

1-1 By: Capelo, Mabry (Senate Sponsor - Janek) H.B. No. 2989
1-2 (In the Senate - Received from the House May 5, 2003;
1-3 May 7, 2003, read first time and referred to Committee on
1-4 Administration; May 26, 2003, reported favorably by the following
1-5 vote: Yeas 7, Nays 0; May 26, 2003, sent to printer.)

1-6 A BILL TO BE ENTITLED
1-7 AN ACT

1-8 relating to an inquest when a body part is found and to the
1-9 qualifications of a person conducting an inquest.

1-10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-11 SECTION 1. Subsection (a), Article 49.04, Code of Criminal
1-12 Procedure, is amended to read as follows:

1-13 (a) A justice of the peace shall conduct an inquest into the
1-14 death of a person who dies in the county served by the justice if:

1-15 (1) the person dies in prison under circumstances
1-16 other than those described by Section 501.055(b), Government Code,
1-17 or in jail;

1-18 (2) the person dies an unnatural death from a cause
1-19 other than a legal execution;

1-20 (3) the body or a body part of a person is found, the
1-21 cause or circumstances of death are unknown, and:

1-22 (A) the person [~~body~~] is identified; or

1-23 (B) the person [~~body~~] is unidentified;

1-24 (4) the circumstances of the death indicate that the
1-25 death may have been caused by unlawful means;

1-26 (5) the person commits suicide or the circumstances of
1-27 the death indicate that the death may have been caused by suicide;

1-28 (6) the person dies without having been attended by a
1-29 physician;

1-30 (7) the person dies while attended by a physician who
1-31 is unable to certify the cause of death and who requests the justice
1-32 of the peace to conduct an inquest; or

1-33 (8) the person is a child younger than six years of age
1-34 and an inquest is required by Chapter 264, Family Code.

1-35 SECTION 2. Subsections (a), (b), and (c), Article 49.07,
1-36 Code of Criminal Procedure, are amended to read as follows:

1-37 (a) A physician or other person who has possession of a body
1-38 or body part of a person whose death requires an inquest under
1-39 Article 49.04 of this code shall immediately notify the justice of
1-40 the peace who serves the precinct in which the body or body part
1-41 was found.

1-42 (b) A peace officer who has been notified of the death of a
1-43 person whose death requires an inquest under Article 49.04 of this
1-44 code shall immediately notify the justice of the peace who serves
1-45 the precinct in which the body or body part was found.

1-46 (c)(1) If the justice of the peace who serves the precinct
1-47 in which the body or body part was found is not available to conduct
1-48 an inquest, a person required to give notice under this article
1-49 shall notify the nearest available justice of the peace serving the
1-50 county in which the body or body part was found, and that justice of
1-51 the peace shall conduct the inquest.

1-52 (2) If no justice of the peace serving the county in
1-53 which the body or body part was found is available to conduct an
1-54 inquest, a person required to give notice under this article shall
1-55 notify the county judge, and the county judge shall initiate the
1-56 inquest. The county judge may exercise any power and perform any
1-57 duty otherwise granted to or imposed under this subchapter on the
1-58 justice of the peace serving the county in which the body or body
1-59 part was found, except that not later than the fifth day after the
1-60 day on which the inquest is initiated, the county judge shall
1-61 transfer all information obtained by the judge to the justice of the
1-62 peace in whose precinct the body or body part was found for final
1-63 disposition of the matter.

1-64 SECTION 3. Subsection (a), Article 49.09, Code of Criminal

2-1 Procedure, is amended to read as follows:

2-2 (a) If a body or body part subject to investigation under
2-3 Article 49.04 of this code is interred and an authorized person has
2-4 not conducted an inquest required under this subchapter, a justice
2-5 of the peace may direct the disinterment of the body or body part in
2-6 order to conduct an inquest.

2-7 SECTION 4. Subsection (n), Article 49.10, Code of Criminal
2-8 Procedure, is amended to read as follows:

2-9 (n) On discovering the body or body part of a deceased
2-10 person in the circumstances described by Article 49.04(a)(3)(B),
2-11 the justice of the peace [~~medical examiner~~] may request the aid of a
2-12 forensic anthropologist in the examination of the body or body
2-13 part. The forensic anthropologist must hold a doctoral degree in
2-14 anthropology with an emphasis in physical anthropology [~~be eligible~~
2-15 ~~for board certification by a nationally recognized association that~~
2-16 ~~accredits practitioners in the forensic sciences~~]. The forensic
2-17 anthropologist shall attempt to establish whether the body or body
2-18 part is of a human or animal, whether evidence of childbirth,
2-19 injury, or disease exists, and the sex, race, age, stature, and
2-20 physical anomalies of the body or body part. The forensic
2-21 anthropologist may also attempt to establish the cause, manner, and
2-22 time of death.

2-23 SECTION 5. Subsection (a), Article 49.22, Code of Criminal
2-24 Procedure, is amended to read as follows:

2-25 (a) If a body or body part that is subject to an inquest
2-26 under Article 49.04 of this code is found on premises that were
2-27 under the sole control of the deceased, a justice of the peace or
2-28 other person authorized under this subchapter to conduct an inquest
2-29 may direct that the premises be locked and sealed to prohibit
2-30 entrance by any person other than a peace officer conducting an
2-31 investigation of the death.

2-32 SECTION 6. Subsection (a), Section 6, Article 49.25, Code
2-33 of Criminal Procedure, is amended to read as follows:

2-34 (a) Any medical examiner, or his duly authorized deputy,
2-35 shall be authorized, and it shall be his duty, to hold inquests with
2-36 or without a jury within his county, in the following cases:

2-37 1. When a person shall die within twenty-four hours
2-38 after admission to a hospital or institution or in prison or in
2-39 jail;

2-40 2. When any person is killed; or from any cause dies an
2-41 unnatural death, except under sentence of the law; or dies in the
2-42 absence of one or more good witnesses;

2-43 3. When the body or a body part of a person is found,
2-44 the cause or circumstances of death are unknown, and:

2-45 (A) the person [~~body~~] is identified; or

2-46 (B) the person [~~body~~] is unidentified;

2-47 4. When the circumstances of the death of any person
2-48 are such as to lead to suspicion that he came to his death by
2-49 unlawful means;

2-50 5. When any person commits suicide, or the
2-51 circumstances of his death are such as to lead to suspicion that he
2-52 committed suicide;

2-53 6. When a person dies without having been attended by a
2-54 duly licensed and practicing physician, and the local health
2-55 officer or registrar required to report the cause of death under
2-56 Section 193.005, Health and Safety Code, does not know the cause of
2-57 death. When the local health officer or registrar of vital
2-58 statistics whose duty it is to certify the cause of death does not
2-59 know the cause of death, he shall so notify the medical examiner of
2-60 the county in which the death occurred and request an inquest;

2-61 7. When the person is a child who is younger than six
2-62 years of age and the death is reported under Chapter 264, Family
2-63 Code; and

2-64 8. When a person dies who has been attended
2-65 immediately preceding his death by a duly licensed and practicing
2-66 physician or physicians, and such physician or physicians are not
2-67 certain as to the cause of death and are unable to certify with
2-68 certainty the cause of death as required by Section 193.004, Health
2-69 and Safety Code. In case of such uncertainty the attending

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

3-5 SECTION 7. Section 13, Article 49.25, Code of Criminal
3-6 Procedure, is amended to read as follows:

3-7 Sec. 13. USE OF FORENSIC ANTHROPOLOGIST. On discovering
3-8 the body or body part of a deceased person in the circumstances
3-9 described by Subdivision 3(B) of Section 6(a), the medical examiner
3-10 may request the aid of a forensic anthropologist in the examination
3-11 of the body or body part. The forensic anthropologist must hold a
3-12 doctoral degree in anthropology with an emphasis in physical
3-13 anthropology [~~be board-certified by a nationally recognized~~
3-14 ~~association that accredits practitioners in the forensic~~
3-15 ~~sciences~~]. The forensic anthropologist shall attempt to establish
3-16 whether the body or body part is of a human or animal, whether
3-17 evidence of childbirth, injury, or disease exists, and the sex,
3-18 race, age, stature, and physical anomalies of the body or body part.
3-19 The forensic anthropologist may also attempt to establish the
3-20 cause, manner, and time of death.

3-21 SECTION 8. This Act takes effect September 1, 2003.

3-22 SECTION 9. The change in law made by this Act applies only
3-23 to the discovery of a body part of a person that is made on or after
3-24 the effective date of this Act. A discovery made before the
3-25 effective date of this Act is covered by the law in effect when the
3-26 discovery was made, and the former law is continued in effect for
3-27 that purpose.

3-28 * * * * *