An Act

ENROLLED HOUSE
BILL NO. 2571

By: Wesselhoft, Billy, McAffrey, Banz, Brown, Walker, Luttrell and Morgan of the House

and

Russell of the Senate

An Act relating to professions and occupations; enacting the Oklahoma Missing in America Act; amending 63 O.S. 2001, Section 1-328, as amended by Section 24, Chapter 57, O.S.L. 2003, and as renumbered by Section 31, Chapter 57, O.S.L. 2003 (59 O.S. Supp. 2009, Section 396.29), which relates to cremation; authorizing transfer of certain remains to charitable organizations approved by the Military Department; requiring certain tax-exempt status of charitable organization; discharging funeral establishment from certain legal obligation or liability upon transfer of remains to organization; providing for noncodification; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law not to be codified in the Oklahoma Statutes reads as follows:

This act shall be known and may be cited as the "Oklahoma Missing in America Act".

SECTION 2. AMENDATORY 63 O.S. 2001, Section 1-328, as amended by Section 24, Chapter 57, O.S.L. 2003, and as renumbered by

Section 31, Chapter 57, O.S.L. 2003 (59 O.S. Supp. 2009, Section 396.29), is amended to read as follows:

Section 396.29 A. The person charged by law with the duty of burying the body of a deceased person may discharge such duty by causing the body to be cremated as authorized and provided for in the following sections of this article, but the body of a deceased person shall not be disposed of by cremation, or other similar means, within the State of Oklahoma, except in a crematory duly licensed as provided for herein, and then only under a special permit for cremation issued in accordance with the provisions hereof.

B. Upon the completion of each cremation, and insofar as is practicable, all of the recoverable residue of the cremation process shall be removed from the crematory and placed in a separate container so that the residue may not be commingled with the cremated remains of other persons. Cremated remains of a dead human shall not be divided or separated without the prior written consent of the authorizing agent.

C. A funeral director or funeral establishment that has received express written authorization for final disposition or cremation from the authorizing agent shall not be liable if the final disposition or cremation is performed in accordance with the provisions of the Funeral Services Licensing Act. The funeral director or funeral establishment shall not be liable for following in a reasonable fashion the instructions of any persons who falsely represent themselves as the proper authorizing agents.

D. Absent the receipt of a court order or other suitable confirmation of resolution, a funeral director or funeral establishment shall not be liable for refusing to accept human remains for final disposition or cremation if the funeral director or other agent of the funeral establishment:

1. Is aware of any dispute concerning the final disposition or cremation of the human remains; or

2. Has a reasonable basis for questioning any of the representations made by the authorizing agent.

E. Each funeral establishment which offers or performs cremations shall maintain an identification system that ensures the ability of the funeral establishment to identify the human remains

in its possession throughout all phases of the cremation process. Upon completion of the cremation process, the crematory operator shall attest to the identity of the cremated remains and the date, time, and place the cremation process occurred on a form prescribed by rule of the Oklahoma Funeral Board. The form shall accompany the human remains in all phases of transportation, cremation, and return of the cremated remains.

F. The authorizing agent is responsible for the disposition of the cremated remains. If, after sixty (60) calendar days from the date of cremation, the authorizing agent or the representative of the agent has not specified the ultimate disposition or claimed the cremated remains, the funeral establishment in possession of the cremated remains may dispose of the cremated remains in a dignified and humane manner in accordance with any state, county, or municipal laws or provisions regarding the disposition of cremated remains, except as provided in subsection G of this section. A record of this disposition shall be made and kept by the entity making the disposition. Upon the disposition of unclaimed cremated remains in accordance with this subsection, the funeral establishment and entity which disposed the cremated remains shall be discharged from any legal obligation or liability concerning the disposition of the cremated remains.

G. If the authorizing agent determines that the unclaimed cremated remains are those of a military veteran, the funeral establishment may transfer the remains to a charitable organization approved by the Military Department of the State of Oklahoma for the purpose of providing a dignified and honorable funeral for the veteran at a veterans cemetery. The charitable organization shall be listed as an exempt organization under Section 501(c) of the Internal Revenue Code, 26 U.S.C., Section 501(c). Upon the transfer of the veteran's remains to the charitable organization, the funeral establishment shall be discharged from any legal obligation or liability concerning the disposition of the cremated remains.

SECTION 3. This act shall become effective November 1, 2010.

Passed the House of Representatives the 8th day of February, 2010.

Presiding Officer of the House of Representatives

Passed the Senate the 14th day of April, 2010.

Presiding Officer of the Senate

OFFICE OF THE GOVERNOR

Received by the Governor this 15th

day of April, **20** 10,

at 3:28 **o'clock** P **M.**

By:

Approved by the Governor of the State of Oklahoma the 19th **day of** April, **20** 10, **at** 5:11 **o'clock** P **M.**

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Secretary of State this 20th **day of** April, **20** 10,

at 3:08 **o'clock** P. **M.**

By: