

BILL ANALYSIS

Senate Research Center
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H.B. 2430
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State Affairs
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The recent discovery of an unmarked burial ground connected to convict leasing in the late 19th and early 20th centuries has raised concerns about current state law for removing human remains from abandoned or rediscovered cemeteries. H.B. 2430 seeks to address these concerns by mandating notice periods for court-ordered notices, permitting the court to consult with the Texas Historical Commission and other historical advisors about the public interest, and allowing the court to order the reburial on the same property.

H.B. 2430 amends current law relating to requirements in a suit for the removal of human remains from a cemetery.

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 Section 711.004, Health and Safety Code, by amending Subsections (c) and (d) and adding Subsection (d-1), as follows:

(c) Authorizes the remains, if the consent required by Subsection (a) cannot be obtained, to be removed by permission of a district court of the county in which the cemetery is located. Requires notice, before the date of application to the court for permission to remove remains under this subsection, to be given to:

(1)–(2) makes no changes to these subdivisions; and

(3) any other person or entity that the court subsequently requires to be served, rather than any other person that the court requires to be served.

(d) Requires personal notice, for the purposes of Subsection (c) and except as provided by this subsection or Subsection (d-1) or (k), rather than (k), to be given not later than the 11th day before the date of application to the court for permission to remove the remains, or notice by certified or registered mail is required to be given not later than the 16th day before the date of application.

(d-1) Requires that additional service, if the court subsequently requires an additional person or entity to be served under Subsection (c)(3), to be performed not later than the 11th day after the date of the judge's order. Provides that service may not be required for any court appointed representative or other court appointed official.

SECTION 2. Amends Sections 711.010(b) and (c), Health and Safety Code, as follows:

(b) Creates Subdivisions (1)–(2) from existing text. Authorizes a district court of the county in which an unknown cemetery is discovered or an abandoned cemetery is located, on petition of the owner of the property, to order the removal of any dedication for cemetery purposes that affects the property if the court finds that the removal of the

dedication is in the public interest. Requires the court, if a court orders the removal of a dedication of a cemetery and all human remains in that cemetery have not previously been removed, to order the removal of the human remains from the cemetery to:

(1)–(2) makes nonsubstantive changes to these subdivisions; or

(3) any other place on the owner's property that the district court finds is in the public interest.

(c) Authorizes the court to consult the Texas Historical Commission and the county historical commission in making a decision under this section, rather than to intervene and become parties to the suit. Authorizes the court to also designate or appoint any person, party, court appointed representative, or official the court considers necessary to assist in determining whether the removal is in the public interest.

SECTION 3. Amends Section 711.036(b), Health and Safety Code, as follows:

(b) Authorizes the court to consult the Texas Historical Commission (THC) and the county historical commission in making a decision under this section, rather than authorizing THC and the county historical commission to intervene and become parties to the suit. Authorizes the court to also designate or appoint any person, party, court appointed representative, or official the court considers necessary to assist in determining whether the removal is in the public interest.

SECTION 4. Provides that the changes in law made by this Act apply only to a suit involving the removal of remains from an abandoned, unknown, or unverified cemetery pending in a trial court on the effective date of this Act or filed on or after that date. Provides that a suit involving the removal of remains from an abandoned, unknown, or unverified cemetery in which a final order is rendered before the effective date of this Act is governed by the law in effect on the date the order was rendered, and the former law is continued in effect for that purpose.

SECTION 5. Effective date: upon passage or September 1, 2019.