

SESSION OF 2012

SUPPLEMENTAL NOTE ON SENATE BILL NO. 303

As Amended by Senate Committee on Public
Health and Welfare

Brief*

SB 303 would amend law governing the disposition of unclaimed cremated remains to allow a funeral establishment, branch establishment, or crematory to dispose of unclaimed cremated remains upon meeting waiting time and notice requirements, to clarify when notice is required to be given, and to create specific requirements related to the disposition of the unclaimed cremated remains of veterans.

Under the bill, disposal of unclaimed cremated remains would be allowed if: the remains have been unclaimed for at least 90 days from the time of cremation, the requisite notice has been sent to the authorizing agent stating the remains will be disposed of if unclaimed within 30 days of the notice date, and no claim on the cremated remains has been received within 30 days of the date such notice was sent.

If the cremated remains have been unclaimed for more than 90 days from the date of cremation, notice requirements have been met, and the remains still have not been claimed, a funeral establishment, branch establishment, or crematory would be allowed to share information with the United States Department of Veterans Affairs or the Kansas Commission on Veterans Affairs for the purpose of determining if the unclaimed cremated remains are those of a veteran. A funeral establishment, branch establishment, crematory, funeral director, assistant funeral director, or crematory operator would be discharged from any legal obligations or liability for such disclosures to the United States Department of Veterans

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

Affairs or the Kansas Commission on Veterans Affairs. If it is determined that the unclaimed cremated remains are those of a veteran, possession of the remains could be relinquished to the Kansas Commission on Veterans Affairs or a national cemetery. The bill would require that disposition of the unclaimed cremated remains of veterans be by placement of the cremated remains in a tomb, mausoleum, crypt, niche in a columbarium, or burial in a cemetery; scattering of the cremated remains would be prohibited.

A funeral establishment, branch establishment, or crematory would not be required to determine whether the unclaimed cremated remains are those of a veteran if informed by a person in control of the disposition of the unclaimed remains that the individual was not a veteran or did not desire any funeral or burial-related services or ceremonies recognizing service as a veteran.

When disposition of unclaimed cremated remains occurs in accordance with the language of the bill, a funeral establishment, branch establishment, crematory, funeral director, assistant funeral director, or crematory operator would be held harmless for any costs or damages, except for gross negligence or willful misconduct, and would be discharged from any legal obligation or liability concerning the cremated remains.

Background

The bill was introduced at the request of the Kansas Funeral Directors Association (KFDA). The Senate Committee on Public Health and Welfare heard testimony in favor of the bill from the Executive Director of the KFDA, who testified that the main purpose of the bill is to establish a process to allow funeral establishments, branch establishments, and crematories to determine whether unclaimed cremated remains in their possession are those of a veteran and, if they are those of a veteran, to turn the unclaimed cremated remains over to a veteran's cemetery for

an honorable disposition. The proponent also stated the bill clarifies general language in statute as to when notice is required to be given prior to disposal of unclaimed cremated remains by allowing the 30-day notice to be given at any time. No opposing or neutral testimony was presented to the Committee.

The Senate Committee on Public Health and Welfare made a technical amendment to the bill.

The fiscal note prepared by the Division of the Budget states the Kansas Commission on Veterans Affairs and the Board of Mortuary Arts indicated that enactment of the bill would have no fiscal effect.