

BILL ANALYSIS

Senate Research Center

H.B. 549
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Jurisprudence
4/27/2011
Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

If a decedent fails to leave written instructions for the disposal of the decedent's remains, the right to control the disposition defaults to the decedent's surviving spouse, any one of the decedent's surviving adult children, either of the decedent's surviving adult parents, any one of the decedent's surviving adult siblings, or any adult person in the next degree of kinship as determined by the laws of intestacy. If a decedent's spouse was involved in the decedent's death, it can be difficult for the decedent's family to obtain the right to control the disposition of the remains. In addition, if the decedent is a woman whose death was the result of an offense of family violence involving the decedent's spouse, it is difficult for a family to bury the decedent under a name other than the decedent's married name.

It is the goal of H.B. 549 to address this issue by providing that a person relinquishes the right to control the disposition of a decedent's remains if the person has been indicted for an offense involving family violence in connection with the death of the decedent and by repealing a provision of law regarding a married woman's last name on a grave marker.

H.B. 549 amends current law relating to the disposition of a decedent's remains.

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 711.002, Health and Safety Code, by amending Subsection (a) and adding Subsection (l), as follows:

(a) Provides that, except as provided by Subsection (l), unless a decedent has left directions in writing for the disposition of the decedent's remains as provided in Subsection (g) (relating to authorizing a person to provide written directions for the disposition, including cremation, of the person's remains in certain written instruments), certain persons, in the priority listed, have the right to control the disposition, including cremation, of the decedent's remains, are required to inter the remains, and are liable for the reasonable cost of interment. Makes a nonsubstantive change.

(l) Prohibits a person listed in Subsection (a) from controlling the disposition of the decedent's remains if, in connection with the decedent's death, an indictment has been filed charging the person with a crime under Chapter 19 (Criminal Homicide), Penal Code, that involves family violence against the decedent.

SECTION 2. Amends Section 115(c), Texas Probate Code, as follows:

(c) Authorizes a court, after notice and hearing, without regard to whether the deceased died intestate or testate, and subject to the prohibition described by Section 711.002(1), Health and Safety Code, to limit the right of a surviving spouse, whether or not the spouse has been designated by the deceased's will as the executor of a deceased spouse's estate, to control the burial and interment or cremation of the deceased spouse if the court

finds that there is good cause to believe that the surviving spouse is the principal or an accomplice in a wilful act which resulted in the death of the deceased spouse.

SECTION 3. Repealer: Section 711.002(j) (relating to providing that, in the absence of evidence of a contrary intent, it is presumed that a married woman directs that her name, as it appears on the grave marker for the plot in which she is interred, include the same last name she used at the time of her death), Health and Safety Code.

SECTION 4. Effective date: upon passage or September 1, 2011.