**South Carolina General Assembly**

119th Session, 2011-2012

**A138, R156, H3393**

**STATUS INFORMATION**

General Bill

Sponsors: Rep. Sandifer

Document Path: l:\council\bills\dka\3193sd11.docx

Introduced in the House on January 20, 2011

Introduced in the Senate on February 16, 2011

Last Amended on March 1, 2012

Passed by the General Assembly on March 8, 2012

Governor's Action: April 2, 2012, Signed

Summary: Cremation

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

1/20/2011 House Introduced and read first time ([House Journal‑page 6](file:///h:\hj%20archive\2011\01-20-11.docx))

1/20/2011 House Referred to Committee on **Labor, Commerce and Industry** ([House Journal‑page 6](file:///h:\hj%20archive\2011\01-20-11.docx))

2/9/2011 House Committee report: Favorable **Labor, Commerce and Industry** ([House Journal‑page 3](file:///h:\hj%20archive\2011\02-09-11.docx))

2/15/2011 House Read second time ([House Journal‑page 18](file:///h:\hj%20archive\2011\02-15-11.docx))

2/16/2011 House Read third time and sent to Senate ([House Journal‑page 19](file:///h:\hj%20archive\2011\02-16-11.docx))

2/16/2011 Senate Introduced and read first time ([Senate Journal‑page 12](file:///h:\sj%20archive\2011\02-16-11.docx))

2/16/2011 Senate Referred to Committee on **Judiciary** ([Senate Journal‑page 12](file:///h:\sj%20archive\2011\02-16-11.docx))

3/7/2011 Senate Referred to Subcommittee: Rankin (ch), Campsen, Coleman, Davis, Nicholson

2/22/2012 Senate Committee report: Favorable with amendment **Judiciary** ([Senate Journal‑page 19](file:///h:\sj%20archive\2012\02-22-12.docx))

2/23/2012 Scrivener's error corrected

3/1/2012 Senate Committee Amendment Withdrawn ([Senate Journal‑page 18](file:///h:\sj%20archive\2012\03-01-12.docx))

3/1/2012 Senate Amended ([Senate Journal‑page 18](file:///h:\sj%20archive\2012\03-01-12.docx))

3/1/2012 Senate Read second time ([Senate Journal‑page 18](file:///h:\sj%20archive\2012\03-01-12.docx))

3/1/2012 Senate Roll call Ayes‑35 Nays‑0 ([Senate Journal‑page 18](file:///h:\sj%20archive\2012\03-01-12.docx))

3/6/2012 Senate Read third time and returned to House with amendments ([Senate Journal‑page 20](file:///h:\sj%20archive\2012\03-06-12.docx))

3/8/2012 House Roll call Yeas‑103 Nays‑0 ([House Journal‑page 41](file:///h:\hj%20archive\2012\03-08-12.docx))

3/8/2012 House Concurred in Senate amendment and enrolled ([House Journal‑page 41](file:///h:\hj%20archive\2012\03-08-12.docx))

3/29/2012 Ratified R 156

4/2/2012 Signed By Governor

4/5/2012 Effective date 04/02/12

4/11/2012 Act No. 138

**VERSIONS OF THIS BILL**

[1/20/2011](file:///p:\pprever\2011-12\3393_20110120.docx)

[2/9/2011](file:///p:\pprever\2011-12\3393_20110209.docx)

[2/22/2012](file:///p:\pprever\2011-12\3393_20120222.docx)

[2/23/2012](file:///p:\pprever\2011-12\3393_20120223.docx)

[3/1/2012](file:///p:\pprever\2011-12\3393_20120301.docx)

(A138, R156, H3393)

**AN ACT TO AMEND SECTION 32‑8‑320, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO PERSONS WHO MAY SERVE AS A DECEDENT’S AGENT TO AUTHORIZE CREMATION, SO AS TO FURTHER PROVIDE FOR THOSE PERSONS WHO IN ORDER OF PRIORITY MAY AUTHORIZE CREMATION, AND TO PROVIDE THAT A FUNERAL HOME RECEIVING A DECEDENT’S BODY FOR CREMATION MAY RELY ON A CREMATION AUTHORIZATION EXECUTED AT ANOTHER FUNERAL HOME HANDLING THE FUNERAL ARRANGEMENTS.**

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

**Cremation authorizations and reliance thereon**

SECTION 1. Section 32‑8‑320 of the 1976 Code, as last amended by Act 221 of 2010, is further 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, unless the spouse and the decedent are separated pursuant to one of the following:

(a) entry of a pendente lite order in a divorce or separate maintenance action;

(b) formal signing of a written property or marital settlement agreement;

(c) entry of a permanent order of separate maintenance and support or of a permanent order approving a property or marital settlement agreement between the spouse and the decedent;

(3) the decedent’s surviving adult children;

(4) the decedent’s surviving parents;

(5) adult siblings of the decedent;

(6) the adult grandchildren of the decedent;

(7) the grandparents of the decedent;

(8) the person appointed by the probate court as the guardian; and

(9) any other person authorized or under obligation by law to dispose of the body.

(B) If there is more than one member of a class listed in subsection (A)(1), (3), (4), (5), (6), (7), or (9) entitled to authorize the cremation of the decedent, the authorization to cremate may be made by a member of the class unless the member knows of an objection by another member within the class. If an objection is known, the authorization to cremate only may be made by a majority of the members of the class who are reasonably available.

(C) A person may not execute an authorization to cremate if a person in a prior class is reasonably available to make or object to the execution of the authorization to cremate the decedent.

(D) 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;

(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; or

(3) the adult who exhibited special care and concern for the decedent.

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

(F) If a funeral home handling funeral arrangements for a decedent transfers the decedent’s body to another funeral home solely for cremation purposes, the funeral home performing the cremation may, in good faith, rely on a cremation authorization document executed at the funeral home handling the funeral arrangements.”

**Time effective**

SECTION 2. This act takes effect upon approval by the Governor.

Ratified the 29th day of March, 2012.

Approved the 2nd day of April, 2012.

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