

BILL ANALYSIS

C.S.H.B. 688
By: Márquez
Criminal Jurisprudence
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Under current law, a photograph or x-ray of a body taken during an autopsy and held by a medical examiner is exempt from mandatory disclosure under state public information law except under a subpoena or authority of other law or in the case of a person who died while in law enforcement custody. However, under state public information law, a governmental body that receives a request for an autopsy record that it wishes to withhold from public disclosure and considers exempt from such disclosure is required to request a decision from the attorney general about whether the record falls within that exemption. Interested parties note that this is not ideal as it adds cost and time demands to the attorney general office's workload. C.S.H.B. 688 seeks to remedy this situation by authorizing the withholding of certain autopsy records without requesting an open records decision from the attorney general.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 688 amends the Code of Criminal Procedure to authorize a governmental body, under the statutory exception to public disclosure for certain records of autopsies, to withhold a photograph or x-ray taken during an autopsy without requesting a decision from the attorney general. The bill's authorization does not affect the required disclosure of a photograph or x-ray requested under a subpoena or authority of other law or of a photograph or x-ray of the body of a person who died while in the custody of law enforcement.

EFFECTIVE DATE

September 1, 2013.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 688 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and highlighted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

SECTION 1. Section 11, Article 49.25, Code of Criminal Procedure, is amended to read as follows:

Sec. 11. RECORDS. (a) The medical examiner shall keep full and complete

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Section 11, Article 49.25, Code of Criminal Procedure, is amended to read as follows:

Sec. 11. RECORDS. (a) The medical examiner shall keep full and complete

records properly indexed, giving the name if known of every person whose death is investigated, the place where the body was found, the date, the cause and manner of death, and shall issue a death certificate. The full report and detailed findings of the autopsy, if any, shall be a part of the record. Copies of all records shall promptly be delivered to the proper district, county, or criminal district attorney in any case where further investigation is advisable. The records are subject to required public disclosure in accordance with Chapter 552, Government Code, except that a photograph or x-ray of a body taken during an autopsy is excepted from required public disclosure in accordance with Chapter 552, Government Code, but is subject to disclosure:

(1) under a subpoena or authority of other law; or

(2) if the photograph or x-ray is of the body of a person who died while in the custody of law enforcement.

(b) Under the exception to public disclosure provided by Subsection (a), a governmental body as defined by Section 552.003, Government Code, may withhold a photograph or x-ray described by Subsection (a) without requesting a decision from the attorney general under Subchapter G, Chapter 552, Government Code.

SECTION 2. The changes in law made by this Act apply only to a request for information that is received by a governmental body or an officer for public information on or after the effective date of this Act. A request for information that was received before the effective date of this Act is governed by the law in effect on the date the request was received, and the former law is continued in effect for that purpose.

SECTION 3. This Act takes effect September 1, 2013.

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(1) under a subpoena or authority of other law; or

(2) if the photograph or x-ray is of the body of a person who died while in the custody of law enforcement.

(b) Under the exception to public disclosure provided by Subsection (a), a governmental body as defined by Section 552.003, Government Code, may withhold a photograph or x-ray described by Subsection (a) without requesting a decision from the attorney general under Subchapter G, Chapter 552, Government Code. This subsection does not affect the required disclosure of a photograph or x-ray under Subsection (a)(1) or (2).

SECTION 2. Same as introduced version.

SECTION 3. Same as introduced version.