

Counties, disposition of unclaimed bodies

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The Honorable William F. Andrews
Representative, District 87
777 East Atlantic Avenue, Suite 226
Delray Beach, Florida 33483

Dear Representative Andrews:

Your inquiry concerns the procedures for the disposition of unclaimed bodies by a county. Attorney General Butterworth has asked me to respond to your letter.

Chapter 245, Florida Statutes, provides for the disposition of unclaimed bodies. Sections 245.06 and 245.07, Florida Statutes, prescribe the procedures for handling bodies which are unclaimed or required to be buried at public expense because of indigency. An examination of the statutes indicates that such bodies may be cremated or buried. Section 245.06, for example, requires any person who comes into the possession or control of a dead human body which is unclaimed or required to be buried at public expense to immediately notify the anatomical board, regarding the availability of the body for the purposes of medical science.[1]

Pursuant to section 245.07, Florida Statutes,

"[I]f at any time more bodies are made available to the anatomical board than can be used for medical science under its jurisdiction, or if a body shall be deemed by the anatomical board to be unfit for anatomical purposes, the anatomical board may notify, in writing, the county commissioners or other legally authorized person, as defined in s. 470.002, in the county where such person died, *to cause it to be buried or cremated in accordance with the rules, laws and practices for disposing of such unclaimed bodies*. However, prior to having any body buried or cremated, the county shall make a reasonable effort to determine the identity of the body and shall further make a reasonable effort to contact any relatives of the deceased person. If a relative of the deceased person is contacted and expresses a preference for either burial or cremation, the county shall make a reasonable effort to accommodate the request of the relative." (e.s.)

Thus, prior to having the body cremated or buried, a county is required to make a "reasonable effort" to determine the identity of the body and to contact any relatives of the deceased person. If a relative of the decedent expresses a preference for either burial or cremation, the county must make a reasonable effort to accommodate such a request.

The provisions authorizing cremation as an alternative to burial was adopted in 1991.[2] The staff analysis states that prior to the statute's amendment, many counties and municipalities made no provision for "paupers fields" and insufficiently budgeted for the costs of burial:

"Consequently, these bodies are sometimes kept for significant amounts of time by the district

Medical Examiner or in local funeral homes."[3] The bill sought to remedy this situation by allowing for cremation as an alternative to burial. The committee substitute for the bill, however, also sought to address "the need for the county to make reasonable efforts to identify these bodies and contact relatives to determine if there is any preference for either burial or cremation and to consider any preference."[4]

Thus, except in certain specified instances,[5] the determination as to whether to cremate or bury an unclaimed body or body required to be buried at public expense because of indigency would appear to rest with the individual county.

Sincerely,

Joslyn Wilson
Assistant Attorney General

JW/tgk

[1] See s. 245.08, Fla. Stat., providing when notice of death of indigent persons to the anatomical board in cases of indigent persons is not required.

[2] Committee Substitute for HB 689, enacted as Ch. 91-168, Laws of Florida.

[3] Final Bill Analysis & Economic Impact Statement on CS/HB 689, Florida House of Representatives Committee on Health and Rehabilitative Services, dated May 2, 1991.

[4] *Id.*

[5] See, e.g., s. 245.07, Fla. Stat., requiring the county to make a reasonable effort to accommodate a relative's request for cremation or burial; s. 245.15, Fla. Stat., stating that at any time when a body or parts of a body have been used and are deemed of no further value to medical or dental science, then the person or persons having charge of said body or parts may dispose of the remains by cremation.