

## **BILL ANALYSIS**

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### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Lawsuits against funeral homes have skyrocketed since the Texas Supreme Court's decision in *SCI Texas Funeral Services v. Nelson*. Prior to *Nelson*, Texas courts required plaintiffs to prove a contractual relationship with funeral homes to establish a "special relationship" for mental anguish claims (*Lions Eye Bank of Texas v. Perry*). However, *Nelson* held that "the relationship between a person disposing of a decedent's remains and the next of kin is special, even without a contract," establishing that mental anguish claims could arise from a quasi-property right in the decedent's body.

This legal shift has triggered numerous lawsuits, including a January 2025 jury award of over \$1 million to siblings whose mother's remains were destroyed at a San Antonio burial park (*San Antonio Express-News*, March 13, 2025), and an \$8 million award in the Julie Mott case where a body disappeared from a funeral home. More than 30 negligence lawsuits were filed against a single Dallas funeral home between 2021-2022 (*San Antonio Express-News*, March 13, 2025). The litigation surge has caused insurance coverage problems for the industry, with fewer insurers willing to cover funeral homes. Many smaller, family-owned funeral homes are struggling with prohibitively expensive insurance or operating without coverage.

S.B. 2027 amends the Civil Practice and Remedies Code to establish clear standards and reasonable limitations for mental anguish claims against funeral service providers. This bill:

1. Establishes specific criteria for liability, requiring proof that:
  - the provider mishandled human remains;
  - the mishandling would not have occurred if industry standards were followed;
  - the claimant experienced substantial emotional harm; or
  - a reasonable provider would have foreseen the potential harm.
2. Caps mental anguish damages at the lesser of three times the amount paid for funeral services or \$50,000.
3. Creates an exclusive remedy for these claims while preserving rights to recover other damages including economic or exemplary damages.
4. Requires specific jury instructions about the requirements for mental anguish damages.

As proposed, S.B. 2027 amends current law relating to the liability of a funeral service provider for mental anguish damages.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Title 4, Civil Practice and Remedies Code, by adding Chapter 77A, as follows:

#### **CHAPTER 77A. FUNERAL SERVICE PROVIDERS**

Sec. 77A.001. DEFINITIONS. Defines "body or remains," "claimant," "funeral service," and "funeral service provider."

Sec. 77A.002. APPLICABILITY; EXCLUSIVE REMEDY. (a) Provides that this chapter applies only to an action 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 Section 711.002(a) (relating to requiring certain persons who have the right to control the disposition of a decedent's remains to inter the remains), Health and Safety Code, or another related right and in which the person seeks to recover mental anguish damages from a funeral service provider based on that special relationship.

(b) Prohibits a claimant from pursuing an action governed by this chapter under any other law to obtain mental anguish damages from a funeral service provider.

Sec. 77A.003. LIMITED LIABILITY FOR MENTAL ANGUISH DAMAGES. (a) Provides that, except as provided by Subsection (b), a funeral service provider is not liable to a claimant for mental anguish damages unless the claimant proves:

(1) the funeral service provider mishandled a body or remains;

(2) 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;

(3) 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

(4) 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.

(b) Provides that, except as provided by Subsection (c), mental anguish damages that are authorized to be recovered from a funeral service provider by a claimant in an action governed by this chapter are limited to the lesser of three times the amount paid to the funeral service provider for funeral services for the decedent or \$50,000.

(c) Prohibits a claimant from recovering mental anguish damages from a funeral service provider in an action governed by this chapter if the claimant seeks relief from the funeral service provider under Subchapter E (Deceptive Trade Practices and Consumer Protection), Chapter 17 (Deceptive Trade Practices), Business & Commerce Code.

Sec. 77A.004. JURY INSTRUCTIONS. Requires the court, in a trial to a jury for an action governed by this chapter, to provide the jury a definition for mental anguish that conforms to Section 77A.003(a)(3) and instruct the jury regarding the requirements of this chapter.

Sec. 77A.005. CONSTRUCTION OF CHAPTER. Provides that this chapter does not 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.

SECTION 2. Provides that Chapter 77A, Civil Practice and Remedies Code, as added by this Act, is an exercise of authority under Section 66(c) (relating to authorizing the legislature by statute to determine the limit of liability for all damages and losses in a claim or cause of action), Article III (Legislative Department), Texas Constitution, and takes effect only if this Act receives a vote of three-fifths of all the members elected to each house, as provided by Subsection (e) (relating to providing that a legislative exercise of authority requires a three-fifths vote of all members elected to each house) of that section.

SECTION 3. Makes application of Chapter 77A, Civil Practice and Remedies Code, as added by this Act, prospective.

SECTION 4. Effective date: upon passage or September 1, 2025.