

By: Campbell

S.B. No. 1086

A BILL TO BE ENTITLED

AN ACT

relating to a parent's right to view the body of a deceased child before an autopsy is performed.

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

SECTION 1. Chapter 49, Code of Criminal Procedure, is amended by adding Subchapter D to read as follows:

SUBCHAPTER D. PARENTAL RIGHT TO VIEW DECEASED CHILD

Art. 49.51. DEFINITIONS. In this subchapter:

(1) "Child" means a person younger than 18 years of age.

(2) "Department" means the Department of Family and Protective Services.

(3) "Prosecuting attorney" means a county attorney, district attorney, or criminal district attorney.

Art. 49.52. PARENTAL RIGHT TO VIEW DECEASED CHILD ABSENT COURT ORDER. (a) A parent of a deceased child is entitled to view the child's body before an autopsy is performed, if practicable, unless a prosecuting attorney or the department obtains a court order to prevent or postpone the viewing under Article 49.53.

(b) A viewing under this article may be supervised by a physician, registered nurse, or licensed vocational nurse.

Art. 49.53. COURT ORDER TO PREVENT OR POSTPONE VIEWING. (a) Not later than 24 hours after receiving notice of the death of a child, a prosecuting attorney may file in a county or district court

1 an application for an order to prevent the child's parent from
2 viewing the child's body until after an autopsy is performed if the
3 parent is a suspect in the death of the child.

4 (b) The department may file, within the 24-hour period
5 required by Subsection (a), an application under this article
6 instead of the prosecuting attorney if:

7 (1) before the child's death, the department had an
8 open investigation of an allegation of abuse or neglect involving:

9 (A) the deceased child; or

10 (B) another child, if the parent of the deceased
11 child is the person responsible for the care, custody, or welfare of
12 that other child; or

13 (2) the parent of the deceased child is the person
14 responsible for the care, custody, or welfare of another child and
15 after the child's death the department takes any action to protect
16 the other child.

17 (c) On a request that is made by the prosecuting attorney or
18 the department and submitted with an application under this
19 article, the court may issue a temporary ex parte order postponing
20 the viewing until a hearing can be held under Subsection (d).

21 (d) Not later than 24 hours after an application is filed
22 under this article, the court shall conduct a hearing and rule on
23 the application.

24 (e) At the close of the hearing, if the court finds that
25 there is substantial evidence that the viewing would interfere with
26 the investigation of the parent by the applicable law enforcement
27 agency or by the department, the court shall issue an order to

1 prevent the parent from viewing the child's body until after an
2 autopsy is performed.

3 (f) If an application is not timely filed or an order is not
4 timely issued in accordance with this article, the parent may not be
5 prevented from viewing the child's body in accordance with Article
6 49.52.

7 SECTION 2. This Act takes effect September 1, 2015.