

BILL ANALYSIS

C.S.H.B. 1077
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Public Health
Committee Report (Substituted)

BACKGROUND 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. C.S.H.B. 1077 would require 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

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

Amends Section 711.004, Health and Safety Code to require written consent from certain persons, before the remains interred in a cemetery can be moved from a plot in the cemetery. A plot in a cemetery owned and operated by the Veterans' Land Board is exempt.

Specifies that in emergency circumstance necessitating immediate removal of remains from a plot, a cemetery that has sought permission from a county court must provide personal notice on the date the application is made. The court is required to consider the application not later than the first business day after the application has been made.

Allows a cemetery to satisfy the consent requirements by sending a notice, certified mail, seeking written consent 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 Section 711.004 (a). The notice must include the reason for the removal and the proposed location of the reinterment of the remains. If no objection is received before the 31st day after the notice was sent, the remains can be relocated. The cemetery may not remove remains for fraudulent purposes or sell the plot in which the remains are located to another person.

The Act only applies to removal of remains from a cemetery on or after the effective date of the act.

EFFECTIVE DATE

September 1, 2003.

COMPARISON OF ORIGINAL TO SUBSTITUTE

C.S.H.B. 1077 differs from the original in that it contains a provision to address circumstances when an immediate removal of a body from a plot arises. C.S.H.B. 1077 adds an exemption for cemeteries owned and operated by the Veterans' Land Board. C.S.H.B. 1077 allows a cemetery to satisfy the consent requirements by sending a written notice. C.S.H.B. 1077 prevents a cemetery from using the certified mail written notice section for a fraudulent purpose or to allow the sale of the plot in which the remains are located to another person.