

By: Capelo, Mabry

H.B. No. 2989

A BILL TO BE ENTITLED

AN ACT

relating to an inquest when a body part is found and to the qualifications of a person conducting an inquest.

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

SECTION 1. Subsection (a), Article 49.04, Code of Criminal Procedure, is amended to read as follows:

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

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

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

(3) the body or a body part of a person is found, the cause or circumstances of death are unknown, and:

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

(B) the person [~~body~~] is unidentified;

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

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

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

(7) the person dies while attended by a physician who

1 is unable to certify the cause of death and who requests the justice
2 of the peace to conduct an inquest; or

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

5 SECTION 2. Subsections (a), (b), and (c), Article 49.07,
6 Code of Criminal Procedure, are amended to read as follows:

7 (a) A physician or other person who has possession of a body
8 or body part of a person whose death requires an inquest under
9 Article 49.04 of this code shall immediately notify the justice of
10 the peace who serves the precinct in which the body or body part was
11 found.

12 (b) A peace officer who has been notified of the death of a
13 person whose death requires an inquest under Article 49.04 of this
14 code shall immediately notify the justice of the peace who serves
15 the precinct in which the body or body part was found.

16 (c)(1) If the justice of the peace who serves the precinct
17 in which the body or body part was found is not available to conduct
18 an inquest, a person required to give notice under this article
19 shall notify the nearest available justice of the peace serving the
20 county in which the body or body part was found, and that justice of
21 the peace shall conduct the inquest.

22 (2) If no justice of the peace serving the county in
23 which the body or body part was found is available to conduct an
24 inquest, a person required to give notice under this article shall
25 notify the county judge, and the county judge shall initiate the
26 inquest. The county judge may exercise any power and perform any
27 duty otherwise granted to or imposed under this subchapter on the

1 justice of the peace serving the county in which the body or body
2 part was found, except that not later than the fifth day after the
3 day on which the inquest is initiated, the county judge shall
4 transfer all information obtained by the judge to the justice of the
5 peace in whose precinct the body or body part was found for final
6 disposition of the matter.

7 SECTION 3. Subsection (a), Article 49.09, Code of Criminal
8 Procedure, is amended to read as follows:

9 (a) If a body or body part subject to investigation under
10 Article 49.04 of this code is interred and an authorized person has
11 not conducted an inquest required under this subchapter, a justice
12 of the peace may direct the disinterment of the body or body part in
13 order to conduct an inquest.

14 SECTION 4. Subsection (n), Article 49.10, Code of Criminal
15 Procedure, is amended to read as follows:

16 (n) On discovering the body or body part of a deceased
17 person in the circumstances described by Article 49.04(a)(3)(B),
18 the justice of the peace ~~[medical examiner]~~ may request the aid of a
19 forensic anthropologist in the examination of the body or body
20 part. The forensic anthropologist must hold a doctoral degree in
21 anthropology with an emphasis in physical anthropology ~~[be eligible~~
22 ~~for board certification by a nationally recognized association that~~
23 ~~accredits practitioners in the forensic sciences]~~. The forensic
24 anthropologist shall attempt to establish whether the body or body
25 part is of a human or animal, whether evidence of childbirth,
26 injury, or disease exists, and the sex, race, age, stature, and
27 physical anomalies of the body or body part. The forensic

1 anthropologist may also attempt to establish the cause, manner, and
2 time of death.

3 SECTION 5. Subsection (a), Article 49.22, Code of Criminal
4 Procedure, is amended to read as follows:

5 (a) If a body or body part that is subject to an inquest
6 under Article 49.04 of this code is found on premises that were
7 under the sole control of the deceased, a justice of the peace or
8 other person authorized under this subchapter to conduct an inquest
9 may direct that the premises be locked and sealed to prohibit
10 entrance by any person other than a peace officer conducting an
11 investigation of the death.

12 SECTION 6. Subsection (a), Section 6, Article 49.25, Code
13 of Criminal Procedure, is amended to read as follows:

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

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

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

23 3. When the body or a body part of a person is found,
24 the cause or circumstances of death are unknown, and:

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

26 (B) the person [~~body~~] is unidentified;

27 4. When the circumstances of the death of any person

1 are such as to lead to suspicion that he came to his death by
2 unlawful means;

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

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

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

17 8. When a person dies who has been attended
18 immediately preceding his death by a duly licensed and practicing
19 physician or physicians, and such physician or physicians are not
20 certain as to the cause of death and are unable to certify with
21 certainty the cause of death as required by Section 193.004, Health
22 and Safety Code. In case of such uncertainty the attending
23 physician or physicians, or the superintendent or general manager
24 of the hospital or institution in which the deceased shall have
25 died, shall so report to the medical examiner of the county in which
26 the death occurred, and request an inquest.

27 SECTION 7. Section 13, Article 49.25, Code of Criminal

1 Procedure, is amended to read as follows:

2 Sec. 13. USE OF FORENSIC ANTHROPOLOGIST. On discovering
3 the body or body part of a deceased person in the circumstances
4 described by Subdivision 3(B) of Section 6(a), the medical examiner
5 may request the aid of a forensic anthropologist in the examination
6 of the body or body part. The forensic anthropologist must hold a
7 doctoral degree in anthropology with an emphasis in physical
8 anthropology [~~be board-certified by a nationally recognized~~
9 ~~association that accredits practitioners in the forensic~~
10 ~~sciences~~]. The forensic anthropologist shall attempt to establish
11 whether the body or body part is of a human or animal, whether
12 evidence of childbirth, injury, or disease exists, and the sex,
13 race, age, stature, and physical anomalies of the body or body part.
14 The forensic anthropologist may also attempt to establish the
15 cause, manner, and time of death.

16 SECTION 8. This Act takes effect September 1, 2003.

17 SECTION 9. The change in law made by this Act applies only
18 to the discovery of a body part of a person that is made on or after
19 the effective date of this Act. A discovery made before the
20 effective date of this Act is covered by the law in effect when the
21 discovery was made, and the former law is continued in effect for
22 that purpose.