

BILL ANALYSIS

H.B. 2980
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Judiciary & Civil Jurisprudence
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Attorneys who work in estate planning law have found that there is inconsistency in Health and Safety Code provisions relating to those who may consent to the removal of a decedent's remains. The individuals authorized to consent to the removal of remains are different than those authorized to control the initial disposition of remains. However, it is logical that the order and identity of those who determine the disposition of remains be consistent with the order and identity of those who can disinter remains. H.B. 2980 seeks to address this issue by revising statutory provisions to harmonize the order and identity of those who must consent to the removal of a decedent's remains with the order and identity of those who have the right to determine the initial disposition of the remains.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

H.B. 2980 amends the Health and Safety Code to revise the prioritized list of persons who, in addition to the cemetery organization operating the cemetery, must consent to removal of a decedent's remains from a plot in a cemetery to match the prioritized list of those who have the right to control the disposition of such remains as follows:

- includes as the new first priority consent from the person designated in a written instrument signed by the decedent to control the disposition of remains;
- includes as the new sixth priority consent from any one of the duly qualified executors or administrators of the decedent's estate;
- specifies that, with respect to consent from the decedent's surviving adult children, which will be the third priority, consent is required from only one of those children;
- specifies that, with respect to consent from the decedent's surviving parents, which will be the fourth priority, consent is required from only one of the parents; and
- specifies that, with respect to consent from the decedent's adult siblings, which will be the fifth priority, consent is required from only one of the surviving adult siblings.

The bill makes related revisions to the form prescribed for that written instrument and establishes that such revisions apply only to the validity of a written instrument executed on or after the bill's effective date.

EFFECTIVE DATE

September 1, 2023.