

1 HB313
2 166125-1
3 By Representative Greer
4 RFD: Judiciary
5 First Read: 18-MAR-15

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8 SYNOPSIS: This bill would allow an individual to
9 create a legally binding written directive for the
10 disposition of his or her remains upon death.

11 This bill would require a person who is
12 entitled to or authorized to carry out the
13 disposition of a decedent's remains to faithfully
14 carry out any written directions for the
15 disposition of the decedent to the extent that the
16 decedent's estate is financially able to do so.

17 This bill would require a person who is
18 entitled to or authorized to carry out the
19 disposition of a decedent's remains and who enters
20 into a funeral service agreement, to attest to the
21 fact that he or she is faithfully carrying out the
22 written directions for the disposition of the
23 decedent to the extent that the decedent's estate
24 is financially able to do so.

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26 A BILL
27 TO BE ENTITLED

1 AN ACT

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3 Relating to the disposition of the remains of a
4 person upon death; to allow an individual to create a legally
5 binding written directive for the disposition of his or her
6 remains upon death; to require a person who is entitled to or
7 authorized to carry out the disposition of a decedent's
8 remains to faithfully carry out any written directions for the
9 disposition of the decedent to the extent that the decedent's
10 estate is financially able to do so; and to amend Section
11 34-13-12, Code of Alabama 1975, to require a person who is
12 entitled to or authorized to carry out the disposition of a
13 decedent's remains and who enters into a funeral service
14 agreement, to attest to the fact that he or she is faithfully
15 carrying out the written directions for the disposition of the
16 decedent to the extent that the decedent's estate is
17 financially able to do so.

18 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

19 Section 1. Section 34-13-12, Code of Alabama 1975,
20 is amended to read as follows:

21 "§34-13-12.

22 "(a) Any person signing a funeral service agreement,
23 cremation authorization form, or any other authorization for
24 disposition by his or her signature shall attest to the
25 truthfulness of any facts set forth in the document including,
26 but not limited to, the identity of the decedent whose remains
27 are to be buried, cremated, or otherwise disposed of, ~~and~~ the

1 authority of the person to order the disposition, and if the
2 decedent provided written directions for the disposition of
3 his or her remains as described in Section 2 of the act adding
4 this amendatory language, that the person is faithfully
5 carrying out the directions of the decedent to the extent that
6 the decedent's estate is financially able to do so. A funeral
7 establishment may rely on a funeral service agreement,
8 contract, or authorization in carrying out the instructions of
9 the person the funeral establishment reasonably believes to
10 hold the right of disposition. A funeral establishment is not
11 responsible for contacting or independently investigating the
12 existence of any next-of-kin or relative of a decedent. If
13 there is more than one person in a class with equal priority
14 and the funeral establishment has no knowledge of any
15 objection by any other member of that class, the funeral
16 establishment may rely upon and act according to the
17 instructions of the first person in the class to make funeral
18 and disposition arrangements.

19 "(b) Absent negligence, wantonness, recklessness, or
20 deliberate misconduct, no funeral establishment or funeral
21 director who relies in good faith upon the instructions of a
22 person who claims a right of disposition shall be subject to
23 criminal or civil liability, or be subject to disciplinary
24 action, for carrying out the disposition of the remains in
25 accordance with those instructions."

26 Section 2. (a) An individual may provide written
27 directions for the disposition, including cremation, of his or

1 her remains in a will, a prepaid funeral service agreement, or
2 a written instrument signed and acknowledged by such
3 individual. The directions may govern the inscription to be
4 placed on a grave marker attached to any plot in which the
5 decedent had the right of sepulture at the time of death and
6 in which plot the decedent is subsequently interred. The
7 directions may be modified or revoked only by a subsequent
8 writing signed and acknowledged by such individual.

9 (b) The person entitled or authorized to control the
10 disposition of a decedent's remains shall faithfully carry out
11 the directions of the decedent to the extent that the
12 decedent's estate is financially able to do so.

13 (c) If the directions are in a will, they shall be
14 carried out immediately without necessity of probate. If the
15 will is not probated or is declared invalid for testamentary
16 purposes, the directions are valid to the extent to which they
17 have been acted on in good faith.

18 Section 3. This act shall become effective on the
19 first day of the third month following its passage and
20 approval by the Governor, or its otherwise becoming law.