

## **BILL ANALYSIS**

Senate Research Center  
83R822 AED-D

S.B. 68  
By: Nelson  
Health & Human Services  
2/22/2013  
As Filed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

The purpose of this bill is to accommodate the religious beliefs of grieving families who wish to cremate loved ones as swiftly as possible. Specifically, the bill adds physicians to the list of professionals authorized to waive the statutorily mandated 48-hour waiting period before a person may be cremated to give families more opportunities to seek a waiver.

As proposed, S.B. 68 amends current law relating to the waiting period before human remains may be cremated.

### **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 716.004, Health and Safety Code, by amending Subsection (a) and adding Subsection (b), as follows:

(a) Prohibits a crematory establishment from cremating human remains within 48 hours of the time of death indicated on a death certificate unless the waiting period is waived in writing by a justice of the peace or medical examiner of the county in which the death occurred, a court order, or a physician licensed to practice medicine in this state, subject to Subsection (b).

(b) Provides that a physician's written waiver of the time requirement specified under Subsection (a) is valid only if the medical certification required for filing a death certificate under Chapter 193 (Death Records) has been completed and either any inquest or death investigation required under Chapter 49 (Inquests Upon Dead Bodies), Code of Criminal Procedure, has been completed, or the physician submits a sworn affidavit stating that, to the best of the physician's belief, no circumstance requiring an inquest or death investigation under Chapter 49, Code of Criminal Procedure, has occurred.

SECTION 2. Amends Section 10a, Article 49.25, Code of Criminal Procedure, as follows:

Sec. 10a. WAITING PERIOD BETWEEN DEATH AND CREMATION. (a) Creates this subsection from existing text. Prohibits the cremation of the body of a deceased person within 48 hours after the time of death as indicated on the regular death certificate, unless:

(1) the death certificate indicates death was caused by the pestilential disease, rather than diseases, of Asiatic cholera, bubonic plague, typhus fever, or smallpox; or

(2) the time requirement is waived in writing by the county medical examiner; in counties not having a county medical examiner, a justice of the peace; or a physician who is licensed to practice medicine in this state, and the written waiver is valid under 716.004(b), Health and Safety Code.

Makes nonsubstantive changes.

(b) Creates this subsection from existing text. Makes no further changes to this subsection.

SECTION 3. Effective date: upon passage or September 1, 2013.