

By: Campbell

S.B. No. 2027

A BILL TO BE ENTITLED

AN ACT

relating to the liability of a funeral service provider for mental anguish damages.

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

SECTION 1. Title 4, Civil Practice and Remedies Code, is amended by adding Chapter 77A to read as follows:

CHAPTER 77A. FUNERAL SERVICE PROVIDERS

Sec. 77A.001. DEFINITIONS. In this chapter:

(1) "Body or remains" means a human corpse or the body parts of a human corpse.

(2) "Claimant" means a person described by Section 77A.002(a) who brings an action described by that section.

(3) "Funeral service" means a service performed by a funeral service provider related to the care, preparation, and disposition of a body or remains, including:

(A) retrieving, loading, and transporting the body or remains;

(B) storing, embalming, dressing, casketing, interring, or cremating the body or remains;

(C) arranging, supervising, and conducting a funeral ceremony; and

(D) arranging, supervising, and implementing the final disposition of the body or remains.

(4) "Funeral service provider" means a person engaged

in the business of providing funeral services. The term 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:

(A) an embalmer;

(B) a crematory operator;

(C) a funeral director;

(D) a provisional license holder; or

(E) a transporter.

Sec. 77A.002. APPLICABILITY; EXCLUSIVE REMEDY. (a) This chapter applies only to an action:

(1) 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), Health and Safety Code, or another related right; and

(2) in which the person seeks to recover mental anguish damages from a funeral service provider based on that special relationship.

(b) A claimant may not pursue 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) 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

1 remains;

2 (2) if the funeral service provider had acted in a
3 manner consistent with the common practice of reasonably prudent
4 funeral service providers, the mishandling of the body or remains
5 would not have occurred;

6 (3) as a result of the mishandling of the body or
7 remains and the close personal relationship between the claimant
8 and the decedent, the claimant experienced grievous or debilitating
9 angst, distress, torment, emotional suffering, or turmoil that
10 caused a substantial disruption in the claimant's daily routine;
11 and

12 (4) a reasonable person in the position of the funeral
13 service provider would have foreseen that the mishandling of the
14 body or remains would cause significant emotional harm to the
15 claimant.

16 (b) Except as provided by Subsection (c), mental anguish
17 damages that may be recovered from a funeral service provider by a
18 claimant in an action governed by this chapter are limited to the
19 lesser of:

20 (1) three times the amount paid to the funeral service
21 provider for funeral services for the decedent; or

22 (2) \$50,000.

23 (c) A claimant may not recover mental anguish damages from a
24 funeral service provider in an action governed by this chapter if
25 the claimant seeks relief from the funeral service provider under
26 Subchapter E, Chapter 17, Business & Commerce Code.

27 Sec. 77A.004. JURY INSTRUCTIONS. In a trial to a jury for

1 an action governed by this chapter, the court shall provide the jury
2 a definition for mental anguish that conforms to Section
3 77A.003(a)(3) and instruct the jury regarding the requirements of
4 this chapter.

5 Sec. 77A.005. CONSTRUCTION OF CHAPTER. This chapter does
6 not:

7 (1) create a cause of action in favor of, or confer
8 standing to bring an action against a funeral service provider on,
9 any person; or

10 (2) limit a claimant's recovery of other forms of
11 economic or exemplary damages or apply to other actions, including
12 actions to recover damages for death or physical injury caused to
13 the claimant by negligence of a funeral service provider.

14 SECTION 2. Chapter 77A, Civil Practice and Remedies Code,
15 as added by this Act, is an exercise of authority under Section
16 66(c), Article III, Texas Constitution, and takes effect only if
17 this Act receives a vote of three-fifths of all the members elected
18 to each house, as provided by Subsection (e) of that section.

19 SECTION 3. Chapter 77A, Civil Practice and Remedies Code,
20 as added by this Act, applies only to an action commenced on or
21 after the effective date of this Act. An action commenced before
22 the effective date of this Act is governed by the law applicable to
23 the action immediately before the effective date of this Act, and
24 that law is continued in effect for that purpose.

25 SECTION 4. This Act takes effect immediately if it receives
26 a vote of two-thirds of all the members elected to each house, as
27 provided by Section 39, Article III, Texas Constitution. If this

S.B. No. 2027

1 Act does not receive the vote necessary for immediate effect, this

2 Act takes effect September 1, 2025.