

1-1 By: Janek S.B. No. 356
1-2 (In the Senate - Filed February 4, 2003; February 11, 2003,
1-3 read first time and referred to Committee on Criminal Justice;
1-4 April 10, 2003, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 4, Nays 0; April 10, 2003,
1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 356 By: Ratliff

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to forensic anthropologists and to an inquest when a body
1-11 part is found.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Subsection (a), Article 49.04, Code of Criminal
1-14 Procedure, is amended to read as follows:

1-15 (a) A justice of the peace shall conduct an inquest into the
1-16 death of a person who dies in the county served by the justice if:

1-17 (1) the person dies in prison under circumstances
1-18 other than those described by Section 501.055(b), Government Code,
1-19 or in jail;

1-20 (2) the person dies an unnatural death from a cause
1-21 other than a legal execution;

1-22 (3) the body or a body part of a person is found, the
1-23 cause or circumstances of death are unknown, and:

1-24 (A) the person [~~body~~] is identified; or

1-25 (B) the person [~~body~~] is unidentified;

1-26 (4) the circumstances of the death indicate that the
1-27 death may have been caused by unlawful means;

1-28 (5) the person commits suicide or the circumstances of
1-29 the death indicate that the death may have been caused by suicide;

1-30 (6) the person dies without having been attended by a
1-31 physician;

1-32 (7) the person dies while attended by a physician who
1-33 is unable to certify the cause of death and who requests the justice
1-34 of the peace to conduct an inquest; or

1-35 (8) the person is a child younger than six years of age
1-36 and an inquest is required by Chapter 264, Family Code.

1-37 SECTION 2. Subsections (a), (b), and (c), Article 49.07,
1-38 Code of Criminal Procedure, are amended to read as follows:

1-39 (a) A physician or other person who has possession of a body
1-40 or body part of a person whose death requires an inquest under
1-41 Article 49.04 of this code shall immediately notify the justice of
1-42 the peace who serves the precinct in which the body or body part
1-43 was found.

1-44 (b) A peace officer who has been notified of the death of a
1-45 person whose death requires an inquest under Article 49.04 of this
1-46 code shall immediately notify the justice of the peace who serves
1-47 the precinct in which the body or body part was found.

1-48 (c)(1) If the justice of the peace who serves the precinct
1-49 in which the body or body part was found is not available to conduct
1-50 an inquest, a person required to give notice under this article
1-51 shall notify the nearest available justice of the peace serving the
1-52 county in which the body or body part was found, and that justice of
1-53 the peace shall conduct the inquest.

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

2-1 peace in whose precinct the body or body part was found for final
2-2 disposition of the matter.

2-3 SECTION 3. Subsection (a), Article 49.09, Code of Criminal
2-4 Procedure, is amended to read as follows:

2-5 (a) If a body or body part subject to investigation under
2-6 Article 49.04 of this code is interred and an authorized person has
2-7 not conducted an inquest required under this subchapter, a justice
2-8 of the peace may direct the disinterment of the body or body part in
2-9 order to conduct an inquest.

2-10 SECTION 4. Subsection (n), Article 49.10, Code of Criminal
2-11 Procedure, is amended to read as follows:

2-12 (n) On discovering the body or a body part of a deceased
2-13 person in the circumstances described by Article 49.04(a)(3)(B),
2-14 the justice of the peace [~~medical examiner~~] may request the aid of a
2-15 forensic anthropologist in the examination of the body or body
2-16 part. The forensic anthropologist must hold a doctoral degree in
2-17 anthropology with an emphasis in physical anthropology [~~be eligible~~
2-18 ~~for board certification by a nationally recognized association that~~
2-19 ~~accredits practitioners in the forensic sciences~~]. The forensic
2-20 anthropologist shall attempt to establish whether the body or body
2-21 part is of a human or animal, whether evidence of childbirth,
2-22 injury, or disease exists, and the sex, race, age, stature, and
2-23 physical anomalies of the body or body part. The forensic
2-24 anthropologist may also attempt to establish the cause, manner, and
2-25 time of death.

2-26 SECTION 5. Subsection (a), Article 49.22, Code of Criminal
2-27 Procedure, is amended to read as follows:

2-28 (a) If a body or body part that is subject to an inquest
2-29 under Article 49.04 of this code is found on premises that were
2-30 under the sole control of the deceased, a justice of the peace or
2-31 other person authorized under this subchapter to conduct an inquest
2-32 may direct that the premises be locked and sealed to prohibit
2-33 entrance by any person other than a peace officer conducting an
2-34 investigation of the death.

2-35 SECTION 6. Subsection (a), Section 6, Article 49.25, Code
2-36 of Criminal Procedure, is amended to read as follows:

2-37 (a) Any medical examiner, or his duly authorized deputy,
2-38 shall be authorized, and it shall be his duty, to hold inquests with
2-39 or without a jury within his county, in the following cases:

2-40 1. When a person shall die within twenty-four hours
2-41 after admission to a hospital or institution or in prison or in
2-42 jail;

2-43 2. When any person is killed; or from any cause dies an
2-44 unnatural death, except under sentence of the law; or dies in the
2-45 absence of one or more good witnesses;

2-46 3. When the body or a body part of a person is found,
2-47 the cause or circumstances of death are unknown, and:

2-48 (A) the person [~~body~~] is identified; or

2-49 (B) the person [~~body~~] is unidentified;

2-50 4. When the circumstances of the death of any person
2-51 are such as to lead to suspicion that he came to his death by
2-52 unlawful means;

2-53 5. When any person commits suicide, or the
2-54 circumstances of his death are such as to lead to suspicion that he
2-55 committed suicide;

2-56 6. When a person dies without having been attended by a
2-57 duly licensed and practicing physician, and the local health
2-58 officer or registrar required to report the cause of death under
2-59 Section 193.005, Health and Safety Code, does not know the cause of
2-60 death. When the local health officer or registrar of vital
2-61 statistics whose duty it is to certify the cause of death does not
2-62 know the cause of death, he shall so notify the medical examiner of
2-63 the county in which the death occurred and request an inquest;

2-64 7. When the person is a child who is younger than six
2-65 years of age and the death is reported under Chapter 264, Family
2-66 Code; and

2-67 8. When a person dies who has been attended
2-68 immediately preceding his death by a duly licensed and practicing
2-69 physician or physicians, and such physician or physicians are not

3-1 certain as to the cause of death and are unable to certify with
3-2 certainty the cause of death as required by Section 193.004, Health
3-3 and Safety Code. In case of such uncertainty the attending
3-4 physician or physicians, or the superintendent or general manager
3-5 of the hospital or institution in which the deceased shall have
3-6 died, shall so report to the medical examiner of the county in which
3-7 the death occurred, and request an inquest.

3-8 SECTION 7. Section 13, Article 49.25, Code of Criminal
3-9 Procedure, is amended to read as follows:

3-10 Sec. 13. USE OF FORENSIC ANTHROPOLOGIST. On discovering
3-11 the body or a body part of a deceased person in the circumstances
3-12 described by Subdivision 3(B) of Section 6(a), the medical examiner
3-13 may request the aid of a forensic anthropologist in the examination
3-14 of the body or body part. The forensic anthropologist must hold a
3-15 doctoral degree in anthropology with an emphasis in physical
3-16 anthropology [~~be board-certified by a nationally recognized~~
3-17 ~~association that accredits practitioners in the forensic~~
3-18 ~~sciences~~]. The forensic anthropologist shall attempt to establish
3-19 whether the body or body part is of a human or animal, whether
3-20 evidence of childbirth, injury, or disease exists, and the sex,
3-21 race, age, stature, and physical anomalies of the body or body part.
3-22 The forensic anthropologist may also attempt to establish the
3-23 cause, manner, and time of death.

3-24 SECTION 8. This Act takes effect September 1, 2003.

3-25 SECTION 9. The change in law made by this Act applies only
3-26 to the discovery of a body part of a person that is made on or after
3-27 the effective date of this Act. A discovery made before the
3-28 effective date of this Act is covered by the law in effect when the
3-29 discovery was made, and the former law is continued in effect for
3-30 that purpose.

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