~~Indicates Matter Stricken~~

Indicates New Matter

COMMITTEE REPORT

March 3, 2010

**S. 1028**

Introduced by Senator Leventis

S. Printed 3/3/10--S.

Read the first time January 12, 2010.

**THE COMMITTEE ON JUDICIARY**

To whom was referred a Bill (S. 1028) 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 to also, etc., respectfully

**REPORT:**

That they have duly and carefully considered the same and recommend that the same do pass with amendment:

Amend the bill, as and if amended, by striking on page 1, lines 27-41 and inserting the following:

/ “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 (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. /

Amend the bill further, as and if amended, by adding an appropriately numbered SECTION at the end to read as follows:

/ SECTION \_\_\_. 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 (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.” /

Renumber sections to conform.

Amend title to conform.

RAYMOND E. CLEARY III for Committee.

**STATEMENT OF ESTIMATED FISCAL IMPACT**

ESTIMATED FISCAL IMPACT ON GENERAL FUND EXPENDITURES:

$0 (No additional expenditures or savings are expected)

ESTIMATED FISCAL IMPACT ON FEDERAL & OTHER FUND EXPENDITURES:

$0 (No additional expenditures or savings are expected)

**EXPLANATION OF IMPACT:**

The Department of Labor, Licensing and Regulations estimates this bill will have no fiscal impact on the state general fund or on federal and/or other funds.

*Approved By:*

Harry Bell

Office of State Budget

**A** **BILL**

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 TO ALSO PERMIT A PERSON NAMED IN THE DECEDENT’S DD FORM 93 TO AUTHORIZE CREMATION IF THE DECEDENT SERVED IN THE MILITARY SERVICES IF THERE IS NO SUCH DESIGNATION IN THE WILL OR OTHER VERIFIED AND ATTESTED DOCUMENT OF THE DECEDENT.

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

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 the person named in the decedent’s DD Form 93 if the decedent served in the military services if there is no such designation in the 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.”

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

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