

2015 Regular Session

SENATE BILL NO. 208

BY SENATOR RISER

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

CORONERS. Provides for disposition of remains. (7/1/15)

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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 or healthcare facility; 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 the Louisiana Anatomical Gift Act, the Louisiana Anatomical Board Act, the

1 Louisiana Unmarked Human Burial Sites Preservation Act, or the Louisiana
2 Historic Cemetery Preservation Act.

3 * * *

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

5 * * *

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

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

10 §1551. ~~Burial of unclaimed bodies~~ Disposition of remains

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

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

26 B. If a decedent's ~~body is~~ remains are not claimed, unclaimed ~~by friends or~~
27 ~~relatives,~~ or abandoned and the decedent had known assets or property of a
28 sufficient value to defray the expenses of ~~burial~~ disposition, the coroner shall ~~cause~~
29 ~~the body to be interred~~ arrange for disposition of the remains within thirty days,

1 preferably by a recognized funeral ~~home~~ establishment. The invoices for the
2 expenses of ~~the burial~~ disposition shall be forwarded to the public administrator if
3 there is one in the parish or to the clerk of the district court if there is no public
4 administrator, and the person or official authorized by law to be appointed
5 administrator of the succession of the decedent shall provide for the payment of the
6 ~~burial~~ disposition expenses out of the assets of the decedent in accordance with the
7 existing provisions of law for the administration of successions and in accordance
8 with the provisions of this Part.

9 C.(1) If the remains of a decedent in the possession of a funeral
10 establishment or a healthcare facility have been abandoned, the funeral
11 establishment or healthcare facility shall notify by a written, notarized
12 document, the coroner for the parish of the decedent's domicile stating the
13 factual history and circumstances of the abandonment. This document shall
14 include, but not be limited to the following information:

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

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

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

26 (d) All documents and records of any kind in the possession of the
27 funeral establishment or healthcare provider, written or electronic, generated
28 regarding the deceased, including but not limited to any medical records of any
29 kind.

1 **(2) Upon receipt by the coroner of the notarized document, complete**
2 **with all records attached thereto, the funeral establishment or healthcare**
3 **facility shall transport the human remains of the decedent at their costs to the**
4 **coroner of the parish of the decedent's domicile, if located in Louisiana, or to**
5 **the coroner of the parish where the death occurred if the decedent's domicile**
6 **is not in Louisiana, who shall assume jurisdiction of the case, and accept the**
7 **remains for future disposition all in accordance with law.**

8 **D. For purposes of this Section, remains of a decedent in the possession**
9 **of a funeral establishment or healthcare facility shall be deemed abandoned if**
10 **the person or persons authorized in R.S. 8:655 or in Subsection A of this Section**
11 **to control the disposition orally or in writing refuses to make arrangement or**
12 **provide for the disposition of the decedent or fails to make arrangement or to**
13 **provide for the disposition of the remains of a decedent after death at a**
14 **healthcare facility or after the remains are in the possession of the funeral**
15 **establishment.**

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

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

22 §876. Authorizing agent; notarized declarations

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

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

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

- 1 (3) The surviving parents of the decedent.
- 2 (4) All of the surviving adult siblings of the decedent.
- 3 (5) All of the surviving adult persons respectively in the next degree of
- 4 kindred as provided in Civil Code Articles 880 et seq.

5 **B. If the coroner releases the remains of a decedent to an interested**

6 **person pursuant to R.S. 9:1551(A)(1), such person may serve as the authorizing**

7 **agent for cremation.**

8 **C.** If the required authorization cannot be obtained, a final judgment of a

9 district court shall be required.

10 ~~**D.**~~ In the case of those individuals whose disposition is the responsibility

11 of the state or any of its instrumentalities, a public administrator, medical examiner,

12 coroner, state-appointed guardian, or any other public official charged with arranging

13 the disposition of the decedent may serve as the authorizing agent.

14 ~~**E.**~~ No person shall be allowed to serve as an authorizing agent when a

15 decedent has left written instructions in a notarized declaration that he does not wish

16 to be cremated.

17 ~~**F.**~~ In the event that the decedent has made multiple notarized declarations

18 of disposition, the last notarized declaration shall control.

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

The original instrument was prepared by Cathy R. Wells. The following digest, which does not constitute a part of the legislative instrument, was prepared by Jerry G. Jones.

DIGEST

SB 208 Engrossed 2015 Regular Session Riser

Present law provides relative to burial of unclaimed bodies.

Proposed law provides relative to disposition of human remains.

Proposed law defines "disposition" as the interment, burial, cremation, or anatomical donation of the body of a deceased person or parts of the body of a deceased person. Disposition does not include any prohibited act under the Louisiana Anatomical Gift Act, the Louisiana Anatomical Board Act, the Louisiana Unmarked Human Burial Sites Preservation Act, or the Louisiana Historic Cemetery Preservation Act.

Present law provides for surviving spouse, next of kin, and other relatives who have the right to control interment and who have the right to serve as an authorizing agent for cremation

of the remains of a deceased person unless other specific written and notarized directions have been given by the decedent.

Present law authorizes the coroner to release the remains to any interested party if the surviving spouse, next of kin, and other relatives who have the right to control interment refuse to bury the remains.

Proposed law retains present law and provides for the disposition of such remains not just for burial. Proposed law further provides that if the coroner releases the remains to an interested person, such person may serve as the authorizing agent to cremation.

Present law authorizes the coroner to bury the abandoned body as provided for indigents if the decedent had no known property or assets of sufficient value to defray the expenses of burial.

Proposed law retains present law but authorizes the coroner to dispose of such abandoned remains as provided for indigents if the decedent had no known property or asset of sufficient value to defray the expenses of disposition.

Present law requires the coroner to arrange for disposition of the remains within 30 days, preferably by a recognized funeral home if a body is unclaimed by friends or relatives and the decedent had known assets or property of a sufficient value to defray the expenses of burial.

Proposed law requires the coroner to arrange for disposition of the remains within 30 days, preferably by a recognized funeral establishment if such remains are not claimed, unclaimed, or abandoned and the decedent had known assets or property of a sufficient value to defray the expenses of disposition.

Proposed law requires funeral establishments and healthcare facilities to notify by a written notarized document, the coroner for the parish of the decedent's domicile stating the factual history and circumstances of the abandonment. Proposed law also lists other items required to be contained in the notification to the coroner, including but not limited to information about known next of kin; organizations the deceased was a member of; known assets, including insurance policies, pending claims under litigation, and any potential unresolved claims or asset of any kind; veteran and employment status; religious affiliation; and all documents in the possession of the funeral home or healthcare provider.

Proposed law provides that upon the coroner's receipt of the notarized document and records attached thereto, the funeral home or healthcare facility is required to transport the human remains of the decedent at their costs to the coroner of the decedent's domicile, if located in Louisiana, or to the coroner of the parish where the death occurred if the decedent's domicile is not in Louisiana, is required to assume jurisdiction of the case, and accept the remains for future disposition.

Proposed law provides that the remains of a decedent in the possession of a funeral establishment or healthcare facility are deemed abandoned if the person or persons authorized by law to control the disposition orally or in writing refuses to make arrangements or provide for the disposition of the decedent, or fails to make arrangements or provide for the disposition of the remains of a decedent after death at a healthcare facility, or after the remains are in the possession of the funeral establishment.

Proposed law provides that if the coroner releases the remains to an interested person, such person may serve as the authorizing agent for cremation.

Effective on July 1, 2015.

(Amends R.S. 9:1551 and R.S. 37:876; adds R.S. 8:1(20.1) and 655(D))

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Judiciary A to the original bill

1. Changes interment of remains by coroner to disposition of remains by coroner if decedent's remains are not claimed or abandoned.