CHAPTER 23-06
CARE AND CUSTODY OF DEAD

23-06-01. Right to dispose of one's own body.
Repealed by S.L. 1969, ch. 255, § 12.

23-06-01.1. Immunity from liability.
Repealed by S.L. 1989, ch. 303, § 5.

23-06-01.2. Application of other laws.
Sections 23-06-03, 23-06-04, 23-06-05, 23-06-06, 23-06-07, 23-06-08, 23-06-09, 23-06-10, 23-06-11, 23-06-12, 23-06-16, 23-06-17, and 23-06-19 do not apply to any body or parts thereof disposed of after death pursuant to the authorization for disposal of a body or parts thereof provided in and for the purposes of chapter 23-06.6.

23-06-02. Custody of body.
The person charged with the duty of final disposition of the body of a deceased person is entitled to the custody of such body for the purpose of arranging for final disposition. When the coroner is required to hold an inquest, however, the coroner is entitled to the custody of the body until such inquest has been completed.

23-06-03. Duty of final disposition - Final disposition of individuals who are indigent - Decedent's instructions.
1. The duty of final disposition of the body of a deceased individual devolves upon the following individual in the order of priority:
   a. Any legally competent adult given the duty of final disposition by the deceased individual in a statement conforming with section 23-06-31, except the legally competent adult specified in the statement conforming with section 23-06-31 may decline the duty of final disposition unless the individual would otherwise have the duty of final disposition under this section;
   b. The surviving spouse if:
      (1) The deceased was married;
      (2) The surviving spouse has not been arrested for, or pled guilty or nolo contendere to, or has been found guilty of intentionally and feloniously killing the deceased; and
      (3) The surviving spouse has not admitted to or been charged with intentionally and feloniously killing the deceased.
   c. If the deceased was not married or was intentionally and feloniously killed by the surviving spouse, or the surviving spouse was arrested for, admitted to, or was charged with intentionally and feloniously killing the deceased, and left kindred, upon the majority of the adult children of the decedent; however, in the absence of actual knowledge to the contrary, a funeral director or mortician may rely on instructions given by the child who represents to be the sole surviving child or the children who represent to constitute a majority of the surviving children;
   d. The surviving parent or parents of the decedent, each having equal authority;
   e. The adult sibling or the majority of the adult siblings of the decedent; however, in the absence of actual knowledge to the contrary, a funeral director or mortician may rely on instructions given by the sibling who represents to be the sole surviving sibling or the siblings who represent to constitute a majority of the surviving siblings;
   f. The adult grandchild or the majority of the adult grandchildren of the decedent; however, in the absence of actual knowledge to the contrary, a funeral director or mortician may rely on instructions given by a grandchild who represents to be the only grandchild reasonably available to control final disposition of the decedent's remains or the grandchildren who represent to constitute a majority of

grandchildren reasonably available to control final disposition of the decedent's remains;

g. The grandparent or the grandparents of the decedent, each having equal authority;

h. The adult nieces and nephews of the decedent or a majority of the adult nieces and nephews; however, in the absence of actual knowledge to the contrary, a funeral director or mortician may rely on instructions given by a niece or nephew, who represents to be the only niece or nephew reasonably available to control final disposition of the decedent's remains or the nieces and nephews who represent to constitute a majority of the nieces and nephews reasonably available to control final disposition of the decedent's remains;

i. An individual who was acting as the guardian of the decedent with authority to make health care decisions for the decedent at the time of death;

j. An adult who exhibited special care and concern for the decedent;

k. An individual respectively in the next degree of kinship in the order named by law to inherit the estate of the decedent; or

l. The appropriate public or court authority, as required by law. For purposes of this subdivision, the appropriate public or court authority includes the human service zone of the county in which the death occurred if the individual dies without apparent financial means to provide for final disposition or the district court in the county in which the death occurred. If the duty of final disposition devolves to this level, the appropriate public or court authority may direct final disposition to a mortician or funeral director after the coroner notifies the appropriate public or court authority in writing that no individuals identified in subdivisions a through k have accepted the duty of final disposition. A person identified under this subdivision who exercises the duty of final disposition of the body of a deceased individual is immune from civil liability for any act or omission arising out of the duty of final disposition.

2. If there is only one individual in a degree of relationship to the decedent described in subsection 1, and a district court determines the person and the decedent were estranged at the time of death, the right to control and the duty of disposition devolves to the next degree of relationship under subsection 1. For purposes of this subsection, "estranged" means having a relationship characterized by mutual enmity, hostility, or indifference.

3. If an individual to whom the right to control and duty of disposition devolves under subsection 1, refuses to accept or declines to act upon the right or duty, that right and duty passes as follows:

   a. To another individual with the same degree of relationship to the decedent as the individual refusing to accept or declining to act; or

   b. To the individual in the next degree of relationship to the decedent under subsection 1.

4. If a dispute exists regarding the right to control or duty of final disposition, the parties in dispute or the mortician or funeral director may file a petition in the district court in the county of residence of the decedent requesting the court make a determination in the matter. If the right to control and duty of final disposition devolves to more than one individual with the same degree of relationship to the decedent and those individuals do not, by majority vote, make a decision regarding arrangements and final disposition and a district court has been petitioned to make a determination, the court shall consider the following factors in making a determination:

   a. The reasonableness, practicality, and resources available for payment of the proposed arrangements and final disposition;

   b. The degree of the personal relationship between the decedent and each of the individuals in the same degree of relationship to the decedent;

   c. The expressed wishes and directions of the decedent and the extent to which the decedent provided resources for the purpose of carrying out the wishes or directions; and

d. The degree to which the arrangements and final disposition will allow for participation by all who wish to pay respect to the decedent.

5. If the individual who has the duty of final disposition does not arrange for final disposition of the body within the time required by this chapter, the individual next specified shall arrange for final disposition of the body within the requirements of this chapter.

6. a. If the deceased did not leave sufficient means to pay for expenses of final disposition, and is not survived by an individual described by subsection 1 and identified for financial responsibility within the human service zone's general assistance policy, within seven days of application for services the human service zone of the county in which the deceased had residence for general assistance purposes or, if residence cannot be established, within seven days of application for assistance the human service zone of the county in which the death occurs shall employ a person to arrange for and supervise the final disposition. If the deceased was a resident or inmate of a public institution, within seven days of application for assistance the human service zone in which the deceased was a resident for general assistance purposes immediately before entering the institution shall employ a person to arrange for and supervise the final disposition.

   b. The reimbursement for expenses of final disposition under this subsection is three thousand five hundred dollars.

   c. The department of health and human services may provide for the use of a military urn, if the deceased was a veteran as defined in section 37-01-40, unless the additional cost exceeds the reimbursement rate under this subsection or a surviving spouse or the nearest of kin of the deceased elects a nonmilitary urn.

   d. The human service zone shall pay the charge for final disposition of an individual who is indigent as provided under this section. The human service zone shall create a process to review and accommodate a request for burial due to religious beliefs. If the deceased is eligible for indigent final disposition, the human service zone may not decrease the human service zone payment due to a nominal amount left by the deceased or contributed by a spouse, parent, adult children, or any other party to defray the expenses of final disposition. Funds adequate to allow for burial instead of cremation are considered nominal under this section.

   e. Except for burial conducted under subdivision d, final disposition must be conducted by cremation.

   f. The department of health and human services and human service zones shall maintain a standardized eligibility policy and application form to be used for the purposes of indigent final disposition application.

7. If the individual with the duty of final disposition under this section, or the personal representative of the decedent's estate, if any, is aware of the decedent's instructions regarding the disposition of the remains, that person shall honor those instructions, to the extent reasonable and possible, to the extent the instructions do not impose an economic or emotional hardship. A decedent's instructions may be reflected in a variety of methods, including pre-need funeral arrangements a deceased articulated and funded in a pre-need funeral service contract, a health care directive, a durable power of attorney for health care, a power of attorney, a will, a document created under section 23-06-31, or a document of gift for an anatomical gift.

8. If the decedent died while serving in any branch of the United States armed forces, the United States reserve forces, or the national guard, as provided by 10 U.S.C. 1481 section (a)(1) through (8) as effective through December 2001, and completed a United States department of defense record of emergency data, DD form 93, or its successor form or its equivalent branch's form, the duty to bury or cremate the decedent or to provide other funeral and disposition arrangements for the decedent devolves on the person authorized by the decedent pursuant to that form.

9. A funeral director or mortician has complete authority to control the final disposition and to proceed under this chapter to recover reasonable charges for the final disposition if:

a. The funeral director or mortician has actual knowledge none of the individuals described in subsection 1 exist, can be found after reasonable inquiry, or can be contacted by reasonable means; and
b. Within thirty-six hours after having been given written notice of the facts, the appropriate court or public authority fails to assume responsibility for disposition of the remains. Written notice may be delivered by hand, United States mail, or facsimile transmission.

23-06-03.1. Payments on pre-need funeral contracts to be deposited - Depository shall keep record of deposit - Personal property storage - Penalty.

Repealed by S.L. 2001, ch. 368, § 7.

23-06-04. Time within which final disposition must be made - Exceptions.

1. The dead body of a human being must be disposed of by the person charged with that duty within eight days after the death of such person except when any of the following occur:
   a. The right to dissect the body is expressly conferred by law.
   b. The body is being carried through this state.
   c. The body is being removed from this state for the purpose of final disposition in some other state.
   d. A permit is obtained from the local health officer or the department of health and human services allowing a longer time during which the body need not be disposed. The permit shall state the additional length of time during which the body need not be disposed.
   e. The body is being stored for an extended period of time in a vault determined suitable by the department of health and human services, but the body may not be stored in a vault for a period of more than eight days during the months of June through October unless a permit is obtained from the local health officer or the department of health and human services.
2. The date of final disposition must be the date of the committal service or date of placement in a storage vault or school of medicine.

23-06-05. Failure to dispose within required time - Penalty.

Any person that fails to comply with or who violates any of the provisions of section 23-06-04, or that refuses or neglects promptly to obey any order or instruction of the local board of health, is guilty of a class B misdemeanor.

23-06-06. Neglect of final disposition - Penalty.

Every person upon which the duty of making final disposition of the remains of a deceased person is imposed by law that omits to perform that duty as required in this chapter is guilty of a class B misdemeanor.

23-06-07. Regulation of final disposition - Issuance of final disposition-transit permit regulated.

The body of any individual whose death occurs in this state may not be interred, deposited in a vault or tomb, cremated, donated to a school of medicine, or otherwise disposed as authorized by law, until a final disposition-transit permit has been properly issued by a subregistrar. If the certificate is incorrect or incomplete, the subregistrar may not issue the permit until it is corrected or completed. In the case of any death outside of this state, a final disposition-transit permit issued in accordance with the law and the health regulations in force in the state where the death occurred, when accompanying a body shipped through or into this state, may be accepted with the same effect as a permit from a subregistrar. If the death occurred from some disease that is held to be communicable by the department of health and human services, the subregistrar shall refuse to issue a permit for the removal or other

disposition of the body except under the conditions prescribed by the department of health and human services and the local board of health.

23-06-08. Final disposition-transit permit - Contents.

The final disposition-transit permit must be on the form prescribed by the state registrar of vital statistics, must be signed by the subregistrar issuing it, and may be limited to a statement by the subregistrar showing:

1. That a satisfactory death record has been filed with the state registrar as required by law.
2. That permission is granted to inter, remove, or otherwise dispose of as authorized by law the body of the deceased.
3. The name, age, and sex of the deceased and any other necessary details.

23-06-09. Disposition of final disposition-transit permit.

The funeral practitioner, or individual acting as funeral practitioner, shall secure the final disposition-transit permit from the subregistrar. The funeral practitioner, or person acting as funeral practitioner, shall deliver such permit to the sexton or person in charge of the place of final disposition before interring the body, cremating the body, donating the body to a medical school, or otherwise disposing of the body as authorized by law, or shall attach it to the box containing the corpse when the same is shipped by any transportation company. Such permit must be accepted by the sexton or person in charge as authority for the final disposition of the body. A body may not be accepted for carriage by a common carrier unless the permit is attached as required in this section.

23-06-10. Sextons to endorse and return final disposition-transit permit - Record of burials.

Each sexton or person in charge of the burial ground shall endorse the date of interment upon the final disposition-transit permit over the person's signature, and return the final disposition-transit permit to the county recorder. The subregistrar or sexton shall file all completed permits, so endorsed, with the county recorder within ten days after the date of interment or within the time prescribed by the local board of health.

The sexton shall keep a record of all interments made in the premises under the sexton's charge, stating the name of the deceased individual, the place of death, the date of burial, and the name and address of the funeral practitioner. Such record at all times must be open to public inspection.

In the absence of a sexton, the funeral director making the burial shall endorse and return the final disposition-transit permit to the subregistrar.

23-06-11. Burial without final disposition-transit permit - Penalty.

It is unlawful for a person, acting as a funeral practitioner, to inter, remove, or otherwise dispose of as authorized by law the body of any deceased individual without having received a final disposition-transit permit.

23-06-12. Transporting body without final disposition-transit permit.

It is unlawful for a transportation company or common carrier to transport, or accept for transportation, the body of any deceased individual unless that body is accompanied by a final disposition-transit permit issued in accordance with the provisions of this chapter.

23-06-13. Dissection - When allowed.

The dead body of a human being may be dissected:

1. When the death occurs under circumstances in which a coroner is authorized by law to hold an inquest upon the body, and a coroner authorizes such dissection for the purposes of the inquest;

2. If the spouse, or one of the next of kin of a deceased individual, charged by law with the duty of final disposition, authorizes such dissection for the purposes of ascertaining the cause of death; or
3. When permission has been given therefor by deceased.

23-06-14. What bodies may be used for dissection.

Any medical association, licensed physician and surgeon, or medical school, upon request, may receive and remove free of charge the bodies of the following deceased persons, if such bodies are to be used within the state for the advancement of anatomical knowledge and medical science and if proper notice is given to the relatives or guardian of the deceased:

1. A person executed pursuant to sentence of law.
2. A person dying in the penitentiary or county jail while under sentence for a crime.
3. A person required to be buried at public expense.

Preference must be given to medical schools, and such schools shall furnish the bodies to the students of medicine and surgery.

23-06-15. When body not to be used for dissection.

If a person mentioned in section 23-06-14 has requested, during that person's last illness, that that person be buried, that person's body may not be surrendered for dissection but must be buried. If any friend, relative, or guardian of any such person requests, within thirty-six hours after that person's death, that the body be turned over to such friend, relative, or guardian for interment, such request must be complied with.

23-06-16. Bond given by person receiving body.

Every physician or surgeon and every medical school, before receiving any dead body, shall give to the officer surrendering the same a sufficient bond conditioned that the body shall be used only for the promotion of anatomical science and medical knowledge within this state and so as not to outrage public feeling, and that after having been so used, the remains thereof shall be disposed of in accordance with the provisions of section 23-06-17.

23-06-17. Bodies required to be buried or cremated after being dissected.

Any person who receives for dissection any dead body, in pursuance of the provisions of this chapter, shall decently bury the body in some public cemetery or shall cremate the same in a furnace properly constructed for that purpose after the dissection has been made.

23-06-18. Dissection - Removal of body - Sale - Penalty.

Any person who receives a body for use under the provisions of section 23-06-14 and uses the same for any other purpose, or who removes the same beyond the limits of this state, or who buys or sells any such body, or traffics in the same, is guilty of a class B misdemeanor. It is unlawful for an officer to refuse to deliver the remains or body of any deceased person, when demanded under the provisions of section 23-06-14.

23-06-19. Interference with burial of dead limb or member of body - Penalty.

All provisions of this chapter requiring the burial of a dead body or punishing interference with or injuries to a dead body apply equally to any dead limb or member of a human body, separated therefrom during lifetime.

23-06-20. Where body may be buried.

No dead human body may be buried in this state except in a properly registered cemetery or in some other place requested by the relatives and friends of the deceased if the same is authorized by the department of health and human services and all rules and regulations promulgated by the department in that connection have been complied with.

23-06-21. Regulation of cemeteries.

All persons, corporations, municipalities, associations, and organizations owning, conducting, or maintaining a cemetery or plot for the burial of dead human bodies shall:

1. Provide for a sexton or secretary.
2. Cause the lot or parcel of ground used and designated as a cemetery to be platted into orderly blocks and lots, alleys and streets or driveways, giving to each a distinctive name or number that must be a permanent designation of its location.
3. File the original plat with the recorder of the county in which the cemetery or place of burial is located and the copy or blueprint thereof with the sexton or secretary.
4. Register with the department of health and human services the name and location of the cemetery or place of burial, the name and address of the sexton, and the name and address of other officers of the cemetery association, corporation, or organization.
5. Furnish such information and reports as the department of health and human services may require including the submission of plans and specifications for review and approval before constructing, erecting, or placing on the burial site for the burial or disposition of any human remains any interment structure or device constructed or placed wholly or partially above the natural surface of the ground.
6. Keep a local register of all burials showing as to each burial the name of the deceased, the date and location of burial, the date of death, and the name and address of the undertaker.

23-06-21.1. Title to burial plots reverts after sixty years - Procedure - Abandonment.

Any entity owning, conducting, or maintaining a cemetery or plot for the burial of dead human bodies may use the procedures in this section to reinvest itself with the title to a portion of a cemetery which was conveyed by deed to a person but which has not been used for purposes of burial for more than sixty years.

1. The entity owning, conducting, or maintaining a cemetery may pass a resolution demanding that the owner of a portion of a cemetery which has been unused for more than sixty years express an interest in the cemetery plot. The entity shall personally serve a copy of its resolution on the owner in the same manner as personal service of process in a civil action. The resolution must notify the owner that the owner must, within sixty days after service of the resolution on the owner, express an interest in retaining the unused cemetery plot.
2. If the owner of the unused plot cannot personally be served with a copy of the resolution of the entity because the owner cannot be found in this state or for any other valid reason, the entity shall publish its resolution for three consecutive weeks in the official newspaper of the county where the cemetery is located and shall mail a copy of the resolution within fourteen days after the third publication to the owner's last-known address.
3. If within sixty days after personal service or after publication of the board's resolution is completed, the owner or person with a legal interest in the cemetery plot fails to express an interest in retaining the unused cemetery plot, the owner's rights are terminated and title to that person's plot reverts to the entity owning, conducting, or maintaining the cemetery.
4. It is a conclusive presumption that an owner has abandoned a cemetery plot if for a period of more than sixty years the owner has not used any portion of the lot for purposes of burial and has not made provision for care of the lot beyond that provided uniformly to all lots within the cemetery and if the owner has failed to express an interest in retaining the cemetery plot after notice provided in this section.

23-06-22. Sexton - Term of office, records, duties.

The sexton or secretary appointed by the person, corporation, municipality, association, or organization conducting a cemetery for the burial of dead human bodies shall hold office until a successor is appointed and qualified. The sexton or secretary shall transfer all records to the successor. The sexton or secretary shall enforce the laws of the state and the rules and

regulations of the department of health and human services with respect to the burial of dead human bodies within the cemetery under the sexton's or secretary's charge.

23-06-23. Department to enforce regulation of cemeteries - Injunction.

The department of health and human services shall make and enforce such rules and regulations as are necessary to carry out the laws relating to the regulation of cemeteries and may, through injunction or other legal process, enforce compliance.

23-06-24. Unlawful removal of dead body - Penalty.

Every person who removes any part of the dead body of a human being from any grave or other place where the same has been buried, or from any place where the same is deposited while awaiting burial, except as provided by law, is guilty of a class C felony.

23-06-24.1. Endangered gravesites - County action authorized.

Notwithstanding any other provisions of this chapter, the county commissioners of each county may move graves or cremate the bodies in any graves which are located in the county and maintained by the county when the gravesites are in imminent danger of destruction by natural elements. The county commissioners shall, to the extent possible, give personal notice to a relative of a deceased person whose grave is to be moved or whose body is to be cremated if the identity of that person and the identity of the relative are known. The county commissioners shall provide at least thirty days' prior notice in a legal newspaper of the county of the commissioners' intended action to be taken pursuant to this section.

23-06-25. When body may be removed from cemetery - Penalty for failure to remove.

Whenever a cemetery or other place of burial is lawfully authorized to be removed from one place to another, the right and duty to disinter, remove, and rebury the remains of bodies there lying buried devolves upon the persons whose duty it is to bury the bodies, in the order in which they are named in section 23-06-03. If all such persons fail to act, the duty devolves upon the lawful custodians of the place of burial so removed. Every omission of such duty is punishable in the same manner as other omissions to perform the duty of making burial are punishable.

23-06-26. Purchasing body forbidden - Penalty.

Every person who purchases or who receives, except for the purpose of final disposition, any dead body of a human being, knowing that the same has been removed contrary to the provisions of this chapter, is guilty of a class C felony.

23-06-27. Protection of human burial sites, human remains, and burial goods - Unlawful acts - Penalties - Exceptions.

1. As used in this section:
   a. "Burial goods" means any objects or items interred with human remains at the time of burial.
   b. "Disturb" means move, open, expose, dig up, disinter, excavate, remove, carry away, damage, injure, deface, desecrate, loot, vandalize, mutilate, or destroy.
   c. "Human burial site" means any place of interment, by any means, of human remains or burial goods, which is designated by a grave marker or other burial structure or which is not so designated, but is, in fact, discovered or believed to exist on the basis of archaeological or historical evidence.
   d. "Human remains" means any part of the body of a deceased human being in any stage of decomposition.
   e. "Land" means all lands, including submerged lands, located within the state of North Dakota which are owned by the state or its political subdivisions, agencies, or instrumentalities, or by any private person.
   f. "Person" means a natural person, corporation, unincorporated association, partnership, proprietorship, or governmental entity.

2. A person is guilty of a class C felony who, without authority of law, breaks open any building wherein any body of a deceased human being is deposited while awaiting burial, with the intent of either removing such human body, or any part thereof, or stealing the coffin, or any part thereof, or anything attached thereto or connected therewith, or the vestments or other articles intended to be buried with the human body.
3. A person is guilty of a felony who, without authority of law, willfully, as defined in section 12.1-02-02, disturbs a human burial site, human remains, or burial goods found in or on any land, or attempts to do the same, or incites or procures the same to be done.
   a. A person is guilty of a class B felony if the offense in this subsection was committed for monetary gain, whether or not such monetary gain was related to the use of the land in or on which the burial, remains, or goods were disturbed.
   b. A person is guilty of a class C felony if the offense in this subsection was not committed for monetary gain.
4. Any person who knows or has reasonable grounds to believe that a human burial site, human remains, or burial goods, found in or on any land, are being disturbed or may be disturbed, by human activity without authority of law or by natural forces, shall immediately notify the local law enforcement agency with jurisdiction in the area in which the burial, remains, or goods are located. A person is guilty of a class B misdemeanor who is required to provide such notification and willfully, as defined in section 12.1-02-02, fails to provide the same.
5. Any person who knows or has reasonable grounds to believe that that person has encountered or discovered a human burial site, human remains, or burial goods associated with a human burial, in or on any land, shall refrain from any activity which might disturb or immediately cease any continued activity which might cause further disturbance of such burial, remains, or goods and shall, as soon as practicable, report the presence or discovery of the burial, remains, or goods to the local law enforcement agency with jurisdiction in the area in which the burial, remains, or goods are located. A person is guilty of a class B misdemeanor who is required to make such report and willfully, as defined in section 12.1-02-02, fails to make the same. The requirements imposed in this subsection do not apply to any person engaged in the salvaging excavation or other disinterment of a human burial under authority of law.
6. Any person having been found guilty or having pleaded guilty, as a result of having been charged with an offense under subsection 2 or 3, must be ordered to forfeit to the state any and all human remains and burial goods acquired in connection with the commission of the offense and may be ordered to forfeit to the state any and all equipment used in connection with the commission of the offense. In addition, any such person having been charged with an offense under subsection 3 must be ordered to pay all reasonable costs actually incurred in the reinterment of the human remains and burial goods so forfeited. In conjunction with the prosecution of any offense under this subsection, the remains in question in the prosecution may, as deemed necessary, be subjected to nonintrusive, nondestructive professional study for the exclusive purpose of determining whether the remains are human.
7. Subsection 3 does not apply to the inadvertent disturbance of a human burial site, human remains, or burial goods when the department of health and human services and the state historical society have been notified of the disturbance and the human remains and burial goods must be studied and reinterred pursuant to rules adopted by the department of health and human services and the state historical society. Subsection 3 also does not apply to situations in which the department of health and human services and the state historical society are notified of the need to disinter and move the contents of human burial sites that are recorded with the state historical society to prevent the destruction of the human burial sites by actions including the construction of highways, dams, reservoirs, coal mines, power generation and transmission facilities, pipelines, farming practices, and other developments. Where feasible, the developments should avoid disturbance of the human burial sites. In

these situations the disinterred human remains and burial goods must be studied and reinterred pursuant to rules adopted by the department of health and human services and the state historical society.

23-06-28. Arresting or attaching dead body - Penalty.

Every person who arrests or attaches any dead body of a human being upon any debt or demand whatever, or who detains or claims to detain it for any debt or demand or upon any pretended lien or charge, is guilty of a class B misdemeanor.

23-06-29. Penalty for violating provisions relating to dissections and general penalty.

Every person who violates any provision of this chapter relative to the dissection of dead bodies of human beings, or who makes or procures to be made any dissection of the body of a human being except by authority of law or in pursuance of permission given in accordance with the provision of this chapter, is guilty of a class B misdemeanor. Every person who violates any provision of this chapter for the violation of which another penalty is not specifically provided is guilty of an infraction.

23-06-30. Abandoned cemeteries to be maintained by counties.

The board of county commissioners of each county may provide for the identification, cataloging, recording, and shall provide for the general maintenance and upkeep of each abandoned cemetery located within such county using revenues derived from its general fund levy authority. The board shall, at least once each year, proceed to have the weeds and grass cut, restore gravestones to their original placement, and perform any other general maintenance necessary to maintain the dignity and appearance of the grounds. For the purposes of this section, a cemetery means any tract of land used as a burial plot and which is filed with the recorder of the county as a public burying place. The board of county commissioners of each county shall provide for the registration, with the department of health and human services, of each abandoned cemetery within such county unless such cemetery has been previously registered. Such registration must take place within one year of notification being made to the board, by any interested party of the existence of such abandoned cemetery.

23-06-31. Cremation or other lawful disposition of a body - Authorization document - Immunity.

1. A legally competent adult may prepare a written statement directing the cremation or other lawful disposition of that adult's own remains pursuant to section 23-06-03. The written statement must be signed and dated by the legally competent adult and may be part of the legally competent adult's will.
2. A document that conforms to this section authorizes a crematorium or funeral establishment to carry out the instructions of the legally competent adult who is the subject of the document. It is not necessary for a crematorium or funeral establishment to obtain the consent or concurrence of any other person when the crematorium or funeral establishment cremates or otherwise provides for the lawful disposition of a body pursuant to instructions contained in a document that conforms to this section.
3. This section does not mandate that a crematorium or funeral establishment cremate or otherwise provide for the lawful disposition of a body pursuant to the document unless the legally competent adult who executed the document articulated and funded in a pre-need funeral service contract the legally competent adult's instructions as expressed in the document.
4. A crematorium or funeral establishment that cremates or otherwise provides for the lawful disposition of a body in good-faith reliance upon instructions of a decedent or an individual to whom the crematorium or funeral establishment reasonably believes is entitled to control final disposition pursuant to section 23-06-03 or on an apparently genuine document executed pursuant to this section is not subject to criminal prosecution, civil liability, or professional discipline. The decision of a crematorium or funeral establishment to cremate or otherwise provide for the lawful disposition of a

body in reliance on a document executed pursuant to this section is presumed to be made in good faith.