

BILL ANALYSIS

C.S.H.B. 4101
By: Hayes
Judiciary & Civil Jurisprudence
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Recent Texas cases have resulted in substantial mental anguish awards against funeral service providers, including, according to the *San Antonio Express-News*, a January 2025 jury award of over \$1 million to siblings whose mother's urn and ashes were destroyed at a San Antonio burial park and an \$8 million award to parents whose daughter's body disappeared from a funeral home. The *San Antonio Express-News* also reported that more than 30 negligence lawsuits were filed against a single Dallas funeral home between 2021 and 2022, with allegations ranging from improper disposal of remains to providing incorrect remains to family members. The bill author has informed the committee that currently, Texas law lacks a specific statutory framework governing mental anguish damages for funeral service mishandling and that this can result in unpredictable liability exposure for the industry and inconsistent compensation for affected families. C.S.H.B. 4101 seeks to address this issue by establishing clear standards and reasonable limitations for mental anguish claims against funeral service providers.

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

C.S.H.B. 4101 amends the Civil Practice and Remedies Code to exempt a funeral service provider from liability to a claimant for mental anguish damages unless the claimant proves the following:

- the funeral service provider mishandled a body or remains;
- if the funeral service provider had acted in a manner consistent with the common practice of reasonably prudent funeral service providers, the mishandling of the body or remains would not have occurred;
- as a result of the mishandling of the body or remains and the close personal relationship between the claimant and the decedent, the claimant experienced grievous or debilitating angst, distress, torment, emotional suffering, or turmoil that caused a substantial disruption in the claimant's daily routine; and
- a reasonable person in the position of the funeral service provider would have foreseen that the mishandling of the body or remains would cause significant emotional harm to the claimant.

The bill limits the mental anguish damages that may be recovered from a funeral service provider by the claimant to the lesser of \$250,000 or three times the amount paid to the funeral service provider for funeral services for the decedent. The bill prohibits a claimant from

recovering mental anguish damages from a funeral service provider in an action under the bill's provisions if the claimant seeks relief from the funeral service provider under the Deceptive Trade Practices-Consumer Protection Act.

C.S.H.B. 4101 establishes that the bill's provisions only apply to an action that meets the following criteria:

- is brought by a person who has a special relationship with a funeral service provider due to a claimant's right of sepulcher, a right to possess a body or remains, a right to control the disposition of a body or remains under applicable Health and Safety Code provisions, or another related right; and
- is an action in which the person seeks to recover mental anguish damages from a funeral service provider based on that special relationship.

The bill prohibits a claimant from pursuing such an action under any other law to obtain mental anguish damages from a funeral service provider.

C.S.H.B. 4101 requires a court, in a jury trial for an action brought under the bill's provisions, to provide the jury a definition for mental anguish that conforms to the bill's description of grievous or debilitating angst, distress, torment, emotional suffering, or turmoil that must be proven and to instruct the jury regarding the requirements under the bill. The bill expressly does not do the following:

- create a cause of action in favor of, or confer standing to bring an action against a funeral service provider on, any person; or
- limit a claimant's recovery of other forms of economic or exemplary damages or apply to other actions, including actions to recover damages for death or physical injury caused to the claimant by negligence of a funeral service provider.

C.S.H.B. 4101 defines the following terms:

- "body or remains" as a human corpse or the body parts of a human corpse;
- "funeral service" as a service performed by a funeral service provider related to the care, preparation, and disposition of a body or remains, including:
 - retrieving, loading, and transporting the body or remains;
 - storing, embalming, dressing, casketing, interring, or cremating the body or remains;
 - arranging, supervising, and conducting a funeral ceremony; and
 - arranging, supervising, and implementing the final disposition of the body or remains; and
- "funeral service provider" as a person engaged in the business of providing funeral services, which includes an employee or contractor of the person engaged in the business of providing funeral services, including an employee or contractor used in the provision of a funeral service and who is an embalmer, a crematory operator, a funeral director, a provisional license holder, or a transporter.

C.S.H.B. 4101 establishes that the bill's provisions are an exercise of authority under the Texas Constitution and take effect only if the bill receives a vote of three-fifths of all the members elected to each house, as provided by the constitution. The bill applies only to an action commenced on or after the bill's effective date. An action commenced before the bill's effective date is governed by the law applicable to the action immediately before the bill's effective date, and that law is continued in effect for that purpose.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote for immediate effect, September 1, 2025.

COMPARISON OF INTRODUCED AND SUBSTITUTE

While C.S.H.B. 4101 may differ from the introduced in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The substitute changes the amount of the mental anguish damages that may be recovered from a funeral service provider by a claimant from the lesser of \$50,000 or three times the amount paid to the provider for the decedent's funeral services, as in the introduced, to the lesser of \$250,000 or three times the amount paid to the provider for those services.