

SENATE BILL NO. 208

BY SENATOR RISER

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

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AN ACT

To amend and reenact R.S. 9:1551 and R.S. 37:876 and to enact R.S. 8:1(20.1) and 655(D), relative to human remains; to provide relative to the release and disposition of human remains; to provide for definitions; to provide relative to the disposition of human remains in the possession of a funeral establishment; to provide relative to abandoned human remains; to provide relative to the authorized agent for cremation; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 8:1(20.1) and 655(D) are hereby enacted to read as follows:

§1. Definitions

As used in this Title the following words and phrases, unless the context otherwise clearly indicates, shall have the meaning hereinafter ascribed to each:

* * *

(20.1) "Disposition" means the interment, burial, cremation, or anatomical donation of the body of a deceased person or parts of the body of a deceased person. Disposition shall not include any prohibited act under Part I of Chapter 12 of Title 17 of the Louisiana Revised Statutes of 1950, the Louisiana Anatomical Gift Act, the Louisiana Unmarked Human Burial Sites Preservation Act, or the Louisiana Historic Cemetery Preservation Act.

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§655. Right of disposing of remains; military personnel; limitation of liability

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D. In the event that the coroner releases the remains of the decedent to an interested person pursuant to R.S. 9:1551(A)(1), such person shall have the right to control the disposition of the remains of the decedent.

Section 2. R.S. 9:1551 is hereby amended and reenacted to read as follows:

1 §1551. ~~Burial of unclaimed bodies~~ **Disposition of remains**

2 A.(1) Upon oral or written refusal by ~~next of kin, as provided~~ **the person or**
 3 **persons authorized** in R.S. 8:655; to ~~bury~~ **provide for the disposition of the**
 4 **remains of** a decedent, the coroner is authorized to immediately release the remains
 5 of the decedent to any interested ~~party~~ **person** who will claim the remains and
 6 provide ~~interment~~ for the **disposition of the** remains.

7 (2) The coroner shall have ~~and exercise~~ custody ~~of~~ **over** the ~~bodies~~ **remains**
 8 of all persons who die within the parish and whose ~~bodies~~ **remains** are **abandoned,**
 9 not claimed ~~by friends or relatives,~~ **or unclaimed by the person or persons**
 10 **authorized in R.S. 8:655, or by the person to whom the coroner has released the**
 11 **remains under the provision of Paragraph (1) of this Subsection, and the**
 12 **remains of persons that are abandoned while in the possession of a funeral**
 13 **establishment as provided in Subsection C of this Section.** If the decedent had no
 14 known property or assets of a sufficient value to defray the expenses of ~~burial~~
 15 **disposition**, the coroner shall make such disposition of the ~~body~~ **remains** of the
 16 decedent as is otherwise provided by law for indigents.

17 B. If a decedent's ~~body is~~ **remains are not claimed,** ~~unclaimed by friends or~~
 18 ~~relatives,~~ **or abandoned,** and the decedent had known assets or property of a
 19 sufficient value to defray the expenses of ~~burial~~ **disposition**, the coroner shall ~~cause~~
 20 ~~the body to be interred~~ **arrange for disposition of the remains** within thirty days,
 21 preferably by a recognized funeral ~~home~~ **establishment.** The invoices for the
 22 expenses of ~~the burial~~ **disposition** shall be forwarded to the public administrator if
 23 there is one in the parish or to the clerk of the district court if there is no public
 24 administrator, and the person or official authorized by law to be appointed
 25 administrator of the succession of the decedent shall provide for the payment of the
 26 ~~burial~~ **disposition** expenses out of the assets of the decedent in accordance with the
 27 existing provisions of law for the administration of successions and in accordance
 28 with the provisions of this Part.

29 **C.(1) If the remains of a decedent in the possession of a funeral**
 30 **establishment have been abandoned, the funeral establishment shall notify by**

1 a written, notarized document, the coroner for the parish of the decedent's
2 domicile stating the factual history and circumstances of the abandonment. This
3 document shall include but not be limited to the following information:

4 (a) All known next of kin, any alleged next of kin or family member, any
5 interested party including organizations, whether government or private, and
6 any other person contacted by the funeral home or healthcare facility regarding
7 the deceased.

8 (b) Any known assets of the deceased, including but not limited to
9 insurance policies, pending claims whether or not under litigation, any potential
10 unresolved claims, or any other asset of any kind.

11 (c) Any status of the decedent including but not limited to veteran's
12 status, federal or state employment or retirement status, past or present law
13 enforcement status, religious affiliations of any kind, and last known
14 employment.

15 (d) All documents and records of any kind in the possession of the
16 funeral establishment or healthcare provider, written or electronic, generated
17 regarding the deceased, including but not limited to any medical records of any
18 kind.

19 (2) Upon receipt by the coroner of the notarized document, complete
20 with all records attached thereto, the funeral establishment shall transport the
21 human remains of the decedent at their costs to the coroner of the parish of the
22 decedent's domicile, if located in Louisiana, or to the coroner of the parish
23 where the death occurred if the decedent's domicile is not in Louisiana, who
24 shall assume jurisdiction of the case, and accept the remains for future
25 disposition all in accordance with law.

26 D. For purposes of this Section, remains of a decedent in the possession
27 of a funeral establishment or healthcare facility shall be deemed abandoned if
28 the person or persons authorized in R.S. 8:655 or in Subsection A of this Section
29 to control the disposition refuses orally or in writing to make arrangement or
30 provide for the disposition of the decedent, or fails to make arrangement or to

1 provide for the disposition of the remains of a decedent after death at a
 2 healthcare facility or after the remains are in the possession of the funeral
 3 establishment.

4 E. Once coroner jurisdiction over abandoned, not claimed, or unclaimed
 5 remains has been established, all rights to control the disposition of the remains
 6 as listed in R.S. 8:655(A) are waived and terminated. The coroner shall then
 7 take and exercise custody of the remains for disposition pursuant to the
 8 provisions in this Section.

9 Section 3. R.S. 37:876 is hereby amended and reenacted to read as follows:

10 §876. Authorizing agent; notarized declarations

11 A. The following persons, in the priority listed, shall have the right to serve
 12 as an authorizing agent for cremation unless other specific directions have been
 13 given by the decedent in the form of a written and notarized declaration:

14 (1) The surviving spouse, if no petition for divorce has been filed by either
 15 spouse prior to the death of the decedent spouse.

16 (2) All of the surviving adult children of the decedent, not including
 17 grandchildren or other more remote descendants.

18 (3) The surviving parents of the decedent.

19 (4) All of the surviving adult siblings of the decedent.

20 (5) All of the surviving adult persons respectively in the next degree of
 21 kindred as provided in Civil Code Articles 880 et seq.

22 B. If the coroner releases the remains of a decedent to an interested
 23 person pursuant to R.S. 9:1551(A)(1), such person may serve as the authorizing
 24 agent for cremation.

25 C. If the required authorization cannot be obtained, a final judgment of a
 26 district court shall be required.

27 ~~C.~~D. In the case of those individuals whose disposition is the responsibility
 28 of the state or any of its instrumentalities, a public administrator, medical examiner,
 29 coroner, state-appointed guardian, or any other public official charged with arranging
 30 the disposition of the decedent may serve as the authorizing agent.

1 ~~D.E.~~ No person shall be allowed to serve as an authorizing agent when a
2 decedent has left written instructions in a notarized declaration that he does not wish
3 to be cremated.

4 E.F. In the event that the decedent has made multiple notarized declarations
5 of disposition, the last notarized declaration shall control.

6 Section 4. This Act shall become effective on July 1, 2015.

PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____