

2018 Regular Session

SENATE BILL NO. 481

BY SENATOR WALSWORTH

CEMETERIES. Provides for authorization to move human remains. (gov sig)

1 AN ACT

2 To amend and reenact R.S. 8:659(A) and to enact R.S. 8:660(5), relative to human remains;
3 to provide relative to permission to move human remains; to provide for exceptions;
4 to provide for terms, conditions, and procedures; and to provide for related matters.

5 Be it enacted by the Legislature of Louisiana:

6 Section: R.S. 8:659(A) is hereby amended and reenacted and R.S. 8:660(5) is hereby
7 enacted to read as follows:

8 §659. Permission to move remains

9 A. The remains of a deceased person may be moved from a cemetery space
10 to another cemetery space in the same cemetery or to another cemetery with the
11 consent of the cemetery authority and the written consent of one of the following, in
12 the order named, unless other **specific** directions, ~~in writing~~ **in the form of a**
13 **notarial testament or a written and notarized declaration**, have been given by the
14 decedent:

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

17 (2) ~~The~~ **A majority of the** surviving adult children of the decedent, ~~not~~

1 including grandchildren or other more remote descendants.

2 (3) **A majority of the surviving adult grandchildren of the decedent.**

3 (4) The surviving parents of the decedent.

4 (4)(5) The **A majority of the** surviving adult ~~brothers and sisters~~ **siblings** of
5 the decedent.

6 * * *

7 §660. Exceptions

8 The foregoing Sections shall not apply to or prohibit the following:

9 * * *

10 **(5) The moving, identification, and reinterment of caskets, coffins, vaults,**
11 **other outer burial containers, remains, and associated burial artifacts, displaced**
12 **by a force majeure event and undertaken by the cemetery authority or its**
13 **designee or any authorized government entity or its designee following a**
14 **municipal, parish, or state declaration of emergency.**

15 Section 2. This Act shall become effective upon signature by the governor or, if not
16 signed by the governor, upon expiration of the time for bills to become law without signature
17 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
18 vetoed by the governor and subsequently approved by the legislature, this Act shall become
19 effective on the day following such approval.

The original instrument and the following digest, which constitutes no part
of the legislative instrument, were prepared by Michelle Ridge.

DIGEST

SB 481 Engrossed 2018 Regular Session Walsworth

Present law provides relative to human remains.

Present law provides that the remains of a deceased person may be moved from a cemetery space to another cemetery space in the same cemetery or to another cemetery with the consent of the cemetery authority and the written consent of one of the following, in the order named, unless other directions in writing have been given by the decedent:

- (1) The surviving spouse, if no petition for divorce has been filed by either spouse prior to the death of the decedent spouse.
- (2) The surviving adult children of the decedent, not including grandchildren or other more remote descendants.

- (3) The surviving parents of the decedent.
- (4) The surviving adult brothers and sisters of the decedent.

Proposed law changes the form in which a decedent gives directions for his remains to be moved from a written declaration to a notarial testament or a written and notarized declaration.

Proposed law changes the list of decedents to the following:

- (1) The surviving spouse, if there is no pending petition for divorce filed by either spouse prior to the death of the decedent spouse.
- (2) A majority of the surviving adult children of the decedent.
- (3) A majority of the surviving adult grandchildren of the decedent.
- (4) The surviving parents of the decedent.
- (5) A majority of the surviving adult siblings of the decedent.

Present law shall not apply or prohibit the following:

- (1) The rearrangement of remains within the same cemetery space by or with the consent of the cemetery authority for the purpose of rearrangement or reuse in cemeteries which allow for rearrangement or reuse.
- (2) The removal of remains by a cemetery authority from a cemetery space for which the purchase price or any other legitimate indebtedness to the cemetery authority is past due and unpaid, to some other suitable place.
- (3) The disinterment of remains pursuant to an order of a court of competent jurisdiction or of a coroner of the parish in which the cemetery is located.
- (4) The removal and transfer of remains to correct an error provided that written notice shall be sent to the immediate family prior to the removal and transfer.

Proposed law adds that present law shall not apply or prohibit the moving, identification, and reinterment of caskets, coffins, vaults, other outer burial containers, remains, and associated burial artifacts, displaced by a force majeure event and undertaken by the cemetery authority or its designee or any authorized government entity or its designee following a municipal, parish, or state declaration of emergency.

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Amends R.S. 8:659(A); adds R.S. 8:660(5))