

1-1 By: Thompson of Harris (Senate Sponsor - Huffman) H.B. No. 3070  
 1-2 (In the Senate - Received from the House May 11, 2015;  
 1-3 May 13, 2015, read first time and referred to Committee on State  
 1-4 Affairs; May 22, 2015, reported favorably by the following vote:  
 1-5 Yeas 9, Nays 0; May 22, 2015, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7				
1-8	X			
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15	X			
1-16	X			

1-17 A BILL TO BE ENTITLED  
 1-18 AN ACT

1-19 relating to the disposition of remains.

1-20 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-21 SECTION 1. Section 711.002, Health and Safety Code, is  
 1-22 amended by amending Subsections (a), (b), (c), and (g) and adding  
 1-23 Subsection (a-3) to read as follows:

1-24 (a) Except as provided by Subsection (1), unless a decedent  
 1-25 has left directions in writing for the disposition of the  
 1-26 decedent's remains as provided in Subsection (g), the following  
 1-27 persons, in the priority listed, have the right to control the  
 1-28 disposition, including cremation, of the decedent's remains, shall  
 1-29 inter the remains, and in accordance with Subsection (a-1) are  
 1-30 liable for the reasonable cost of interment:

1-31 (1) the person designated in a written instrument  
 1-32 signed by the decedent;

1-33 (2) the decedent's surviving spouse;

1-34 (3) any one of the decedent's surviving adult  
 1-35 children;

1-36 (4) either one of the decedent's surviving parents;

1-37 (5) any one of the decedent's surviving adult  
 1-38 siblings; ~~or~~

1-39 (6) any one or more of the duly qualified executors or  
 1-40 administrators of the decedent's estate; or

1-41 (7) any adult person in the next degree of kinship in  
 1-42 the order named by law to inherit the estate of the decedent.

1-43 (a-3) A person exercising the right to control the  
 1-44 disposition of remains under Subsection (a), other than a duly  
 1-45 qualified executor or administrator of the decedent's estate, is  
 1-46 liable for the reasonable cost of interment and may seek  
 1-47 reimbursement for that cost from the decedent's estate. When an  
 1-48 executor or administrator exercises the right to control the  
 1-49 disposition of remains under Subsection (a)(6), the decedent's  
 1-50 estate is liable for the reasonable cost of interment, and the  
 1-51 executor or administrator is not individually liable for that cost.

1-52 (b) The written instrument referred to in Subsection (a)(1)  
 1-53 may ~~shall~~ be in substantially the following form:

1-54 APPOINTMENT FOR ~~[OF AGENT TO CONTROL]~~ DISPOSITION OF REMAINS

1-55 I, \_\_\_\_\_,  
 1-56 (your name and address)

1-57 being of sound mind, willfully and voluntarily make known my desire  
 1-58 that, upon my death, the disposition of my remains shall be  
 1-59 controlled by \_\_\_\_\_

1-60 (name of agent)

1-61 in accordance with Section 711.002 of the Health and Safety Code

2-1 and, with respect to that subject only, I hereby appoint such person  
2-2 as my agent (attorney-in-fact).

2-3 All decisions made by my agent with respect to the  
2-4 disposition of my remains, including cremation, shall be binding.

2-5 SPECIAL DIRECTIONS:

2-6 Set forth below are any special directions limiting the power  
2-7 granted to my agent:

2-8 \_\_\_\_\_  
2-9 \_\_\_\_\_  
2-10 \_\_\_\_\_  
2-11 \_\_\_\_\_  
2-12 \_\_\_\_\_

2-13 AGENT:

2-14 Name: \_\_\_\_\_

2-15 Address: \_\_\_\_\_

2-16 Telephone Number: \_\_\_\_\_

2-17 [~~Acceptance of Appointment: \_\_\_\_\_~~]

2-18 [~~(signature of agent)~~]

2-19 [~~Date of Signature: \_\_\_\_\_~~]

2-20 SUCCESSORS:

2-21 If my agent or a successor agent dies, becomes legally  
2-22 disabled, resigns, or refuses to act, or if I divorce my agent or  
2-23 successor agent and this instrument does not state that the  
2-24 divorced agent or successor agent continues to serve after my  
2-25 divorce from that agent or successor agent, I hereby appoint the  
2-26 following persons (each to act alone and successively, in the order  
2-27 named) to serve as my agent (attorney-in-fact) to control the  
2-28 disposition of my remains as authorized by this document:

2-29 1. First Successor

2-30 Name: \_\_\_\_\_

2-31 Address: \_\_\_\_\_

2-32 Telephone Number: \_\_\_\_\_

2-33 [~~Acceptance of Appointment: \_\_\_\_\_~~]

2-34 [~~(signature of first successor)~~]

2-35 [~~Date of Signature: \_\_\_\_\_~~]

2-36 2. Second Successor

2-37 Name: \_\_\_\_\_

2-38 Address: \_\_\_\_\_

2-39 Telephone Number: \_\_\_\_\_

2-40 [~~Acceptance of Appointment: \_\_\_\_\_~~]

2-41 [~~(signature of second successor)~~]

2-42 [~~Date of Signature: \_\_\_\_\_~~]

2-43 DURATION:

2-44 This appointment becomes effective upon my death.

2-45 PRIOR APPOINTMENTS REVOKED:

2-46 I hereby revoke any prior appointment of any person to  
2-47 control the disposition of my remains.

2-48 RELIANCE:

2-49 I hereby agree that any cemetery organization, business  
2-50 operating a crematory or columbarium or both, funeral director or  
2-51 embalmer, or funeral establishment who receives a copy of this  
2-52 document may act under it. Any modification or revocation of this  
2-53 document is not effective as to any such party until that party  
2-54 receives actual notice of the modification or revocation. No such  
2-55 party shall be liable because of reliance on a copy of this  
2-56 document.

2-57 ASSUMPTION:

2-58 THE AGENT, AND EACH SUCCESSOR AGENT, BY ACCEPTING THIS  
2-59 APPOINTMENT, ASSUMES THE OBLIGATIONS PROVIDED IN, AND IS BOUND BY  
2-60 THE PROVISIONS OF, SECTION 711.002 OF THE HEALTH AND SAFETY CODE.

2-61 SIGNATURES:

2-62 This written instrument and my appointments of an agent and  
2-63 any successor agent in this instrument are valid without the  
2-64 signature of my agent and any successor agents below. Each agent,  
2-65 or a successor agent, acting pursuant to this appointment must  
2-66 indicate acceptance of the appointment by signing below before  
2-67 acting as my agent.

2-68 Signed this \_\_\_\_\_ day of \_\_\_\_\_, 20 [19]\_\_\_\_.

2-69 \_\_\_\_\_

(your signature)

3-1  
3-2 State of \_\_\_\_\_  
3-3 County of \_\_\_\_\_

3-4 This document was acknowledged before me on \_\_\_\_\_ (date) by  
3-5 \_\_\_\_\_ (name of principal).

3-6 \_\_\_\_\_  
3-7 (signature of notarial officer)

3-8 (Seal, if any, of notary)

3-9 \_\_\_\_\_  
3-10 (printed name)

3-11 My commission expires:  
3-12 \_\_\_\_\_

3-13 ACCEPTANCE AND ASSUMPTION BY AGENT:

3-14 I have no knowledge of or any reason to believe this  
3-15 Appointment for Disposition of Remains has been revoked. I hereby  
3-16 accept the appointment made in this instrument with the  
3-17 understanding that I will be individually liable for the reasonable  
3-18 cost of the decedent's interment, for which I may seek  
3-19 reimbursement from the decedent's estate.

3-20 Acceptance of Appointment: \_\_\_\_\_  
3-21 (signature of agent)

3-22 Date of Signature: \_\_\_\_\_

3-23 Acceptance of Appointment: \_\_\_\_\_  
3-24 (signature of first successor)

3-25 Date of Signature: \_\_\_\_\_

3-26 Acceptance of Appointment: \_\_\_\_\_  
3-27 (signature of second successor)

3-28 Date of Signature: \_\_\_\_\_

3-29 (c) A written instrument is legally sufficient under  
3-30 Subsection (a)(1) if the instrument designates a person to control  
3-31 the disposition of the decedent's remains, the instrument is signed  
3-32 by the decedent, the signature of the decedent is acknowledged, and  
3-33 the agent or successor agent signs the instrument before acting as  
3-34 the decedent's agent. Unless the instrument provides otherwise,  
3-35 the designation of the decedent's spouse as an agent or successor  
3-36 agent in the instrument is revoked on the divorce of the decedent  
3-37 and the spouse appointed as an agent or successor agent ~~[wording of~~  
3-38 ~~the instrument complies substantially with Subsection (b), the~~  
3-39 ~~instrument is properly completed, the instrument is signed by the~~  
3-40 ~~decedent, the agent, and each successor agent, and the signature of~~  
3-41 ~~the decedent is acknowledged].~~ Such written instrument may be  
3-42 modified or revoked only by a subsequent written instrument that  
3-43 complies with this subsection.

3-44 (g) A person may provide written directions for the  
3-45 disposition, including cremation, of the person's remains in a  
3-46 will, a prepaid funeral contract, or a written instrument signed  
3-47 and acknowledged by such person. A party to the prepaid funeral  
3-48 contract or a written contract providing for all or some of a  
3-49 decedent's funeral arrangements who fails to honor the contract is  
3-50 liable for the additional expenses incurred in the disposition of  
3-51 the decedent's remains as a result of the breach of contract. The  
3-52 directions may govern the inscription to be placed on a grave marker  
3-53 attached to any plot in which the decedent had the right of  
3-54 sepulture at the time of death and in which plot the decedent is  
3-55 subsequently interred. The directions may be modified or revoked  
3-56 only by a subsequent writing signed and acknowledged by such  
3-57 person. The person otherwise entitled to control the disposition  
3-58 of a decedent's remains under this section shall faithfully carry  
3-59 out the directions of the decedent to the extent that the decedent's  
3-60 estate or the person controlling the disposition are financially  
3-61 able to do so.

3-62 SECTION 2. Section 711.002, Health and Safety Code, as  
3-63 amended by this Act, applies only to the validity of a document  
3-64 executed on or after the effective date of this Act. The validity  
3-65 of a document executed before the effective date of this Act is  
3-66 governed by the law in effect on the date the document was executed,  
3-67 and that law continues in effect for that purpose.

3-68 SECTION 3. (a) Except as otherwise provided in this  
3-69 section, the changes in law made by this Act apply to:

4-1 (1) an instrument described by Section 711.002(a)(1),  
4-2 Health and Safety Code, as amended by this Act, created before, on,  
4-3 or after the effective date of this Act; and

4-4 (2) a judicial proceeding concerning an instrument  
4-5 described by Section 711.002(a)(1), Health and Safety Code, as  
4-6 amended by this Act, that:

4-7 (A) commences on or after the effective date of  
4-8 this Act; or

4-9 (B) is pending on the effective date of this Act.

4-10 (b) If the court finds that application of a provision of  
4-11 this Act would substantially interfere with the effective conduct  
4-12 of a judicial proceeding concerning an instrument described by  
4-13 Section 711.002(a)(1), Health and Safety Code, as amended by this  
4-14 Act, that is pending on the effective date of this Act or prejudice  
4-15 the rights of a party to the proceeding, the provision of this Act  
4-16 does not apply, and the law in effect immediately before the  
4-17 effective date of this Act applies in those circumstances.

4-18 SECTION 4. This Act takes effect September 1, 2015.

4-19 \* \* \* \* \*