

- SUBJECT:** Prohibiting control of decedent's remains in instances of homicide
- COMMITTEE:** Public Health — favorable, without amendment
- VOTE:** 10 ayes — Kolkhorst, Naishtat, Coleman, J. Davis, Hopson, S. King, Laubenberg, McReynolds, Truitt, Zerwas
- 0 nays
- 1 absent — Gonzales
- WITNESSES:** None
- BACKGROUND:** Health and Safety Code, sec. 711.002 requires that the person named in written instructions left by a deceased person is responsible for the disposition of the remains, including cremation, and for payment for interment. If the deceased left no written instructions, the responsibility would fall, in turn, to the surviving spouse, any surviving adult children, either surviving parent, surviving sibling or any other relative eligible under state law to inherit property from the deceased.
- Texas Probate Code, sec. 115 (c) permits a probate court to limit the ability of the deceased's spouse from controlling the burial and interment or allowing cremation if the court finds that there is good cause to believe the surviving spouse is the principal or an accomplice in a willful act that caused the death. A probate judge can make the decision whether or not the deceased left a will.
- Penal Code, ch. 19 defines criminal homicide as murder, capital murder, manslaughter, or criminally negligent homicide.
- DIGEST:** HB 923 would amend Health and Safety Code, sec. 711.002 to disallow persons under indictment for criminal homicide that involved family violence from controlling the disposition of the decedent's remains. It would include the same restriction in Texas Probate Code, sec. 115 (c).
- The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2009.

**SUPPORTERS
SAY:**

HB 923 would address an oversight in state law and prevent those indicted for family violence in connection with a decedent's death from deciding on funeral arrangements, including whether the body would be cremated. These perpetrators of domestic violence have caused enough pain to the deceased's family. They should not be allowed to make decisions on the final disposition of the body, which might be contrary to the wishes of the family.

**OPPONENTS
SAY:**

No apparent opposition