

1-1 By: Jones of Dallas, Davis of Dallas H.B. No. 1077
1-2 (Senate Sponsor - West)
1-3 (In the Senate - Received from the House April 25, 2003;
1-4 April 28, 2003, read first time and referred to Committee on Health
1-5 and Human Services; May 19, 2003, reported favorably by the
1-6 following vote: Yeas 7, Nays 0; May 19, 2003, sent to printer.)

1-7 A BILL TO BE ENTITLED
1-8 AN ACT

1-9 relating to removal of remains interred in a cemetery.

1-10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-11 SECTION 1. Section 711.004, Health and Safety Code, is
1-12 amended by amending Subsections (a), (d), and (e) and adding
1-13 Subsections (j), (k), and (l) to read as follows:

1-14 (a) Remains interred in a cemetery may be removed from a
1-15 plot in the cemetery with the written consent of the cemetery
1-16 organization operating the cemetery and the written consent of the
1-17 current plot owner or owners and the following persons, in the
1-18 priority listed:

- 1-19 (1) the decedent's surviving spouse;
1-20 (2) the decedent's surviving adult children;
1-21 (3) the decedent's surviving parents;
1-22 (4) the decedent's adult siblings; or
1-23 (5) the adult person in the next degree of kinship in
1-24 the order named by law to inherit the estate of the decedent.

1-25 (d) For the purposes of Subsection (c) and except as
1-26 provided by this subsection or Subsection (k), personal notice must
1-27 be given not later than the 11th day before the date of application
1-28 to the court for permission to remove the remains, or notice by
1-29 certified or registered mail must be given not later than the 16th
1-30 day before the date of application. In an emergency circumstance
1-31 described by Subsection (l) that necessitates immediate removal of
1-32 remains from a plot, the court shall hear an application for
1-33 permission to remove remains under Subsection (c) not later than
1-34 the first business day after the application is made. In an
1-35 emergency circumstance described by this subsection, personal
1-36 notice may be given on the date the application is made.

1-37 (e) Subsections (a)-(d) and (k) do not apply to the removal
1-38 of remains:

1-39 (1) from one plot to another plot in the same cemetery,
1-40 if the cemetery:

1-41 (A) is a family, fraternal, or community cemetery
1-42 that is not larger than 10 acres;

1-43 (B) is owned or operated by an unincorporated
1-44 association of plot owners not operated for profit;

1-45 (C) is owned or operated by a church, a religious
1-46 society or denomination, or an entity solely administering the
1-47 temporalities of a church or religious society or denomination; or

1-48 (D) is a public cemetery owned by this state, a
1-49 county, or a municipality;

1-50 (2) by the cemetery organization from a plot for which
1-51 the purchase price is past due and unpaid, to another suitable
1-52 place; ~~or~~

1-53 (3) on the order of a court or person who conducts
1-54 inquests; or

1-55 (4) from a plot in a cemetery owned and operated by the
1-56 Veterans' Land Board.

1-57 (j) A cemetery organization may remove remains from a plot
1-58 in the cemetery and transfer the remains to another plot in the same
1-59 cemetery without the written consent required under Subsection (a)
1-60 if the cemetery seeks consent by sending written notice by
1-61 certified mail, return receipt requested, to the last known address
1-62 of the current owner of the plot from which the remains are to be
1-63 removed or to the person designated under Subsection (a). The
1-64 notice must indicate that the remains will be removed, the reason

2-1 for the removal of the remains, and the proposed location of the
2-2 reinterment of the remains. The cemetery may transfer the remains
2-3 to another plot in accordance with this subsection if an objection
2-4 is not received in response to the notice before the 31st day after
2-5 the date the notice is sent. A cemetery may not remove remains
2-6 under this subsection for a fraudulent purpose or to allow the sale
2-7 of the plot in which the remains are located to another person.

2-8 (k) In an emergency circumstance described by Subsection
2-9 (l) that necessitates immediate removal of remains before the date
2-10 on which the court is required to hear an application for permission
2-11 to remove remains under Subsection (d), a cemetery organization may
2-12 remove remains from a plot in the cemetery and transfer the remains
2-13 to another plot in the same cemetery without the court hearing. A
2-14 cemetery association that removes remains under this subsection
2-15 shall send written notice of the removal by certified mail, return
2-16 receipt requested, to the last known address of the person
2-17 designated under Subsection (a) not later than the fifth day after
2-18 the date the remains are removed. The notice must indicate that the
2-19 remains were removed, the reason for the removal of the remains, and
2-20 the location of the reinterment of the remains.

2-21 (l) For purposes of Subsections (d) and (k), "emergency
2-22 circumstance" means:

2-23 (1) a natural disaster; or

2-24 (2) an error in the interment of remains.

2-25 SECTION 2. This Act takes effect September 1, 2003, and
2-26 applies only to removal of remains from a cemetery on or after that
2-27 date. Removal of remains from a cemetery before the effective date
2-28 of this Act is governed by the law as it existed immediately before
2-29 the effective date of this Act, and that law is continued in effect
2-30 for that purpose.

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