

By: Coleman

H.B. No. 2812

A BILL TO BE ENTITLED

AN ACT

relating to access to certain cemeteries; providing penalties.

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

SECTION 1. Section 711.041, Health and Safety Code, is amended by amending Subsection (c) and adding Subsection (d) to read as follows:

(c) At a time other than the time provided by Subsection (b), the owner or owners of the lands surrounding a cemetery or private burial grounds must allow a person to enter and exit the owner's land using reasonable routes of ingress and egress for the purpose of visiting the cemetery or private burial grounds if:

(1) the person provides written notice to the owner or owners of the lands surrounding the cemetery or private burial grounds of the person's visit;

(2) the person provides the notice required by Subdivision (1):

(A) not later than the 14th day before the date the person wishes to visit the cemetery; or

(B) annually, as a list of dates if the person wishes to visit the cemetery more than once per year; and

(3) the time of the visit is reasonable.

(d) If ingress or egress from a cemetery or private burial grounds is not available, the commissioners court of the county in which the cemetery or private burial grounds are located shall take

1 reasonable action to provide access for the purposes described by
2 Subsection (a).

3 SECTION 2. Section 711.0515, Health and Safety Code, as
4 added by Chapters 263 (H.B. 1468) and 914 (H.B. 2927), Acts of the
5 81st Legislature, Regular Session, 2009, is reenacted and amended
6 to read as follows:

7 Sec. 711.0515. [~~ENFORCEMENT BY ATTORNEY GENERAL,~~]
8 INJUNCTIVE RELIEF. (a) In addition to bringing an action under
9 Section 711.051, the attorney general at the request of the Texas
10 Funeral Service Commission may bring an action for injunctive
11 relief to enforce this chapter or a rule or order adopted by the
12 commission under this chapter.

13 (b) The Texas Funeral Service Commission may institute an
14 action in its own name to enjoin a landowner who violates Section
15 711.041 or a rule adopted under that section. At the commission's
16 request, the attorney general shall represent the commission. At
17 the commission's request and with the consent of the attorney
18 general, a district or county attorney within the attorney's
19 respective jurisdiction may represent the commission.

20 (c) A person aggrieved by a violation or threatened
21 violation of Section 711.041 or a rule adopted under that section
22 may bring an action for appropriate injunctive relief to prevent
23 the violation from continuing or occurring.

24 (d) A suit under Subsection (b) or (c) shall be brought in
25 the district court having jurisdiction in the county in which the
26 violation or threatened violation occurs.

27 (e) In granting injunctive relief under Subsection (b) or

1 (c), the district court may set the frequency, duration, and hours
2 of access to a cemetery.

3 SECTION 3. Section 711.0521(b), Health and Safety Code, is
4 amended to read as follows:

5 (b) An offense under this section is a Class A [~~C~~]
6 misdemeanor.

7 SECTION 4. The change in law made by this Act to Section
8 711.0521(b), Health and Safety Code, applies only to an offense
9 committed on or after the effective date of this Act. An offense
10 committed before the effective date of this Act is governed by the
11 law in effect on the date the offense was committed, and the former
12 law is continued in effect for that purpose. For purposes of this
13 section, an offense was committed before the effective date of this
14 Act if any element of the offense occurred before that date.

15 SECTION 5. To the extent of any conflict, this Act prevails
16 over another Act of the 82nd Legislature, Regular Session, 2011,
17 relating to nonsubstantive additions to and corrections in enacted
18 codes.

19 SECTION 6. This Act takes effect immediately if it receives
20 a vote of two-thirds of all the members elected to each house, as
21 provided by Section 39, Article III, Texas Constitution. If this
22 Act does not receive the vote necessary for immediate effect, this
23 Act takes effect September 1, 2011.