

**Senate Study Bill 3011 - Introduced**

SENATE FILE \_\_\_\_\_  
BY (PROPOSED COMMITTEE  
ON JUDICIARY BILL BY  
CHAIRPERSON ZAUN)

**A BILL FOR**

1 An Act relating to probate and cremation, burial, and funeral  
2 decisions and expenses.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 144C.2, subsection 8, Code 2018, is  
2 amended to read as follows:

3 8. "*Declaration*" means a written instrument that is executed  
4 by a declarant in accordance with the requirements of this  
5 chapter, and that names a designee who shall have the sole  
6 responsibility and discretion for making decisions concerning  
7 the final disposition of the declarant's remains and the  
8 ceremonies planned after the declarant's death, except as  
9 provided in section 144C.3, subsection 2.

10 Sec. 2. Section 144C.3, subsections 1 and 2, Code 2018, are  
11 amended to read as follows:

12 1. A declaration shall name a designee who shall have  
13 the sole responsibility and discretion for making decisions  
14 concerning the final disposition of the declarant's remains and  
15 the ceremonies planned after the declarant's death, except as  
16 provided in section 144C.3, subsection 2. A declaration may  
17 name one or more alternate designees and may include contact  
18 information for the designees and alternate designees.

19 2. A declaration ~~shall not~~ may include directives for  
20 final disposition of the declarant's remains and ~~shall not~~  
21 may include arrangements for ceremonies planned after the  
22 declarant's death, including a directive that the declarant  
23 does or does not want to be cremated. A designee shall not  
24 authorize cremation if a declaration includes a directive that  
25 the declarant does not want to be cremated, and shall not  
26 authorize alternative arrangements if a declaration includes a  
27 directive that the declarant wants to be cremated.

28 Sec. 3. Section 144C.6, subsection 1, Code 2018, is amended  
29 to read as follows:

30 1. A declaration executed pursuant to **this chapter** may but  
31 need not be in the following form:

32 I hereby designate ..... as my designee. My designee  
33 shall have the sole responsibility for making decisions  
34 concerning the final disposition of my remains and the  
35 ceremonies to be performed after my death, except that the

1 declarant may document the declarant's wishes by initialing one  
2 of the following:

3 .... I want my remains to be cremated.

4 .... I do not want my remains to be cremated. This  
5 declaration hereby revokes all prior declarations. This  
6 designation becomes effective upon my death.

7 My designee shall act in a manner that is reasonable under the  
8 circumstances.

9 I may revoke or amend this declaration at any time. I  
10 agree that a third party (such as a funeral or cremation  
11 establishment, funeral director, or cemetery) who receives a  
12 copy of this declaration may act in reliance on it. Revocation  
13 of this declaration is not effective as to a third party until  
14 the third party receives notice of the revocation. My estate  
15 shall indemnify my designee and any third party for costs  
16 incurred by them or claims arising against them as a result of  
17 their good faith reliance on this declaration.

18 I execute this declaration as my free and voluntary act.

19 Sec. 4. Section 144C.10, subsection 1, Code 2018, is amended  
20 to read as follows:

21 1. The Except as directed by the declarant concerning  
22 cremation pursuant to section 144C.6, subsection 1, the  
23 designee designated in a declaration shall have the sole  
24 discretion pursuant to the declaration to determine what final  
25 disposition of the declarant's remains and ceremonies to be  
26 performed after the declarant's death are reasonable under the  
27 circumstances.

28 Sec. 5. Section 633.425, subsection 3, Code 2018, is amended  
29 to read as follows:

30 3. Reasonable funeral and burial expenses that conform to  
31 the decedent's wishes, if any, as expressed in a declaration  
32 under chapter 144C. If the personal representative of  
33 the decedent's estate determines that funeral and burial  
34 arrangements did not conform with the decedent's wishes, if  
35 any, as expressed in a declaration under chapter 144C, the

1 expenses shall not be a debt of the decedent's estate.

2 Sec. 6. APPLICABILITY. The following apply July 1, 2018,  
3 to declarations made and not revoked under chapter 144C that  
4 became effective on or after July 1, 2018:

5 1. The section of this Act amending section 144C.2,  
6 subsection 8.

7 2. The section of this Act amending section 144C.3,  
8 subsections 1 and 2.

9 3. The section of this Act amending section 144C.6,  
10 subsection 1.

11 4. The section of this Act amending section 144C.10,  
12 subsection 1.

13 Sec. 7. APPLICABILITY. The following applies July 1, 2018,  
14 to estates of decedents being probated on or after July 1,  
15 2018:

16 The section of this Act amending section 633.425, subsection  
17 3.

18 EXPLANATION

19 The inclusion of this explanation does not constitute agreement with  
20 the explanation's substance by the members of the general assembly.

21 This bill relates to probate and cremation, burial, and  
22 funeral decisions and expenses.

23 The bill amends Code sections 144C.2(8) and 144C.3(1) and  
24 (2) to allow a declaration to include directives for final  
25 disposition of the declarant's remains, including whether the  
26 declarant wants to be cremated. The bill prohibits a designee  
27 from authorizing arrangements contrary to the declarant's  
28 cremation wishes. The bill amends the declaration form in  
29 Code section 144C.6(1) and a corresponding provision in Code  
30 section 144C.10(1) to allow a declarant to initial whether  
31 the declarant wants the declarant's remains cremated. These  
32 amendments apply July 1, 2018, to declarations made and not  
33 revoked under Code chapter 144C on or after July 1, 2018.

34 The bill amends the definition of reasonable funeral and  
35 burial expenses in Code section 633.425(3) to include only

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1 expenses for funeral and burial arrangements that conform to  
2 the decedent's wishes as expressed in a declaration under Code  
3 chapter 144C. It states that if not in conformity with the  
4 decedent's wishes, the funeral and burial expenses shall not  
5 be a debt of the decedent's estate. This amendment applies to  
6 estates of decedents being probated on or after July 1, 2018.