

2020 Regular Session

HOUSE BILL NO. 827

BY REPRESENTATIVE RISER

FUNERALS & FUNERAL HOMES: Provides relative to funeral directors and embalmers

1 AN ACT

2 To amend and reenact R.S. 37:842(A)(introductory paragraph) and (5) and (B)(4), 855, and  
3 877(B)(1)(a)(xi), (b)(ii) and (iii), and (C) and to enact R.S. 37:877(D), relative to  
4 funeral directors and embalmers; to provide for internship requirements; to provide  
5 with respect to the right to arrange funeral goods and services; to provide with  
6 respect to the arrangement of cremations; to provide limitations of liability; to  
7 provide for effectiveness; and to provide for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. R.S. 37:842(A)(introductory paragraph) and (5) and (B)(4), 855, and  
10 877(B)(1)(a)(xi), (b)(ii) and (iii), and (C) are hereby amended and reenacted and R.S.  
11 37:877(D) is hereby enacted to read as follows:

12 §842. Minimum qualifications for license

13 A. Qualifications for a funeral director license. Any applicant is qualified  
14 for a license as a funeral director if he meets all of the following requirements:

15 \* \* \*

16 (5) Has served an internship in the state of Louisiana for a period of not less  
17 than nine months, or thirty-nine weeks, and not more than ~~twenty-four months, or~~  
18 ~~one hundred four~~ forty-eight months, or two hundred eight weeks, has actively  
19 assisted in at least thirty funerals, and has completed at least one thousand five

1 hundred sixty contact hours during the internship period. A funeral director intern  
2 may receive credit for up to two-thirds of the internship requirement prior to the  
3 completion of thirty semester hours.

4 \* \* \*

5 B. Qualifications for an embalmer and funeral director license. Any  
6 applicant is qualified for license as an embalmer and funeral director if he meets all  
7 of the following requirements:

8 \* \* \*

9 (4) Has served an internship in the state of Louisiana for a period of not less  
10 than nine months, or thirty-nine weeks, and not more than ~~twenty-four months, or~~  
11 ~~one hundred four~~ forty-eight months, or two hundred eight weeks, actively assisted  
12 in at least thirty embalming operations and thirty funerals and completed at least one  
13 thousand five hundred sixty contact hours during the internship period. An  
14 embalmer and funeral director intern may receive credit for up to two-thirds of the  
15 internship requirement prior to graduating from an accredited school recognized by  
16 the board.

17 \* \* \*

18 §855. Right to arrange funeral goods and services

19 A. The persons in the priority listed in R.S. 8:655 and R.S. 37:876 have the  
20 right to arrange with a funeral director or funeral establishment for funeral goods and  
21 services, as defined in R.S. 37:831(45), in preparation for the disposition of the  
22 remains of a decedent.

23 B. There is no liability for a funeral director, funeral establishment, or any  
24 respective ~~employees~~ employee for following the directions or relying on the  
25 representation of a person representing himself to be the person who has the prior  
26 right to arrange the funeral goods and services for the remains of a decedent in  
27 accordance with Subsection A of this Section.

1           C. There shall be no liability for a funeral director, funeral establishment, or  
2           any respective employee for permitting any interested person to view human remains  
3           in the care of the funeral director or funeral establishment.

4   \*       \*       \*

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

7   \*       \*       \*

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

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

13   \*       \*       \*

14                   (xi) The signature of the authorizing agent, attesting to the accuracy of all  
15          representations contained on the cremation authorization form, except for those  
16          representations made by the funeral director pursuant to Item (b)(ii) of this  
17          Paragraph. The signature of the authorizing agent shall be ~~witnessed by a funeral~~  
18          ~~director of the funeral establishment arranging the cremation or otherwise executed~~  
19          ~~by the authorizing agent before a notary public~~ one of the following:

20                   (aa) Witnessed by a funeral director of the funeral establishment arranging  
21          the cremation.

22                   (bb) Notarized by a notary public.

23                   (cc) Executed before two witnesses who sign the cremation authorization  
24          form. The name and address of each witness shall be provided on the cremation  
25          authorization form.

26                   (b)

27   \*       \*       \*

28                   (ii) The cremation authorization form, other than preneed cremation forms,  
29          shall also be signed by a funeral director of the funeral establishment arranging the

1 cremation. The funeral director shall not be responsible for any of the  
2 representations made by the authorizing agent, unless the individual has actual  
3 knowledge to the contrary. However, the information requested by Item (a)(i) of this  
4 Paragraph shall be considered to be a representation of the funeral director or funeral  
5 establishment that the human remains delivered to the crematory authority have been  
6 identified as the decedent listed on the cremation authorization by the coroner  
7 pursuant to Item (b)(iii) of this Paragraph or positively identified after a viewing of  
8 the remains or a photograph or other visual image of the remains by a person who  
9 is the authorizing agent or a member of the class of which the authorizing agent is  
10 composed or a designated representative thereof, unless the remains are from a  
11 spontaneous fetal death as defined in R.S. 40:32(16), in which case a viewing is not  
12 required if written identification is received when such remains are released to the  
13 funeral director. When visual identification by viewing the remains is not feasible,  
14 other positive identification of the decedent may be used including reliance upon  
15 identification made from photographs or other visual images of scars, tattoos, or  
16 physical deformities taken from the decedent's remains. The information requested  
17 by Item (a)(iii) of this Paragraph shall be considered to be a representation of the  
18 funeral director or funeral establishment of any information received by the funeral  
19 director or funeral establishment pursuant to R.S. 40:1271.2.

20 (iii) The coroner shall provide the identification of any dead body to the  
21 funeral director or funeral establishment to whom he relinquishes possession thereof,  
22 unless the coroner is not able to establish the identity of the dead body as provided  
23 in ~~R.S. 33:1563(H)~~ R.S. 13:5715.

24 \* \* \*

25 C. A copy of a cremation authorization form signed by the authorizing agent  
26 in accordance with either Subitems (B)(1)(a)(xi)(bb) or (cc) of this Section may be  
27 delivered by any means to the funeral establishment arranging a cremation, including  
28 facsimile or other electronic transmission. The signature of the authorizing agent  
29 includes an electronic signature as provided in R.S. 9:2601 et seq. A funeral

1        director, funeral establishment, or cremation authority may rely on, without liability,  
 2        a copy of a cremation authorization form to perform a cremation.

3            C. D. A funeral director may refuse to arrange a cremation and a crematory  
 4        authority may refuse to accept a body or to perform a cremation.

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

#### 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)]

HB 827 Reengrossed

2020 Regular Session

Riser

**Abstract:** Provides relative to the qualifications for a funeral director license and an embalmer and funeral director license.

Present law provides for certain minimum qualifications for licensure as a funeral director and an embalmer and funeral director.

Proposed law retains present law but changes the internship requirement for a funeral director license and an embalmer and funeral director license to serve an instate internship from at least 9 months, or 39 weeks and not more than 24 months, or 104 weeks to at least 9 months, or 39 weeks and not more than 48 months, or 208 weeks.

Present law (R.S. 8:655) provides a list of persons, in order of priority, who have the right to determine the disposition of human remains.

Present law (R.S. 37:876) provides the following list of persons, in order of priority, who have the right to serve as an authorizing agent for cremation:

- (1) The person designated to control disposition by the decedent in the form of a notarial statement or a written and notarized declaration.
- (2) The surviving spouse, if no petition for divorce has been filed by either spouse prior to the death of the decedent spouse.
- (3) A majority of the surviving adult children of the decedent.
- (4) A majority of the surviving adult grandchildren of the decedent.
- (5) The surviving parents of the decedent.
- (6) A majority of the surviving adult brothers and sisters of the decedent.

- (7) A majority of the adult persons respectively in the next degrees of kin as established in present law (C.C. Art. 880 et seq.)

Present law provides that persons listed in present law (R.S. 8:655) have the right to arrange funeral goods and services with a funeral director or funeral establishment.

Proposed law retains present law and adds that persons listed in present law (R.S. 37:876) have the right to arrange funeral goods and services with a funeral director or funeral establishment.

Proposed law provides that there shall be no liability for a funeral director, funeral establishment, or any respective employees for permitting any interested person to view human remains in the care of the funeral director or funeral establishment.

Present law requires that a cremation authorization form be signed by an authorizing agent. The form is required to have a signature that is witnessed by a funeral director of the funeral establishment arranging the cremation or executed by the agent before a notary public.

Proposed law changes present law by requiring that the signature of the authorizing agent be executed in one of the following manners:

- (1) Witnessed by a funeral director of the funeral establishment arranging the cremation.
- (2) Notarized by a notary public.
- (3) Executed before two witnesses who sign the cremation authorization form, with the name and address of each witness stated on the form.

Proposed law provides that when visual identification by viewing human remains is not feasible, other positive identification of the decedent may be used including photographs or other visual images of scars, tattoos, or physical deformities taken from the decedent's remains.

Proposed law allows a copy of a cremation authorization form that is signed by the authorizing agent in accordance with present law to be delivered by any means to a funeral establishment arranging a cremation including fax or other electronic transmission.

Proposed law also provides that the signature of the authorizing agent can include an electronic signature as provided in present law.

Proposed law provides that there shall be no liability for a funeral director, funeral establishment, or cremation authority that relies on a copy of a cremation authorization form to perform a cremation.

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

(Amends R.S. 37:842(A)(intro. para.) and (5) and (B)(4), 855, and 877(B)(1)(a)(xi), (b)(ii) and (iii), and (C); Adds R.S. 37:877(D))

#### Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Commerce to the original bill:

1. Make technical changes.

2. Add to the manner in which the signature of the authorizing agent can be verified.
3. Provide that if visual identification by viewing the remains is not feasible, other positive identification of the decedent may be used including photographs or other visual images.
4. Allow a copy of a signed cremation authorization form to be delivered by facsimile or other electronic transmission. Also, allow the signature of the authorizing agent to include an electronic signature.
5. Allow a funeral director, funeral establishment, or cremation authority to rely on a copy of a cremation authorization form without liability.

The House Floor Amendments to the engrossed bill:

1. Make proposed law effective upon signature of the governor.
2. Make technical changes.