

By: Whitmire

S.B. No. 826

A BILL TO BE ENTITLED

AN ACT

1
2 relating to amending chapter 49, Code of Criminal Procedure, to
3 require timely provision of notice and a report to the attorney
4 general regarding the death of any person residing in an
5 institution and to amending chapter 38, Penal Code, to make it a
6 criminal offense to fail to timely provide such notice and a report;
7 providing a criminal penalty.

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

9 SECTION 1. Chapter 49, Code of Criminal Procedure, is
10 amended by adding Article 49.24 to read as follows:

11 Art. 49.24. NOTIFICATION AND REPORT OF DEATH OF RESIDENT OF
12 INSTITUTION. (a) In addition to any other notification or report
13 required by law, if a person dies while in the care or custody of, or
14 while residing in, an institution, and the superintendent or
15 general manager of the institution is required by article 49.04 of
16 this code to notify a justice of the peace of the death, the
17 superintendent or general manager of the institution also shall:

18 (1) not later than 24 hours after the person's death,
19 notify the attorney general of that person's death; and

20 (2) not later than 72 hours after the person's death,
21 prepare and submit to the attorney general a report containing all
22 facts relevant to the death. The superintendent or general manager
23 of the institution shall make a good faith effort to obtain all
24 facts relevant to the death and include those facts in the report.

1 (b) The attorney general may investigate each death
2 reported to him by an institution that receives payments through
3 the medical assistance program provided under Chapter 32, Human
4 Resources Code.

5 (c) The attorney general shall make the report submitted
6 pursuant to subsection (a), with the exception of any portion of the
7 report that the attorney general determines is privileged from
8 discovery or excepted from required public disclosure under chapter
9 552, Government Code, available to any interested person, when
10 requested in writing.

11 SECTION 2. Chapter 38, Penal Code, is amended by adding
12 Section 38.19 to read as follows:

13 Sec. 38.19. FAILURE TO REPORT DEATH OF RESIDENT OF
14 INSTITUTION. (a) A person commits an offense if the person is
15 required to notify and prepare and submit a report to the attorney
16 general by Article 49.24, Code of Criminal Procedure, and the
17 person fails to provide notice of the death, fails to file the
18 report as required, or fails to include in a filed report facts
19 known or discovered by the person.

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

21 SECTION 3. (a) The change in law made by this Act applies
22 only to an offense committed on or after the effective date of this
23 Act. For purposes of this section, an offense is committed before
24 the effective date of this Act if any element of the offense occurs
25 before the effective date.

26 (b) An offense committed before the effective date of this
27 Act is covered by the law in effect when the offense was committed,

1 and the former law is continued in effect for that purpose.

2 SECTION 4. EFFECTIVE DATE. This Act takes effect on
3 September 1, 2003.