



## 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: [www.leg.state.fl.us/statutes](http://www.leg.state.fl.us/statutes)

### THE FLORIDA STATUTES: TITLE XXXIII, CHAPTER 497

#### **497.607 Cremation; procedure required.**

(1) At the time of the arrangement for a cremation performed by any person licensed pursuant to this chapter, the legally authorized person contracting for cremation services shall be required to designate her or his intentions with respect to 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, which may include the declaration of intent to dispose of the cremated remains, 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) Cremated remains are not property, as defined in s. [731.201](#)(32), and are not subject to partition for purposes of distribution under s. [733.814](#). A division of cremated remains requires the consent of the legally authorized person who approved the cremation or, if the legally authorized person is the decedent, the next legally authorized person pursuant to s. [497.005](#)(43). A dispute regarding the division of cremated remains shall be resolved by a court of competent jurisdiction.

#### **497.005 Definitions.**

(43) "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 s. [741.28](#) 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 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 FLORIDA STATUTES: TITLE XXIX, CHAPTER 406

### 406.11 Examinations, investigations, and autopsies.

(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.

FLORIDA ADMINISTRATIVE CODE: [www.flrules.org](http://www.flrules.org)

### 11G-2.001 Determination of Jurisdiction, Preliminary Procedures.

(2) If a medical examiner makes an investigation solely pursuant to Section [406.11](#)(1)(c), F.S., the medical examiner shall relinquish charge of the body when the medical examiner has autopsied the body, or has determined the cause of death by inquiry.

(4) If the medical examiner takes charge of a body pursuant to Section [406.11](#)(1)(a) or (b), F.S., he or she shall:

a) Inform the person who has custody of the body, pursuant to Section [406.12](#), F.S., that the body should not be embalmed or otherwise prepared for burial or disturbed until examined by the medical examiner;

## THE FLORIDA STATUTES: TITLE XLVI, CHAPTER 872

### 872.03 Cremating human bodies; limitation.

(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.