

CHAPTER 10. HUMAN REMAINS

§ 651. Interring or cremating

Except in cases of lawful dissection or where a dead body shall rightfully be carried through or removed from the state for the purposes of interment or cremation elsewhere, every dead body of a human being lying within this state, and the remains of any dissected body, after dissection, shall be decently interred or cremated within a reasonable time after death.

Acts 1974, No. 417, § 1.

§ 652. Unlawful disposal of remains

A. Except in the case of cremated remains or as otherwise provided by law, it shall be unlawful for any person to dispose of any human remains, except fetal remains, without first obtaining certification of the cause of death by the treating physician, parish coroner, or the authorized representative of the parish coroner. Disposal of such remains shall not be in any place other than a cemetery or a building dedicated exclusively for such purposes, and the remains shall be decently interred within a reasonable time after death.

B. Whoever violates this Section shall be punished by imprisonment for not more than three years, with or without hard labor, or by a fine of not more than one thousand dollars, or both.

Acts 1974, No. 417, § 1. Amended by Acts 1991, No. 195, § 1.

§ 653. Opening graves; stealing body; receiving same

A. Every person who removes the dead body of a human being or any part thereof from a cemetery space where the same has been interred or is awaiting interment or cremation, without authority of law, with intent to sell the same, or for the purposes of securing a reward for its return, or for dissection, or from malice or wantonness, shall be punished by imprisonment for not more than five years, or by a fine of not more than one thousand dollars, or by both.

B. Whoever purchases or receives, except for interment or cremation, any such dead body or any part thereof, knowing that the same has been removed in violation of this section, shall be punished by imprisonment for not more than three years or by a fine of not more than one thousand dollars, or both.

C. Whoever opens a cemetery space, temporary or otherwise, or a building where a dead body is deposited while awaiting interment or cremation, with intent to remove said body or any part thereof, for the purpose of selling or demanding money or any other thing of value for the same, for dissection, from malice or wantonness, or with intent to sell or remove the coffin or of any part thereof, or anything attached thereto, or any vestment or other article interred or intended to be interred with the body, shall be punishable by imprisonment for not more than three years or by a fine of not more than one thousand dollars, or both.

Acts 1974, No. 417, § 1.

§ 654. Mutilating, disinterring human remains; penalty

Whoever mutilates any human remains without authority of law shall be punished by imprisonment for not more than three years or by a fine of not more than one thousand dollars, or both.

Acts 1974, No. 417, § 1.

§ 655. Right of disposing of remains

A. The right to control interment, as defined in R.S. 8:1(26), of the remains of a deceased person, unless other specific directions have been given by the decedent in the form of a written and notarized declaration, vests in and devolves upon the following in the order named:

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

(2) A majority of the surviving adult children of the decedent, not including grandchildren or other more remote descendants.

(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 established in Civil Code Article 880 et seq.

B. In the event that the decedent has made multiple declarations of interment, the last declaration shall control.

Acts 1974, No. 417, § 1. Amended by Acts 1990, No. 939, § 1; Acts 1991, No. 912, § 1. Amended by Acts 2001, No. 557, § 1.

§ 656. Effect of authorization

Any person signing any authorization for the interment of any remains warrants the truthfulness of any fact set forth in the authorization, the identity of the person whose remains are sought to be interred, and his authority to order the interment; and such person shall be personally liable for all damage occasioned by or resulting from breach of such warranty.

Acts 1974, No. 417, § 1. Amended by Acts 2003, No. 1243, § 1.

§ 657. Right to rely on such authorization

The cemetery authority may inter any remains upon the receipt of a written authorization of a person representing himself to be the person who has the prior right to control the disposition of the remains in accordance with R.S. 8:655. A cemetery authority shall not be liable for interring pursuant to such authorization, unless it has actual notice that such representation is untrue.

Acts 1974, No. 417, § 1. Amended by Acts 2003, No. 1243, § 1.

§ 658. Liability for damages; limitation

No action shall lie against any cemetery authority relating to the remains of any person which have been left in its possession for a period of sixty days, unless a written contract has been entered into with the cemetery authority for the care of such remains.

Acts 1974, No. 417, § 1. Amended by Acts 2003, No. 1243, § 1.

§ 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 directions in writing have been given by the decedent:

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

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

(3) The surviving parents of the decedent.

(4) The surviving adult brothers and sisters 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 1974, No. 417, § 1. Amended by Acts 1990, No. 939, § 1. Amended by Acts 1999, No. 1199, § 1. Amended by Acts 2006, No. 609, § 1.

§ 660. Exceptions

The foregoing Sections shall not apply to or prohibit the following:

(1) The rearrangement of remains within the same cemetery space by or with the consent of the cemetery authority for the purpose of rearrangement or reuse in cemeteries which allow for rearrangement or reuse as defined in R.S. 8:1(36.1).

(2) The removal of remains by a cemetery authority from a cemetery space for which the purchase price or any other legitimate indebtedness to the cemetery authority is past due and unpaid, to some other suitable place.

(3) The disinterment of remains pursuant to an order of a court of competent jurisdiction or of a coroner of the parish in which the cemetery is located.

(4) The removal and transfer of remains to correct an error as provided in R.S. 8:813 provided that

written notice shall be sent to the immediate family prior to the removal and transfer.

Acts 1974, No. 417, § 1. Amended by Acts 1990, No. 939, § 1. Amended by Acts 1999, No. 1199, § 1. Pursuant to the statutory revision authority of the Louisiana State Law Institute, in this section as amended in 1999, "R.S. 8:1(36.1)" was substituted for "R.S. 8:1(42)" in par. (1).

§661. Undisposed remains; rules and regulations

Whenever any human remains have been in the lawful possession of any cemetery authority for a period of sixty days or more, and the relatives of or persons interested in the deceased person fail, neglect, or refuse for such periods of time, respectively, to direct the disposition to be made of the body, the body may be disposed of by the cemetery authority having lawful possession thereof, under and in accordance with such rules and regulations, if any, as may be made and promulgated by the governmental authority or authorities having jurisdiction over the matter.

Acts 1974, No. 417, § 1. Amended by Acts 2003, No. 1243, § 1.

§ 662. Record of remains to be kept

The cemetery authority in charge of any premises on which interments are made shall keep a record of all remains interred on the premises under its charge, in each case stating the name of each deceased person, date of interment, location of interment, and name of the funeral director or funeral home.

Acts 1974, No. 417, § 1. Amended by Acts 2001, No. 468, § 1. Amended by Acts 2003, No. 1243, § 1.