

# Texas Law on Who May Authorize Cremation

Texas has strict laws as to who may authorize cremation. **Texas Health and Safety Code 711.002** is quite clear and very specific as to who may authorize cremation services. Following is a copy:

## **711.002 Disposition of Remains: Duty to Inter**

**(a)** Unless a decedent has left directions in writing for the disposition of the decedent's remains as provided in Subsection **(g)**, the following persons, in the priority listed, have the right to control the disposition, including cremation of the decedent's remains, shall inter the remains, and are liable for the reasonable cost of interment: **1)** the person designated in a written instrument signed by the decedent; **2)** the decedent's surviving spouse; **3)** any ONE of the decedent's surviving adult children; **4)** either one of the decedent's surviving parents; **5)** any one of the decedent's surviving adult sibling, or **6)** any adult person in the next degree of kinship in the order named by law to inherit the estate of the decedent.

**(b)** The written instrument referred to in Subsection **(a) 1)** shall be in substantially the following form: [the rest of Subsection **(b)** quotes the text of the Appointment Agent for you agreed to sign.

**(c)** A written instrument is legally sufficient under Subsection **(a)1)** if the wording of the instrument complies substantially with Subsection **(b)**, the instrument is properly completed, the instrument is signed by the decedent, the agent, and each successor agent, and the signature of the decedent is acknowledged. Such written instrument may be modified or revoked only by a subsequent written instrument that complies with the subsection.

**(d)** A person listed in Subsection **(a)** has the right, duty, and liability provided by that subsection only if there is no person in a priority listed before the person.

**(e)** If there is no person with the duty to inter under Subsection **(a)** and **1)** an inquest is held, the person conducting the inquest shall inter the remains; and **2)** an inquest is not held, the county in which the death occurred shall inter the remains.

**(f)** A person who represents that the person knows the identity of a decedent and, in order to procure the disposition, including cremation, of the decedent's remains, signs an order or statement, other than a death certificate, warrants the identity of the decedent and is liable for all damages that result, directly or indirectly, from that warrant.

**(g)** A person may provide written directions for the disposition, including cremation, of the person's remains in a will, a prepaid funeral contract, or a written instrument signed and acknowledged by such person. The directions may be modified or revoked only by a subsequent writing signed and acknowledged by such person. The person otherwise entitled to control the disposition of a decedent's remains under this section shall faithfully carry out the directions of the decedent to the extent that the decedent's estate or the person controlling the disposition are financially able to do so.

What this means is that, before a death occurs, you can designate a specific person to have the necessary authority to handle all aspects of your final arrangements. This paperwork can also be executed by someone who holds a valid power of attorney for another.

## **To summarize, cremation cannot take place unless authorization is give by:**

1. A person designated in a written instrument signed by the decedent
2. The decedent's surviving spouse
3. Any one of the decedent's surviving adult children
4. Either one of the decedent's surviving parents
5. Any one of the decedent's surviving adult siblings
6. Any adult person in the next degree of kinship in the order named by law to inherit the estate of the decedent