

IC 23-14-31

Chapter 31. Cremation

IC 23-14-31-1

"Alternative container" defined

Sec. 1. As used in this chapter, "alternative container" means a rigid or nonrigid receptacle or other enclosure that:

- (1) is made of a nonmetallic material;
- (2) does not have ornamentation or an inner lining;
- (3) may be closed adequately to provide a complete covering for human remains;
- (4) is resistant to leakage or spillage;
- (5) is rigid enough for handling with ease; and
- (6) provides protection for the health, safety, and personal integrity of crematory personnel.

As added by P.L.231-1995, SEC.2.

IC 23-14-31-2

"Authorizing agent" defined

Sec. 2. As used in this chapter, "authorizing agent" means a person legally entitled to order the cremation and final disposition of specific human remains.

As added by P.L.231-1995, SEC.2.

IC 23-14-31-3

"Board" defined

Sec. 3. As used in this chapter, "board" means the state board of funeral and cemetery service established by IC 25-15-9-1.

As added by P.L.231-1995, SEC.2.

IC 23-14-31-4

"Body part" defined

Sec. 4. As used in this chapter, "body part" means:

- (1) a limb or other part of the human anatomy that is removed for medical purposes, treatment, surgery, biopsy, autopsy, or medical research; or
- (2) a human body or a portion of a human body that has been donated to science for medical research purposes.

As added by P.L.231-1995, SEC.2.

IC 23-14-31-5

"Burial transit permit" defined

Sec. 5. As used in this chapter, "burial transit permit" means a permit for the transportation and disposition of a dead human body required under IC 16-37-3-10 or IC 16-37-3-12.

As added by P.L.231-1995, SEC.2.

IC 23-14-31-6

"Casket" defined

Sec. 6. As used in this chapter, "casket" means a rigid enclosure

that:

- (1) is made of wood, metal, or other material;
- (2) is ornamented;
- (3) has a fixed or nonfixed inner lining; and
- (4) is designed to encase human remains.

As added by P.L.231-1995, SEC.2.

IC 23-14-31-7

"Cremated remains" defined

Sec. 7. As used in this chapter, "cremated remains" means all human remains recovered after the completion of the cremation of a human body or body part, including the residue of any foreign materials, nonmetallic casket material, dental work, or eyeglasses that were cremated with the human remains but excluding any prosthetic or medical device.

As added by P.L.231-1995, SEC.2.

IC 23-14-31-8

"Cremation" defined

Sec. 8. As used in this chapter, "cremation" means the incineration of the body of a deceased person or a body part of a nondeceased person and the mechanical or manual reduction of identifiable bone fragments to unidentifiable bone fragments.

As added by P.L.231-1995, SEC.2.

IC 23-14-31-9

"Cremation chamber" defined

Sec. 9. As used in this chapter, "cremation chamber" means the enclosed space where the cremation takes place.

As added by P.L.231-1995, SEC.2.

IC 23-14-31-10

"Cremation room" defined

Sec. 10. As used in this chapter, "cremation room" means the room where the cremation chamber is located.

As added by P.L.231-1995, SEC.2.

IC 23-14-31-11

"Crematory" defined

Sec. 11. As used in this chapter, "crematory" means a building or structure, including a holding facility where human remains are or are intended to be cremated.

As added by P.L.231-1995, SEC.2.

IC 23-14-31-12

"Crematory authority" defined

Sec. 12. As used in this chapter, "crematory authority" means the legal entity or the entity's authorized representative that is registered by the board to operate a crematory and to perform cremations.

As added by P.L.231-1995, SEC.2.

IC 23-14-31-13

"Disposition" defined

Sec. 13. As used in this chapter, "disposition" means the cremation or other disposition of a dead human body or a part of a dead human body.

As added by P.L.231-1995, SEC.2.

IC 23-14-31-14

"Funeral home" defined

Sec. 14. As used in this chapter, "funeral home" means a place that is licensed under IC 25-15 where:

- (1) human remains are prepared for a funeral or disposition;
- (2) human remains are held for disposition; and
- (3) funerals are conducted or provided.

As added by P.L.231-1995, SEC.2.

IC 23-14-31-15

"Holding facility" defined

Sec. 15. As used in this chapter, "holding facility" means an area that:

- (1) is designated for the retention of human remains before cremation, including a cremation room;
- (2) complies with all applicable public health laws; and
- (3) preserves the health and safety of the crematory authority personnel.

As added by P.L.231-1995, SEC.2.

IC 23-14-31-16

"Human remains" defined

Sec. 16. As used in this chapter, "human remains" means the body or a part of the body of an individual, including human remains that have been cremated.

As added by P.L.231-1995, SEC.2.

IC 23-14-31-17

"Niche" defined

Sec. 17. As used in this chapter, "niche" means a space in a columbarium that is used or intended to be used for the interment of cremated human remains of one (1) or more deceased individuals.

As added by P.L.231-1995, SEC.2.

IC 23-14-31-18

"Scattering" defined

Sec. 18. As used in this chapter, "scattering" means the final disposition of cremated human remains under section 44(a)(3) of this chapter.

As added by P.L.231-1995, SEC.2. Amended by P.L.173-1996, SEC.1.

IC 23-14-31-19

"Scattering area" defined

Sec. 19. As used in this chapter, "scattering area" means a designated area on dedicated cemetery property where cremated remains that have been removed from their container can be mixed with or placed on top of the soil or ground cover.

As added by P.L.231-1995, SEC.2.

IC 23-14-31-20

"Temporary container" defined

Sec. 20. As used in this chapter, "temporary container" means a receptacle:

- (1) for cremated remains;
- (2) that is composed of cardboard, plastic, or similar material;
- (3) that can be secured to prevent leakage or spillage of the cremated remains or the entrance of foreign material; and
- (4) that is a single container of sufficient size to hold the cremated remains.

As added by P.L.231-1995, SEC.2.

IC 23-14-31-21

"Urn" defined

Sec. 21. As used in this chapter, "urn" means a receptacle designed to encase cremated remains.

As added by P.L.231-1995, SEC.2.

IC 23-14-31-22

Operating crematories; registration application

Sec. 22. (a) A person, a corporation, a limited liability company, a partnership, or any other business entity that is registered under this section may erect, maintain, and operate a crematory.

(b) To register to erect, maintain, or operate a crematory, an applicant must complete an application for registration as a crematory authority on a form furnished by the board that contains the following information:

- (1) The name and address of the applicant as follows:
 - (A) If the applicant is an individual, the full name and address, including both residential and business addresses, of the applicant.
 - (B) If the applicant is a partnership, the full name and address of each partner.
 - (C) If the applicant is a limited liability company, the full name and address of each manager and member.
 - (D) If the applicant is a corporation, the name and address of each officer, director, and shareholder holding at least twenty-five percent (25%) of the corporation's stock.
- (2) The address and location of the crematory.
- (3) Any other information the board may reasonably require.

As added by P.L.231-1995, SEC.2.

IC 23-14-31-23

Licenses and permits; construction of crematories

Sec. 23. (a) A crematory shall obtain all necessary licenses and permits from appropriate local, state, or federal agencies.

(b) A crematory may be constructed on or adjacent to a cemetery, a funeral home, or another location if allowed by local zoning ordinances.

As added by P.L.231-1995, SEC.2.

IC 23-14-31-24

Annual report

Sec. 24. (a) Each crematory authority shall file an annual report with the board. The report must include any changes in the information required under section 22 of this chapter or a statement indicating that no changes have occurred.

(b) Except as provided in subsection (c), the annual report must be filed not later than ninety (90) days after the end of the fiscal year of the crematory authority.

(c) If the fiscal year of a crematory authority is not the calendar year, the crematory authority shall file the annual report within seventy-five (75) days after the end of the crematory authority's fiscal year.

(d) If a crematory authority files a written request for an extension and demonstrates good cause for the extension, the board shall grant an extension of not more than sixty (60) days for filing the annual report.

(e) If a crematory authority fails to submit an annual report to the board within the time specified in subsection (c) or (d), the board may take any of the actions allowed by IC 25-15-9.

As added by P.L.231-1995, SEC.2.

IC 23-14-31-25

Inspection of records

Sec. 25. Upon reasonable notice, the board may inspect all records relating to the registration and annual report of the crematory authority required to be filed under this chapter.

As added by P.L.231-1995, SEC.2.

IC 23-14-31-26

Priority of persons acting as an authorized agent; persons prohibited from being an authorized agent; disputes concerning final disposition

Sec. 26. (a) Except as provided in subsection (c), the following persons, in the priority listed, have the right to serve as an authorizing agent:

(1) A person:

(A) granted the authority to serve in a funeral planning declaration executed by the decedent under IC 29-2-19; or

(B) named in a United States Department of Defense form "Record of Emergency Data" (DD Form 93) or a successor form adopted by the United States Department of Defense,

if the decedent died while serving in any branch of the United States Armed Forces (as defined in 10 U.S.C. 1481) and completed the form.

(2) An individual specifically granted the authority to serve in a power of attorney or a health care power of attorney executed by the decedent under IC 30-5-5-16.

(3) The individual who was the spouse of the decedent at the time of the decedent's death, except when:

(A) a petition to dissolve the marriage or for legal separation of the decedent and spouse is pending with a court at the time of the decedent's death, unless a court finds that the decedent and spouse were reconciled before the decedent's death; or

(B) a court determines the decedent and spouse were physically and emotionally separated at the time of death and the separation was for an extended time that clearly demonstrates an absence of due affection, trust, and regard for the decedent.

(4) The decedent's surviving adult child or, if more than one (1) adult child is surviving, the majority of the adult children. However, less than half of the surviving adult children have the rights under this subdivision if the adult children have used reasonable efforts to notify the other surviving adult children of their intentions and are not aware of any opposition to the final disposition instructions by more than half of the surviving adult children.

(5) The decedent's surviving parent or parents. If one (1) of the parents is absent, the parent who is present has authority under this subdivision if the parent who is present has used reasonable efforts to notify the absent parent.

(6) The decedent's surviving sibling or, if more than one (1) sibling is surviving, the majority of the surviving siblings. However, less than half of the surviving siblings have the rights under this subdivision if the siblings have used reasonable efforts to notify the other surviving siblings of their intentions and are not aware of any opposition to the final disposition instructions by more than half of the surviving siblings.

(7) The individual in the next degree of kinship under IC 29-1-2-1 to inherit the estate of the decedent or, if more than one (1) individual of the same degree is surviving, the majority of those who have the same degree. However, less than half of the individuals who have the same degree of kinship have the rights under this subdivision if they have used reasonable efforts to notify the other individuals who have the same degree of kinship of their intentions and are not aware of any opposition to the final disposition instructions by more than half of the individuals who have the same degree of kinship.

(8) If none of the persons described in subdivisions (1) through (7) are available, any other person willing to act and arrange for the final disposition of the decedent, including a funeral home

that:

(A) has a valid prepaid funeral plan executed under IC 30-2-13 that makes arrangements for the disposition of the decedent; and

(B) attests in writing that a good faith effort has been made to contact any living individuals described in subdivisions (1) through (7).

(9) In the case of an indigent or other individual whose final disposition is the responsibility of the state or township, the following may serve as the authorizing agent:

(A) If none of the persons identified in subdivisions (1) through (8) are available:

- (i) a public administrator, including a responsible township trustee or the trustee's designee; or
- (ii) the coroner.

(B) A state appointed guardian.

However, an indigent decedent may not be cremated if a surviving family member objects to the cremation or if cremation would be contrary to the religious practices of the deceased individual as expressed by the individual or the individual's family.

(10) In the absence of any person under subdivisions (1) through (9), any person willing to assume the responsibility as the authorizing agent, as specified in this article.

(b) When a body part of a nondeceased individual is to be cremated, a representative of the institution that has arranged with the crematory authority to cremate the body part may serve as the authorizing agent.

(c) If:

(1) the death of the decedent appears to have been the result of:

- (A) murder (IC 35-42-1-1);
- (B) voluntary manslaughter (IC 35-42-1-3); or
- (C) another criminal act, if the death does not result from the operation of a vehicle; and

(2) the coroner, in consultation with the law enforcement agency investigating the death of the decedent, determines that there is a reasonable suspicion that a person described in subsection (a) committed the offense;

the person referred to in subdivision (2) may not serve as the authorizing agent.

(d) The coroner, in consultation with the law enforcement agency investigating the death of the decedent, shall inform the crematory authority of the determination referred to in subsection (c)(2).

(e) If a person vested with a right under subsection (a) does not exercise that right not later than seventy-two (72) hours after the person receives notification of the death of the decedent, the person forfeits the person's right to determine the final disposition of the decedent, and the right to determine final disposition passes to the next person described in subsection (a).

(f) A crematory authority owner has the right to rely, in good

faith, on the representations of a person listed in subsection (a) that any other individuals on the same degree of kinship have been notified of the final disposition instructions.

(g) If there is a dispute concerning the disposition of a decedent, a crematory authority is not liable for refusing to accept the remains of the decedent until the crematory authority receives:

(1) a court order; or

(2) a written agreement signed by the disputing parties; that determines the final disposition of the decedent. If a crematory authority agrees to shelter the remains of the decedent while the parties are in dispute, the crematory authority may collect any applicable fees for storing the remains, including legal fees that are incurred.

(h) Any cause of action filed under this section must be filed in the probate court in the county where the decedent resided, unless the decedent was not a resident of Indiana.

(i) A spouse seeking a judicial determination under subsection (a)(3)(A) that the decedent and spouse were reconciled before the decedent's death may petition the court having jurisdiction over the dissolution or separation proceeding to make this determination by filing the petition under the same cause number as the dissolution or separation proceeding. A spouse who files a petition under this subsection is not required to pay a filing fee.

As added by P.L.231-1995, SEC.2. Amended by P.L.102-2007, SEC.1; P.L.143-2009, SEC.5; P.L.101-2010, SEC.1; P.L.34-2011, SEC.1.

IC 23-14-31-27

Authorization procedure; immunity from liability; exceptions

Sec. 27. (a) Except as provided in subsection (c), a crematory authority shall not cremate human remains until the authority has received the following:

(1) A cremation authorization form provided by the crematory authority, signed by an authorizing agent, containing the following information:

(A) The identity of the human remains and the time and date of death.

(B) The name of the funeral director who obtained the cremation authorization.

(C) The name of the authorizing agent and the relationship between the authorizing agent and the decedent.

(D) A statement by the authorizing agent that the authorizing agent:

(i) has the right to authorize the cremation of the decedent;

(ii) is not aware of any person who has a superior priority right to that of the authorizing agent; or

(iii) if the authorizing agent is aware that there is another person who has a superior priority right to that of the authorizing agent, a statement that the authorizing agent has made all reasonable efforts to contact the person, has

been unable to contact the person, and has no reason to believe that the person would object to the cremation of the decedent.

(E) Authorization for the crematory authority to cremate the human remains.

(F) A statement that the human remains do not contain a pacemaker or any other material or implant or radiation producing device that may be potentially hazardous or cause damage to the cremation chamber or the individual performing the cremation. The authorization form may state that the funeral director is not liable for damages caused by a pacemaker or other implanted device that was not disclosed to the funeral director or of which the funeral director could not reasonably be aware.

(G) The name of the funeral director authorized to receive the cremated remains from the crematory authority or, if the crematory is on cemetery property, the cemetery authorized to receive cremated remains.

(H) The manner in which final disposition of the cremated remains is to take place, if known. If the cremation authorization form does not specify final disposition in a grave, niche, or scattering area, the form may indicate that the cremated remains will be held by the crematory authority for not longer than thirty (30) days from the date of cremation before the remains are released. The form may indicate that the crematory authority shall return cremated remains that have not been disposed of within thirty (30) days to the funeral director or funeral home of record who shall hold them for not longer than sixty (60) days from the date of cremation before disposing of the cremated remains either as previously authorized or, if there is no authorization, in any legal manner. The funeral home has no liability for:

(i) disposing of cremated remains in any manner permitted by law if the remains have been held; or

(ii) holding the cremated remains;

in excess of the sixty (60) days permitted under this clause if the authorizing agent fails to claim the remains during the sixty (60) day period. The funeral home must first send written notice by certified mail return receipt requested to the authorizing agent explaining the intentions of the funeral home regarding the disposal of or holding of the cremated remains in order for the funeral home to be immune from liability under this clause.

(I) A statement confirming the identity of the valuables belonging to the decedent previously taken and being held by the funeral director or the funeral home.

(J) A statement prohibiting the crematory from selling nonorganic material recovered from the human remains.

(K) A statement that the authorizing agent has made specific

arrangements for any viewing of the decedent before cremation, or for a service with the decedent present before cremation. If a viewing or service is planned, the date and time of the viewing or service and whether the crematory authority is authorized to proceed with the cremation upon receipt of the human remains.

(L) The signature of the authorizing agent, attesting to the accuracy of all representations contained on the cremation authorization form.

(2) A completed and executed burial transit permit provided by the local health officer to the funeral director indicating that the human remains are to be cremated.

(3) A copy of:

(A) the completed and executed certificate of death; or

(B) a release for cremation by the coroner if an investigation of the circumstances of the deceased person's death came under the authority of the coroner, but the release does not constitute an authorization as required by this chapter.

(b) The cremation authorization form required under subsection (a)(1) must be signed by the funeral director who obtained the cremation authorization. The funeral director shall execute the cremation authorization form as a witness and is not responsible for the representations made by the authorizing agent unless the funeral director has actual knowledge of a false or inaccurate representation. The funeral director shall certify to the crematory that the human remains delivered to the crematory authority are the human remains identified by the authorizing agent on the cremation authorization form.

(c) Notwithstanding subsection (a)(3)(A), a death certificate is not required for the cremation of the remains of a person:

(1) who died in another state; and

(2) whose remains are transported to Indiana by:

(A) a licensed funeral director; or

(B) the agent of a licensed funeral director;

for the purpose of cremation at an Indiana crematory;

if the funeral director or funeral director's agent obtains the documents required for cremation by the state in which the death occurred. However, if final disposition of the human remains is to occur in Indiana, the provisions of subsection (a)(3)(A) shall apply. *As added by P.L.231-1995, SEC.2. Amended by P.L.174-1996, SEC.1; P.L.52-1997, SEC.5; P.L.169-2003, SEC.1.*

IC 23-14-31-28

Delegation of authority; immunity for reliance on cremation authorization form

Sec. 28. (a) If the authorizing agent is not available to execute a cremation authorization form in person, the authorizing agent may delegate the authority to another person in writing, including a facsimile transmission, telegram, or other electronic transmission.

(b) A written delegation of authority of an authorizing agent must

include:

- (1) the name, address, and relationship of the authorizing agent to the decedent; and
- (2) the name and address of the person to whom authority is delegated.

(c) A person authorized under subsections (a) and (b) may serve as the authorizing agent and execute the cremation authorization form.

(d) A crematory authority is not liable for relying on a cremation authorization form executed in compliance with this section.

As added by P.L.231-1995, SEC.2.

IC 23-14-31-29

Effect of signing cremation authorization form; responsibility for final disposition

Sec. 29. (a) Except for the information required under section 27(a)(1)(F) of this chapter, an authorizing agent who signs a cremation authorization form certifies that the facts on the cremation authorization form are true and that the authorizing agent has authority to order the cremation.

(b) An authorizing agent who signs a cremation authorization form is personally liable for damages resulting from authorizing the cremation.

(c) The authorizing agent is responsible for the final disposition of a decedent's cremated remains. The crematory authority may hold the cremated remains for not longer than the thirty (30) day period under section 45 of this chapter.

As added by P.L.231-1995, SEC.2.

IC 23-14-31-30

Crematory authority; liability for cremation or disposition

Sec. 30. (a) Except as provided in section 36 of this chapter, a crematory authority may cremate human remains upon receipt of a cremation authorization form signed by an authorizing agent.

(b) In the absence of gross negligence or noncompliance with this chapter, a crematory authority is not liable for:

- (1) cremating human remains according to an authorization; or
- (2) releasing or disposing of the cremated remains according to an authorization form.

As added by P.L.231-1995, SEC.2.

IC 23-14-31-31

Cancellation by authorizing agent and instructions for alternative disposition

Sec. 31. After an authorizing agent has executed a cremation authorization form, the authorizing agent may revoke the authorization and instruct the crematory authority to cancel the cremation and to release or deliver the human remains to another crematory authority or funeral home. The instructions must be provided to the crematory authority in writing. A crematory authority

must comply with instructions given to the authority by an authorizing agent under this section if the crematory authority receives the instructions before beginning the cremation of the human remains.

As added by P.L.231-1995, SEC.2.

IC 23-14-31-32

Receipts provided by crematory authority

Sec. 32. (a) The crematory authority shall furnish a receipt to the funeral director or the funeral director's representative who delivers human remains to the crematory authority. The receipt must:

- (1) be signed by both the crematory authority and the funeral director or the funeral director's representative who delivers the human remains; and
- (2) contain the following information:
 - (A) The date and time of the delivery.
 - (B) The type of casket or alternative container that was delivered.
 - (C) The name of the person from whom the human remains were received and the name of the funeral home or other entity with whom the person is affiliated.
 - (D) The name of the person who received the human remains on behalf of the crematory authority.
 - (E) The name of the decedent.

(b) Upon the release of cremated remains, the crematory authority shall furnish a receipt to the person who receives the cremated remains from the crematory authority. The receipt must be signed by both the crematory authority and the person who receives the cremated remains and must contain the following information:

- (1) The date and time of the release.
- (2) The name of the person who received the cremated remains and the name of the funeral home, cemetery, or other entity with whom the person is affiliated.
- (3) The name of the person who released the cremated remains on behalf of the crematory authority.
- (4) The name of the decedent.

(c) The crematory authority shall retain a copy of each receipt under this section in the authority's permanent records.

As added by P.L.231-1995, SEC.2.

IC 23-14-31-33

Crematory authority records

Sec. 33. (a) A crematory authority shall maintain at the authority's place of business a permanent record of each cremation that took place at the facility. The record must contain the name of the decedent and the date of the cremation.

(b) The crematory authority shall maintain a record of all cremated remains disposed of by the crematory authority under section 49 of this chapter.

As added by P.L.231-1995, SEC.2.

IC 23-14-31-34

Cemetery records

Sec. 34. Each cemetery shall maintain a record of all cremated remains:

- (1) that are disposed of on the cemetery's property;
- (2) that have been properly transferred to the cemetery; and
- (3) for which the cemetery has issued a receipt acknowledging the transfer of the cremated remains.

As added by P.L.231-1995, SEC.2.

IC 23-14-31-35

Casket requirements; acceptance of human remains

Sec. 35. (a) A crematory authority shall not require that human remains be placed in a casket before cremation or that human remains be cremated in a casket.

(b) A crematory authority shall not accept human remains unless the remains are delivered to the crematory authority in a casket or an alternative container. However, a crematory authority may not require that the human remains be delivered in a casket.

(c) A crematory authority shall not refuse to accept human remains for cremation because the human remains are not embalmed.

(d) A crematory authority shall not accept a casket or an alternative container if there is evidence of the leakage of body fluids.

As added by P.L.231-1995, SEC.2.

IC 23-14-31-36

Time; human remains containing hazardous materials; exceptions

Sec. 36. (a) Except:

- (1) when waived in writing by the city or county health officer where the death occurred; or
- (2) as provided in subsection (d);

human remains shall not be cremated less than forty-eight (48) hours after the time of death as indicated on the medical certificate of death or the coroner's certificate.

(b) Except as provided in subsection (a), unless the crematory authority has received specific instructions to the contrary on the cremation authorization form, a crematory authority may schedule the actual cremation to be performed at the authority's convenience at any time after the human remains have been delivered to the crematory authority.

(c) A crematory authority shall not cremate human remains when the authority has actual knowledge that the human remains contain a pacemaker or other material or implant that may be potentially hazardous to the individual performing the cremation.

(d) The mandatory delay of forty-eight (48) hours imposed by subsection (a) does not apply to the cremation of the remains of a person:

- (1) who died in another state; and
- (2) whose remains are transported to Indiana by:

(A) a licensed funeral director; or
(B) the agent of a licensed funeral director;
for the purpose of cremation at an Indiana crematory;
if the funeral director or funeral director's agent obtains the documents required for cremation by the state in which the death occurred.

As added by P.L.231-1995, SEC.2. Amended by P.L.52-1997, SEC.6.

IC 23-14-31-37

Use of holding facilities

Sec. 37. When a crematory authority is unable to or unauthorized to cremate human remains immediately upon taking custody of the remains, the crematory authority shall place the human remains in a holding facility.

As added by P.L.231-1995, SEC.2.

IC 23-14-31-38

Destruction or cremation of casket or alternative container

Sec. 38. The casket or the alternative container containing the human remains must be cremated with the human remains or destroyed unless the crematory authority has notified the authorizing agent to the contrary on the cremation authorization form and obtained the written consent of the authorizing agent.

As added by P.L.231-1995, SEC.2.

IC 23-14-31-39

Simultaneous cremations

Sec. 39. (a) A crematory authority shall not perform the simultaneous cremation of the human remains of more than one (1) individual within the same cremation chamber unless it has obtained the prior written consent of the authorizing agents.

(b) Subsection (a) does not prevent the simultaneous cremation within the same cremation chamber of body parts delivered to the crematory authority from multiple sources, or the use of cremation equipment that contains more than one (1) cremation chamber.

As added by P.L.231-1995, SEC.2.

IC 23-14-31-40

Removal of recoverable residue

Sec. 40. After each cremation, all the recoverable residue of the cremation process that it is practical to recover must be removed from the cremation chamber.

As added by P.L.231-1995, SEC.2.

IC 23-14-31-41

Additional containers for cremated remains

Sec. 41. If all of the recovered cremated remains will not fit in the receptacle that has been selected, the remainder of the cremated remains must be placed in a separate, additional container and returned to the funeral home or funeral director for return to the

authorizing agent.
As added by P.L.231-1995, SEC.2.

IC 23-14-31-42

Shipment of cremated remains

Sec. 42. (a) Cremated remains may only be shipped by a method that has an internal tracing system that provides a receipt signed by the person accepting delivery.

(b) A crematory authority shall maintain an identification system that ensures that the authority can identify the human remains in the authority's possession throughout all phases of the cremation process.
As added by P.L.231-1995, SEC.2.

IC 23-14-31-43

Responsibility for final disposition

Sec. 43. The authorizing agent is responsible for the decision concerning final disposition of the cremated remains in accordance with sections 44 and 45 of this chapter. The funeral director is not liable for an act of the authorizing agent.
As added by P.L.231-1995, SEC.2.

IC 23-14-31-44

Legal control and disposition; forms concerning disposal

Sec. 44. (a) Cremated remains may be retained by the person having legal control over the remains or may be disposed of in any of the following manners:

- (1) Placing the remains in a grave, niche, or crypt.
- (2) Scattering the remains in a scattering area.
- (3) Disposing of the remains in any manner if:
 - (A) the remains are reduced to a particle size of one-eighth (1/8) inch or less; and
 - (B) the disposal is made on the property of a consenting owner, on uninhabited public land, or on a waterway.

(b) The state department of health shall adopt forms for recording the following information concerning the disposal of cremated human remains on the property of a consenting owner:

- (1) The date and manner of the disposal of the remains.
- (2) The legal description of the property where the remains were disposed of.

The owner of the property where the cremated remains were disposed of and the person having legal control over the remains shall attest to the accuracy of the information supplied on the forms. The owner of the property where the cremated remains were disposed of shall record the forms with the county recorder of the county in which the property is located and shall return the form and the burial transit permit described in IC 16-37-3, within ten (10) days after the remains are disposed of.

As added by P.L.231-1995, SEC.2.

IC 23-14-31-45

Disposition of cremated remains where no instructions exist

Sec. 45. (a) After completion of the cremation process, if a crematory authority existing on cemetery property has not been instructed to arrange for the interment, entombment, inurnment, or scattering of the cremated remains, the crematory authority shall deliver the cremated remains to the funeral director of record not later than thirty (30) days after the date of cremation. The delivery may be made in person or by registered mail. After delivery of the cremated remains, the crematory authority is discharged from any legal obligation or liability concerning the disposition of the cremated remains.

(b) A funeral director may hold remains returned by a crematory authority for not longer than sixty (60) days from the date of cremation and may dispose of the remains as previously arranged, or if no arrangement has been made, at the end of sixty (60) days, in any legal manner.

(c) A funeral director and crematory authority shall observe religious practices or preferences specified by the authorizing agent.
As added by P.L.231-1995, SEC.2.

IC 23-14-31-46

Commingling of cremated remains

Sec. 46. Except with the express written permission of the authorizing agent, a person shall not do the following:

(1) Dispose of cremated remains in a manner or location that commingles the cremated remains with the cremated remains of another individual. This prohibition does not apply to the scattering of cremated remains at sea or in the air.

(2) Place the cremated remains of more than one (1) individual in the same temporary container or urn.

As added by P.L.231-1995, SEC.2.

IC 23-14-31-47

Liability for cremation designated by authorization

Sec. 47. A crematory authority that has received an executed cremation authorization form and any additional documentation required under section 27 of this chapter is not liable for civil damages arising from the cremation of the human remains designated by the cremation authorization form if the cremation is performed in accordance with this chapter.

As added by P.L.231-1995, SEC.2.

IC 23-14-31-48

Liability for nonacceptance or nonperformance

Sec. 48. (a) A crematory authority is not liable for civil damages for refusing to accept human remains or refusing to perform a cremation until the crematory authority receives a court order or other suitable confirmation that a dispute has been settled, if the authority:

(1) is aware of a dispute concerning the cremation of the human

remains;

(2) has a reasonable basis for questioning any of the representations made by the authorizing agent; or

(3) refuses to accept the human remains for any other lawful reason.

(b) A crematory authority is not required to accept human remains for cremation.

As added by P.L.231-1995, SEC.2.

IC 23-14-31-49

Disputes concerning cremated remains; liability for refusing release

Sec. 49. (a) If a crematory authority is aware of a dispute concerning the release or disposition of cremated remains, the crematory authority shall release the remains to the funeral director or funeral home until the dispute has been resolved.

(b) A crematory authority is not liable for refusing to release or dispose of cremated remains in accordance with this section.

As added by P.L.231-1995, SEC.2.

IC 23-14-31-50

Responsibility for prosthetic devices or valuables; resale of caskets or medical devices

Sec. 50. A crematory authority is not responsible or liable for prosthetic devices or valuables delivered to the crematory authority with or integral to human remains, unless the crematory authority has received written instructions under section 27(a)(1)(I) or 27(a)(1)(J) of this chapter. A crematory authority shall not resell caskets or prosthetic or medical devices obtained as a result of cremation or from cremated remains.

As added by P.L.231-1995, SEC.2.

IC 23-14-31-51

Liability of cemeteries

Sec. 51. A cemetery is not liable for cremated remains that are dumped, scattered, or otherwise deposited at the cemetery in violation of this chapter if the action is taken without the cemetery's consent.

As added by P.L.231-1995, SEC.2.

IC 23-14-31-52

Violations; offenses

Sec. 52. (a) Except as provided in subsections (b), (c), and (d), a person that knowingly or intentionally violates this chapter commits a Class B misdemeanor.

(b) A person that knowingly or intentionally:

(1) performs a cremation without receipt of a cremation authorization form signed by an authorizing agent;

(2) signs a cremation authorization form that the individual knows contains false or incorrect information; or

(3) violates a cremation procedure under sections 36 through 42 of this chapter;
commits a Class D felony.

(c) A crematory authority that knowingly represents to an authorizing agent or the agent's designee that a temporary container or urn contains the cremated remains of a specific decedent when the container or urn does not commits a Class D felony.

(d) A person:

(1) who:

(A) professes to the public to be a crematory authority; or

(B) operates a building or structure in Indiana as a crematory;

without being registered under section 22 of this chapter; or

(2) who fails to file an annual report required under section 24 of this chapter;

commits a Class A misdemeanor.

As added by P.L.231-1995, SEC.2. Amended by P.L.169-2003, SEC.2.

IC 23-14-31-53

Injunction actions

Sec. 53. If a crematory authority:

(1) refuses to file or neglects to file an annual report under section 24 of this chapter;

(2) fails to comply with the registration requirements under section 22 of this chapter; or

(3) refuses to comply with the record inspection requirements under section 25 of this chapter;

the board may maintain an action in the name of the state of Indiana to enjoin the crematory authority from performing cremations.

As added by P.L.231-1995, SEC.2.