

"Your Estate Matters" Legal-ease

By Ronda M. Gabb, NP, JD, RFC



WE'RE A CREMATION NATION

In 1979, only 5% of Americans chose to be cremated. That figure rose to over 56% in 2020, and it is projected that by 2035, almost 80% of us will choose cremation over either burial or medical donation. So yes, that definitely makes us a "Cremation Nation!"

There are many factors which attribute to this rise in popularity. Probably first and foremost, is economics. "Direct" cremations, meaning cremation only with no other services, are about one-quarter the cost of a traditional funeral. In our local area, I was surprised that the most inexpensive direct cremation was only \$1,395 compared to the most expensive one being more than double that amount at \$2,895. Check out PARTING.COM for local prices.

Another reason is demographics. Families move around now more than ever and are sometimes hesitant to "commit" to purchasing plots and crypts with a particular cemetery until permanent retirement roots are laid, and even then we see folks move again to be closer to kids and grandkids as they age. You have to admit, cremains are certainly easier to move than a casket!

The drastic changes in religious doctrines have also had an impact. In the past, many religions frowned upon cremation, where now most religions allow it. The first U.S. crematorium was opened in 1876 by Francis LeMoyne in Lancaster, Pennsylvania, and it was severely criticized by the Catholic church. But in 1963, Pope

Paul VI lifted the ban on cremation, and by 1997 Catholics allowed the ashes to be present at the funeral Mass. However, the Catholic religion does not allow the scattering, separating, or co-mingling of the ashes; they must be kept intact and placed in a hallowed place (e.g. not on your mantel).

Burials at sea are interesting and even involve the government! For example, you must be more than three nautical miles from shore and you must report the burial to the EPA within 30 days after the burial. You're also NOT supposed to dump Fido's cremains in the sea with his owner (human remains only). For more information visit: epa.gov/ocean-dumping/burial-sea. Interestingly, while the Catholic religion does not allow the ashes to be scattered at sea, a burial at sea is allowed (along with a special prayer) as long as the container, made to keep the ashes intact, is dropped to the bottom of the sea.

I wonder if the religious aspect is why the South (which tends to be more religious) has the lowest cremation rates in the nation. In Mississippi only 27.9% are cremated, followed by 32.6% in Alabama, and 37.1% in Louisiana. The highest cremation states are Nevada at 80%, Oregon at 78.9% and Washington at 76.7%. The lowest is Utah because cremation is frowned upon in the Mormon religion.

Louisiana has some very strict laws regarding cremation. If you have made

no prior legal arrangements, and you wish to be cremated, your spouse must agree to the cremation. If you have no spouse, then a majority of your adult children must agree. If you have no spouse or living children, then it goes down to your adult grandchildren, if none, then to your parents, then to your siblings. If there are none of the aforementioned, then your closest adult relatives would have to approve the cremation. So what happens if we can't get a majority? Then off to Court we go, as we need a Judge's Order. Who wants that expense and heartache at such a difficult time?

Specifying your desire to be cremated in a notarized Last Will and Testament can avoid these approvals. We always encourage our clients to openly and actively discuss their funeral arrangements with their family and loved ones. We spend a great deal of time with clients to assure that their final wishes will be honored, in light of so many clients wishing to be cremated.

If you don't have a notarized Last Will, then you can execute a "Declaration of Burial Desires." This is a legal document where you designate an "authorized agent" to carry out your wishes for cremation, burial, and funeral. You must keep your agent informed of your wishes, including interment or inurnment. To be compliant with our law, this Declaration must be notarized.

Now you know how to join the Cremation Nation!



See other articles and issues of interest!

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