

## **BILL ANALYSIS**

Senate Research Center

H.B. 1077  
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Health & Human Services  
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Engrossed

### **DIGEST AND PURPOSE**

Current law permits a cemetery organization to move a remains interred in a cemetery from one plot to another plot in the same cemetery without obtaining written consent from the decedent's next of kin. H.B. 1077 requires the cemetery to obtain written consent of the decedent's next of kin before moving the remains from one plot to another plot within the same cemetery.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 711.004, Health and Safety Code, by amending Subsections (a), (d), and (e) and adding Subsections (j), (k), and (l), as follows:

- (a) Authorizes remains interred in a cemetery to be removed from a plot in the cemetery with the written consent of certain persons.
- (d) Provides an exception. Requires the court, in an emergency circumstance described by Subsection (l) that necessitates immediate removal of remains from a plot, to hear an application for permission to remove remains under Subsection (c) not later than the first business day after the application is made. Authorizes personal notice to be given on the date the application is made, in an emergency circumstance described by this subsection.
- (e) Provides that Subsections (a)-(d) and (k) do not apply to the removal of certain remains.
- (j) Authorizes a cemetery organization to remove remains from a plot in the cemetery and transfer the remains to another plot in the same cemetery without the written consent required under Subsection (a) if the cemetery seeks consent by sending written notice by certified mail, return receipt requested, to the last known address of the current owner of the plot from which the remains are to be removed or to the person designated under Subsection (a). Requires the notice to indicate that the remains will be removed, the reason for the removal of the remains, and the proposed location of the reinterment of the remains. Authorizes the cemetery to transfer the remains to another plot in accordance with this subsection if an objection is not received in response to the notice before the 31st day after the date the notice is sent. Prohibits a cemetery from removing remains under this subsection for a fraudulent purpose or to allow the sale of the plot in which the remains are located to another person.
- (k) Authorizes a cemetery organization, in an emergency circumstance described by Subsection (l) that necessitates immediate removal of remains before the date on which the court is required to hear an application for permission to remove remains under Subsection (d), to remove remains from a plot in the cemetery and transfer the remains to another plot in the same cemetery without the court hearing. Requires a cemetery association that removes remains under this subsection to send written notice of the removal by certified mail, return receipt requested, to the last known address of the

person designated under Subsection (a) not later than the fifth day after the date the remains are removed. Requires the notice to indicate that the remains were removed, the reason for the removal of the remains, and the location of the reinterment of the remains.

(l) Defines "emergency circumstance."

SECTION 2. Effective date: September 1, 2003.  
Makes application of this Act prospective.