

1 STATE OF OKLAHOMA

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

3 HOUSE BILL 2571

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McAffrey

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7 AS INTRODUCED

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

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24 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".

SECTION 2. AMENDATORY 63 O.S. 2001, Section 1-328, as
amended by Section 24, Chapter 57, O.S.L. 2003, and as renumbered by

1 Section 31, Chapter 57, O.S.L. 2003 (59 O.S. Supp. 2009, Section
2 396.29), is amended to read as follows:

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

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

19 C. A funeral director or funeral establishment that has
20 received express written authorization for final disposition or
21 cremation from the authorizing agent shall not be liable if the
22 final disposition or cremation is performed in accordance with the
23 provisions of the Funeral Services Licensing Act. The funeral
24 director or funeral establishment shall not be liable for following

1 in a reasonable fashion the instructions of any persons who falsely
2 represent themselves as the proper authorizing agents.

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

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

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

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

22 F. The authorizing agent is responsible for the disposition of
23 the cremated remains. If, after sixty (60) calendar days from the
24 date of cremation, the authorizing agent or the representative of

1 the agent has not specified the ultimate disposition or claimed the
2 cremated remains, the funeral establishment in possession of the
3 cremated remains may dispose of the cremated remains in a dignified
4 and humane manner in accordance with any state, county, or municipal
5 laws or provisions regarding the disposition of cremated remains,
6 except as provided in subsection G of this section. A record of
7 this disposition shall be made and kept by the entity making the
8 disposition. Upon the disposition of unclaimed cremated remains in
9 accordance with this subsection, the funeral establishment and
10 entity which disposed the cremated remains shall be discharged from
11 any legal obligation or liability concerning the disposition of the
12 cremated remains.

13 G. If the authorizing agent determines that the unclaimed
14 cremated remains are those of a military veteran, the funeral
15 establishment may transfer the remains to a charitable organization
16 approved by the Military Department of the State of Oklahoma for the
17 purpose of providing a dignified and honorable funeral for the
18 veteran at a veterans cemetery. The charitable organization shall
19 be listed as an exempt organization under Section 501(c) of the
20 Internal Revenue Code, 26 U.S.C., Section 501(c). Upon the transfer
21 of the veteran's remains to the charitable organization, the funeral
22 establishment shall be discharged from any legal obligation or
23 liability concerning the disposition of the cremated remains.

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

52-2-8709 SDR 12/23/09