

By: Whitmire

S.B. No. 826

A BILL TO BE ENTITLED

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24

AN ACT

relating to reporting the deaths of certain individuals; providing a criminal penalty.

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

SECTION 1. Article 49.18, Code of Criminal Procedure, is amended by amending Subsections (b) and (c) and adding Subsection (d) to read as follows:

(b) If a person dies while in the custody of a peace officer or as a result of a peace officer's use of force or if a person incarcerated [~~prisoner dies while confined~~] in a jail, correctional facility, or state juvenile facility dies [~~prison~~], the director of the law enforcement agency of which the officer is a member or of the facility in which the person [~~prisoner~~] was incarcerated [~~confined~~] shall investigate the death and file a written report of the cause of death with the attorney general no later than the 30th [~~20th~~] day after the date on which the person in custody or the incarcerated person [~~prisoner~~] died. The director shall make a good faith effort to obtain all facts relevant to the death and include those facts in the report. The attorney general shall make the report, with the exception of any portion of the report that the attorney general determines is privileged, available to any interested person.

(c) Subsection (a) does not apply to a death that occurs in a facility operated by or under contract with the Texas Department of

1 Criminal Justice. Subsection (b) does not apply to a death that  
2 occurs in a facility operated by or under contract with the Texas  
3 Department of Criminal Justice if the death occurs under  
4 circumstances described by Section 501.055(b)(2), Government Code.

5 (d) In this article:

6 (1) "Correctional facility" means a confinement  
7 facility or halfway house operated by or under contract with any  
8 division of the Texas Department of Criminal Justice.

9 (2) "In the custody of a peace officer" means:

10 (A) under arrest by a peace officer; or

11 (B) under the physical control or restraint of a  
12 peace officer.

13 (3) "State juvenile facility" means any facility or  
14 halfway house:

15 (A) operated by or under contract with the Texas  
16 Youth Commission; or

17 (B) described by Section 51.02(13) or (14),  
18 Family Code.

19 SECTION 2. Subchapter A, Chapter 49, Code of Criminal  
20 Procedure, is amended by adding Article 49.24 to read as follows:

21 Art. 49.24. NOTIFICATION AND REPORT OF DEATH OF RESIDENT OF  
22 INSTITUTION. (a) A superintendent or general manager of an  
23 institution who is required by Article 49.04 to report to a justice  
24 of the peace the death of an individual under the care, custody, or  
25 control of or residing in the institution shall:

26 (1) notify the office of the attorney general of the  
27 individual's death within 24 hours of the death; and

1           (2) prepare and submit to the office of the attorney  
2 general a report containing all facts relevant to the individual's  
3 death within 72 hours of the death.

4           (b) The superintendent or general manager of the  
5 institution shall make a good faith effort to obtain all facts  
6 relevant to an individual's death and to include those facts in the  
7 report submitted under Subsection (a)(2).

8           (c) The office of the attorney general may investigate each  
9 death reported to the office by an institution that receives  
10 payments through the medical assistance program under Chapter 32,  
11 Human Resources Code.

12           (d) Except as provided by Subsection (e), the office of the  
13 attorney general shall make a report submitted under Subsection  
14 (a)(2) available to any interested person who submits a written  
15 request for access to the report.

16           (e) The office of the attorney general may deny a person  
17 access to a report or a portion of a report filed under Subsection  
18 (a)(2) if the office determines that the report or a portion of the  
19 report is:

20                   (1) privileged from discovery; or

21                   (2) exempt from required public disclosure under  
22 Chapter 552, Government Code.

23           (f) This article does not relieve a superintendent or  
24 general manager of an institution of the duty of making any other  
25 notification or report of an individual's death as required by law.

26           SECTION 3. Section 7, Article 49.25, Code of Criminal  
27 Procedure, is amended by amending Subsection (a) and adding

1 Subsection (c) to read as follows:

2 (a) Any police officer, superintendent or general manager  
3 of an institution, physician, or private citizen who shall become  
4 aware of a death under any of the circumstances set out in Section  
5 6(a) of this Article, shall immediately report such death to the  
6 office of the medical examiner or to the city or county police  
7 departments; any such report to a city or county police department  
8 shall be immediately transmitted to the office of the medical  
9 examiner.

10 (c) A superintendent or general manager of an institution  
11 who reports a death under Subsection (a) must comply with the notice  
12 and reporting requirements of Article 49.24. The office of the  
13 attorney general has the same powers and duties provided the office  
14 under that article regarding the dissemination and investigation of  
15 the report.

16 SECTION 4. Chapter 38, Penal Code, is amended by adding  
17 Section 38.19 to read as follows:

18 Sec. 38.19. FAILURE TO PROVIDE NOTICE AND REPORT OF DEATH OF  
19 RESIDENT OF INSTITUTION. (a) A superintendent or general manager  
20 of an institution commits an offense if, as required by Article  
21 49.24 or 49.25, Code of Criminal Procedure, the person fails to:

22 (1) provide notice of the death of an individual under  
23 the care, custody, or control of or residing in the institution;

24 (2) submit a report on the death of the individual; or

25 (3) include in the report material facts known or  
26 discovered by the person at the time the report was filed.

27 (b) An offense under this section is a Class B misdemeanor.

1 SECTION 5. This Act takes effect September 1, 2003.