

Regular Session, 2014

SENATE BILL NO. 611

BY SENATOR RISER

CORONERS. Provides relative to disposition of human remains. (7/1/14)

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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(C), 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 remains of a decedent in the possession of a funeral establishment or healthcare facility; 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(C) are hereby enacted to read as follows:

§1. Definitions

* * *

(20.1) "Disposition" means the shipment, interment, burial, cremation, or anatomical donation of the body of a deceased person or parts of the body of a deceased person.

* * *

§655. Right of disposing of remains

* * *

1 **C. In the event that the coroner releases the remains of the decedent to**
 2 **an interested person pursuant to R.S. 9:1551(A)(1), such person shall have the**
 3 **right to control the disposition of the remains of the decedent.**

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

5 §1551. ~~Burial of unclaimed bodies~~ **Disposition of remains**

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

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

21 B. If a decedent's ~~body is~~ **remains are not claimed,** ~~unclaimed by friends or~~
 22 ~~relatives,~~ **or abandoned** and the decedent had known assets or property of a
 23 sufficient value to defray the expenses of ~~burial~~ **disposition**, the coroner shall cause
 24 the ~~body~~ **remains** to be interred within thirty days, preferably by a recognized
 25 funeral ~~home~~ **establishment.** The invoices for the expenses of ~~the burial~~ **disposition**
 26 shall be forwarded to the public administrator if there is one in the parish or to the
 27 clerk of the district court if there is no public administrator, and the person or official
 28 authorized by law to be appointed administrator of the succession of the decedent
 29 shall provide for the payment of the ~~burial~~ **disposition** expenses out of the assets of

1 the decedent in accordance with the existing provisions of law for the administration
2 of successions and in accordance with the provisions of this Part.

3 **C. If the remains of a decedent in the possession of a funeral**
4 **establishment or a healthcare facility have been abandoned, the funeral**
5 **establishment or healthcare facility shall notify the coroner for the parish who**
6 **shall take and exercise custody of the remains for disposition pursuant to the**
7 **provisions in this Section.**

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

17 §876. Authorizing agent; notarized declarations

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

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

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

25 (3) The surviving parents of the decedent.

26 (4) All of the surviving adult siblings of the decedent.

27 (5) All of the surviving adult persons respectively in the next degree of
28 kindred as provided in Civil Code Articles 880 et seq.

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

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

3 ~~B. C.~~ If the required authorization cannot be obtained, a final judgment of
4 a district court shall be required.

5 ~~C. D.~~ In the case of those individuals whose disposition is the responsibility
6 of the state or any of its instrumentalities, a public administrator, medical examiner,
7 coroner, state-appointed guardian, or any other public official charged with arranging
8 the disposition of the decedent may serve as the authorizing agent.

9 ~~D. E.~~ No person shall be allowed to serve as an authorizing agent when a
10 decedent has left written instructions in a notarized declaration that he does not wish
11 to be cremated.

12 ~~E. F.~~ In the event that the decedent has made multiple notarized declarations
13 of disposition, the last notarized declaration shall control.

14 Section 4. This Act shall become effective on July 1, 2014.

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

DIGEST

Riser (SB 611)

Present law provides relative to burial of unclaimed bodies.

Proposed law provides relative to disposition of human remains.

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.

Proposed law requires funeral establishments and healthcare facilities to notify the coroner if remains have been abandoned and gives the coroner custody and control of such remains as well as those remains that have been released and are abandoned while in possession of a funeral establishment or healthcare facility.

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 cause a body to be interred 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 cause human remains to be interred 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 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.

Effective on July 1, 2014.

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