



FLORIDA LAWS PERTAINING TO CREMATION

The State of Florida has a very comprehensive regulation of cremation. There are several different chapters of current statutes that apply to the practice of cremation. For your convenience, we have listed the most commonly requested statutes below. These are only a few of the many statutes that serve to regulate cremation in Florida. For those who may want more information, the entire Florida Statutes can be referenced online at: <http://www.leg.state.fl.us/statutes/>

(The Cremation Authorization)

497.607 Cremation; procedure required.-- (Title XXXIII Florida Statutes)

- (1) At the time of the arrangement for a cremation performed by any person licensed pursuant to this chapter, the person contracting for cremation services shall be required to designate her or his intentions with respect to the disposition of the cremated remains of the deceased in a signed declaration of intent which shall be provided by and retained by the funeral or direct disposal establishment. **A cremation may not be performed until a legally authorized person gives written authorization for such cremation.** The cremation must be performed within 48 hours after a specified time which has been agreed to in writing by the person authorizing the cremation.
- (2) With respect to any person who intends to provide for the cremation of the deceased, if, after a period of 120 days from the time of cremation the cremated remains have not been claimed, the funeral or direct disposal establishment may dispose of the cremated remains. Such disposal shall include scattering them at sea or placing them in a licensed cemetery scattering garden or pond or in a church columbarium or otherwise disposing of the remains as provided by rule.

497.005 Definitions.--As used in this chapter: (Title XXXIII Florida Statutes)

- (37) **"Legally authorized person"** means, in the priority listed, the decedent, when written inter vivos authorizations and directions are provided by the decedent; the surviving spouse, unless the spouse has been arrested for committing against the deceased an act of domestic violence as defined in s. 741.28 that resulted in or contributed to the death of the deceased; a son or daughter who is 18 years of age or older; a parent; a brother or sister who is 18 years of age or older; a grandchild who is 18 years of age or older; a grandparent; or 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 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.



(The Attending Physician must sign the Death Certificate & the Medical Examiner must also approve the cremation)

406.11 Examinations, investigations, and autopsies.. (Title XXIX Florida Statutes)

(1) In any of the following circumstances involving the death of a human being, the medical examiner of the district in which the death occurred or the body was found shall determine the cause of death and shall, for that purpose, make or have performed such examinations, investigations, and autopsies as he or she shall deem necessary or as shall be requested by the state attorney:

(a) When any person dies in the state:

1. Of criminal violence.
2. By accident.
3. By suicide.
4. Suddenly, when in apparent good health.
5. Unattended by a practicing physician or other recognized practitioner.
6. In any prison or penal institution.
7. In police custody.
8. In any suspicious or unusual circumstance.
9. By criminal abortion.
10. By poison.
11. By disease constituting a threat to public health.
12. By disease, injury, or toxic agent resulting from employment.

(b) When a dead body is brought into the state without proper medical certification.

(c) When a body is to be cremated, dissected, or buried at sea.

11G-2.001 Determination of Jurisdiction, Preliminary Procedures. (Florida Administrative Code)

(3) If a medical examiner makes an investigation solely in order that human remains may be disposed of under the terms of Section 406.11(1)(c), F.S., the medical examiner may give or deny permission for such disposal under one of the following conditions:

(a) Not until the medical examiner has autopsied the body, or has determined the cause of death by inquiry, shall the medical examiner relinquish jurisdiction for cremation, anatomic dissection, or burial-at-sea. **The medical examiner may, absent information to the contrary, rely on the information found on a signed death certificate as being true and accurate.**

(The cremation process may not begin until at least 48 hours after death)

872.03 Cremating human bodies; limitation.-- (Title XLVI Florida Statutes)

(1) **It shall be unlawful** for any person, firm, or corporation **to cremate any dead human body prior to the expiration of 48 hours after the death** of such human body.