

STATE OF OKLAHOMA

2nd Session of the 47th Legislature (2000)

HOUSE BILL HB2163

By: Ferguson and Dunnegan

AS INTRODUCED

An Act relating to funerals and burials; assessing an indigent funeral services fee; providing purpose; requiring collection; requiring reporting and preservation of records; providing for disbursement; providing for eligible expenses; requiring applications; requiring promulgation of rules; providing for process; providing for audit; providing for exceptions; amending 21 O.S. 1991, Sections 1151, as amended by Section 1, Chapter 197, O.S.L. 1997 and 1158, as amended by Section 2, Chapter 197, O.S.L. 1997 (21 O.S. Supp. 1999, Sections 1151 and 1158), which relate to persons responsible for burials; clarifying and updating language; providing for codification; and declaring an emergency.

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 396.13a of Title 59, unless there is created a duplication in numbering, reads as follows:

A. Except as otherwise provided by this section, there is hereby assessed upon each funeral of a human conducted in this state, subject to the Funeral Services Licensing Act, a fee of Fifteen Dollars (\$15.00).

B. The fee imposed pursuant to this subsection shall be for the purpose of providing revenue for the reimbursement of eligible expenses incurred by funeral establishments for providing funeral services to indigent persons.

C. The fee shall be included in or added to the purchase price for funeral services and shall be remitted to the Oklahoma State Board of Embalmers and Funeral Directors for deposit and disbursement pursuant to the provisions of this section.

D. It shall be the duty of each funeral establishment in this state to collect and remit the fees levied pursuant to this section and make and submit a signed itemized indigent funeral services fee collection report for each calendar month showing:

1. The name of the funeral establishment collecting the fee;
2. The total amount collected during the preceding month; and
3. Such other information required by the Board to enable it to compute correctly and collect the fee levied pursuant to this section.

E. Every funeral establishment shall keep and preserve suitable records of the fees collected and such other pertinent records and documents which may be necessary to determine the amount of fees due as will substantiate and prove the accuracy of the reports. All records shall be preserved for a period of three (3) years. The records shall be open for examination by employees of the Board in the performance of their duties pursuant to law.

F. The fees collected pursuant to the provisions of this section shall be deposited into the Indigent Funeral Services Fund. The Fund shall be administered by the Board for the benefit of those funeral establishments incurring eligible expenses for providing funeral services to indigent persons. The Fund shall be a continuing fund not subject to fiscal year limitations. The monies deposited in the Indigent Funeral Services Fund shall at no time become monies of the state and shall not become part of the general budget of the Board or any other state agency. Except as otherwise authorized by this subsection, no monies from the Indigent Funeral Services Fund shall be transferred for any purpose to any other state agency or any account of the Board or be used for the purpose of contracting with any other state agency or reimbursing any other state agency for any expense.

G. The Board shall promulgate rules providing for reimbursement of eligible expenses incurred by funeral establishments for funeral

services for indigent persons. The rules promulgated by the Board shall provide that payment of funeral expenses be reimbursed only if there are no persons whose legal duty is to bury the body of a deceased person pursuant to Section 1158 of Title 21 of the Oklahoma Statutes. In addition the rules shall limit the total of funeral expenses reimbursed at no more than One Thousand Five Hundred Dollars (\$1,500.00) for any one indigent person.

H. A funeral establishment desiring to be compensated by the Indigent Funeral Services Fund shall first make application to the Board on forms prescribed by the Board containing documentation as required by this section. On at least a monthly basis the Board shall evaluate and process the applications.

I. 1. Upon receiving completed applications and upon determining there are sufficient monies in the Indigent Funeral Services Fund, the Board shall reimburse funeral establishments for such expenses.

2. If the Indigent Funeral Services Fund contains insufficient funds in any month, then the Board shall apportion the payments among all the qualifying applications.

3. The Auditor and Inspector shall provide an annual independent audit of the books, records and files and such other documents of the Board pertaining to and which relate to the administration of the Indigent Funeral Services Fund.

J. The provisions of this section shall not apply to funeral services for indigent persons who are wards of the state or are in the custody of the state, a county or a municipality.

SECTION 2. AMENDATORY 21 O.S. 1991, Section 1151, as amended by Section 1, Chapter 197, O.S.L. 1997 (21 O.S. Supp. 1999, Section 1151), is amended to read as follows:

Section 1151. A. Any person has the right to direct the manner ~~in which~~ of disposal of his or her body ~~shall be disposed of~~ after death, and to direct the manner of disposal in which any part of his

or her body which becomes separated therefrom during his or her lifetime ~~shall be disposed of~~. The provisions of this article do not apply ~~where~~ if such person has given directions for the disposal of his or her body or any part thereof inconsistent with these provisions.

B. A person may assign the right to direct the manner in which his or her body shall be disposed of after death by executing a sworn affidavit stating the assignment of the right and the name of the person or persons to whom the right has been assigned.

C. Any person who knowingly fails to follow the body disposal directions ~~as to the manner in which the body of a person shall be disposed of~~ pursuant to subsection A or B of this section, upon conviction thereof, shall be guilty of a misdemeanor punishable by a fine of not more than Five Thousand Dollars (\$5,000.00).

SECTION 3. AMENDATORY 21 O.S. 1991, Section 1158, as amended by Section 2, Chapter 197, O.S.L. 1997 (21 O.S. Supp. 1999, Section 1158), is amended to read as follows:

Section 1158. The duty of burying the body of a deceased person devolves upon the persons hereinafter specified:

1. The person or persons designated in ~~subsection B~~ of Section 1151 of this title.

2. If the deceased was married at the time of ~~his or her~~ death, the duty of burial devolves upon the spouse of the deceased.

3. If the deceased was not married, but left any kindred, the duty of burial devolves upon any adult person or persons in the same degree nearest of kin to the deceased, ~~being of adult age~~, and possessed of sufficient means to defray the necessary expenses.

4. If the deceased left no spouse, ~~nor~~ or kindred, answering to the foregoing description, the duty of burial devolves upon the officer conducting an inquest upon the body of the deceased, if any such inquest is held; if none, then upon the persons charged with the support of the poor in the locality in which the death occurs.

5. In case the person upon whom the duty of burial is cast by ~~the foregoing~~ pursuant to the provisions of this section omits to make such burial within a reasonable time, the duty devolves upon the person next specified; and if all omit to act, it devolves upon the tenant, or, if there be no tenant, upon the owner of the premises where the death occurs or the body is found.

SECTION 4. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

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