

BILL ANALYSIS

S.B. 826
By: Whitmire
Criminal Jurisprudence
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Currently, Chapter 49 of the Code of Criminal Procedure requires superintendents or general managers of health-care institutions, including nursing homes, extended-care facilities, and retirement homes, to notify the local justice of the peace if a person residing in that institution dies and there is not an attending physician or that physician is not able to certify the cause of death. However, there is not a similar requirement that such notice be given to the attorney general, who investigates Medicaid fraud. As a consequence, evidence that may be relevant to a determination of possible Medicaid fraud could well be lost to state investigators.

In addition, under current law police departments and correctional facilities are required to report the death of persons in the custody of a police officer or housed in a correctional facility. However, current law does not address a situation whereby a person dies as a result of a police officer's use of force or in a juvenile correctional facility. Senate Bill 826 requires health-care institutions, police departments, and adult and juvenile correctional facilities to report the death of individuals in their care or due to use of force to the attorney general.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

Senate Bill 826 amends the Criminal Procedure and Penal codes relating to the reporting of deaths of certain individuals. The bill requires a superintendent or general manager of a health-care institution to notify the attorney general within 24 hours of the death of an individual under the care of the institution and to submit a report relating the facts of the death within 72 hours. Furthermore, a superintendent or general manager who neglects these duties commits a Class B misdemeanor offense. The bill also authorizes the attorney general to investigate deaths of individuals reported by an institution that receives payments under the medical assistance program. In addition, the bill requires police departments to report the death of an individual that results from a use of force by a police officer and correctional facilities, whether adult or juvenile, to report the death of individuals in its care to the attorney general.

EFFECTIVE DATE

September 1, 2003.