

# DISPOSITION OF HUMAN REMAINS

## POLICY NO. 12-03

**PURPOSE:** The purpose of this Policy is to provide a dignified, respectful and uniform procedure for the final disposition of human remains which are unclaimed or qualify as indigent, pursuant to Chapter 406, *Florida Statutes*.

**POLICY:** Hernando County shall provide cremation services for human remains which are unclaimed or qualify as indigent, pursuant to Chapter 406, *Florida Statutes*, as required by law and pursuant to the policies and procedures herein.

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### GENERAL

#### A. SCOPE

1. Pursuant to Chapter 406, Part II, *Florida Statutes*, a Board of County Commissioners may prescribe policies and procedures for final disposition of unclaimed remains, unclaimed remains of indigent persons, and unclaimed remains of indigent persons when the legally authorized person is also an indigent person. This Policy shall serve as the resolution prescribing such policies and procedures.

2. Unless ordered by a court of competent jurisdiction, the only method of final disposition of human remains pursuant to this Policy is cremation. Hernando County does not provide any other services related to the final disposition of human remains, including burial merchandise, burial services, funeral services, or memorial services.

3. The final disposition of human remains by cremation authorized by this Policy shall only apply to human remains when the decedent's death occurred, or whose remains were found, in Hernando County.

4. All requirements of Chapters 406 and 497, *Florida Statutes*, as may be amended, are incorporated herein by reference.

#### B. MAXIMUM AUTHORIZED PAYMENT

1. The maximum payment to facilities licensed to provide cremation services is \$300 for decedents aged 1-12 and \$650 for all other decedents unless the county enters into an agreement for another amount.

2. Hernando County may, at its discretion, contract or work with one or more facilities licensed to provide cremation services, subject to all purchasing rules and regulations, and the requirements of Chapter 406, *Florida Statutes*.

#### C. DEFINITIONS

1. All definitions in Sections 406.49 and 497.005, *Florida Statutes*, as may be amended, are incorporated herein by reference.

2. Pursuant to Section 497.005(43), *Florida Statutes*, as may be amended, “**legally authorized person**” means, in the priority listed:

(a) The decedent, when written inter vivos authorizations and directions are provided by the decedent;

(b) The person designated by the decedent as authorized to direct disposition pursuant to Pub. L. No. 109-163, s. 564, as listed on the decedent’s United States Department of Defense Record of Emergency Data, DD Form 93, or its successor form, if the decedent died while in military service as described in 10 U.S.C. s. 1481(a)(1)-(8) in any branch of the United States Armed Forces, United States Reserve Forces, or National Guard;

(c) The surviving spouse, unless the spouse has been arrested for committing against the deceased an act of domestic violence as defined in Section 741.28, *Florida Statutes*, that resulted in or contributed to the death of the deceased;

(d) A son or daughter who is 18 years of age or older;

(e) A parent;

(f) A brother or sister who is 18 years of age or older;

(g) A grandchild who is 18 years of age or older;

(h) A grandparent; or

(i) Any person in the next degree of kinship.

In addition, the term may include, if no family member exists or is available, the guardian of the dead person at the time of death; the personal representative of the deceased; the attorney in fact of the dead person at the time of death; the health surrogate of the dead person at the time of death; a public health officer; the medical examiner, county commission, or administrator acting under Part II of Chapter 406, *Florida Statutes*, or other public administrator; a representative of a nursing home or other health care institution in charge of final disposition; or a friend or other person not listed in this subsection who is willing to assume the responsibility as the legally authorized person. Where there is a person in any priority class listed in this subsection, the funeral establishment shall rely upon the authorization of any one legally authorized person of that class if that person represents that she or he is not aware of any objection to the cremation of the deceased’s human remains by others in the same class of the person making the representation or of any person in a higher priority class.

3. Pursuant to Section 406.49, *Florida Statutes*, as may be amended, “**indigent person**” means a person whose family income does not exceed 100 percent of the current federal poverty guidelines prescribed for the family’s household size by the United States Department of Health and Human Services.

4. Pursuant to Section 406.49, *Florida Statutes*, as may be amended, “**unclaimed remains**” means human remains that are not claimed by a legally authorized person, other than a medical examiner or the Board of County Commissioners, for final disposition at such legally authorized person’s expense.

## UNCLAIMED REMAINS

### A. SCOPE

1. Hernando County shall provide cremation services for human remains which are unclaimed, pursuant to Chapter 406, *Florida Statutes*, and pursuant to the policies and procedures herein.
2. Hernando County will not “deem” human remains as “unclaimed” and therefore authorize cremation services to resolve disputes regarding the final disposition of such human remains among legally authorized persons of the same class or different classes.
3. Hernando County will not “deem” human remains as “unclaimed” and therefore authorize cremation services to resolve instances where legally authorized persons exist but prefer not to sign authorization forms requested by the facility licensed to provide cremation services.
4. Hernando County shall pursue all avenues to recover the cremation costs for unclaimed remains, including any remedy available at law, and including pursuing available income and assets of the decedent.

### B. REQUIREMENTS

The following requirements apply to the final disposition of unclaimed remains pursuant to Section 406.50, *Florida Statutes*, as may be amended:

1. A person or entity that comes into possession, charge, or control of unclaimed remains that are required to be cremated at public expense shall immediately notify the anatomical board, unless:
  - (a) The unclaimed remains are decomposed or mutilated by wounds;
  - (b) An autopsy is performed on the remains;
  - (c) The remains contain a contagious disease;
  - (d) A legally authorized person objects to use of the remains for medical education or research; or
  - (e) The deceased person was a veteran of the United States Armed Forces, United States Reserve Forces, or National Guard and is eligible for burial in a national cemetery or was the spouse or dependent child of a veteran eligible for burial in a national cemetery.
2. Before the final disposition of unclaimed remains, the person or entity in charge or control of the remains shall make a reasonable effort to:
  - (a) Determine the identity of the deceased person and contact any relatives of the deceased person.
  - (b) Determine whether the deceased person is eligible under 38 C.F.R. s. 38.620 for burial in a national cemetery as a veteran of the armed forces and, if eligible, to cause the deceased person’s remains or cremated remains to be delivered to a national cemetery. For purposes of this subsection, “a reasonable effort” includes contacting the National Cemetery Scheduling Office, the

county veterans service office, or the regional office of the United States Department of Veterans Affairs.

3. Unclaimed remains shall be delivered to the anatomical board as soon as possible after death. When no family exists or is available, a funeral director licensed under Chapter 497, *Florida Statutes*, may assume the responsibility of a legally authorized person and may, after 24 hours have elapsed since the time of death, authorize arterial embalming for the purposes of storage and delivery of unclaimed remains to the anatomical board. A funeral director licensed under Chapter 497, *Florida Statutes*, is not liable for damages under this section.

4. The remains of a deceased person whose identity is not known may not be cremated, donated as an anatomical gift, buried at sea, or removed from the state.

5. If the anatomical board does not accept the unclaimed remains, Hernando County may authorize and arrange for the cremation of the entire remains.

6. Nothing herein affects the right of a medical examiner to hold human remains for the purpose of investigating the cause of death or the right of any court of competent jurisdiction to enter an order affecting the disposition of such remains.

7. The cremated remains of unclaimed remains shall be disposed of pursuant to Section 497.607, *Florida Statutes*, or other applicable law, and at the discretion of Hernando County. No individual or entity is entitled to the cremated remains of unclaimed remains unless or until the County is reimbursed for cremation costs.

## UNCLAIMED REMAINS OF INDIGENT PERSONS

### A. SCOPE

1. Hernando County shall provide cremation services for human remains which are deemed unclaimed remains of an indigent person, pursuant to Chapter 406, *Florida Statutes*, and pursuant to the policies and procedures herein.

2. Hernando County shall verify the decedent's income and assets to determine whether the decedent is an indigent person pursuant to Chapter 406, *Florida Statutes*.

3. Hernando County shall pursue all avenues to recover the cremation costs for unclaimed remains of an indigent person, including any remedy available at law, and including pursuing available income and assets of the decedent.

### B. REQUIREMENTS

The following requirements apply to the final disposition of unclaimed remains of indigent persons pursuant to Section 406.53, *Florida Statutes*, as may be amended:

A Board of County Commissioners or its designated county department that receives a report of the unclaimed remains of an indigent person is not required to notify the anatomical board of the remains if:

1. The indigent person's remains are decomposed or mutilated by wounds or if an autopsy is performed on the remains;

2. A legally authorized person or a relative by blood or marriage claims the remains for final disposition at his or her expense or, if such relative or legally authorized person is also an indigent person, in a manner consistent with the policies and procedures of the Board of County Commissioners of the county in which the death occurred or the remains were found;

3. The deceased person was a veteran of the United States Armed Forces, United States Reserve Forces, or National Guard and is eligible for burial in a national cemetery or was the spouse or dependent child of a veteran eligible for burial in a national cemetery; or

4. A funeral director licensed under Chapter 497, *Florida Statutes*, certifies that the anatomical board has been notified and either accepted or declined the remains.

5. The cremated remains of unclaimed remains of indigent persons shall be disposed of pursuant to Section 497.607, *Florida Statutes*, or other applicable law, and at the discretion of Hernando County. No individual or entity is entitled to the cremated remains of unclaimed remains of indigent persons unless or until the County is reimbursed for cremation costs.

## **UNCLAIMED REMAINS OF INDIGENT PERSONS WHEN A LEGALLY AUTHORIZED PERSON IS ALSO AN INDIGENT PERSON**

### **A. SCOPE**

1. Hernando County shall provide cremation services for human remains which are deemed unclaimed remains of an indigent person when a legally authorized person is also an indigent person, pursuant to Chapter 406, *Florida Statutes*, and pursuant to the policies and procedures herein.

2. Hernando County shall verify the decedent's income and assets AND the legally authorized person's income and assets ("the applicant") to determine whether the decedent is an indigent person and to determine whether the applicant is an indigent person, pursuant to Chapter 406, *Florida Statutes*.

3. Hernando County shall pursue all avenues to recover the cremation costs for unclaimed remains of an indigent person, including any remedy available at law, and including pursuing available income and assets of the decedent.

### **B. REQUIREMENTS**

1. All of the above requirements for unclaimed remains of indigent persons apply when one legally authorized person is also an indigent person.

2. The cremated remains of unclaimed remains of indigent persons when a legally authorized person is also an indigent person shall be provided to the legally authorized person at no cost.

## **PROCEDURES**

### **A. APPLICATION**

1. In addition to the procedures herein, the Hernando County Department of Housing and Supportive Services may establish procedures for processing requests for cremation for unclaimed remains

of indigent persons or unclaimed remains of indigent persons when the legally authorized person is also an indigent person, including procedures for referrals to cremation service providers.

2. Requests for cremation for unclaimed remains of indigent persons or unclaimed remains of indigent persons when the legally authorized person is also an indigent person, shall be by written application to the Hernando County Department of Housing and Supportive Services.

3. The Hernando County Department of Housing and Supportive Services is authorized to create a written application, and amend it from time to time, to ensure that all requirements of Florida law are met.

## **B. REVIEW REQUIREMENTS**

1. The Hernando County Department of Housing and Supportive Services shall review all applications submitted pursuant to this Policy within a reasonable amount of time, or within any timeframe required by law. Additional review time may be necessary for various reasons, including, but not limited to, the following:

- (a) Determining the identity of the decedent;
- (b) Searching for legally authorized persons;
- (c) Verifying the indigent status of the decedent or the indigent status of a legally authorized person;
- (d) Determining the veteran status of the decedent;
- (e) Determining if cremation services are available from other entities or programs.

2. The Hernando County Department of Housing and Supportive Services is not authorized to waive any requirements in this Policy.

## **C. AUTHORIZATION FOR CREMATION**

1. When the requirements of this Policy are met, the Hernando County Department of Housing and Supportive Services may authorize cremation services as the “legally authorized person” required by Section 497.607, *Florida Statutes*. Such authorization shall be provided in writing to the cremation service provider on a form approved by the Hernando County Department of Housing and Supportive Services and the Hernando County Attorney’s Office. Such form shall serve as the written authorization and declaration of intent regarding the disposition of the cremated remains required by Section 497.607, *Florida Statutes*. The Hernando County Department of Housing and Supportive Services is not authorized to execute forms provided by a cremation service provider unless such form is reviewed and approved by the Hernando County Attorney’s Office.

2. Cremation service providers shall comply with all applicable rules, regulations and laws, including any requirements for notification to the state anatomical board.

## **D. CREMATION SERVICE PROVIDERS**

The Hernando County Department of Housing and Supportive Services shall establish procedures for payments to cremation services providers, including, but not limited to:

1. Documentation required from cremation service providers to ensure statutory provisions have been met;
2. Form of invoice required from cremation service providers;
3. Payment processes and timeframes for paying cremation service providers.

#### **E. RECOVERY OF CREMATION COSTS**

As stated above, Hernando County shall pursue all avenues to recover the cremation costs authorized by this Policy, including any remedy available at law, and including pursuing available income and assets of any decedent. Any recovered costs shall be deposited and expended as required and permitted by law.

#### **POLICY HISTORY**

Replaces:	Policy No. 89-01
Reference:	May 9, 1989
Adopted:	September 18, 1991
Amended:	October 7, 2003
Amended:	July 29, 2004
Amended:	