

**ACT No. 143**

2016 Regular Session

HOUSE BILL NO. 672

BY REPRESENTATIVES DAVIS, BAGNERIS, JEFFERSON, AND NORTON

1 AN ACT

2 To amend and reenact R.S. 8:655(A), (B)(1), (C), and (D) and R.S. 37:848(B), 876(A), (B),  
3 (D), (E), and (F), 877(B)(1)(a)(v) and (b)(ii), and 879(K) and to enact R.S. 8:655(E)  
4 and R.S. 37:855 and 876(G), relative to the disposing of human remains; to provide  
5 with respect to a decedent's notarial testament; to provide for a change in priority of  
6 persons with respect to the right to control interment and the authorized arrangement  
7 of cremation; to distinguish adult grandchildren as a priority group of persons; to  
8 allow the disposal of certain human remains by certain assistants of certified  
9 embalmers; to provide for the right to arrange funeral goods and services; to limit  
10 liability of certain persons with respect to the arrangement of funeral goods and  
11 services; to require a majority relative to certain surviving family members and the  
12 right to authorize cremation; to expressly make certain military provisions applicable  
13 to cremation authorizations; to require the attachment of declarations to cremation  
14 authorization forms; to exempt the remains of certain fetuses with respect to  
15 provisions requiring identification of human remains; to authorize a representative  
16 of a funeral establishment to deliver cremated human remains to authorized persons;  
17 to authorize a legal entity to receive cremated human remains; to require funeral  
18 establishments and cemetery authorities to retain certain receipts; to provide for other  
19 clarifying changes; and to provide for related matters.

20 Be it enacted by the Legislature of Louisiana:

21 Section 1. R.S. 8:655(A), (B)(1), (C), and (D) are hereby amended and reenacted and  
22 R.S. 8:655(E) is hereby enacted to read as follows:

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

2 A. ~~The right to control interment, as defined in R.S. 8:1(26), of the remains~~  
3 ~~of a deceased person, unless~~ Unless other specific directions have been given or the  
4 designation of a specific person to control disposition has been made by the decedent  
5 in the form of a notarial testament or a written and notarized declaration, ~~vests in and~~  
6 ~~devolves upon the following in the order named~~ the following persons, in the priority  
7 listed, have the right to control and authorize the interment of a deceased person, as  
8 defined in R.S. 8:1(26):

9 (1) The person designated to control disposition by the decedent in the form  
10 of a notarial testament or a written and notarized declaration.

11 ~~(1)(2)~~ (2) The surviving spouse, if there is no pending petition for divorce ~~has~~  
12 ~~been~~ filed by either spouse prior to the death of the decedent spouse.

13 ~~(2)(3)~~ (3) A majority of the surviving adult children of the decedent, ~~not~~  
14 ~~including grandchildren or other more remote descendants.~~

15 (4) A majority of the surviving adult grandchildren of the decedent.

16 ~~(3)(5)~~ (5) The surviving parents of the decedent.

17 ~~(4)(6)~~ (6) A majority of the surviving adult ~~brothers and sisters~~ siblings of the  
18 decedent.

19 ~~(5)(7)~~ (7) A majority of the surviving adult persons respectively in the next  
20 degrees of kindred as established in Civil Code Article 880 et seq.

21 B.(1) Notwithstanding the provisions of Subsection A of this Section, if ~~If~~  
22 the decedent died in a manner described by 10 U.S.C. §1481 (a)(1) through (8) while  
23 serving in any branch of the United States Armed Forces, the United States Reserve  
24 Forces, or National Guard, and the decedent executed a United States Department  
25 of Defense Record of Emergency Data, known as DD Form 93, or its successor form,  
26 the right to control interment for the decedent shall devolve upon the Person  
27 Authorized to Direct Disposition, also referred to as the PADD, as indicated on the  
28 DD Form 93 or its successor form.

29 \* \* \*







1                   (2) In the event that the decedent has made one or more notarial testaments  
 2                   or notarized declarations pursuant to Subsection A of this Section, and the decedent  
 3                   executed a DD Form 93 and died in a manner described in Subsection F of this  
 4                   Section, the notarial testament, declaration, or the DD Form 93, whichever is dated  
 5                   last, shall control the right to serve as an authorizing agent for cremation.

6                   §877. Authorization to arrange cremation; authorization to cremate; refusal to  
 7                   arrange a cremation; refusal to cremate

8   \*       \*       \*

9                   B. A crematory authority shall have authority to cremate human remains  
 10                  when they are delivered by the funeral establishment and upon receipt of all of the  
 11                  following:

12                  (1)(a) A cremation authorization form signed by an authorizing agent. Such  
 13                  form shall contain, at a minimum, the following information:

14   \*       \*       \*

15                  (v) A representation that the authorizing agent has the right to authorize the  
 16                  cremation of the decedent and that the authorizing agent is not aware of any living  
 17                  person who has a superior or equal priority to that of the authorizing agent. If the  
 18                  authorizing agent is acting pursuant to a notarial testament or a written and notarized  
 19                  declaration made by the decedent, a copy of the testament or declaration shall be  
 20                  attached to the cremation authorization form.

21   \*       \*       \*

22                  (b)

23   \*       \*       \*

24                  (ii) The cremation authorization form, other than preneed cremation forms,  
 25                  shall also be signed by a funeral director of the funeral establishment arranging the  
 26                  cremation. The funeral director shall not be responsible for any of the  
 27                  representations made by the authorizing agent, unless the individual has actual  
 28                  knowledge to the contrary. However, the information requested by Item (a)(i) of this  
 29                  Paragraph shall be considered to be a representation of the funeral director or funeral  
 30                  establishment that the human remains delivered to the crematory authority have been

1 identified as the decedent listed on the cremation authorization by the coroner  
 2 pursuant to Item (b)(iii) of this Paragraph or positively identified after a viewing of  
 3 the remains by a person who is the authorizing agent or a member of the class of  
 4 which the authorizing agent is composed or a designated representative, ~~thereof~~  
 5 unless the remains are from a spontaneous fetal death as defined in R.S. 40:32(16),  
 6 in which case a viewing is not required if written identification is received when such  
 7 remains are released to the funeral director. The information requested by Item  
 8 (a)(iii) of this Paragraph shall be considered to be a representation of the funeral  
 9 director or funeral establishment of any information received by the funeral director  
 10 or funeral establishment pursuant to ~~R.S. 40:1099.1~~ R.S. 40:1271.2.

\* \* \*

12 §879. Cremation procedures; pacemakers; cremation retorts; refusal to accept a  
 13 cremation container; unauthorized persons in crematory; simultaneous  
 14 cremation of the human remains of multiple persons; cremation residue;  
 15 packaging and delivery of cremated human remains

\* \* \*

17 K. Cremated human remains shall be made available by the funeral ~~director~~  
 18 establishment or the crematory authority to the ~~individual~~ person or legal entity  
 19 specified on the cremation authorization form. ~~The funeral director or A~~  
 20 representative of the funeral establishment or crematory authority and the ~~individual~~  
 21 person or representative of the legal entity receiving the cremated human remains  
 22 shall sign a receipt indicating the name of the deceased, the date, time, and place of  
 23 ~~the receipt~~ the person's or representative's receipt of the cremated human remains,  
 24 and any other information set out in the rules and regulations governing crematories  
 25 to establish a chain of custody. ~~The crematory authority shall retain a copy of the~~  
 26 ~~receipt~~ A copy of the receipt shall be retained by the funeral establishment or  
 27 crematory authority whose respective representative delivers the cremated human  
 28 remains to the person or representative of the legal entity specified on the cremation  
 29 authorization form. After this delivery, the cremated human remains may be

1 transported in any manner in this state, with a copy of the burial-transit permit, and  
2 disposed of in accordance with the provisions of this Chapter.

3 Section 3. This Act shall become effective upon signature by the governor or, if not  
4 signed by the governor, upon expiration of the time for bills to become law without signature  
5 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If  
6 vetoed by the governor and subsequently approved by the legislature, this Act shall become  
7 effective on the day following such approval.

\_\_\_\_\_  
SPEAKER OF THE HOUSE OF REPRESENTATIVES

\_\_\_\_\_  
PRESIDENT OF THE SENATE

\_\_\_\_\_  
GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_