

By: Buckingham

S.B. No. 1630

A BILL TO BE ENTITLED

AN ACT

relating to cemeteries.

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

SECTION 1. Section 711.001, Health and Safety Code, is amended by amending Subdivisions (1) and (1-a) and adding Subdivisions (1-b), (29), (30), (31), and (32) to read as follows:

(1) "Abandoned cemetery" means a cemetery, regardless of whether it appears on a map or in deed records, that is not owned or operated by a cemetery organization, does not have another person legally responsible for its care, and is not maintained by any person.

(1-a) "Burial park" means a tract of land that is used or intended to be used for interment in graves.

(1-b) [~~(1-a)~~] "Campus" means the area:

(A) within the boundaries of one or more adjacent tracts, parcels, or lots under common ownership;

(B) on which the principal church building and related structures and facilities of an organized religious society or sect are located; and

(C) that may be subject to one or more easements for street, utility, or pipeline purposes.

(29) "Unidentified grave" means a grave that is not marked in a manner that provides the identity of the interment.

(30) "Unknown cemetery" means an abandoned cemetery

1 evidenced by the presence of marked or unmarked graves that does not
2 appear on a map or in deed records.

3 (31) "Unmarked grave" means the immediate area where
4 one or more human interments are found that:

5 (A) is not in a recognized and maintained
6 cemetery;

7 (B) is not owned or operated by a cemetery
8 organization;

9 (C) is not marked by a tomb, monument,
10 gravestone, or other structure or thing placed or designated as a
11 memorial of the dead; or

12 (D) is located on land designated as
13 agricultural, timber, recreational, park, or scenic land under
14 Chapter 23, Tax Code.

15 (32) "Unverified cemetery" means a location having
16 some evidence of interment but in which the presence of one or more
17 unmarked graves has not been verified by a person described by
18 Section 711.0105(a) or by the Texas Historical Commission.

19 SECTION 2. Section 711.004, Health and Safety Code, is
20 amended by adding Subsection (f-1) to read as follows:

21 (f-1) For unmarked graves contained within an abandoned,
22 unknown, or unverified cemetery, a justice of the peace acting as
23 coroner or medical examiner under Chapter 49, Code of Criminal
24 Procedure, or a person described by Section 711.0105(a) may
25 investigate or remove remains without written order of the state
26 registrar or the state registrar's designee.

27 SECTION 3. The heading to Section 711.010, Health and

1 Safety Code, is amended to read as follows:

2 Sec. 711.010. ABANDONED, UNKNOWN, OR UNVERIFIED
3 ~~[ABANDONED]~~ CEMETERY.

4 SECTION 4. Section 711.010, Health and Safety Code, is
5 amended by amending Subsections (a) and (b) and adding Subsection
6 (d) to read as follows:

7 (a) The owner of property on which an unknown cemetery is
8 discovered or on which an abandoned cemetery is located may not
9 construct improvements on the property in a manner that would
10 ~~[further]~~ disturb the cemetery until the human remains interred in
11 the cemetery are removed under a written order issued by the state
12 registrar or the state registrar's designee under Section
13 711.004(f) and under an order of a district court as provided by
14 this section, except as provided by Section 711.004(f-1).

15 (b) On petition of the owner of the property, a district
16 court of the county in which an unknown cemetery is discovered or an
17 abandoned cemetery is located may order the removal of any
18 dedication for cemetery purposes that affects the property if the
19 court finds that the removal of the dedication is in the public
20 interest. If a court orders the removal of a dedication of a
21 cemetery and all human remains in that cemetery ~~[on the property]~~
22 have not previously been removed, the court shall order the removal
23 of the human remains from the cemetery to a perpetual care cemetery
24 or a municipal or county cemetery.

25 (d) The Texas Historical Commission, with consent of the
26 landowner, may investigate a suspected but unverified cemetery or
27 may delegate the investigation to a qualified person described by

1 Section 711.0105(a).

2 SECTION 5. The heading to Section 711.011, Health and
3 Safety Code, is amended to read as follows:

4 Sec. 711.011. FILING RECORD OF UNKNOWN OR ABANDONED
5 CEMETERY.

6 SECTION 6. Section 711.011(a), Health and Safety Code, is
7 amended to read as follows:

8 (a) A person who discovers an unknown or abandoned cemetery
9 shall file notice of the discovery of the cemetery with the county
10 clerk of the county in which the cemetery is located and
11 concurrently mail notice to the landowner on record in the county
12 appraisal district not later than the 10th day after the date of the
13 discovery. The notice must contain a legal description of the land
14 on which the unknown or abandoned cemetery was found and describe
15 the approximate location of the cemetery and the evidence of the
16 cemetery that was discovered.

17 SECTION 7. Subchapter A, Chapter 711, Health and Safety
18 Code, is amended by adding Section 711.0111 to read as follows:

19 Sec. 711.0111. NOTICE OF UNVERIFIED CEMETERY. (a) A
20 person who discovers an unverified cemetery shall file notice and
21 evidence of the discovery with the Texas Historical Commission on a
22 form provided by the Texas Historical Commission, and shall
23 concurrently provide a copy of the notice to the landowner on record
24 in the county appraisal district on whose land the unverified
25 cemetery is located.

26 (b) The landowner described by Subsection (a) may send a
27 response or comments to the Texas Historical Commission concerning

1 the notice not later than the 30th day after the date the notice is
2 filed.

3 (c) The Texas Historical Commission shall evaluate the
4 notice of the unverified cemetery, the evidence submitted with the
5 notice, and the response of the landowner, if any, and shall
6 determine whether there is sufficient evidence of the existence of
7 a cemetery.

8 (d) If the Texas Historical Commission determines
9 sufficient evidence supports the existence of a cemetery, the Texas
10 Historical Commission shall inform the landowner and may file
11 notice of the existence of the cemetery under Section [711.011](#).

12 (e) If the Texas Historical Commission determines
13 sufficient evidence supports a determination that a cemetery does
14 not exist, the Texas Historical Commission shall notify the
15 landowner on record in the appraisal district of its determination
16 and amend the notice to include the commission's determination and
17 ensure any notice filed with a county clerk under Section [711.011](#) is
18 corrected.

19 SECTION 8. Section [711.041](#), Health and Safety Code, is
20 amended by adding Subsection (d) to read as follows:

21 (d) This section does not apply to an unverified cemetery.

22 SECTION 9. This Act takes effect September 1, 2017.