

BILL ANALYSIS

C.S.S.B. 1764
By: Deuell
Public Health
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Many of the cemeteries run by the Texas Department of Mental Health and Mental Retardation were begun more than 100 years ago, and were maintained during a different cultural and regulatory era. As a result, client records, including burial records, did not contain much of the information needed to properly identify former clients in cemeteries. In keeping with standard practices used across the country by many states in the operation of facility cemeteries, most graves in TDMHMR cemeteries were traditionally marked with numbers rather than names. The end result of this practice was an unintended reinforcement of the stigma surrounding mental illness and mental retardation. In an effort to underscore Texas', and TDMHMR's, commitment to respect the dignity of the people it serves, and especially those who are buried in the State's cemeteries, this legislation would give TDMHMR clear authority to place client names on grave markers in instances where clients die at state mental retardation or mental health facilities, and are buried at cemeteries operated at TDMHMR, unless the individual or the individual's guardian has directed otherwise in writing and that document has been provided to the TDMHMR.

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

Section 576.0055 is added to Subchapter A, Chapter 576, Health and Safety Code to allow the administrator of a mental health facility to release the name, date of birth or date of death of a person who dies while a patient at the facility. The information shall be released, upon proper request, only to a representative of a funeral establishment or cemetery organization for purposes of inscribing the name or date on a grave marker. Information may not be released if the patient or patient's guardian provides written instructions to the contrary to the facility administrator.

Section 595.0055 is added to Chapter 595, Health and Safety Code to allow the superintendent of residential care facility to release the name, date of birth or date of death of a person who dies while a patient at a facility. The information shall be released, upon proper request, only to a representative of a funeral establishment or cemetery organization for purposes of inscribing the name or date on a grave marker. Information may not be released if the patient or patient's guardian provides written instructions to the contrary to the facility administrator.

EFFECTIVE DATE

Upon passage, or, if the Act does not receive the necessary vote, the Act takes effect September 1, 2003.

COMPARISON OF ORIGINAL TO SUBSTITUTE

C.S.S.B. 1764 modifies the original by adding new Sections 576.0055 and 595.0055 to the Health and Safety Code rather than incorporating the needed language into existing sections of the Code.

The substitute changes the permissiveness of "may" to "shall" for mental health facilities and residential care facilities in order to conform with HIPPA requirements. The substitute also deletes SECTION 2, CONFIDENTIALITY OF RECORDS from the introduced version.