

BILL ANALYSIS

Senate Research Center
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S.B. 99
By: Van de Putte, Birdwell
Veterans Affairs & Military Installations
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Texas state law relating to the disposition of human remains does not currently provide for the accommodation of the expressed, written wishes of members of the United States armed forces through execution of the federally prescribed DD Form 93, or "Record of Emergency Data."

Service members must designate a person authorized to direct the disposition of their remains in the event of their death. This authorization is indicated on the DD Form 93 in Box 13a. Only the following persons may be designated as a person authorized to direct disposition, or PADD: surviving spouse, blood relative of legal age, or adoptive relatives of the decedent.

Texas law (Section 711.002 (Disposition of Remains; Duty to Inter), Health and Safety Code) conflicts with DD Form 93 in the event of a service member's death. Texas law stipulates that the person designated as the PADD in a written instrument signed by the decedent adhere "substantially" to a form called "Appointment of Agent to Control Disposition of Remains." Additionally, this written instrument is only legally sufficient if it is "signed by the decedent, the agent, and each successor agent." The DD Form 93 is not acknowledged as a form that adheres substantially to the one explicated in Section 711.002, which creates a potential conflict with the interests of the service member as set forth in his or her Record of Emergency Data.

The United States Department of Defense's Quality of Life Division brought this matter to the attention of the National Conference of State Legislatures' Military and Veteran Affairs Task Force. In those states where state law does not recognize the DD Form 93 as an acceptable "written instrument signed by the decedent," there have been several instances of civil actions between family members over the ultimate disposition of a fallen service member's remains. The potential for family conflict at a time of bereavement can be eliminated with the amendment of state law to recognize the DD Form 93 as the authoritative written instrument for the disposition of the remains of a military service member.

The ultimate intent of this legislation is to ensure that the service member who died in service to his or her nation have ultimate authority when it comes to the disposition of their remains. This bill will recognize the final authority of DD Form 93 as the authoritative written instrument for the disposition of a service member's remains.

As proposed, S.B. 99 amends current law relating to persons authorized to control the disposition of the remains of certain members of the United States armed forces.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 711.002, Health and Safety Code, by adding Subsection (a-1), as follows:

(a-1) Provides that for purposes of Subsection (a-1), a written instrument includes a United States Department of Defense Record of Emergency Data, DD Form 93, or a

successor form, in effect at the time of death for a decedent who died in a manner described by 10 U.S.C. Sections 1481(a)(1) through (8). Provides that, notwithstanding Subsections (b) (relating to the form of the written instrument required for priority over remains) and (c) (relating to further requirements of the written instrument required for priority over remains) the form is legally sufficient under Subsection (a)(1) (relating to the priority of persons who have rights over remains) if it is properly completed, signed by the decedent, and witnessed in the manner required by the form. Provides that, to the extent the form conflicts with another written instrument described by Subsection (a)(1), DD Form 93, or a successor form, controls.

SECTION 2. Effective date: upon passage or September 1, 2011.