

RS 8:655

§655. Right of disposing of remains; military personnel; limitation of liability

A. Except as provided in Subsection F of this Section, unless other specific directions have been given or the designation of a specific person to control disposition has been made by the decedent in the form of a notarial testament or a written and notarized declaration, the following persons, in the priority listed, have the right to control and authorize the interment of a deceased person, as defined in R.S. 8:1:

(1) The person designated to control disposition by the decedent in the form of a notarial testament or a written and notarized declaration.

(2) The surviving spouse, if there is no pending petition for divorce 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 siblings of the decedent.

(7) A majority of the surviving adult persons respectively in the next degrees of kindred as established in Civil Code Article 880 et seq.

B.(1) Notwithstanding the provisions of Subsection A of this Section, 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 control interment for the decedent 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 shall be 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 the interment or other disposition 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.

C.(1) In the event that the decedent has made multiple notarial testaments or notarized declarations pursuant to Subsection A of this Section, the testament or 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 B of this Section, the testament, declaration, or the DD Form 93, whichever is dated last, shall control interment of the decedent's remains.

D. Notwithstanding the provisions of Subsection A of this Section, in the event that the coroner releases the remains of the decedent to an interested person pursuant to R.S. 9:1551(A)(1), such person has the right to control the disposition of the remains of the decedent.

E. In the absence of specific directions given by the decedent, if the authorization of the person or persons with the right to control disposition cannot be obtained, a final judgment of a district court shall be required.

F. No person shall have any right to control the disposition of the remains of a decedent when a warrant or a judicial determination of probable cause for a homicide enumerated in R.S. 14:30, 30.1, or 31 has been issued for his arrest for the death of the decedent.

Acts 1991, No. 912, §1; Acts 2001, No. 557, §1; Acts 2014, No. 819, §1; Acts 2015, No. 270, §1, eff. July 1, 2015; Acts 2016, No. 143, §1, eff. May 19, 2016; Acts 2019, No. 4, §1.

RS 8:659

§659. Permission to move remains

A. The remains of a deceased person may be moved from a cemetery space to another cemetery space in the same cemetery or to another cemetery with the consent of the cemetery authority and the written consent of one of the following, in the order named, unless other specific directions, in the form of a notarial testament or a written and notarized declaration, have been given by the decedent:

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

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

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

(4) The surviving parents of the decedent.

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

B. If the required consent cannot be obtained, a final judgment of the district court of the parish where the cemetery is situated shall be required.

Acts 1990, No. 939, §1; Acts 1999, No. 1199, §1; Acts 2006, No. 609, §1; Acts 2018, No. 248, §1, eff. May 15, 2018.

RS 8:902

§902. Underground burials; depth

Any cemetery sexton or other person digging graves for underground interments shall dig sufficiently deep to allow for at least two feet of soil to cover the entire area of the casket, unless the said interment is in a burial vault, coping or lawn crypt.

Acts 1974, No. 417, §1.