

By: Hughes

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 AGENT:

21 Name:

22 Address:

23 Telephone Number:

24 SUCCESSORS:

25 If my agent or a successor agent dies, becomes legally
26 disabled, resigns, or refuses to act, or if my marriage to my agent
27 or successor agent is dissolved by divorce, annulled, or declared

1 void before my death and this instrument does not state that the
2 agent or successor agent continues to serve after my marriage to
3 that agent or successor agent is dissolved by divorce, annulled, or
4 declared void, I hereby appoint the following persons (each to act
5 alone and successively, in the order named) to serve as my agent
6 (attorney-in-fact) to control the disposition of my remains as
7 authorized by this document:

8 1. First Successor

9 Name:

10 Address:

11 Telephone Number:

12 2. Second Successor

13 Name:

14 Address:

15 Telephone Number:

16 DURATION:

17 This appointment becomes effective upon my death.

18 PRIOR APPOINTMENTS REVOKED:

19 I hereby revoke any prior appointment of any person to
20 control the disposition of my remains.

21 RELIANCE:

22 I hereby agree that any cemetery organization, business
23 operating a crematory or columbarium or both, funeral director or
24 embalmer, or funeral establishment who receives a copy of this
25 document may act under it. Any modification or revocation of this
26 document is not effective as to any such party until that party
27 receives actual notice of the modification or revocation. No such

1 party shall be liable because of reliance on a copy of this
2 document.

3 ASSUMPTION:

4 THE AGENT, AND EACH SUCCESSOR AGENT, BY ACCEPTING THIS
5 APPOINTMENT, ASSUMES THE OBLIGATIONS PROVIDED IN, AND IS BOUND BY
6 THE PROVISIONS OF, SECTIONS [~~SECTION~~] 711.002 AND 711.004, HEALTH
7 AND SAFETY CODE.

8 SIGNATURES:

9 This written instrument and my appointments of an agent and
10 any successor agent in this instrument are valid without the
11 signature of my agent and any successor agents below. Each agent, or
12 a successor agent, acting pursuant to this appointment must
13 indicate acceptance of the appointment by signing below before
14 acting as my agent.

15 Signed this _____ day of _____, 20__.

16 (your signature)

17 State of _____

18 County of _____

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

21 _____

22 (signature of notarial officer)

23 (Seal, if any, of notary)

24 _____

25 (printed name)

26 My commission expires:

27 _____

1 ACCEPTANCE AND ASSUMPTION BY AGENT:

2 I have no knowledge of or any reason to believe this
3 Appointment for Disposition of Remains has been revoked. I hereby
4 accept the appointment made in this instrument with the
5 understanding that I will be individually liable for the reasonable
6 cost of the decedent's interment, for which I may seek
7 reimbursement from the decedent's estate.

8 Acceptance of Appointment:

9 (signature of agent)

10 Date of Signature:

11 Acceptance of Appointment:

12 (signature of first successor)

13 Date of Signature:

14 Acceptance of Appointment:

15 (signature of second successor)

16 Date of Signature:

17 SECTION 3. Section [711.002](#), Health and Safety Code, as
18 amended by this Act, applies only to the validity of a written
19 instrument executed on or after the effective date of this Act. The
20 validity of a written instrument executed before the effective date
21 of this Act is governed by the law in effect on the date the
22 instrument was executed, and that law continues in effect for that
23 purpose.

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