

By: Reynolds, Zerwas, Stephenson, Miller

H.B. No. 2430

A BILL TO BE ENTITLED

1 AN ACT
2 relating to requirements in a suit for the removal of human remains
3 from a cemetery.

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

5 SECTION 1. Section 711.004, Health and Safety Code, is
6 amended by amending Subsections (c) and (d) and adding Subsection
7 (d-1) to read as follows:

8 (c) If the consent required by Subsection (a) cannot be
9 obtained, the remains may be removed by permission of a district
10 court of the county in which the cemetery is located. Before the
11 date of application to the court for permission to remove remains
12 under this subsection, notice must be given to:

13 (1) the cemetery organization operating the cemetery
14 in which the remains are interred or if the cemetery organization
15 cannot be located or does not exist, the Texas Historical
16 Commission;

17 (2) each person whose consent is required for removal
18 of the remains under Subsection (a); and

19 (3) any other person or entity that the court
20 subsequently requires to be served.

21 (d) For the purposes of Subsection (c) and except as
22 provided by this subsection or Subsection (d-1) or (k), personal
23 notice must be given not later than the 11th day before the date of
24 application to the court for permission to remove the remains, or

1 notice by certified or registered mail must be given not later than
2 the 16th day before the date of application. In an emergency
3 circumstance described by Subsection (1) that necessitates
4 immediate removal of remains from a plot, the court shall hear an
5 application for permission to remove remains under Subsection (c)
6 not later than the first business day after the application is made.
7 In an emergency circumstance described by this subsection, personal
8 notice may be given on the date the application is made.

9 (d-1) If the court subsequently requires an additional
10 person or entity to be served under Subsection (c)(3), that
11 additional service must be performed not later than the 11th day
12 after the date of the judge's order. Service may not be required
13 for any court appointed representative or other court appointed
14 official.

15 SECTION 2. Sections 711.010(b) and (c), Health and Safety
16 Code, are amended to read as follows:

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

26 (1) a perpetual care cemetery; ~~or~~

27 (2) a municipal or county cemetery; or

1 (3) any other place on the owner's property that the
2 district court finds is in the public interest.

3 (c) In addition to any notice required by Section 711.004,
4 notice of a petition filed under Subsection (b) must be given to the
5 Texas Historical Commission and to the county historical commission
6 of the county in which the cemetery is located. The court may
7 consult the Texas Historical Commission and the county historical
8 commission in making a decision under this section [~~may intervene~~
9 ~~and become parties to the suit~~]. The court may also designate or
10 appoint any person, party, court appointed representative, or
11 official the court considers necessary to assist in determining
12 whether the removal is in the public interest.

13 SECTION 3. Section 711.036(b), Health and Safety Code, is
14 amended to read as follows:

15 (b) An owner of land adjacent to a cemetery for which a
16 cemetery organization or other governing body does not exist may
17 petition a district court of the county in which the cemetery is
18 located to remove any human remains and the dedication for all or
19 any portion of the cemetery. In addition to the notice required by
20 Section 711.004, notice of a petition filed under this subsection
21 must be given to the Texas Historical Commission and to the county
22 historical commission of the county in which the cemetery is
23 located. The court may consult the Texas Historical Commission and
24 the county historical commission in making a decision under this
25 section [~~may intervene and become parties to the suit~~]. The court
26 may also designate or appoint any person, party, court appointed
27 representative, or official the court considers necessary to assist

1 in determining whether the removal is in the public interest.

2 Unknown next of kin of deceased persons buried in the cemetery shall
3 be served by publication of a notice in a newspaper of general
4 circulation in the county in which the cemetery is located, or if
5 there is not a newspaper of general circulation in the county, in a
6 newspaper of general circulation in an adjacent county. A
7 reasonable good faith effort shall be made to remove all remains and
8 monuments from the cemetery or that portion of the cemetery for
9 which the dedication is to be removed.

10 SECTION 4. The changes in law made by this Act apply only to
11 a suit involving the removal of remains from an abandoned, unknown,
12 or unverified cemetery pending in a trial court on the effective
13 date of this Act or filed on or after that date. A suit involving
14 the removal of remains from an abandoned, unknown, or unverified
15 cemetery in which a final order is rendered before the effective
16 date of this Act is governed by the law in effect on the date the
17 order was rendered, and the former law is continued in effect for
18 that purpose.

19 SECTION 5. This Act takes effect immediately if it receives
20 a vote of two-thirds of all the members elected to each house, as
21 provided by Section 39, Article III, Texas Constitution. If this
22 Act does not receive the vote necessary for immediate effect, this
23 Act takes effect September 1, 2019.