**South Carolina General Assembly**

118th Session, 2009-2010

**A221, R289, S1028**

**STATUS INFORMATION**

General Bill

Sponsors: Senator Leventis

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Companion/Similar bill(s): 4438, 4706

Introduced in the Senate on January 12, 2010

Introduced in the House on March 9, 2010

Passed by the General Assembly on May 26, 2010

Governor's Action: June 8, 2010, Signed

Summary: Cremation

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

1/12/2010 Senate Introduced and read first time [SJ](file:///h:\SJ%20Archive\2010\01-12-10.docx)‑60

1/12/2010 Senate Referred to Committee on **Judiciary** [SJ](file:///h:\SJ%20Archive\2010\01-12-10.docx)‑60

1/19/2010 Senate Referred to Subcommittee: Campbell (ch), Cleary, Williams, Mulvaney, Nicholson

3/3/2010 Senate Committee report: Favorable with amendment **Judiciary** [SJ](file:///h:\SJ%20Archive\2010\03-03-10.docx)‑11

3/4/2010 Senate Committee Amendment Adopted [SJ](file:///h:\SJ%20Archive\2010\03-04-10.docx)‑26

3/4/2010 Senate Read second time [SJ](file:///h:\SJ%20Archive\2010\03-04-10.docx)‑26

3/9/2010 Senate Read third time and sent to House [SJ](file:///h:\SJ%20Archive\2010\03-09-10.docx)‑20

3/9/2010 House Introduced and read first time [HJ](file:///h:\HJ%20Archive\2010\03-09-10.docx)‑66

3/9/2010 House Referred to Committee on **Judiciary** [HJ](file:///h:\HJ%20Archive\2010\03-09-10.docx)‑66

5/20/2010 House Committee report: Favorable **Judiciary** [HJ](file:///h:\HJ%20Archive\2010\05-20-10.docx)‑3

5/25/2010 House Read second time [HJ](file:///h:\HJ%20Archive\2010\05-25-10.docx)‑37

5/26/2010 House Read third time and enrolled [HJ](file:///h:\HJ%20Archive\2010\05-26-10.docx)‑10

6/2/2010 Ratified R 289

6/8/2010 Signed By Governor

6/15/2010 Effective date 06/08/10

6/17/2010 Act No. 221

**VERSIONS OF THIS BILL**

[1/12/2010](file:///p:\pprever\2009-10\1028_20100112.docx)

[3/3/2010](file:///p:\pprever\2009-10\1028_20100303.docx)

[3/4/2010](file:///p:\pprever\2009-10\1028_20100304.docx)

[5/20/2010](file:///p:\pprever\2009-10\1028_20100520.docx)

(A221, R289, S1028)

**AN ACT TO AMEND SECTION 32‑8‑320, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO PERSONS WHO MAY SERVE AS A DECEDENT’S AGENT TO AUTHORIZE CREMATION, SO AS ALSO TO PERMIT A PERSON NAMED IN THE DECEDENT’S DEPARTMENT OF DEFENSE RECORD OF EMERGENCY DATA FORM (DD FORM 93), OR ITS SUCCESSOR FORM, TO AUTHORIZE CREMATION IF THE DECEDENT DIED WHILE SERVING IN ANY BRANCH OF THE UNITED STATES ARMED SERVICES AND THERE IS NO KNOWN DESIGNATION IN THE WILL OR OTHER VERIFIED AND ATTESTED DOCUMENT OF THE DECEDENT; AND TO AMEND SECTION 40‑19‑280, AS AMENDED, RELATING TO, AMONG OTHER PROVISIONS, THE REQUIREMENT OF CONTACT WITH THE NEXT‑OF‑KIN OR OTHER PERSONS RESPONSIBLE FOR FUNERAL ARRANGEMENTS BEFORE A DECEDENT’S REMAINS MAY BE REMOVED TO A FUNERAL ESTABLISHMENT, SO AS TO INCLUDE A PERSON NAMED BY THE DECEDENT IN HIS DD FORM 93 AS A PERSON REQUIRED TO BE CONTACTED IF THE DECEDENT DIED WHILE SERVING IN ANY BRANCH OF THE UNITED STATES ARMED SERVICES.**

Be it enacted by the General Assembly of the State of South Carolina:

**Authorization of cremation**

SECTION 1. Section 32‑8‑320 of the 1976 Code is amended to read:

“Section 32‑8‑320. (A) In the following order of priority these persons may serve as a decedent’s agent and in the absence of a preneed cremation authorization may authorize cremation of the decedent:

(1) the person designated as agent for this purpose by the decedent in a will or other verified and attested document, or a person named in the decedent’s United States Department of Defense Record of Emergency Data Form (DD Form 93), or its successor form, if the decedent died while serving in any branch of the United States Armed Services, as defined in 10 U.S.C. Section 1481, and there is no known designation in a will or other verified and attested document of the decedent;

(2) the spouse of the decedent at the time of the decedent’s death;

(3) the decedent’s surviving adult children;

(4) the decedent’s surviving parents;

(5) the persons in the next degree of kinship under the laws of descent and distribution to inherit the estate of the decedent.

(B) In the absence of a person serving as a decedent’s agent pursuant to subsection (A), the following may serve as an agent and may authorize a decedent’s cremation:

(1) a person serving as executor or legal representative of the decedent’s estate and acting according to the decedent’s written instructions;

(2) a public administrator, medical examiner, coroner, state appointed guardian, or other public official charged with arranging the final disposition of the decedent if the decedent is indigent or if the final disposition is the responsibility of the State or an instrumentality of the State.

(C) If a dispute arises among persons of equal priority, as provided for in subsection (A), concerning the creation of a decedent, the matter must be resolved by order of the probate court.”

**Person required to be contacted**

SECTION 2. Section 40‑19‑280(B) of the 1976 Code is amended to read:

“(B) No public officer or employee, the official of any public institution, physician, surgeon, or any other person having a professional relationship with a decedent may send or cause to be sent to a funeral establishment or to a person licensed for the practice of funeral service the remains of a deceased person without having first made due inquiry as to the desires of the next of kin and of the persons who may be chargeable with the funeral and expenses of the decedent, such as the person named in the decedent’s United States Department of Defense Record of Emergency Data Form (DD Form 93), or its successor form, if the decedent died while serving in any branch of the United States Armed Services, as defined in 10 U.S.C. Section 1481. If any kin is found, authority and directions of the kin govern except in those instances where the deceased made prior arrangements in writing, such as the aforementioned Record of Emergency Data.”

**Time effective**

SECTION 3. This act takes effect upon approval by the Governor.

Ratified the 2nd day of June, 2010.

Approved the 8th day of June, 2010.

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