

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 Criminal Justice. Subsection (b) does not apply to a death that

1 occurs in a facility operated by or under contract with the Texas
2 Department of Criminal Justice if the death occurs under
3 circumstances described by Section 501.055(b)(2), Government Code.

4 (d) In this article:

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

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

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

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

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

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

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

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

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

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

27 (2) prepare and submit to the office of the attorney
28 general a report containing all facts relevant to the individual's

1 death within 72 hours of the death.

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

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

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

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

18 (1) privileged from discovery; or

19 (2) exempt from required public disclosure under
20 Chapter 552, Government Code.

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

24 SECTION 3. Section 7, Article 49.25, Code of Criminal
25 Procedure, is amended by amending Subsection (a) and adding
26 Subsection (c) to read as follows:

27 (a) Any police officer, superintendent or general manager
28 of an institution, physician, or private citizen who shall become

1 aware of a death under any of the circumstances set out in Section
2 6(a) of this Article, shall immediately report such death to the
3 office of the medical examiner or to the city or county police
4 departments; any such report to a city or county police department
5 shall be immediately transmitted to the office of the medical
6 examiner.

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

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

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

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

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

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

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

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

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 826 passed the Senate on April 10, 2003, by the following vote: Yeas 31, Nays 0; May 30, 2003, Senate refused to concur in House amendment and requested appointment of Conference Committee; May 31, 2003, House granted request of the Senate; June 1, 2003, Senate adopted Conference Committee Report by a viva-voce vote.

Secretary of the Senate

I hereby certify that S.B. No. 826 passed the House, with amendment, on May 25, 2003, by a non-record vote; May 31, 2003, House granted request of the Senate for appointment of Conference Committee; June 1, 2003, House adopted Conference Committee Report by a non-record vote.

Chief Clerk of the House

Approved:

Date

Governor