

1-1 By: Reynolds, et al. (Senate Sponsor - Miles) H.B. No. 2430  
1-2 (In the Senate - Received from the House May 6, 2019;  
1-3 May 10, 2019, read first time and referred to Committee on State  
1-4 Affairs; May 19, 2019, reported favorably by the following vote:  
1-5 Yeas 9, Nays 0; May 19, 2019, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7				
1-8	Huffman	X		
1-9	Hughes	X		
1-10	Birdwell	X		
1-11	Creighton	X		
1-12	Fallon	X		
1-13	Hall	X		
1-14	Lucio	X		
1-15	Nelson	X		
1-16	Zaffirini	X		

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

1-19 relating to requirements in a suit for the removal of human remains  
1-20 from a cemetery.

1-21 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-22 SECTION 1. Section 711.004, Health and Safety Code, is  
1-23 amended by amending Subsections (c) and (d) and adding Subsection  
1-24 (d-1) to read as follows:

1-25 (c) If the consent required by Subsection (a) cannot be  
1-26 obtained, the remains may be removed by permission of a district  
1-27 court of the county in which the cemetery is located. Before the  
1-28 date of application to the court for permission to remove remains  
1-29 under this subsection, notice must be given to:

1-30 (1) the cemetery organization operating the cemetery  
1-31 in which the remains are interred or if the cemetery organization  
1-32 cannot be located or does not exist, the Texas Historical  
1-33 Commission;

1-34 (2) each person whose consent is required for removal  
1-35 of the remains under Subsection (a); and

1-36 (3) any other person or entity that the court  
1-37 subsequently requires to be served.

1-38 (d) For the purposes of Subsection (c) and except as  
1-39 provided by this subsection or Subsection (d-1) or (k), personal  
1-40 notice must be given not later than the 11th day before the date of  
1-41 application to the court for permission to remove the remains, or  
1-42 notice by certified or registered mail must be given not later than  
1-43 the 16th day before the date of application. In an emergency  
1-44 circumstance described by Subsection (1) that necessitates  
1-45 immediate removal of remains from a plot, the court shall hear an  
1-46 application for permission to remove remains under Subsection (c)  
1-47 not later than the first business day after the application is made.  
1-48 In an emergency circumstance described by this subsection, personal  
1-49 notice may be given on the date the application is made.

1-50 (d-1) If the court subsequently requires an additional  
1-51 person or entity to be served under Subsection (c)(3), that  
1-52 additional service must be performed not later than the 11th day  
1-53 after the date of the judge's order. Service may not be required  
1-54 for any court appointed representative or other court appointed  
1-55 official.

1-56 SECTION 2. Sections 711.010(b) and (c), Health and Safety  
1-57 Code, are amended to read as follows:

1-58 (b) On petition of the owner of the property, a district  
1-59 court of the county in which an unknown cemetery is discovered or an  
1-60 abandoned cemetery is located may order the removal of any  
1-61 dedication for cemetery purposes that affects the property if the

2-1 court finds that the removal of the dedication is in the public  
2-2 interest. If a court orders the removal of a dedication of a  
2-3 cemetery and all human remains in that cemetery have not previously  
2-4 been removed, the court shall order the removal of the human remains  
2-5 from the cemetery to:

- 2-6 (1) a perpetual care cemetery; ~~[or]~~
- 2-7 (2) a municipal or county cemetery; or
- 2-8 (3) any other place on the owner's property that the

2-9 district court finds is in the public interest.  
2-10 (c) In addition to any notice required by Section 711.004,  
2-11 notice of a petition filed under Subsection (b) must be given to the  
2-12 Texas Historical Commission and to the county historical commission  
2-13 of the county in which the cemetery is located. The court may  
2-14 consult the Texas Historical Commission and the county historical  
2-15 commission in making a decision under this section ~~[may intervene~~  
2-16 ~~and become parties to the suit]~~. The court may also designate or  
2-17 appoint any person, party, court appointed representative, or  
2-18 official the court considers necessary to assist in determining  
2-19 whether the removal is in the public interest.

2-20 SECTION 3. Section 711.036(b), Health and Safety Code, is  
2-21 amended to read as follows:

2-22 (b) An owner of land adjacent to a cemetery for which a  
2-23 cemetery organization or other governing body does not exist may  
2-24 petition a district court of the county in which the cemetery is  
2-25 located to remove any human remains and the dedication for all or  
2-26 any portion of the cemetery. In addition to the notice required by  
2-27 Section 711.004, notice of a petition filed under this subsection  
2-28 must be given to the Texas Historical Commission and to the county  
2-29 historical commission of the county in which the cemetery is  
2-30 located. The court may consult the Texas Historical Commission and  
2-31 the county historical commission in making a decision under this  
2-32 section ~~[may intervene and become parties to the suit]~~. The court  
2-33 may also designate or appoint any person, party, court appointed  
2-34 representative, or official the court considers necessary to assist  
2-35 in determining whether the removal is in the public interest.  
2-36 Unknown next of kin of deceased persons buried in the cemetery shall  
2-37 be served by publication of a notice in a newspaper of general  
2-38 circulation in the county in which the cemetery is located, or if  
2-39 there is not a newspaper of general circulation in the county, in a  
2-40 newspaper of general circulation in an adjacent county. A  
2-41 reasonable good faith effort shall be made to remove all remains and  
2-42 monuments from the cemetery or that portion of the cemetery for  
2-43 which the dedication is to be removed.

2-44 SECTION 4. The changes in law made by this Act apply only to  
2-45 a suit involving the removal of remains from an abandoned, unknown,  
2-46 or unverified cemetery pending in a trial court on the effective  
2-47 date of this Act or filed on or after that date. A suit involving  
2-48 the removal of remains from an abandoned, unknown, or unverified  
2-49 cemetery in which a final order is rendered before the effective  
2-50 date of this Act is governed by the law in effect on the date the  
2-51 order was rendered, and the former law is continued in effect for  
2-52 that purpose.

2-53 SECTION 5. This Act takes effect immediately if it receives  
2-54 a vote of two-thirds of all the members elected to each house, as  
2-55 provided by Section 39, Article III, Texas Constitution. If this  
2-56 Act does not receive the vote necessary for immediate effect, this  
2-57 Act takes effect September 1, 2019.

2-58 \* \* \* \* \*