

1 AN ACT

2 relating to the duties of a justice of the peace, medical examiner,
3 or other investigator regarding the bodies of unidentified deceased
4 persons and to the control by certain persons of the disposition of
5 a deceased person's remains.

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

7 SECTION 1. Article 49.01, Code of Criminal Procedure, is
8 amended to read as follows:

9 Art. 49.01. DEFINITIONS. (a) In this chapter [~~article~~]:

10 (1) "Autopsy" means a post mortem examination of the
11 body of a person, including X-rays and an examination of the
12 internal organs and structures after dissection, to determine the
13 cause of death or the nature of any pathological changes that may
14 have contributed to the death.

15 (2) "Inquest" means an investigation into the cause
16 and circumstances of the death of a person, and a determination,
17 made with or without a formal court hearing, as to whether the death
18 was caused by an unlawful act or omission.

19 (3) "Inquest hearing" means a formal court hearing
20 held to determine whether the death of a person was caused by an
21 unlawful act or omission and, if the death was caused by an unlawful
22 act or omission, to obtain evidence to form the basis of a criminal
23 prosecution.

24 (4) "Institution" means any place where health care

1 services are rendered, including a hospital, clinic, health
2 facility, nursing home, extended-care facility, out-patient
3 facility, foster-care facility, and retirement home.

4 (5) "Physician" means a practicing doctor of medicine
5 or doctor of osteopathic medicine who is licensed by the Texas State
6 Board of Medical Examiners under Subtitle B, Title 3, Occupations
7 Code.

8 (b) For purposes of this chapter, a person or body is
9 considered unidentified if:

- 10 (1) the deceased person's legal name is unknown; and
11 (2) there is no known person with the duty to inter the
12 deceased person's remains under Section 711.002(a), Health and
13 Safety Code.

14 SECTION 2. Article 49.04(a), Code of Criminal Procedure, is
15 amended to read as follows:

16 (a) A justice of the peace shall conduct an inquest into the
17 death of a person who dies in the county served by the justice if:

18 (1) the person dies in prison under circumstances
19 other than those described by Section 501.055(b), Government Code,
20 or in jail;

21 (2) the person dies an unnatural death from a cause
22 other than a legal execution;

23 (3) the body or a body part of a person is found and
24 either:

25 (A) the person is identified but [7] the cause or
26 circumstances of death are unknown [~~7~~ and:

27 [~~(A) the person is identified~~]; or

1 (B) the person is unidentified, regardless of
2 whether the cause or circumstances of death are known;

3 (4) the circumstances of the death indicate that the
4 death may have been caused by unlawful means;

5 (5) the person commits suicide or the circumstances of
6 the death indicate that the death may have been caused by suicide;

7 (6) the person dies without having been attended by a
8 physician;

9 (7) the person dies while attended by a physician who
10 is unable to certify the cause of death and who requests the justice
11 of the peace to conduct an inquest; or

12 (8) the person is a child younger than six years of age
13 and an inquest is required by Chapter 264, Family Code.

14 SECTION 3. Section 6(a), Article 49.25, Code of Criminal
15 Procedure, is amended to read as follows:

16 (a) Any medical examiner, or his duly authorized deputy,
17 shall be authorized, and it shall be his duty, to hold inquests with
18 or without a jury within his county, in the following cases:

19 1. When a person shall die within twenty-four hours
20 after admission to a hospital or institution or in prison or in
21 jail;

22 2. When any person is killed; or from any cause dies an
23 unnatural death, except under sentence of the law; or dies in the
24 absence of one or more good witnesses;

25 3. When the body or a body part of a person is found and
26 either:

27 (A) the person is identified but [7] the cause or

1 circumstances of death are unknown~~[, and:~~
2 [~~(A) the person is identified~~]; or
3 (B) the person is unidentified, regardless of
4 whether the cause or circumstances of death are known;

5 4. When the circumstances of the death of any person
6 are such as to lead to suspicion that he came to his death by
7 unlawful means;

8 5. When any person commits suicide, or the
9 circumstances of his death are such as to lead to suspicion that he
10 committed suicide;

11 6. When a person dies without having been attended by a
12 duly licensed and practicing physician, and the local health
13 officer or registrar required to report the cause of death under
14 Section 193.005, Health and Safety Code, does not know the cause of
15 death. When the local health officer or registrar of vital
16 statistics whose duty it is to certify the cause of death does not
17 know the cause of death, he shall so notify the medical examiner of
18 the county in which the death occurred and request an inquest;

19 7. When the person is a child who is younger than six
20 years of age and the death is reported under Chapter 264, Family
21 Code; and

22 8. When a person dies who has been attended
23 immediately preceding his death by a duly licensed and practicing
24 physician or physicians, and such physician or physicians are not
25 certain as to the cause of death and are unable to certify with
26 certainty the cause of death as required by Section 193.004, Health
27 and Safety Code. In case of such uncertainty the attending

1 physician or physicians, or the superintendent or general manager
2 of the hospital or institution in which the deceased shall have
3 died, shall so report to the medical examiner of the county in which
4 the death occurred, and request an inquest.

5 SECTION 4. Section 711.002, Health and Safety Code, is
6 amended by amending Subsection (1) and adding Subsections (1-1) and
7 (1-2) to read as follows:

8 (1) A person listed in Subsection (a) may not control the
9 disposition of the decedent's remains if:

10 (1) [~~r~~] in connection with the decedent's death, [~~an~~
11 ~~indictment has been filed charging~~] the person has been arrested or
12 an arrest warrant has been issued for the person for [~~with~~] a crime
13 under Chapter 19, Penal Code, that involves family violence against
14 the decedent; or

15 (2) the decedent had filed an application for a
16 protective order against or with respect to the person under
17 Subchapter A, Chapter 7B, Code of Criminal Procedure, Article
18 17.292, Code of Criminal Procedure, Section 6.504, Family Code, or
19 Subtitle B, Title 4, Family Code, or an order has been issued
20 against or with respect to the person under one of those provisions.

21 (1-1) A person regulated under Chapter 651, Occupations
22 Code, who knowingly allows a person described by Subsection (1)
23 [~~the person charged with a crime~~] to control the disposition of the
24 decedent's remains in violation of that [~~this~~] subsection commits a
25 prohibited practice under Section 651.460, Occupations Code, and
26 the Texas Funeral Service Commission may take disciplinary action
27 or assess an administrative penalty against the regulated person

1 under that chapter.

2 (1-2) A court with jurisdiction over probate proceedings
3 shall expedite the proceedings to resolve any dispute over the
4 right to control the disposition of a decedent's remains among the
5 persons listed in Subsection (a) if the dispute involves the
6 control of the disposition of the remains by a prohibited person
7 described by Subsection (1).

8 SECTION 5. Articles 49.01, 49.04, and 49.25, Code of
9 Criminal Procedure, as amended by this Act, apply only to an
10 investigation of a death of an unidentified person that commences
11 on or after the effective date of this Act. An investigation of the
12 death of an unidentified person that commences before the effective
13 date of this Act is governed by the law in effect when the
14 investigation commenced, and the former law is continued in effect
15 for that purpose.

16 SECTION 6. This Act takes effect September 1, 2023.

President of the Senate

Speaker of the House

I certify that H.B. No. 3161 was passed by the House on May 2, 2023, by the following vote: Yeas 139, Nays 5, 3 present, not voting; and that the House concurred in Senate amendments to H.B. No. 3161 on May 25, 2023, by the following vote: Yeas 136, Nays 0, 1 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 3161 was passed by the Senate, with amendments, on May 21, 2023, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

APPROVED: _____

Date

Governor