

By: Wray

H.B. No. 994

A BILL TO BE ENTITLED

AN ACT

relating to the disposition of remains and anatomical gifts.

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

SECTION 1. Section 692A.005(b), Health and Safety Code, is amended to read as follows:

(b) A donor or other person authorized to make an anatomical gift under Section 692A.004 may make a gift by a donor card or other record signed by the donor or other person making the gift or by authorizing that a statement or symbol indicating the donor has made an anatomical gift be included on a donor registry. If the donor or other person is physically unable to sign a record, the record may be signed by another individual at the direction of the donor or other person and must:

(1) be witnessed by at least two adults, at least one of whom is a disinterested witness, who have signed at the request of the donor or the other person, or be acknowledged before a notary public; and

(2) state that the record has been signed and witnessed or acknowledged as provided in Subdivision (1).

SECTION 2. Section 692A.006(b), Health and Safety Code, is amended to read as follows:

(b) A record signed pursuant to Subsection (a)(1)(C) must:

(1) be witnessed by at least two adults, at least one of whom is a disinterested witness, who have signed at the request

of the donor or the other person, or be acknowledged before a notary public; and

(2) state that the record has been signed and witnessed or acknowledged as provided in Subdivision (1).

SECTION 3. Section 692A.007(b), Health and Safety Code, is amended to read as follows:

(b) A record signed pursuant to Subsection (a)(1)(B) must:

(1) be witnessed by at least two adults, at least one of whom is a disinterested witness, who have signed at the request of the individual, or be acknowledged before a notary public; and

(2) state that the record has been signed and witnessed or acknowledged as provided in Subdivision (1).

SECTION 4. Sections 711.002(b) and (c), Health and Safety Code, are amended to read as follows:

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

APPOINTMENT FOR DISPOSITION OF REMAINS

I, _____,

(your name and address)

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

(name of agent)

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

All decisions made by my agent with respect to the

1 disposition of my remains, including cremation, shall be binding.

2 SPECIAL DIRECTIONS:

3 Set forth below are any special directions limiting the power
4 granted to my agent:

5 _____
6 _____
7 _____
8 _____
9 _____

10 AGENT:

11 Name: _____

12 Address: _____

13 Telephone Number: _____

14 SUCCESSORS:

15 If my agent or a successor agent dies, becomes legally
16 disabled, resigns, or refuses to act, or if my marriage to [~~I~~
17 ~~divorce~~] my agent or successor agent is dissolved by divorce,
18 annulled, or declared void before my death and this instrument does
19 not state that the [~~divorced~~] agent or successor agent continues to
20 serve after my marriage to [~~divorce from~~] that agent or successor
21 agent is dissolved by divorce, annulled, or declared void, I hereby
22 appoint the following persons (each to act alone and successively,
23 in the order named) to serve as my agent (attorney-in-fact) to
24 control the disposition of my remains as authorized by this
25 document:

26 1. First Successor

27 Name: _____

1 Address: _____

2 Telephone Number: _____

3 2. Second Successor

4 Name: _____

5 Address: _____

6 Telephone Number: _____

7 DURATION:

8 This appointment becomes effective upon my death.

9 PRIOR APPOINTMENTS REVOKED:

10 I hereby revoke any prior appointment of any person to
11 control the disposition of my remains.

12 RELIANCE:

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

21 ASSUMPTION:

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

26 SIGNATURES:

27 This written instrument and my appointments of an agent and

any successor agent in this instrument are valid without the signature of my agent and any successor agents below. Each agent, or a successor agent, acting pursuant to this appointment must indicate acceptance of the appointment by signing below before acting as my agent.

Signed this _____ day of _____, 20____.

(your signature)

State of _____

County of _____

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

(signature of notarial officer)

(Seal, if any, of notary)

(printed name)

My commission expires:

ACCEPTANCE AND ASSUMPTION BY AGENT:

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

Acceptance of Appointment: _____

1 (signature of agent)
2 Date of Signature: _____
3 Acceptance of Appointment: _____
4 (signature of first successor)
5 Date of Signature: _____
6 Acceptance of Appointment: _____
7 (signature of second successor)
8 Date of Signature: _____

9 (c) A written instrument is legally sufficient under
10 Subsection (a)(1) if the instrument designates a person to control
11 the disposition of the decedent's remains, the instrument is signed
12 by the decedent, the signature of the decedent is acknowledged, and
13 the agent or successor agent signs the instrument before acting as
14 the decedent's agent. Unless the instrument provides otherwise,
15 the designation of the decedent's spouse as an agent or successor
16 agent in the instrument is revoked when the marriage of ~~[on the~~
17 ~~divorce of]~~ the decedent and the spouse appointed as an agent or
18 successor agent is dissolved by divorce, annulled, or declared void
19 before the decedent's death. Such written instrument may be
20 modified or revoked only by a subsequent written instrument that
21 complies with this subsection.

22 SECTION 5. Chapter 692, Health and Safety Code, is
23 repealed.

24 SECTION 6. Sections 692A.005, 692A.006, 692A.007, and
25 711.002, Health and Safety Code, as amended by this Act, apply only
26 to the validity of a document executed on or after the effective
27 date of this Act. The validity of a document executed before the

1 effective date of this Act is governed by the law in effect on the
2 date the document was executed, and that law continues in effect for
3 that purpose.

4 SECTION 7. (a) Except as otherwise provided in this
5 section, the changes in law made by this Act apply to:

6 (1) a record described by Section 692A.005, 692A.006,
7 or 692A.007, Health and Safety Code, as amended by this Act, or an
8 instrument described by Section 711.002(a)(1), Health and Safety
9 Code, created before, on, or after the effective date of this Act;
10 and

11 (2) a judicial proceeding concerning a record or an
12 instrument described by Subdivision (1) of this subsection that:

13 (A) commences on or after the effective date of
14 this Act; or

15 (B) is pending on the effective date of this Act.

16 (b) If the court finds that application of a provision of
17 this Act would substantially interfere with the effective conduct
18 of a judicial proceeding concerning a record or an instrument
19 described by Subsection (a)(1) of this section that is pending on
20 the effective date of this Act or prejudice the rights of a party to
21 the proceeding, the provision of this Act does not apply, and the
22 law in effect immediately before the effective date of this Act
23 applies in those circumstances.

24 SECTION 8. This Act takes effect September 1, 2017.