

Portions of South Carolina Funeral and Cremation State Statutes: Chapter 19

SECTION 44-63-84. Persons to whom death certificate may be issued.

Copies of death certificates may be issued to members of the deceased's family or their respective legal representatives. Upon request, the Department of Social Services or its designee must be provided with copies or certified copies of death certificates for the purpose of establishing paternity or establishing, modifying, or enforcing a child support obligation. Others who demonstrate a direct and tangible interest may be issued copies when information is needed for the determination of a personal or property right. Other applicants may be provided with a statement that the death occurred, the date, and county of death. However, when fifty years have elapsed after the date of death, these records become public records and any person may obtain copies upon submission of an application containing sufficient information to locate the record. For each copy issued or search of the files made, the state registrar shall collect the same fee as is charged for the issuance of certified copies or a search of the files for other records in his possession, except that the Department of Social Services or its designee may not be charged this fee.

When fifty years have elapsed after the date of death, these records must be made available in photographic or other suitable format for public viewing.

SECTION 32-8-315. Execution of a cremation authorization form. [SC ST SEC 32-8-315]

(A) A person may authorize his or her own cremation and the final disposition of his or her cremated remains by executing a cremation authorization form. A person has the right to revoke this authorization at any time by providing written notice to the funeral establishment which assisted the person in making these arrangements and the crematory authority designated to perform the cremation.

(B) At the time of death of a person who had executed a cremation authorization form, the person in possession of the executed form and the person charged with making arrangements for the final disposition of the decedent who has knowledge of the existence of the executed form shall ensure that the decedent is cremated and that the final instructions contained on the authorization form are carried out. The crematory authority is required to cremate the human remains and dispose of the cremated remains according to the instructions contained on the cremation authorization form if the crematory authority has a completed authorization form, all permits, and certificates required by law, and the designated human remains.

(C) A preneed authorization for cremation arranged with a licensed funeral establishment and crematory authority shall specify the final disposition of the cremated remains in accordance with Section 32-8-345. If no different or inconsistent instructions are provided to the funeral establishment or the crematory authority by the agent at the time of death, the crematory authority shall release or dispose of the cremated remains as indicated in the preneed agreement.

(D) No person may revoke a cremation authorization form subsequent to the death of the person who executed the form and the instructions for cremation and disposition of the cremated remains must be complied with unless full payment for the cremation and disposition of the remains has not been received or guaranteed.

SECTION 32-8-320. Persons who may serve as a decedent's agent; authorize cremation. [SC ST SEC 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;

(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 cremation of a decedent, the matter must be resolved by order of the probate court.

SECTION 32-8-325. Prerequisites; authority; and receipt of instructions for cremation. [SC ST SEC 32-8-325]

(A) A crematory authority shall not cremate human remains until it has received all of the following:

(1) A certified copy of the death certificate; however, if the decedent was pronounced dead during hours the department was not open to the public, a completed copy of the death certificate, excluding the signature of the State Registrar of Vital Statistics, signed by the

attending physician must be provided to the crematory authority; the death certificate signed by the registrar must be filed the next working day of the department and a certified copy must be provided to the crematory authority.

(2) A cremation authorization on a form prescribed by the board and executed by the decedent on a preneed basis or executed by the decedent's agent and which contains:

(a) the identity of the human remains and the date and time of death;

(b) the name of the funeral director or funeral establishment responsible for obtaining the authorization;

(c) the notification of infectious, contagious, or communicable disease or a disease declared by the department to be dangerous to the public health;

(d) the name, address, and phone number of the agent and the relationship between the agent and the decedent;

(e) a statement that the agent has the right to authorize the cremation of the decedent, as provided for in Section 32-8-320 and that the agent is not aware of a person who has a superior priority right to that of the agent or is not aware of a person of equal priority who disagrees with authorizing the cremation;

(f) authorization from the agent and the funeral director or funeral establishment for the crematory authority to perform the cremation;

(g) a statement that, to the best of the agent's knowledge, the human remains do not contain a pacemaker or any other material or implant that may be hazardous or cause damage to the cremation chamber or the person performing the cremation;

(h) the name of the agent or funeral establishment authorized to receive the cremated remains;

(i) the method by which disposition of the cremated remains is to take place, if known. If the authorization form does not specify final disposition in a grave, crypt, niche, or scattering area, the form may indicate that the cremated remains are to be held by the crematory authority for thirty days before they are released, unless they are picked up by or shipped to the agent or funeral establishment before that time. At the end of thirty days, if final disposition arrangements have not been made, the crematory authority may return the cremated remains to the agent, crematory authority, or funeral establishment. If at the end of sixty days no final disposition arrangements have been made, the crematory authority or funeral establishment in charge of arrangements may dispose of the cremated remains in accordance with Section 32-8-345(D);

(j) a listing of items of value to be delivered to the crematory authority with the human remains and instructions as to how the items should be handled;

(k) a specific statement authorizing the crematory authority to proceed with the cremation upon receipt of the human remains;

(l) the signature of the decedent's agent attesting to the accuracy of all statements contained on the cremation authorization form.

(3) Completed and executed burial transit permit in accordance with Regulation 61-19, Section 23.

(4) A cremation permit obtained in accordance with Section 17-5-600 or Section 17-5-610.

(B) If a person who may serve as a decedent's agent pursuant to Section 32-8-320 is not available in person to execute a cremation authorization form, the person shall send the funeral establishment a notarized facsimile transmission that contains the person's signature, name, address, phone number, and relationship to the decedent. Upon receipt of the transmission, this person is authorized to serve as the decedent's agent.

(C) An agent who signs a cremation authorization form is deemed to warrant to the best of the agent's knowledge that the facts set forth on the form are truthful, including that person's authority to order the cremation. An agent signing a cremation authorization form is personally and individually liable for all damages occasioned by and resulting from knowingly providing false information on the cremation authorization form authorizing the cremation.

(D) No crematory authority which cremated, released, or disposed of human remains is liable if the authority acted in accordance with chapter unless the crematory authority's actions were grossly negligent.

(E) After an agent has executed a cremation authorization form, the agent may revoke the authorization within twelve hours of its execution and instruct the funeral establishment to instruct the crematory authority to cancel the cremation. The instructions must be provided in writing. A funeral establishment and crematory authority shall honor instructions given to it by an agent under this subsection if it receives the instructions within twelve hours of the agent's execution of authorization form.