

# Legislative Analysis

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## **UNCLAIMED CREMAINS: IMMUNITY FROM LIABILITY AND REGISTRY OF VETERANS**

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**House Bill 5245 as enrolled**  
**Public Act 148 of 2009**  
**Sponsor: Rep. Gino Polidori**

**House Bill 5246 as enrolled**  
**Public Act 149 of 2009**  
**Sponsor: Rep. Kenneth Kurtz**  
**House Committee: Military and Veterans Affairs and Homeland Security**  
**Senate Committee: Senior Citizens and Veterans Affairs**

**Complete to 12-9-10**

### **A SUMMARY OF HOUSE BILL 5245 AND HOUSE BILL 5246 AS ENROLLED**

The two bills would, generally speaking, provide a procedure that funeral homes could use to properly dispose of unclaimed cremated remains and a procedure to determine if unclaimed remains were those of a veteran of the United States Armed Force so that the remains could be placed in a national or state veterans cemetery. The bills have an effective date of July 1, 2010.

House Bill 5246 would amend the Occupational Code (MCL 339.101 et al.) by adding Section 1809a to specify that a person licensed in the practice of mortuary science is immune from civil liability for the proper disposition of unclaimed cremated remains if the proper disposition was made six months or longer after the date of cremation and at least 30 days after the date required notices were sent. A funeral director claiming immunity under this section would be required to send written notice of intent to make proper disposition of the unclaimed cremations to the persons having the right to make decisions about the disposition of a decedent's body under Section 3206 of the Estates and Protected Individuals Code (EPIC). Reasonable efforts would include mailing the notice to the last known address of that person.

If unclaimed cremated remains are removed from or transferred to a cemetery, the mortuary science licensee would be required to present a written statement to the cemetery certifying compliance with the requirements imposed under the act. In the case of unclaimed cremated remains determined to belong to a veteran, a cemetery relying on a written statement presented by a person licensed in the practice of mortuary science under the act would be immune from civil liability against a claim for damages by the persons having the right to make decisions about disposition of the body under Section 3206 of the EPIC Code for having interred, entombed, or inurned cremated remains without their authorization.

The bill specifies that its provisions do not supersede the existing provisions involving the priority of persons with the right to make decisions relating to the disposition of a

decedent's body defined in Section 3206 of the EPIC Code, except that if those with the right to make decisions related to disposition of the body claim the cremated remains after proper disposition by the mortuary science licensee (as described earlier), then any costs associated with disinterring or removing the cremated remains from the place of interment, entombment, or inurnment, and other costs associated with their further placement, would be borne by those persons (unless otherwise agreed).

The bill would define "proper disposition" to mean interment, entombment, or inurnment of unclaimed cremated remains in a cemetery in this state. In the case of the unclaimed cremains of a veteran of the United States armed forces, proper disposition includes the interment, entombment, or inurnment in a cemetery designed solely for veterans by the United States Department of Veterans Affairs or by the Michigan Department of Veterans Affairs. "Unclaimed Cremated Remains" would be defined to mean the cremated remains of a dead human body that has not been picked up or delivered to a person with the right to make decisions relating to the deposition of a decedent's body under Section 3206 of the EPIC Code.

House Bill 5245 would amend the Occupational Code (MCL 339.1809b) to specify that a person licensed in the practice of mortuary science could compile a list of names of the unclaimed cremated remains (or "cremains") held in his or her possession for purposes of determining whether one or more of the deceased is a veteran of the United States armed services.

Under the bill, the funeral director could release the list of names to any federally chartered veterans service organization to confirm with the National Cemetery Administration's Central Scheduling Office in St. Louis, Missouri, whether the deceased is eligible for proper disposition at a veterans cemetery. The veterans service organization would be required to report to the funeral director regarding the names of the confirmed veterans or spouses of veterans. If the unclaimed cremains of a confirmed veteran were not claimed by the person to whom the proper notice had been sent, the funeral director could arrange for the proper disposition with a state or national veterans cemetery.

A funeral director would be immune from criminal or civil liability for complying with this provision.

## **FISCAL IMPACT:**

The bills have no apparent fiscal impact on state or local government.

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.