

By: Campbell

S.B. No. 1821

A BILL TO BE ENTITLED

1 AN ACT
2 relating to enforcement of the regulation of perpetual care
3 cemeteries.

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

5 SECTION 1. Section 712.0034(a), Health and Safety Code, is
6 amended to read as follows:

7 (a) The commissioner may:

8 (1) investigate an applicant before issuing a
9 certificate of authority; and

10 (2) recover from the applicant reasonable costs the
11 commissioner incurs in the investigation.

12 SECTION 2. Subchapter C, Chapter 712, Health and Safety
13 Code, is amended by adding Section 712.0435 to read as follows:

14 Sec. 712.0435. INVESTIGATIONS. The commissioner may:

15 (1) conduct an investigation to administer and enforce
16 this chapter; and

17 (2) recover reasonable costs incurred by the
18 commissioner in the investigation from the subject of the
19 investigation if the commissioner determines a violation occurred.

20 SECTION 3. Section 712.0443, Health and Safety Code, is
21 amended by adding Subsection (c) to read as follows:

22 (c) If a cease and desist order issued under this section
23 names an officer, director, or employee of a perpetual care
24 cemetery, the order may require the person named in the order to

1 take corrective action to remedy the violation described by the
2 order.

3 SECTION 4. Subchapter C, Chapter 712, Health and Safety
4 Code, is amended by adding Section 712.045 to read as follows:

5 Sec. 712.045. REVOCATION OR SUSPENSION OF CERTIFICATE OF
6 AUTHORITY. (a) The commissioner by order may revoke or suspend a
7 certificate of authority issued under this chapter if the
8 commissioner determines through an investigation or other credible
9 evidence that the certificate holder:

10 (1) violated this chapter, a rule adopted or order
11 issued under this chapter, or another law of this state relating to
12 cemeteries;

13 (2) misrepresented or concealed a material fact in the
14 certificate application; or

15 (3) obtained or attempted to obtain the certificate by
16 misrepresentation, concealment, or fraud.

17 (b) An order issued under Subsection (a) must state:

18 (1) with reasonable certainty, the grounds for the
19 order; and

20 (2) the effective date of the order, which may not be
21 earlier than the 16th day after the date the order is mailed.

22 (c) The commissioner shall provide an order described by
23 Subsection (a) to the person named in the order by certified mail,
24 return receipt requested, at the person's last known address.

25 (d) A person may request a hearing on an order described by
26 Subsection (a) not later than the 15th day after the date the order
27 is mailed. If the person requests a hearing, the order is stayed

1 until the hearing is resolved. A hearing is a contested case under
2 Chapter 2001, Government Code.

3 SECTION 5. The changes in law made by this Act apply only to
4 a violation that occurs or an investigation conducted on or after
5 the effective date of this Act.

6 SECTION 6. This Act takes effect September 1, 2019.