

## **BILL ANALYSIS**

C.S.H.B. 549  
By: Dutton  
Public Health  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

If a decedent fails to leave written instructions for the disposal of the decedent's remains, the right to control the disposition defaults to the decedent's surviving spouse, any one of the decedent's surviving adult children, either of the decedent's surviving adult parents, any one of the decedent's surviving adult siblings, or any adult person in the next degree of kinship as determined by the laws of intestacy. If a decedent's spouse was involved in the decedent's death, it can be difficult for the decedent's family to obtain the right to control the disposition of the remains. In addition, if the decedent is a woman whose death was the result of an offense of family violence involving the decedent's spouse, it is difficult for a family to bury the decedent under a name other than the decedent's married name.

It is the goal of C.S.H.B. 549 to address this issue by providing that a person relinquishes the right to control the disposition of a decedent's remains if the person has been indicted for an offense involving family violence in connection with the death of the decedent and by repealing a provision of law regarding a married woman's last name on a grave marker.

### **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. 549 amends the Health and Safety Code to prohibit a person who would otherwise have the right to control the disposition of the remains of a decedent from controlling the disposition of the decedent's remains if, in connection with the decedent's death, an indictment has been filed charging the person with a criminal homicide offense that involves family violence against the decedent.

C.S.H.B. 549 amends the Texas Probate Code to make a conforming change.

C.S.H.B. 549 repeals Section 711.002(j), Health and Safety Code, establishing the presumption, in the absence of evidence of a contrary intent, that a married woman directs that her name, as it appears on the grave marker for the plot in which she is interred, include the same last name she used at the time of her death.

### **EFFECTIVE DATE**

On passage, or, if the bill does not receive the necessary vote, September 1, 2011.

### **COMPARISON OF ORIGINAL AND SUBSTITUTE**

C.S.H.B. 549 contains a provision not in the original repealing a provision of law establishing the presumption that it is the intent of a married woman that the last name as it will appear on her

grave marker is the name she used at the time of her death.