

1-1 By: Wray (Senate Sponsor - Rodríguez) H.B. No. 2248
1-2 (In the Senate - Received from the House May 8, 2019;
1-3 May 10, 2019, read first time and referred to Committee on State
1-4 Affairs; May 19, 2019, reported favorably by the following vote:
1-5 Yeas 9, Nays 0; May 19, 2019, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7				
1-8	X			
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15	X			
1-16	X			

1-17 A BILL TO BE ENTITLED
1-18 AN ACT

1-19 relating to the disposition and removal of a decedent's remains.

1-20 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-21 SECTION 1. Sections 711.002(b), (c), and (k), Health and
1-22 Safety Code, are amended to read as follows:

1-23 (b) The written instrument referred to in Subsection (a)(1)
1-24 may be in substantially the following form:

1-25 APPOINTMENT FOR DISPOSITION OF REMAINS

1-26 I, _____,
1-27 (your name and address)

1-28 being of sound mind, willfully and voluntarily make known my desire
1-29 that, upon my death, the disposition of my remains shall be
1-30 controlled by _____

1-31 (name of agent)

1-32 in accordance with Section 711.002, [~~of the~~] Health and Safety
1-33 Code, and, with respect to that subject only, I hereby appoint such
1-34 person as my agent (attorney-in-fact).

1-35 All decisions made by my agent with respect to the
1-36 disposition of my remains, including cremation, shall be binding.

1-37 SPECIAL DIRECTIONS:

1-38 Set forth below are any special directions limiting the power
1-39 granted to my agent:

1-40 _____
1-41 _____
1-42 _____
1-43 _____
1-44 _____

1-45 AGENT:

1-46 Name: _____

1-47 Address: _____

1-48 Telephone Number: _____

1-49 SUCCESSORS:

1-50 If my agent or a successor agent dies, becomes legally
1-51 disabled, resigns, or refuses to act, or if my marriage to [~~±~~
1-52 divorce] my agent or successor agent is dissolved by divorce,
1-53 annulled, or declared void before my death and this instrument does
1-54 not state that the [~~divorced~~] agent or successor agent continues to
1-55 serve after my marriage to [~~divorce from~~] that agent or successor
1-56 agent is dissolved by divorce, annulled, or declared void, I hereby
1-57 appoint the following persons (each to act alone and successively,
1-58 in the order named) to serve as my agent (attorney-in-fact) to
1-59 control the disposition of my remains as authorized by this
1-60 document:

1-61 1. First Successor

2-1 Name: _____
2-2 Address: _____
2-3 Telephone Number: _____
2-4 2. Second Successor
2-5 Name: _____
2-6 Address: _____
2-7 Telephone Number: _____

2-8 DURATION:
2-9 This appointment becomes effective upon my death.

2-10 PRIOR APPOINTMENTS REVOKED:
2-11 I hereby revoke any prior appointment of any person to
2-12 control the disposition of my remains.

2-13 RELIANCE:
2-14 I hereby agree that any cemetery organization, business
2-15 operating a crematory or columbarium or both, funeral director or
2-16 embalmer, or funeral establishment who receives a copy of this
2-17 document may act under it. Any modification or revocation of this
2-18 document is not effective as to any such party until that party
2-19 receives actual notice of the modification or revocation. No such
2-20 party shall be liable because of reliance on a copy of this
2-21 document.

2-22 ASSUMPTION:
2-23 THE AGENT, AND EACH SUCCESSOR AGENT, BY ACCEPTING THIS
2-24 APPOINTMENT, ASSUMES THE OBLIGATIONS PROVIDED IN, AND IS BOUND BY
2-25 THE PROVISIONS OF, SECTION 711.002, [~~OF THE~~] HEALTH AND SAFETY
2-26 CODE.

2-27 SIGNATURES:
2-28 This written instrument and my appointments of an agent and
2-29 any successor agent in this instrument are valid without the
2-30 signature of my agent and any successor agents below. Each agent,
2-31 or a successor agent, acting pursuant to this appointment must
2-32 indicate acceptance of the appointment by signing below before
2-33 acting as my agent.

2-34 Signed this _____ day of _____, 20____.
2-35 _____
2-36 (your signature)

2-37 State of _____
2-38 County of _____

2-39 This document was acknowledged before me on _____ (date) by
2-40 _____ (name of principal).

2-41 _____
2-42 (signature of notarial officer)

2-43 (Seal, if any, of notary)
2-44 _____
2-45 (printed name)
2-46 My commission expires:
2-47 _____

2-48 ACCEPTANCE AND ASSUMPTION BY AGENT:

2-49 I have no knowledge of or any reason to believe this
2-50 Appointment for Disposition of Remains has been revoked. I hereby
2-51 accept the appointment made in this instrument with the
2-52 understanding that I will be individually liable for the reasonable
2-53 cost of the decedent's interment, for which I may seek
2-54 reimbursement from the decedent's estate.

2-55 Acceptance of Appointment: _____
2-56 (signature of agent)

2-57 Date of Signature: _____

2-58 Acceptance of Appointment: _____
2-59 (signature of first successor)

2-60 Date of Signature: _____

2-61 Acceptance of Appointment: _____
2-62 (signature of second successor)

2-63 Date of Signature: _____

2-64 (c) A written instrument is legally sufficient under
2-65 Subsection (a)(1) if the instrument designates a person to control
2-66 the disposition of the decedent's remains, the instrument is signed
2-67 by the decedent, the signature of the decedent is acknowledged, and
2-68 the agent or successor agent signs the instrument before acting as
2-69 the decedent's agent. Unless the instrument provides otherwise,

3-1 the designation of the decedent's spouse as an agent or successor
 3-2 agent in the instrument is revoked when the marriage [on the
 3-3 divorce] of the decedent and the spouse appointed as an agent or
 3-4 successor agent is dissolved by divorce, annulled, or declared void
 3-5 before the decedent's death. Such written instrument may be
 3-6 modified or revoked only by a subsequent written instrument that
 3-7 complies with this subsection.

3-8 (k) Any dispute among any of the persons listed in
 3-9 Subsection (a) concerning their right to control the disposition,
 3-10 including cremation, of a decedent's remains shall be resolved by a
 3-11 court with [of competent] jurisdiction over probate proceedings for
 3-12 the decedent, regardless of whether a probate proceeding has been
 3-13 initiated. A cemetery organization or funeral establishment shall
 3-14 not be liable for refusing to accept the decedent's remains, or to
 3-15 inter or otherwise dispose of the decedent's remains, until it
 3-16 receives a court order or other suitable confirmation that the
 3-17 dispute has been resolved or settled.

3-18 SECTION 2. Section 711.004(c), Health and Safety Code, is
 3-19 amended to read as follows:

3-20 (c) If the consent required by Subsection (a) cannot be
 3-21 obtained, the remains may be removed by permission of a county
 3-22 [district] court of the county in which the cemetery is
 3-23 located. Before the date of application to the court for
 3-24 permission to remove remains under this subsection, notice must be
 3-25 given to:

3-26 (1) the cemetery organization operating the cemetery
 3-27 in which the remains are interred or if the cemetery organization
 3-28 cannot be located or does not exist, the Texas Historical
 3-29 Commission;

3-30 (2) each person whose consent is required for removal
 3-31 of the remains under Subsection (a); and

3-32 (3) any other person that the court requires to be
 3-33 served.

3-34 SECTION 3. Section 711.002, Health and Safety Code, as
 3-35 amended by this Act, applies only to the validity of a document
 3-36 executed on or after the effective date of this Act. The validity
 3-37 of a document executed before the effective date of this Act is
 3-38 governed by the law in effect on the date the document was executed,
 3-39 and that law continues in effect for that purpose.

3-40 SECTION 4. (a) Except as otherwise provided in this
 3-41 section, the changes in law made by this Act apply to:

3-42 (1) an instrument described by Section 711.002(a)(1),
 3-43 Health and Safety Code, created before, on, or after the effective
 3-44 date of this Act;

3-45 (2) a judicial proceeding concerning an instrument
 3-46 described by Subdivision (1) of this subsection that:

3-47 (A) commences on or after the effective date of
 3-48 this Act; or

3-49 (B) is pending on the effective date of this Act;
 3-50 and

3-51 (3) an application to a court to remove remains under
 3-52 Section 711.004(c), Health and Safety Code, as amended by this Act,
 3-53 submitted on or after the effective date of this Act.

3-54 (b) If the court finds that application of a provision of
 3-55 this Act would substantially interfere with the effective conduct
 3-56 of a judicial proceeding concerning an instrument described by
 3-57 Subsection (a)(1) of this section that is pending on the effective
 3-58 date of this Act or prejudice the rights of a party to the
 3-59 proceeding, the provision of this Act does not apply, and the law in
 3-60 effect immediately before the effective date of this Act applies in
 3-61 those circumstances.

3-62 SECTION 5. This Act takes effect September 1, 2019.

3-63 * * * * *