

## 1 AN ACT

2 relating to removal of remains interred in a cemetery.

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

4 SECTION 1. Section 711.004, Health and Safety Code, is  
5 amended by amending Subsections (a), (d), and (e) and adding  
6 Subsections (j), (k), and (l) to read as follows:7 (a) Remains interred in a cemetery may be removed from a  
8 plot in the cemetery with the written consent of the cemetery  
9 organization operating the cemetery and the written consent of the  
10 current plot owner or owners and the following persons, in the  
11 priority listed:

- 12 (1) the decedent's surviving spouse;
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- 13 (2) the decedent's surviving adult children;
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- 14 (3) the decedent's surviving parents;
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- 15 (4) the decedent's adult siblings; or
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- 16 (5) the adult person in the next degree of kinship in
- 
- 17 the order named by law to inherit the estate of the decedent.

18 (d) For the purposes of Subsection (c) and except as  
19 provided by this subsection or Subsection (k), personal notice must  
20 be given not later than the 11th day before the date of application  
21 to the court for permission to remove the remains, or notice by  
22 certified or registered mail must be given not later than the 16th  
23 day before the date of application. In an emergency circumstance  
24 described by Subsection (l) that necessitates immediate removal of

1 remains from a plot, the court shall hear an application for  
2 permission to remove remains under Subsection (c) not later than  
3 the first business day after the application is made. In an  
4 emergency circumstance described by this subsection, personal  
5 notice may be given on the date the application is made.

6 (e) Subsections (a)-(d) and (k) do not apply to the removal  
7 of remains:

8 (1) from one plot to another plot in the same cemetery,  
9 if the cemetery:

10 (A) is a family, fraternal, or community cemetery  
11 that is not larger than 10 acres;

12 (B) is owned or operated by an unincorporated  
13 association of plot owners not operated for profit;

14 (C) is owned or operated by a church, a religious  
15 society or denomination, or an entity solely administering the  
16 temporalities of a church or religious society or denomination; or

17 (D) is a public cemetery owned by this state, a  
18 county, or a municipality;

19 (2) by the cemetery organization from a plot for which  
20 the purchase price is past due and unpaid, to another suitable  
21 place; ~~[or]~~

22 (3) on the order of a court or person who conducts  
23 inquests; or

24 (4) from a plot in a cemetery owned and operated by the  
25 Veterans' Land Board.

26 (j) A cemetery organization may remove remains from a plot  
27 in the cemetery and transfer the remains to another plot in the same

1 cemetery without the written consent required under Subsection (a)  
2 if the cemetery seeks consent by sending written notice by  
3 certified mail, return receipt requested, to the last known address  
4 of the current owner of the plot from which the remains are to be  
5 removed or to the person designated under Subsection (a). The  
6 notice must indicate that the remains will be removed, the reason  
7 for the removal of the remains, and the proposed location of the  
8 reinterment of the remains. The cemetery may transfer the remains  
9 to another plot in accordance with this subsection if an objection  
10 is not received in response to the notice before the 31st day after  
11 the date the notice is sent. A cemetery may not remove remains  
12 under this subsection for a fraudulent purpose or to allow the sale  
13 of the plot in which the remains are located to another person.

14 (k) In an emergency circumstance described by Subsection  
15 (l) that necessitates immediate removal of remains before the date  
16 on which the court is required to hear an application for permission  
17 to remove remains under Subsection (d), a cemetery organization may  
18 remove remains from a plot in the cemetery and transfer the remains  
19 to another plot in the same cemetery without the court hearing. A  
20 cemetery association that removes remains under this subsection  
21 shall send written notice of the removal by certified mail, return  
22 receipt requested, to the last known address of the person  
23 designated under Subsection (a) not later than the fifth day after  
24 the date the remains are removed. The notice must indicate that the  
25 remains were removed, the reason for the removal of the remains, and  
26 the location of the reinterment of the remains.

27 (l) For purposes of Subsections (d) and (k), "emergency

1 circumstance" means:

2 (1) a natural disaster; or

3 (2) an error in the interment of remains.

4 SECTION 2. This Act takes effect September 1, 2003, and  
5 applies only to removal of remains from a cemetery on or after that  
6 date. Removal of remains from a cemetery before the effective date  
7 of this Act is governed by the law as it existed immediately before  
8 the effective date of this Act, and that law is continued in effect  
9 for that purpose.

David Newkum

President of the Senate

Jim Coakley

Speaker of the House

I certify that H.B. No. 1077 was passed by the House on April 24, 2003, by a non-record vote.

Robert Haney  
Chief Clerk of the House

I certify that H.B. No. 1077 was passed by the Senate on May 28, 2003, by the following vote: Yeas 31, Nays 0.

Patricia Spaw  
Secretary of the Senate

APPROVED: 20 JUN '03

Date

Rick Perry  
Governor

FILED IN THE OFFICE OF THE  
SECRETARY OF STATE  
10:30 PM O'CLOCK

JUN 20 2003  
Ann Shea  
Secretary of State