

BILL ANALYSIS

C.S.H.B. 3739
By: Coleman
Public Health
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Currently it is illegal to prevent families from visiting, maintaining, and burying people in family cemeteries. State law also requires property owners to allow access to graves, but does not provide penalties for violations of the visitation law. As a result, individuals who are denied entrance to cemeteries have no recourse when unable to visit their deceased family members' graves.

C.S.H.B. 3739 makes it a Class C misdemeanor offense to interfere with a person's right to reasonable access to a cemetery, or private burial ground, sets forth provisions on determining reasonable access, and expands available enforcement actions.

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

C.S.H.B. 3739 amends the Health and Safety Code to specify that the right of access to a cemetery or private burial ground to which no public access is available extends only to visitation during the hours determined by the owner or owners of the lands surrounding the cemetery or grounds as reasonable. The bill requires the owner or owners of the lands surrounding a cemetery or private burial grounds, at a time other than as described above, to allow a person to enter and exit the owner's land for the purpose of visiting the cemetery or private burial grounds if the person provides written notice of the person's visit not later than the 14th day before the date the person wishes to visit and the time of the visit is reasonable.

C.S.H.B. 3739 expands the attorney general's authority to bring an action for injunctive relief, to include the authority, at the request of the commission, to bring an action to enforce provisions regulating cemeteries or a rule or order adopted by the Texas Funeral Service Commission.

C.S.H.B. 3739 makes it a Class C misdemeanor offense to interfere with a person's right to reasonable access to a cemetery or private burial ground, and authorizes the commission to enforce this provision.

EFFECTIVE DATE

September 1, 2009.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.H.B. 3739 makes interfering with a person's right to reasonable access to a cemetery or private burial ground a Class C misdemeanor offense, rather than a Class A misdemeanor as in the original.

C.S.H.B. 3739 adds a provision not in the original specifying that the reasonable times for access to a cemetery or private burial ground are determined by the owner or owners of the lands surrounding the cemetery or private burial grounds. The substitute differs from the original by requiring the owner or owners of the lands surrounding a cemetery or private burial grounds, at a time other than as described above, to allow a person to enter and exit the owner's land for the purpose of visiting the cemetery or private burial grounds if the person meets certain notice conditions.

C.S.H.B. 3739 adds a provision not in the original expanding the attorney general's authority to bring an action for injunctive relief for violation of certain laws relating to cemeteries or a rule or order adopted by the commission.