

RS 37:876

§876. Authorizing agent; notarial testaments and notarized declarations

A. The following persons, in the priority listed, have the right to serve as an authorizing agent for cremation:

(1) Any person arranging the cremation, if the decedent has given specific directions in the form of a notarial testament or 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 notarial testament or a written and notarized declaration.

(3) The surviving spouse, if there is no pending petition for divorce filed by either spouse prior to the death of the decedent spouse.

(4) A majority of the surviving adult children of the decedent.

(5) A majority of the surviving adult grandchildren of the decedent.

(6) The surviving parents of the decedent.

(7) A majority of the surviving adult siblings of the decedent.

(8) A majority of the surviving adult persons respectively in the next degree of kindred as provided in Civil Code Articles 880 et seq.

B. Notwithstanding the provisions of Subsection A of this Section, if the coroner releases the remains of a decedent to an interested person pursuant to R.S. 9:1551(A)(1), such person may serve as the authorizing agent for cremation.

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

D. Notwithstanding the provisions of Subsection A of this Section, in the case of those individuals whose disposition is the responsibility of the state or any of its instrumentalities, a public administrator, medical examiner, coroner, state-appointed guardian, or any other public official charged with arranging the disposition of the decedent may serve as the authorizing agent.

E. No person is allowed to serve as an authorizing agent when a decedent has left written instructions in a notarial testament or notarized declaration that he does not wish to be cremated.

F.(1) If the decedent died in a manner described by 10 U.S.C. 1481 (a)(1) through (8) while serving in any branch of the United States Armed Forces, the United States Reserve Forces, or National Guard, and the decedent executed a United States Department of Defense Record of Emergency Data, known as DD Form 93, or its successor form, the right to serve as an authorizing agent for cremation shall devolve upon the Person Authorized to Direct Disposition, also referred to as the PADD, as indicated on the DD Form 93 or its successor form.

(2) There is no liability for a cemetery authority, funeral establishment, funeral director, crematory authority, or the employees or agents of any of them to whom a copy of a DD Form 93 is presented, purportedly executed by the decedent for conduction of a cremation of the decedent's remains, pursuant to the instructions of the PADD as indicated on the DD Form 93, or for relying on the representation of the PADD that the decedent died in a manner described in Paragraph (1) of this Subsection.

G.(1) In the event that the decedent has made multiple notarial testaments or notarized declarations pursuant to Subsection A of this Section, the notarial testament or notarized declaration, whichever is dated last, shall control.

(2) In the event that the decedent has made one or more notarial testaments or notarized declarations pursuant to Subsection A of this Section, and the decedent executed a DD Form 93 and died in a manner described in Subsection F of this Section, the notarial testament, declaration, or the

DD Form 93, whichever is dated last, shall control the right to serve as an authorizing agent for cremation.

Acts 2003, No. 1243, §2; Acts 2015, No. 270, §3, eff. July 1, 2015; Acts 2016, No. 143, §2, eff. May 19, 2016.