

By: Nelson

S.B. No. 68

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the waiting period before human remains may be
3 cremated.

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

5 SECTION 1. Section 716.004, Health and Safety Code, is
6 amended by amending Subsection (a) and adding Subsection (b) to
7 read as follows:

8 (a) A crematory establishment may not cremate human remains
9 within 48 hours of the time of death indicated on a death
10 certificate unless the waiting period is waived in writing by:

11 (1) a justice of the peace or medical examiner of the
12 county in which the death occurred; ~~or~~

13 (2) a court order; or

14 (3) a physician licensed to practice medicine in this
15 state, subject to Subsection (b).

16 (b) A physician's written waiver of the time requirement
17 specified under Subsection (a) is valid only if the medical
18 certification required for filing a death certificate under Chapter
19 193 has been completed and either:

20 (1) any inquest or death investigation required under
21 Chapter 49, Code of Criminal Procedure, has been completed; or

22 (2) the physician submits a sworn affidavit stating
23 that, to the best of the physician's belief, no circumstance
24 requiring an inquest or death investigation under Chapter 49, Code

1 of Criminal Procedure, has occurred.

2 SECTION 2. Section 10a, Article 49.25, Code of Criminal
3 Procedure, is amended to read as follows:

4 Sec. 10a. WAITING PERIOD BETWEEN DEATH AND CREMATION. (a)
5 The body of a deceased person shall not be cremated within 48 hours
6 after the time of death as indicated on the regular death
7 certificate, unless:

8 (1) the death certificate indicates death was caused
9 by the pestilential disease [~~diseases~~] of Asiatic cholera, bubonic
10 plague, typhus fever, or smallpox; [r] or

11 (2) [~~unless~~] the time requirement is waived in writing
12 by:

13 (A) the county medical examiner;

14 (B) [~~or~~] in counties not having a county medical
15 examiner, a justice of the peace; or

16 (C) a physician who is licensed to practice
17 medicine in this state, and the written waiver is valid under
18 Section 716.004(b), Health and Safety Code.

19 (b) In a public health disaster, the commissioner of public
20 health may designate other communicable diseases for which
21 cremation within 48 hours of the time of death is authorized.

22 SECTION 3. This Act takes effect immediately if it receives
23 a vote of two-thirds of all the members elected to each house, as
24 provided by Section 39, Article III, Texas Constitution. If this
25 Act does not receive the vote necessary for immediate effect, this
26 Act takes effect September 1, 2013.