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July 17, 2024
OPINION 24-0034

Honorable Amanda Lindberg
Coroner, Bienville Parish
970 First Street
Arcadia, LA 71001

Dear Ms. Lindberg:

You seek an opinion from this office on matters related to the determination of a decedent's domicile for the purposes of the payment of coroner fees under La. R.S. 13:5706. Specifically, you ask the following questions:

1. What is considered a "domicile" of a decedent in Louisiana?
2. Is there a required time frame that someone must have residence before it is considered a "domicile?"
3. What is the meaning of La. R.S. 13:5706(D)(1) as it relates to the above questions?

What is considered a "domicile" of a decedent in Louisiana?

Although the term "domicile" is used throughout the laws regarding coroners, that term is never defined. A definition of the term "domicile" exists in the Louisiana Civil Code at La. C.C. art. 38. That law states, in pertinent part, that, "[t]he domicile of a natural person is the place of his habitual residence." The following article, La. C.C. art. 39, states that "[a] natural person may reside in several places but may not have more than one domicile. In the absence of habitual residence, any place of residence may be considered one's domicile at the option of persons whose interests are affected." These articles, taken together, suggest that, if a person has changed his or her place of residence with the expectation or intent to die at the new location, then that person has created a new residence as a "habitual residence."

The United States District Court for the Western District of Louisiana provided an insightful guide for determining "domicile" among someone's potentially multiple "residences." In *Shreveport Long Leaf Lumber Co. v. Wilson*, 38 F.Supp. 629, 631 (W.D. La. 1941), the court stated of a "domicile" the following:

The word "domicile" is derived from the Latin "domus," meaning a home or dwelling house, and no one word is more nearly synonymous with "domicile"

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La. C.C. art. 38
La. C.C. art. 39
La. R.S. 13:5706

La. R.S. 18:451
La. R.S. 18:451.2

Whether someone has established a domicile under the coroner laws of Louisiana is a fact-specific question. There is no bright-line rule in Louisiana regarding what constitutes the establishment of a domicile. Moreover, there is no objective time frame required to establish a domicile for the purposes of the coroner laws.

than the word “home,” which is almost always used in defining or describing the legal concept of domicile. In a strict legal sense, the domicile of a person is the place where he has his true, fixed, permanent home and principal establishment, and to which, whenever he is absent, he has the intention of returning.

In the cases in which questions of domicile most often arise, the subject individual is alive and can be questioned regarding their motivation for residing at a specific location. In other words, though fact-specific, an inquiry into whether someone merely resides in one place or is domiciled (*i.e.*, makes their home) in that place, can be fairly easily determined among the living. Such inquiries are more vexatious when dealing with the dead. Nonetheless, courts have provided some additional objective guidance to determining “domicile” that may be used to answer the question of a decedent’s domicile.

The Louisiana Fourth Circuit Court of Appeal emphasized that the intent to remain at the new location must be clear and unequivocal in *Scaglione v. Juneau*, 2010-1109 (La. App. 4 Cir. 8/4/10), 45 So.3d 191, *writ denied*, 2010-1831 (La. 8/9/10), 42 So.3d 380. Actions such as obtaining a local driver’s license and engaging with the community were considered indicative of an intention to establish domicile. That same court suggests that utility bills, local social engagements, and property ownership are tangible evidence of an intention to establish a domicile. *Steinhardt v. Batt*, 2000-0328 (La. App. 4 Cir. 2/11/00), 753 So.2d 928.

Whether someone has established a domicile is, therefore, a fact-specific question. There is no bright-line rule in Louisiana regarding what constitutes the establishment of a domicile. Moreover, while it may not be possible to ask a decedent where they intended their home to be, objective evidence such as the payment of bills (or the cessation of utilities) at a residence may be suggestive of an intent to change one’s domicile. Further, it is also logical to conclude that an individual who has moved permanently into a long-term care facility has manifested an intent to change his or her domicile. This sort of information can be gathered from nursing home, hospital, or hospice personnel, family members, or others familiar with the decedent. Accordingly, it is our opinion that, when meaningful objective evidence is available demonstrating that a decedent intended to make a new location their home, domicile is established and the relevant political subdivision is responsible for payments associated with that domicile under La. R.S. 13:5706. Absent such evidence, the last location that can reasonably be considered the decedent’s home should be considered their domicile.

Is there a required time frame that someone must have residence before it is considered a “domicile?”

There is no objective time frame required to establish a “domicile.” Rather, domicile consists of two elements – residence and intent to remain indefinitely. *Landiak v. Richmond*, 2005-0758 (La. 3/24/05), 899 So. 2d 535, 542. When actual residence

couples with an intent to remain indefinitely, that is the moment that domicile is established. *Kelley v. Desmarteau*, 50,552 (La. App. 2 Cir. 9/28/15), 184 So. 3d 55, 58.

As is set forth above, whether someone's domicile is set at one location or another usually depends on the intent of the party whose domicile is at issue. For a decedent, the answer to the question of intent must be obtained from third parties familiar with the specific situation and available records.

What is the meaning of La. R.S. 13:5706(D)(1) as it relates to the above questions?

Louisiana Revised Statute 13:5706(D)(1) states:

The parish or municipality in which the deceased was domiciled, in the case of a death due to natural causes, or the parish or municipality in which the accident or crime occurred, in the case of a death due to other than natural causes, shall pay the coroner's fees and any necessary fees for the investigation and the cost of any autopsy including the cost of transporting the body. However, if the coroner of the parish in which the death occurred initially viewed the body or investigated the death, the fees for such viewing or investigation shall be paid to him by the parish or municipality in which the death occurred.

This provision of the coroner laws simply provides for coroners' fees dependent upon either the domicile of the decedent (in deaths from natural causes) or the location of a crime or accident (in the case of deaths from non-natural causes). As this is fact specific, the issue must be determined on an individual basis.

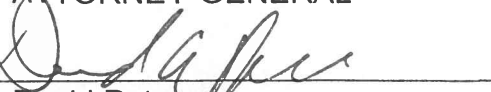
We have long opined on the nature of coroners' expenses and the responsibilities for paying those expenses and we refer you to those prior opinions with regard to the analysis of the terms, "coroner's expenses," "necessary fees," and "cost of transportation." See e.g., La. Atty. Gen. Op. Nos. 13-0127, 14-0029, 20-0035, 23-0125.

We hope that this opinion has adequately addressed the questions you have submitted. If our office can be of any further assistance, please do not hesitate to contact us.

With best regards,

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BY



David Peterson
Assistant Attorney General

LM/DP/cw