

BILL ANALYSIS

Senate Research Center
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S.B. 513
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State Affairs
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As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

As part of its ongoing review of Texas law, the Real Estate, Probate, and Trust Law Section of the State Bar of Texas (the REPTL Section) has proposed S.B. 513, which provides updates to the law regarding the disposition of remains and anatomical gifts.

S.B. 513 provides an additional method for execution of an anatomical gift statement, a refusal to make such gift, or revocation of any such gift by permitting those documents to be signed in the presence of a notary public in lieu of two witnesses.

S.B. 513 also clarifies that if the agent designated in an appointment for disposition of remains directive is a spouse, the designation is automatically revoked by law if the marriage is annulled or declared void in addition to if it is dissolved. The same clarifications have been added to the optional statutory form.

S.B. 513 repeals Chapter 692, Health and Safety Code, in its entirety, which was replaced by Chapter 692A, Health and Safety Code, effective September 1, 2009, but not previously repealed in its entirety.

As proposed, S.B. 513 amends current law relating to the disposition of remains and anatomical gifts.

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 692A.005(b), Health and Safety Code, as follows:

(b) Requires that a record signed by another individual at the direction of the donor or other person be acknowledged before a notary public or meet certain other requirements. Makes a conforming change.

SECTION 2. Amends Section 692A.006(b), Health and Safety Code, as follows:

(b) Requires that a record signed pursuant to Subsection (a)(1)(C) be acknowledged before a notary public or meet certain other requirements. Make a conforming change.

SECTION 3. Amends Section 692A.007(b), Health and Safety Code, as follows:

(b) Requires that a record signed pursuant to Subsection (a)(1)(B) be acknowledged before a notary public or meet certain other requirements. Makes a conforming change.

SECTION 4. Amends Section 711.002(b) and (c), Health and Safety Code, as follows:

(b) Amends language set forth for the written instrument referred to in Subsection (a)(1) to provide that if the successor's agent or successor's successor agent dies, becomes

legally disabled, resigns, or refuses to act, or if the decedent's marriage to the decedent's agent or successor agent is dissolved by divorce, annulled, or declared void before the decedent's death and this instrument does not state that the agent or successor agent continues to serve after the decedent's marriage to that agent or successor agent is dissolved by divorce, annulled, or declared void, rather than if the decedent divorces the decedent's agent or successor agent and this instrument does not state that the divorced agent or successor agent continues to serve after the decedent's divorce from that agent or successor agent, certain persons (each to act alone and successively, in the order named) are appointed to serve as agent (attorney-in-fact) to control the disposition of remains as authorized by this document. Makes nonsubstantive changes.

(c) Makes conforming changes.

SECTION 5. Repealer: Chapter 692 (Texas Anatomical Gift Act), Health and Safety Code.

SECTION 6. Makes application of Sections 692A.005, 692A.006, 692A.007, and 711.002, Health and Safety Code, as amended by this Act, prospective.

SECTION 7. (a) Provides that, except as otherwise provided in this section, the changes in law made by this Act apply to a record described by Section 692A.005, 692A.006, or 692A.007, Health and Safety Code, or an instrument described by Section 711.002(a)(1), Health and Safety Code, created before on, or after the effective date of this Act. Provides that changes in law made by this Act, except as otherwise provided in this section, apply to a judicial proceeding concerning a certain record or instrument described by Subdivision (1).

(b) Provides that a provision of this Act does not apply, and the law in effect immediately before the effective date of this Act applies if the court finds that the application of the provision would substantially interfere with the effective conduct of certain judicial proceedings.

SECTION 8. Effective date: September 1, 2017.