

- SUBJECT:** Modifying requirements related to anatomical gifts or a person's remains
- COMMITTEE:** Public Health — favorable, without amendment
- VOTE:** 10 ayes — Price, Sheffield, Arévalo, Burkett, Collier, Cortez, Guerra, Klick, Oliverson, Zedler
- 0 nays
- 1 absent — Coleman
- WITNESSES:** For — Craig Hopper, State Bar of Texas, Real Estate Probate Trust Law (REPTL) Section; (*Registered, but did not testify*: Troy Alexander, Texas Medical Association)
- Against — None
- On — (*Registered, but did not testify*: Chris Aker, Department of State Health Services)
- BACKGROUND:** Health and Safety Code, sec. 692.005 establishes that if a donor or other person is physically unable to sign a record or donor card to make an anatomical gift, the record may be signed by another individual at the direction of the donor or other person and must be witnessed by at least two adults, one of whom is a disinterested witness, who have signed at the request of the donor or the other person.
- Health and Safety Code, ch. 711 addresses general provisions related to cemeteries and death and disposition of the deceased's body. Health and Safety Code , secs. 711.002(b) and 711.002(c) provide a form for appointment of disposition of the deceased's remains. This form specifies who would be appointed if the deceased's agent, successor agent, or spouse was divorced from the deceased.
- Some observers have noted that marriages can be made void by an annulment or other measure in addition to divorce and that the form

should take into account those situations. Some also have suggested that a notary public be able to acknowledge the signing of a record for making an anatomical gift if two witnesses are not available.

DIGEST:

HB 994 would provide an alternate procedure for a donor or another authorized person making an anatomical gift who was physically unable to sign a record regarding the gift. If the signing was not witnessed by at least two adults including one disinterested witness, the record could be signed by another individual at the direction of the donor or other authorized person and acknowledged before a notary public. The bill also would allow a notary public to acknowledge the signing of a record amending or revoking an anatomical gift before the donor's death.

The bill would change the form specified in Texas law as an instrument for designating a person to control the disposition of another person's remains after their death. The bill would change language in the form related to "divorce" to include a marriage that was dissolved by divorce, annulled, or declared void, as it related to the deceased's agent, successor agent, or spouse.

The bill would apply to the validity of a document executed on or after the bill's effective date, a record created before, on, or after the bill's effective date, and to a judicial proceeding concerning a record or an instrument that commenced on or after the bill's effective date, or was pending on the bill's effective date. If the court found that application of a provision in the HB 994 would substantially interfere with the effective conduct of a judicial proceeding concerning a record or an instrument affected by the bill that was pending on the bill's effective date or would prejudice the rights of a party to the proceeding, that provision would not apply.

The bill would take effect September 1, 2017.

NOTES:

A companion bill, SB 513 by Rodríguez, was left pending in the Senate State Affairs Committee on April 20.