
DIGEST

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HB 672 Original

2016 Regular Session

Davis

Abstract: Makes changes to law applicable to the disposition of human remains.

Present law provides for the priority of certain persons in determining the disposition of human remains. The priority listed in present law is as follows:

- (1) The surviving spouse, if no petition for divorce has been filed by either spouse prior to the death of the decedent spouse.
- (2) A majority of the surviving adult children of the decedent, not including grandchildren or other more remote descendants.
- (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 kin as established in present law (C.C. Art. 880 et seq).

Proposed law changes present law to provide as a preference, prior to the surviving spouse, the person designated to control disposition by the decedent in the form of a written and notarized declaration.

Present law authorizes a surviving spouse as a priority group of persons if the surviving spouse did not file a petition for divorce prior to the decedent's death. Proposed law clarifies present law to provide that a filed petition is a pending petition.

Proposed law adds adult grandchildren as a priority group of persons. Clarifies that a majority of the adult persons in the next degrees of kin are survivors of the decedent.

Proposed law provides that persons charged with 1st or 2nd degree murder or voluntary manslaughter in connection with the decedent's death are forfeited the right to control interment, including cremation authorization. Further provides that the control of interment and cremation authority will be passed to the remaining persons in the priority listed in present law and proposed law.

Proposed law deletes a present law provision prohibiting assistants not certified as embalmers from

preparing the bodies of persons deceased from a communicable disease.

Proposed law provides that persons, in the priority listed in present law and proposed law, have the right to arrange with a funeral director or funeral establishment, the funeral goods and services regarding the remains of a decedent. Exempts a funeral director, funeral establishment, or respective employees from liability for following the directions or relying on the representation of a person who purports to have the preferential right to arrange for funeral goods and services.

Present law provides for the priority of certain persons to serve as an authorizing agent for cremation of a decedent's remains. The priority listed in present law is as follows:

- (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.
- (5) The surviving adult persons respectively in the next degrees of kin as established in present law (C.C. Art. 880 et seq).

Proposed law changes present law to provide as a preference, prior to the surviving spouse, the following persons:

- (1) Any person arranging the cremation, if the decedent gave specific directions in the form of a written and notarized declaration providing for disposition of his remains by cremation.
- (2) The person designated to control disposition by the decedent in the form of a written and notarized declaration.

Proposed law further changes present law to require, with respect to the prioritized right to serve as an authorizing agent for cremation, a majority of the surviving adult children, a majority of the surviving adult siblings, and a majority of the surviving adult persons in the next degrees of kin to the decedent.

Present law requires funeral directors and crematory authorities to receive a written cremation authorization form from an authorizing agent. Further requires the authorization form to include information of the authorizing agent's representation that the agent has the right to authorize cremation, and that the agent is without knowledge of any living person who has a superior or equal priority to that of the authorizing agent.

Proposed law retains present law and further requires a copy of the decedent's written and notarized

declaration to be attached to the cremation authorization form if the agent is acting pursuant to the declaration.

Present law provides certain provisions for military persons who died in a certain manner while having a written and notarized declaration of interment and a DD Form 93. Proposed law makes present law expressly applicable to interment by cremation.

Present law requires representation or positive identification made by certain persons that respective human remains are those of the decedent. Proposed law excludes from present law the human remains of fetuses deceased as the result of spontaneous fetal death.

Present law provides for a funeral director or representative of a crematory authority to deliver cremated human remains to authorized persons. Further requires a receipt to be signed by the respective funeral director or representative of a crematory authority and the authorized person receiving the cremated human remains.

Proposed law changes present law to authorize a representative of a funeral establishment to exchange in the delivery of cremated human remains. Authorizes a legal entity to receive cremated human remains. Requires retention of the signed delivery receipt by the funeral establishment or crematory authority whose respective representative signs the receipt.

(Amends R.S. 8:655(A), (B)(1), and (D) and R.S. 37:848(B), 876(A), (B), (D), and (F), 877(B)(1)(a)(v) and (b)(ii), and 879(K); Adds R.S. 8:655(E) and R.S. 37:855 and 876(G) and (H))