State of Arkansas

92nd General Assembly
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By: Representative Watson
By: Senator Flippo

For An Act To Be Entitled

AN ACT TO CLARIFY THE PROCEDURE FOR DISPOSITION OF UNCLAIMED BODIES IN THE STATE OF ARKANSAS; AND FOR OTHER PURPOSES.

Subtitle

TO CLARIFY THE PROCEDURE FOR DISPOSITION OF UNCLAIMED BODIES IN THE STATE OF ARKANSAS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code §§ 20-17-701 and 20-17-702 are amended to read as follows:

20-17-701. Definition — Rights of coroner, justice of the peace, or courts unaffected.

(a) As used in this subchapter:

(1) "medical Medical school" means a medical school or school of osteopathic medicine in this state that is:

(A) Accredited by an accrediting agency recognized by the United States Department of Education; or

(B) Approved by the Arkansas Higher Education Coordinating Board to seek accreditation by an accrediting agency recognized by the United States Department of Education;

(2) "Next of kin" means a spouse, parent, child, sibling, or person otherwise authorized under § 20-17-702;

(3) "Unclaimed body" means a human body for which the next of
kin:

(A) Cannot be located; or
(B) Does not exercise his or her right of disposition

within the earlier of:

(i) Two (2) days of notification of the death of the deceased; or
(ii) Five (5) days of the death of the deceased; and

(4) "Unclaimed remains" means the cremated remains of an unclaimed body.

(b) None of the provisions of this subchapter shall affect the right of a coroner or a justice of the peace to hold the dead body as described under § 20-17-703 for the purpose of investigating the cause of death, nor shall this subchapter affect the right of any court of competent jurisdiction from entering an order affecting the disposition of the body.

20-17-702. Search for next of kin.

(a)(1)(A) The person who assumes original and lawful possession, charge, or control of any body as described in this subchapter shall conduct a diligent search for relatives or next of kin of the deceased, or that person shall request the county sheriff or such other person as may be required by law to conduct the search.

(B) The search shall be completed within five (5) days of the death of the deceased or the date of the request, whichever is later.

(2) The person conducting the search under subdivision (a)(1) of this section shall make every effort to find the spouse, if any, of the deceased.

(3) If the person conducting the search is not satisfied that the putative spouse is, in fact, a legal spouse, or it is determined that no spouse exists, then every effort shall be made to find the parents and siblings, if any, of the deceased.

(b) If the identity of the deceased is not known, the investigation shall include, but not be limited to, the taking of fingerprints and sending the fingerprint records to the Federal Bureau of Investigation in Washington, D.C., for identification and filing without limitation submittal of the unidentified deceased to the State Crime Laboratory for forensic examination
and scientific identification that may include fingerprinting, dental
examination, DNA analysis, and entry into the National Missing and
Unidentified Persons System database.

(c) If the deceased is eighteen (18) years of age or older, the person
conducting the search shall conduct a diligent search with the Department of
Veterans Affairs and the United States Department of Veterans Affairs to
determine whether the deceased was a veteran under § 20-17-1403.

(d) If a relative or next of kin does not claim the body, a friend, a
representative of a fraternal society of which the deceased was a member, a
veterans service organization as defined in the Missing in America Project
Act, § 20-17-1401 et seq., the Department of Veterans Affairs, the United
States Department of Veterans Affairs, or a representative of a charitable or
religious group may claim the body for burial or cremation at his or her
expense as described in § 20-17-706(a)-(c).

(e)(1) If a party listed in subsection (d) of this section or a
medical school does not claim the body, the person in possession, charge, or
control of the unclaimed body shall bury, cremate, or donate the unclaimed
body within ten (10) days after the date of death.

(2) If the unclaimed body is cremated and a relative, next of
kin, or other party described in subsection (d) of this section does not
claim the unclaimed remains within five (5) days of cremation, person in
possession, charge, or control of the unclaimed body may dispose of the
unclaimed remains in a manner permitted by law.

(3) If money is discovered on the unclaimed body, the person in
possession, charge, or control of the unclaimed body may use the money toward
the disposition of the unclaimed body.

(4) If the deceased had an estate, the estate is responsible for
reimbursing the person in possession, charge, or control of the unclaimed
body for all reasonable expenses incurred in relation to the disposition of
the unclaimed body.

(5)(A) The coroner in the county where the unclaimed body is
located may assume possession, charge, or control of the unclaimed body and
all obligations and benefits required of the person in possession, charge, or
control of the unclaimed body.

(B)(i) The person in possession, charge, or control of the
unclaimed body may petition the county court where the unclaimed body is
located for the county to take possession, charge, or control of the
unclaimed body.

(ii) The county court shall grant the county
possession, charge, or control of the unclaimed body upon a finding that the
county is able to address the disposition of the unclaimed body and the
county is the proper county for disposition of the unclaimed body.

SECTION 2. Arkansas Code § 20-17-703(a), concerning notice of
unclaimed bodies to medical schools, is amended to read as follows:
(a) Any person in charge of a prison, morgue, hospital, funeral
parlor, or mortuary, any person who is a public officer, agent, or employee
of the state, any county or municipality, and all persons coming into
possession, charge, or control of any human body which is unclaimed for
burial may notify a medical school that the body, if unclaimed, is
available for use in the advancement or study of medical science.

SECTION 3. Arkansas Code § 20-17-704 is amended to read as follows:
20-17-704. Delivery to medical school.
Upon expiration of the forty-eight (48) hours as provided in § 20-17-703, if the dead human body a body of a deceased person has not been claimed
for burial, the person then having possession, charge, or control of the
unclaimed body shall surrender or deliver the unclaimed body to a medical
school, if so if the unclaimed body has been offered to and requested by it
the medical school.

SECTION 4. Arkansas Code § 20-17-706(a), concerning the cost of
embalming and transportation of an unclaimed body, is amended to read as
follows:
(a) If a medical school is offered an unclaimed body and determines
that there is a need for the unclaimed body, that the unclaimed body is
suitable for anatomical science or study, and that the unclaimed body has not
been embalmed, then the medical school, at its expense, shall immediately
arrange for proper embalment of the unclaimed body by a licensed embalmer,
either with the person having possession, charge, or control thereof of the
unclaimed body if the person is a licensed embalmer or licensed funeral
director or with any other licensed embalmer or licensed funeral director.
SECTION 5. Arkansas Code § 20-17-707 is amended to read as follows:

20-17-707. Holding period for medical school.

(a) The medical school shall cause any unclaimed body offered and accepted under this subchapter to be retained in a proper state of preservation for ninety (90) fifteen (15) days after the date the unclaimed body is received by the medical school.

(b) During this time period under subsection (a) of this section a relative, a next of kin, a friend, a representative of a fraternal society of which the deceased was a member, a veterans service organization as defined in the Missing in America Project Act, § 20-17-1401 et seq., the Department of Veterans Affairs, the United States Department of Veterans Affairs, or a representative of a charitable or religious group may claim the unclaimed body for burial or cremation at his or her or its expense as stated in § 20-17-706(a)-(c).

(c) If a claim is made, the medical school shall be reimbursed by the claimant for the embalming fee and transportation charges that have been incurred by the medical school in favor of the body claimed.

(d) If the unclaimed body is not claimed by any person or organization within ninety (90) fifteen (15) days from the date of arrival at the medical school, then all right, title, and interest in the unclaimed body shall be deemed to vest in the state for the benefit of the medical school, and any living relative, next of kin, friend, or organization shall be deemed to have consented irrevocably to use of the unclaimed body for the advancement or study of medical science.

/s/Watson

APPROVED: 4/12/19