

Regular Session, 2014

HOUSE BILL NO. 466

BY REPRESENTATIVE HENRY BURNS

HUMAN REMAINS: Provides for requirements relative to the disposal of human remains

1 AN ACT

2 To amend and reenact R.S. 8:655(A)(introductory paragraph) and (B) and to enact R.S.
3 8:655(C), relative to the disposal of human remains; to establish the right to control
4 interment through a United States Department of Defense Form 93; to limit liability
5 relative to the disposal of human remains; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 8:655(A)(introductory paragraph) and (B) are hereby amended and
8 reenacted and R.S. 8:655(C) is hereby enacted to read as follows:

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

10 A. The right to control interment, as defined in R.S. 8:1(26), of the remains
11 of a deceased person, unless other specific directions have been given or the
12 designation of a specific person to control disposition has been made by the decedent
13 in the form of a written and notarized declaration, vests in and devolves upon the
14 following in the order named:

15 * * *

16 B.(1) If the decedent died in a manner described by 10 U.S.C. 1481 (a)(1)
17 through (8) while serving in any branch of the United States Armed Forces, the
18 United States Reserve Forces, or National Guard, and the decedent executed a United
19 States Department of Defense Record of Emergency Data, known as DD Form 93,
20 or its successor form, the right to control interment for the decedent shall devolve

1 upon the Person Authorized to Direct Disposition, also referred to as the PADD, as
2 indicated on the DD Form 93 or its successor form.

3 (2) There shall be no liability for a cemetery authority, funeral establishment,
4 funeral director, crematory authority, or the employees or agents of any of them to
5 whom a copy of a DD Form 93 is presented, purportedly executed by the decedent
6 for conduction of the interment or other disposition of the decedent's remains,
7 pursuant to the instructions of the PADD as indicated on the DD Form 93, or for
8 relying on the representation of the PADD that the decedent died in a manner
9 described in Paragraph (1) of this Subsection.

10 C. In the event that the decedent has made multiple notarized declarations
11 or designations of interment pursuant to Subsection A of this Section, and the
12 decedent executed a DD Form 93 and died pursuant to Subsection B of this Section,
13 the declaration or designation or the DD Form 93, whichever is dated last, shall
14 control interment of the decedent's remains ~~declaration shall control.~~

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

Henry Burns

HB No. 466

Abstract: Allows a properly executed DD Form 93 to provide the right to control interment of human remains.

Present law provides that the right to control interment of a deceased person's remains is established either by specific directions given in the decedent's written and notarized declaration. Proposed law adds to present law that the right to control interment of the decedent's remains is also established when the decedent designates a specific person to control disposition in the form of a written and notarized declaration.

Present law provides that if the decedent does not have a written and notarized declaration, the right to control interment devolves on the following persons, in ranked order:

- (1) The surviving spouse, if not divorced.
- (2) A majority of the surviving adult children of the decedent.
- (3) The surviving parents of the decedent.
- (4) A majority of the surviving adult brothers and sisters of the decedent.

- (5) A majority of the adult persons respectively in the next degrees of kindred as established by present law.

Proposed law adds the right to control interment through written and notarized designation to the application of present law.

Proposed law adds that if the decedent has executed a U.S. Department of Defense Form 93 (DD Form 93, Record of Emergency Data) or its successor form and the decedent dies during military service pursuant to the United States Code, 10 U.S.C. 1481 (a)(1)-(8), the right to control interment of the decedent's remains devolves upon the person designated as the Person Authorized to Direct Disposition (PADD), as indicated on the DD Form 93 or its successor form.

Federal law (10 U.S.C. 1481 (a)(1)-(8)) presently enumerates the following, relative to the manner of a decedent's death during military service:

(a) The Secretary of Defense concerned may provide for the recovery, care, and disposition of the remains of the following persons:

- (1) Any Regular of an armed force under his jurisdiction who dies while on active duty.
- (2) A member of a reserve component of an armed force who dies while: (a) on active duty; (b) performing inactive-duty training; (c) performing authorized travel directly to or from active duty or inactive-duty training; (d) remaining overnight immediately before the commencement of inactive-duty training; (e) remaining overnight, between successive periods of inactive-duty training, at or in the vicinity of the site of the inactive-duty training; (f) staying at the member's residence, when so authorized by proper authority, during a period of inactive duty training or between successive days of inactive duty training; (g) hospitalized or undergoing treatment for an injury, illness, or disease incurred or aggravated while on active duty or performing inactive-duty training.
- (3) Serving on funeral honors under federal duty, traveling directly to or from the place at which the member is to serve funeral honors, or remaining overnight at or in the vicinity of that place to serve funeral honors prior to the service, if the place is outside reasonable commuting distance from the member's residence.
- (4) Any member of, or applicant for membership in, a reserve officers' training corps who dies while: (a) attending a training camp; (b) on an authorized practice cruise; (c) performing authorized travel to or from such a camp or cruise; (d) hospitalized or undergoing treatment at the expense of the United States for injury incurred, or disease contracted, while attending such a camp, while on such a cruise, or while performing that travel.
- (5) Any accepted applicant for enlistment in an armed force under his jurisdiction.
- (6) Any person who has been discharged from an enlistment in an armed force under his jurisdiction while a patient in a United States hospital, and who continues to be such a patient until the date of his death.
- (7)(a) A person who dies as a retired member of an armed force under the Secretary's jurisdiction during a continuous hospitalization of the member as a patient in a United States hospital that began while the member was on active duty for a period of more than 30 days.
- (b) A person who is a retired member of an armed force for reasons of physical disability and who dies during a continuous hospitalization that began while the person was on active duty as a Regular of an armed force under the Secretary's jurisdiction.

(8) Any military prisoner who dies while in the custody of the Secretary of Defense.

Proposed law further provides for no liability of a cemetery authority, funeral establishment, funeral director, crematory authority, or the employees or agents of the aforementioned to whom a copy of a DD Form 93 is presented, purportedly executed by the decedent, for conducting the interment or other disposition of the remains of the decedent pursuant to the instructions of the Person Authorized to Direct Disposition (PADD) on the DD Form 93, or for relying on the representation of the PADD that the decedent died during active service.

Proposed law provides that in the event that the decedent has made multiple notarized declarations or designations of interment, and the decedent executed a DD Form 93 and died pursuant to the descriptions of proposed law, the declaration or designation or the DD Form 93, whichever is dated last, controls interment of the decedent's remains.

(Amends R.S. 8:655(A)(intro. para.) and (B); Adds R.S. 8:655(C))

Summary of Amendments Adopted by House

Committee Amendments Proposed by House Committee on Commerce to the original bill.

1. Made technical changes.
2. Added the decedent's right to control interment by designation of a specific person to control disposition through a written and notarized declaration.
3. Established the right to control interment of the decedent's remains through the PADD designation of a DD Form 93, if the decedent executed a DD Form 93 and died in a manner described by proposed law.
4. Established no liability for a cemetery authority, funeral establishment, funeral director, crematory authority, or the employees or agents of any of them who rely on the purported execution of the decedent or representation of the PADD, relative to a DD Form 93.
5. Clarified that the decedent's last dated written and notarized declaration or designation or DD Form 93 controls the interment of the decedent's remains, in the event that the decedent made multiple notarized declarations or designations of interment, and the decedent executed a DD Form 93 and died in a manner described by proposed law.