

By: Jones of Dallas

H.B. No. 1077

Substitute the following for H.B. No. 1077:

By: McReynolds

C.S.H.B. No. 1077

A BILL TO BE ENTITLED

AN ACT

relating to removal of remains interred in a cemetery.

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

SECTION 1. Section 711.004, Health and Safety Code, is amended by amending Subsections (a), (d), and (e) and adding Subsection (j) 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 decedent's surviving spouse;

(2) the decedent's surviving adult children;

(3) the decedent's surviving parents;

(4) the decedent's adult siblings; or

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

(d) For the purposes of Subsection (c) and except as provided by this subsection, personal notice must be given not later than the 11th day before the date of application to the court for permission to remove the remains, or notice by certified or registered mail must be given not later than the 16th day before the date of application. In an emergency circumstance necessitating immediate removal of remains from a plot, such as a circumstance in

1 which the remains have been interred in the plot by mistake, the
2 court shall hear an application for permission to remove remains
3 under Subsection (c) not later than the first business day after the
4 application is made. In an emergency circumstance described by
5 this subsection, personal notice may be given on the date the
6 application is made.

7 (e) Subsections (a)-(d) do not apply to the removal of
8 remains:

9 (1) [~~from one plot to another plot in the same~~
10 ~~cemetery;~~

11 [~~(2)~~] by the cemetery organization from a plot for
12 which the purchase price is past due and unpaid, to another suitable
13 place; [~~or~~]

14 (2) [~~(3)~~] on the order of a court or person who
15 conducts inquests; or

16 (3) from a plot in a cemetery owned and operated by the
17 Veterans' Land Board.

18 (j) A cemetery organization may remove remains from a plot
19 in the cemetery and transfer the remains to another plot in the same
20 cemetery without the written consent required under Subsection (a)
21 if the cemetery seeks consent by sending written notice by
22 certified mail, return receipt requested, to the last known address
23 of the current owner of the plot from which the remains are to be
24 removed or to the person designated under Subsection (a). The
25 notice must indicate that the remains will be removed, the reason
26 for the removal of the remains, and the proposed location of the
27 reinterment of the remains. The cemetery may transfer the remains

1 to another plot in accordance with this subsection if an objection
2 is not received in response to the notice before the 31st day after
3 the date the notice is sent. A cemetery may not remove remains
4 under this subsection for a fraudulent purpose or to allow the sale
5 of the plot in which the remains are located to another person.

6 SECTION 2. This Act takes effect September 1, 2003, and
7 applies only to removal of remains from a cemetery on or after that
8 date. Removal of remains from a cemetery before the effective date
9 of this Act is governed by the law as it existed immediately before
10 the effective date of this Act, and that law is continued in effect
11 for that purpose.