

SENATE SUBSTITUTE FOR
HOUSE BILL NO. 5836

A bill to amend 1978 PA 368, entitled
"Public health code,"
by amending sections 2652, 2653, 2655, 2658, 2663, 2851, 2855, and
10108 (MCL 333.2652, 333.2653, 333.2655, 333.2658, 333.2663,
333.2851, 333.2855, and 333.10108), section 2851 as added by 1996
PA 284, section 2855 as amended by 1982 PA 3, and section 10108 as
amended by 1986 PA 186; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 2652. (1) The ~~anatomy board~~ **DEPARTMENT** shall receive
2 dead human bodies, or parts ~~thereof~~ **OF DEAD HUMAN BODIES**,
3 designated for scientific uses and allocate the bodies or parts to
4 hospitals and educational institutions requiring them for use in
5 medical instruction or for the purpose of instruction, study, and
6 use in the promotion of education in the health sciences ~~within~~
7 **IN** this state. The ~~anatomy board~~ **DEPARTMENT** shall keep permanent

House Bill No. 5836 as amended June 28, 2006

1 records of the receipt and disposition of dead bodies and parts.

2 (2) THE DEPARTMENT MAY DESIGNATE <<MICHIGAN STATE UNIVERSITY, WAYNE
3 STATE UNIVERSITY, OR THE UNIVERSITY OF MICHIGAN
4 >> TO
5 PERFORM THE DUTIES AND RESPONSIBILITIES OF THIS SECTION AND
6 SECTIONS 2653 TO 2663.

7 (3) A <<UNIVERSITY >> DESIGNATED UNDER
8 SUBSECTION (2) MAY EXERCISE ALL OF THE POWERS OF THE DEPARTMENT
9 CONTAINED IN THIS SECTION AND SECTIONS 2653 TO 2663 AS DELEGATED BY
10 THE DEPARTMENT.

11 Sec. 2653. (1) As used in sections ~~2651~~ 2652 to 2663,
12 "unclaimed body" means a dead human body for which the deceased has
13 not provided a disposition, **FOR WHICH** an estate or assets to defray
14 costs of burial do not exist, and ~~the body~~ **THAT** is not claimed
15 for burial by a person, relative, or court appointed fiduciary who
16 has the right to control disposition of the body.

17 (2) An official of a public institution or a state or local
18 officer in charge or control of an unclaimed body which would have
19 to be buried at public expense shall use due diligence to notify
20 the ~~relatives of the deceased. In the absence of any known~~
21 ~~relative of the deceased or a special administrator of the estate~~
22 ~~of the deceased appointed by the probate court desiring~~ **PERSONS**
23 **WITH AUTHORITY TO CONTROL THE INTERMENT OR DISPOSITION OF THE**
24 **UNCLAIMED BODY UNDER SECTION 3206 OF THE ESTATES AND PROTECTED**
25 **INDIVIDUALS CODE, 1998 PA 386, MCL 700.3206. IF THERE IS NO PERSON**
26 **UNDER SECTION 3206 OF THE ESTATES AND PROTECTED INDIVIDUALS CODE,**
27 **1998 PA 386, MCL 700.3206, to direct the disposition of the**

1 unclaimed body in a manner other than provided by **THIS SECTION AND**
2 sections ~~2653~~ **2655** to 2659, the unclaimed body shall become
3 available to the ~~anatomy board~~ **DEPARTMENT**. Upon written request
4 by the ~~anatomy board~~ **DEPARTMENT** for notification concerning
5 unclaimed bodies coming under his or her jurisdiction, the officer,
6 for the definite period specified in the request of the ~~anatomy~~
7 ~~board~~ **DEPARTMENT**, shall notify ~~a member of the anatomy board~~ **THE**
8 **DEPARTMENT** by ~~telegraph or~~ telephone, **FACSIMILE, OR ELECTRONIC**
9 **MAIL** immediately following 72 hours after death, excluding Sundays
10 and holidays, stating, when possible, the name, age, sex, religion,
11 and cause of death of the deceased, and shall release the body
12 according to the regulations or instructions of the ~~anatomy board~~
13 **DEPARTMENT**.

14 (3) If the deceased was a member of a religious faith
15 maintaining a benevolent association ~~which~~ **THAT** will provide for
16 the burial of the deceased in accordance with the tenets of the
17 religion, the ~~anatomy board~~ **DEPARTMENT** shall notify the
18 benevolent association of the death of the deceased by telephone,
19 ~~or telegram collect~~ **FACSIMILE, OR ELECTRONIC MAIL**, and shall
20 surrender the body to the benevolent association upon request.

21 Sec. 2655. An unclaimed body retained by the ~~anatomy board~~
22 **DEPARTMENT** for scientific or educational purposes shall be embalmed
23 and disposed of in accordance with standards adopted under section
24 2678. The unclaimed body shall be held for 30 days by the person to
25 whom it has been assigned for scientific or educational purposes.
26 The body is subject during this period to identification and claim
27 by an authenticated ~~relative of the deceased or a special~~

1 ~~administrator appointed by the probate court of the deceased's~~
2 ~~estate~~ **PERSON WITH AUTHORITY OVER THE BODY UNDER SECTION 3206 OF**
3 **THE ESTATES AND PROTECTED INDIVIDUALS CODE, 1998 PA 386, MCL**
4 **700.3206**, for the purpose of interment or other disposition in
5 accordance with the directions of ~~the relative or special~~
6 ~~administrator~~ **THAT PERSON.**

7 Sec. 2658. A person, unless specifically authorized by law,
8 shall not hold a postmortem examination of an unclaimed body
9 without the express permission of the ~~anatomy board~~ **DIRECTOR OF**
10 **THE DEPARTMENT.** When, through the failure of a person to notify the
11 ~~anatomy board~~ **DEPARTMENT** or promptly to release an unclaimed body
12 as required by the ~~anatomy board~~ **DEPARTMENT**, the body becomes
13 unfit for scientific or educational purposes, the ~~anatomy board~~
14 **DEPARTMENT** shall so certify, and the unclaimed body shall be
15 interred at the expense of those responsible for the noncompliance.

16 Sec. 2663. A person who unlawfully disposes, uses, or sells an
17 unclaimed body or who violates sections ~~2651~~ **2652** to 2661 is
18 guilty of a misdemeanor.

19 Sec. 2851. (1) Subject to any other provision of this part, a
20 person who has authority to make arrangements for a dead human body
21 under ~~this part~~ **SECTION 3206 OF THE ESTATES AND PROTECTED**
22 **INDIVIDUALS CODE, 1998 PA 386, MCL 700.3206**, also has authority to
23 request a permit for the disinterment of a dead human body under
24 section 2853 notwithstanding the lack of consent of, or 1 or more
25 objections of, a person who owns or possesses ownership rights over
26 the place of repose. A person who owns or possesses ownership
27 rights over the place of repose shall not bear any cost associated

1 with the disinterment unless that person initiates the disinterment
2 or is otherwise legally obligated for the costs of the
3 disinterment.

4 (2) This section does not void or otherwise affect a gift made
5 pursuant to part 101.

6 Sec. 2855. (1) An autopsy shall not be performed upon the body
7 of a deceased individual except by a physician who has been granted
8 written consent to perform the autopsy by ~~whichever 1 of the~~
9 ~~following individuals assumes custody of the body for purposes of~~
10 ~~burial: parent, surviving spouse, guardian, or next of kin of the~~
11 ~~deceased individual or by an individual charged by law with the~~
12 ~~responsibility for burial of the body. If 2 or more of those~~
13 ~~individuals assume custody of the body, the consent of 1 is~~
14 ~~sufficient.~~ **THE PERSON WITH AUTHORITY OVER THE BURIAL OR**
15 **DISPOSITION OF THE BODY UNDER SECTION 3206 OF THE ESTATES AND**
16 **PROTECTED INDIVIDUALS CODE, 1998 PA 386, MCL 700.3206.** This section
17 ~~shall~~ **DOES** not prevent the ordering of an autopsy by a medical
18 examiner or a local health officer.

19 (2) This section ~~shall~~ **DOES** not apply to a department of
20 anatomy in a school of medicine in this state ~~—~~ or to an autopsy,
21 postmortem, or dissection performed pursuant to and under the
22 authority of any other law.

23 (3) A local health officer may order an autopsy if necessary
24 to carry out the functions vested in a local health department by
25 this code.

26 (4) A physician, including a medical examiner, performing an
27 autopsy pursuant to subsection (1), (2), or (3) may remove, retain,

1 or use the pituitary gland of the deceased individual if the
2 removal, retention, or use of the pituitary gland is for purposes
3 of medical research, education, or therapy, and the physician is
4 unaware of any direction made by the deceased individual before
5 death or of an objection made by the next of kin of the deceased
6 individual that a part of the deceased individual's body not be
7 removed.

8 (5) If consent for the performance of the autopsy is required
9 pursuant to subsection (1), the physician shall obtain consent from
10 the same individual for the removal, retention, or use of the
11 pituitary gland of the deceased individual pursuant to subsection
12 (4).

13 (6) Except for a reasonable charge related to the actual costs
14 incurred and incident to removing and handling the pituitary gland,
15 the removed pituitary gland shall be submitted, without charge, to
16 hospitals, medical education or research institutions, or to
17 individuals or organizations for the purpose of treating another
18 human being. The hospital, medical education or research
19 institution, or other individual or organization receiving the
20 gland shall agree to furnish the gland, or a hormone produced from
21 the gland, without charge.

22 Sec. 10108. (1) The donee may accept or reject the gift. If
23 the donee accepts a gift of the entire body, the ~~surviving spouse,~~
24 ~~next of kin, or other persons having~~ **PERSON WITH** authority to
25 direct and arrange for the funeral and burial or other disposition
26 of the body **UNDER SECTION 3206 OF THE ESTATES AND PROTECTED**
27 **INDIVIDUALS CODE, 1998 PA 386, MCL 700.3206**, subject to the terms

1 of the gift, may authorize embalming and the use of the body in
2 funeral services. If the gift is a physical part of the body, the
3 donee, upon the death of the donor and prior to embalming, shall
4 cause the physical part to be removed without unnecessary
5 mutilation. After removal of the physical part, custody of the
6 remainder of the body vests in the ~~surviving spouse, next of kin,~~
7 ~~or such other persons having~~ **PERSON WITH** authority to direct and
8 arrange for the funeral and burial or other disposition of the
9 remainder of the body **UNDER SECTION 3206 OF THE ESTATES AND**
10 **PROTECTED INDIVIDUALS CODE, 1998 PA 386, MCL 700.3206.** The holder
11 of a license for the practice of mortuary science under article 18
12 of the occupational code, ~~Act No. 299 of the Public Acts of 1980,~~
13 ~~being sections 339.1801 to 339.1812 of the Michigan Compiled Laws~~
14 **1980 PA 299, MCL 339.1801 TO 339.1812,** who acts pursuant to the
15 directions of persons alleging to have authority to direct and
16 arrange for the funeral and burial or other disposition of the
17 remainder of the body, is relieved of any liability for the funeral
18 and for the burial or other disposition of the remainder of the
19 body. A holder of a license for the practice of mortuary science
20 under that act may rely on the instructions and directions of any
21 person alleging to be either a donee or a person authorized under
22 this part to donate a body or any physical part thereof. A holder
23 of a license for the practice of mortuary science under that act is
24 not liable for removal of any physical part of a body donated under
25 this part.

26 (2) The time of death shall be determined by a physician who
27 attends the donor at the death, or, if none, the physician who

1 certifies the death. The attending or certifying physician shall
2 not participate in the procedures for removing or transplanting a
3 physical part.

4 (3) A person, including a hospital, who acts in good faith in
5 accord with the terms of this part or with the anatomical gift laws
6 of another state or a foreign country is not liable for damages in
7 any civil action or subject to prosecution in any criminal
8 proceeding for the act.

9 (4) This part is subject to the laws of this state prescribing
10 powers and duties with respect to autopsies.

11 Enacting section 1. Sections 2651 and 2661 of the public
12 health code, 1978 PA 368, MCL 333.2651 and 333.2661, are repealed.

13 Enacting section 2. This amendatory act does not take effect
14 unless House Bill No. 4870 of the 93rd Legislature is enacted into
15 law.