Section 501(c) of
9 the Internal Revenue Code, 26 U.S.C., Section 501(c). Upon the
10 transfer of the veteran's remains to the charitable organization,
11 the funeral establishment shall be discharged from any legal
12 obligation or liability concerning the disposition of the cremated
13 remains.

14 SECTION 3. This act shall become effective November 1, 2010.

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