

BILL ANALYSIS

H.B. 3070
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Judiciary & Civil Jurisprudence
Committee Report (Unamended)

BACKGROUND AND PURPOSE

As part of its ongoing review of Texas probate, guardianship, and trust law, the Real Estate, Probate, and Trust Law Section of the State Bar of Texas has proposed several updates to the law regarding disposition of a person's remains. H.B. 3070 seeks to adopt these proposed updates.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

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

H.B. 3070 amends the Health and Safety Code to include any one or more of the duly qualified executors or administrators of a decedent's estate among the persons listed by priority who have the right to control the disposition of the remains of a decedent who did not leave directions in writing for the disposition of the decedent's remains and to establish the order or priority for such an executor or administrator. The bill makes a person exercising the right to control the disposition of such a decedent's remains, other than a duly qualified executor or administrator of the decedent's estate, liable for the reasonable cost of interment and authorizes the person to seek reimbursement for that cost from the decedent's estate. The bill establishes that when an executor or administrator exercises that right, the decedent's estate is liable for the reasonable cost of interment and the executor or administrator is not individually liable for that cost.

H.B. 3070 authorizes, rather than requires, a written instrument signed by a decedent designating a person to control the disposition of the decedent's remains be substantially in the form specified and changes the specified contents. The bill specifies that in order for such an instrument to be considered legally sufficient, in addition to other conditions, the instrument must designate a person to control the disposition of the decedent's remains and that the agent or successor agent must sign the instrument before acting as the decedent's agent. The bill establishes that, unless the instrument provides otherwise, the designation of the decedent's spouse as an agent or successor agent in the instrument is revoked on the divorce of the decedent and the spouse so appointed. The bill applies to an instrument created before, on, or after the bill's effective date and to a judicial proceeding concerning an instrument that commences on or after the bill's effective date or is pending on that date. The bill establishes that, if a court finds that application of a bill provision would substantially interfere with the effective conduct of a judicial proceeding concerning an instrument that is pending on the bill's effective date or would prejudice the rights of a party to the proceeding, the applicable bill provision does not apply and the law in effect immediately before the bill's effective date applies in those circumstances.

H.B. 3070 makes a party to a prepaid funeral contract or a written contract providing for all or some of a decedent's funeral arrangements who fails to honor the contract liable for additional expenses incurred in the disposition of a decedent's remains as a result of the breach of contract.

EFFECTIVE DATE

September 1, 2015.