

By: Hughes
(Thompson of Harris)

S.B. No. 1300

A BILL TO BE ENTITLED

AN ACT

relating to the disposition and removal of a decedent's remains.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 711.004(a), Health and Safety Code, is amended to read as follows:

(a) Remains interred in a cemetery may be removed from a plot in the cemetery with the written consent of the cemetery organization operating the cemetery and the written consent of the current plot owner or owners and the following persons, in the priority listed:

(1) the person designated in a written instrument signed by the decedent, as described by Section 711.002(a)(1);

(2) the decedent's surviving spouse;

(3) any one of [~~(2)~~] the decedent's surviving adult children;

(4) either one of [~~(3)~~] the decedent's surviving parents;

(5) any one of [~~(4)~~] the decedent's surviving adult siblings;

(6) any one of the duly qualified executors or administrators of the decedent's estate; or

(7) any [~~(5) the~~] adult person in the next degree of kinship in the order named by law to inherit the estate of the decedent.

1 SECTION 2. Section 711.002(b), Health and Safety Code, is
2 amended to read as follows:

3 (b) The written instrument referred to in Subsection (a)(1)
4 may be in substantially the following form:

5 APPOINTMENT FOR DISPOSITION OF REMAINS

6 I, _____,

7 (your name and address)

8 being of sound mind, willfully and voluntarily make known my desire
9 that, upon my death, the disposition of my remains shall be
10 controlled by _____

11 (name of agent)

12 in accordance with Sections [~~Section~~] 711.002 and 711.004, Health
13 and Safety Code, and, with respect to that subject only, I hereby
14 appoint such person as my agent (attorney-in-fact).

15 All decisions made by my agent with respect to the
16 disposition of my remains, including cremation, shall be binding.

17 SPECIAL DIRECTIONS:

18 Set forth below are any special directions limiting the power
19 granted to my agent:

20 _____
21 _____
22 _____
23 _____
24 _____

25 AGENT:

26 Name: _____

27 Address: _____

1 Telephone Number: _____

2 SUCCESSORS:

3 If my agent or a successor agent dies, becomes legally
4 disabled, resigns, or refuses to act, or if my marriage to my agent
5 or successor agent is dissolved by divorce, annulled, or declared
6 void before my death and this instrument does not state that the
7 agent or successor agent continues to serve after my marriage to
8 that agent or successor agent is dissolved by divorce, annulled, or
9 declared void, I hereby appoint the following persons (each to act
10 alone and successively, in the order named) to serve as my agent
11 (attorney-in-fact) to control the disposition of my remains as
12 authorized by this document:

13 1. First Successor

14 Name: _____

15 Address: _____

16 Telephone Number: _____

17 2. Second Successor

18 Name: _____

19 Address: _____

20 Telephone Number: _____

21 DURATION:

22 This appointment becomes effective upon my death.

23 PRIOR APPOINTMENTS REVOKED:

24 I hereby revoke any prior appointment of any person to
25 control the disposition of my remains.

26 RELIANCE:

27 I hereby agree that any cemetery organization, business

1 operating a crematory or columbarium or both, funeral director or
2 embalmer, or funeral establishment who receives a copy of this
3 document may act under it. Any modification or revocation of this
4 document is not effective as to any such party until that party
5 receives actual notice of the modification or revocation. No such
6 party shall be liable because of reliance on a copy of this
7 document.

8 ASSUMPTION:

9 THE AGENT, AND EACH SUCCESSOR AGENT, BY ACCEPTING THIS
10 APPOINTMENT, ASSUMES THE OBLIGATIONS PROVIDED IN, AND IS BOUND BY
11 THE PROVISIONS OF, SECTIONS [~~SECTION~~] 711.002 AND 711.004, HEALTH
12 AND SAFETY CODE.

13 SIGNATURES:

14 This written instrument and my appointments of an agent and
15 any successor agent in this instrument are valid without the
16 signature of my agent and any successor agents below. Each agent,
17 or a successor agent, acting pursuant to this appointment must
18 indicate acceptance of the appointment by signing below before
19 acting as my agent.

20 Signed this _____ day of _____, 20__.

21 _____
22 (your signature)

23 State of _____

24 County of _____

25 This document was acknowledged before me on _____ (date) by
26 _____ (name of principal).

1 _____

2 (signature of notarial officer)

3 (Seal, if any, of notary)

4 _____

5 (printed name)

6 My commission expires:

7 _____

8 ACCEPTANCE AND ASSUMPTION BY AGENT:

9 I have no knowledge of or any reason to believe this
10 Appointment for Disposition of Remains has been revoked. I hereby
11 accept the appointment made in this instrument with the
12 understanding that I will be individually liable for the reasonable
13 cost of the decedent's interment, for which I may seek
14 reimbursement from the decedent's estate.

15 Acceptance of Appointment: _____

16 (signature of agent)

17 Date of Signature: _____

18 Acceptance of Appointment: _____

19 (signature of first successor)

20 Date of Signature: _____

21 Acceptance of Appointment: _____

22 (signature of second successor)

23 Date of Signature: _____

24 SECTION 3. Section 711.002, Health and Safety Code, as
25 amended by this Act, applies only to the validity of a written
26 instrument executed on or after the effective date of this Act. The
27 validity of a written instrument executed before the effective date

S.B. No. 1300

1 of this Act is governed by the law in effect on the date the
2 instrument was executed, and that law continues in effect for that
3 purpose.

4 SECTION 4. This Act takes effect September 1, 2023.