

Existing law provides that the right to control interment of a deceased person's remains may be established by specific directions given in the decedent's written and notarized declaration. Further provides that if the decedent does not have a written and notarized declaration, the right to control interment devolves on the following persons, in ranked order:

- (1) The surviving spouse, if not divorced.
- (2) A majority of the surviving adult children of the decedent.
- (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 kindred as prescribed by existing law.

New law adds that the right to control interment of the decedent's remains is also established when the decedent designates a specific person to control disposition in the form of a written and notarized declaration.

Further adds that if the decedent has executed a U.S. Department of Defense Form 93 (DD Form 93, Record of Emergency Data) or its successor form and the decedent dies during military service pursuant to federal existing law, 10 U.S.C. 1481 (a)(1)-(8), the right to control interment of the decedent's remains devolves upon the person designated as the Person Authorized to Direct Disposition (PADD), as indicated on the DD Form 93 or its successor form.

Federal existing law enumerates the following, relative to the manner of a decedent's death during military service:

(a) The Secretary of Defense concerned may provide for the recovery, care, and disposition of the remains of the following persons:

- (1) Any Regular of an armed force under his jurisdiction who dies while on active duty.
- (2) A member of a reserve component of an armed force who dies while: (a) on active duty; (b) performing inactive-duty training; (c) performing authorized travel directly to or from active duty or inactive-duty training; (d) remaining overnight immediately before the commencement of inactive-duty training; (e) remaining overnight, between successive periods of inactive-duty training, at or in the vicinity of the site of the inactive-duty training; (f) staying at the member's residence, when so authorized by proper authority, during a period of inactive duty training or between successive days of inactive duty training; (g) hospitalized or undergoing treatment for an injury, illness, or disease incurred or aggravated while on active duty or performing inactive-duty training.
- (3) Serving on funeral honors under federal duty, traveling directly to or from the place at which the member is to serve funeral honors, or remaining overnight at or in the vicinity of that place to serve funeral honors prior to the service, if the place is outside reasonable commuting distance from the member's residence.
- (4) Any member of, or applicant for membership in, a reserve officers' training corps who dies while: (a) attending a training camp; (b) on an authorized practice cruise; (c) performing authorized travel to or from such a camp or cruise; (d) hospitalized or undergoing treatment at the expense of the U.S. for injury incurred, or disease contracted, while attending such a camp, while on such a cruise, or while performing that travel.
- (5) Any accepted applicant for enlistment in an armed force under his jurisdiction.

- (6) Any person who has been discharged from an enlistment in an armed force under his jurisdiction while a patient in a U.S. hospital, and who continues to be such a patient until the date of his death.
- (7)(a) A person who dies as a retired member of an armed force under the Secretary's jurisdiction during a continuous hospitalization of the member as a patient in a U.S. hospital that began while the member was on active duty for a period of more than 30 days.
- (b) A person who is a retired member of an armed force for reasons of physical disability and who dies during a continuous hospitalization that began while the person was on active duty as a Regular of an armed force under the Secretary's jurisdiction.
- (8) Any military prisoner who dies while in the custody of the Secretary of Defense.

New law provides there is for no liability of a cemetery authority, funeral establishment, funeral director, crematory authority, or the employees or agents thereof to whom a copy of a DD Form 93 is presented, purportedly executed by the decedent, for conducting the interment or other disposition of the decedent's remains pursuant to the instructions of the PADD on the DD Form 93, or for relying on the PADD's representation that the decedent died as described in federal existing law.

Prior law provided that in the event the decedent has made multiple declaration of interment, the last declaration shall control.

New law provides that in the event the decedent has made multiple notarized declarations of interment as prescribed in both new and existing law, the declaration dated last controls interment of the decedent's remains.

New law further provides that in the event the decedent makes one or more notarized declarations of interment, and the decedent executes a DD Form 93 and dies in a manner described in federal existing law, the declaration or the DD Form 93, whichever is dated last, controls interment of the decedent's remains.

Effective Aug. 1, 2014.

(Amends R.S. 8:655(A)(intro. para.) and (B); Adds R.S. 8:655(C))