

BILL ANALYSIS

Senate Research Center

S.B. 239
By: Campbell
Criminal Justice
5/31/2017
Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Current law does not provide complete protection for parents to view and say goodbye to their deceased child. Interested parties note that when a child dies under suspicious circumstances the parents can be prohibited from seeing the body and saying goodbye until after the body has undergone an autopsy without a formal process. S.B. 239 protects a parent's right to view the body of the parent's deceased child. (Original Author's / Sponsor's Statement of Intent)

S.B. 239 amends current law relating to a parent's right to view the body of a deceased child before an autopsy is performed.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 49, Code of Criminal Procedure, by adding Subchapter D, as follows:

SUBCHAPTER D. PARENTAL RIGHT TO VIEW DECEASED CHILD

Art. 49.51. DEFINITIONS. Defines "child" and "parent."

Art. 49.52. PARENTAL RIGHT TO VIEW DECEASED CHILD. (a) Provides that a parent of a deceased child, except as provided by Subsection (b) or (c), is entitled to view the child's body before a justice of the peace or the medical examiner, as applicable, for the county in which the death occurred assumes control over the body under Subchapter A (Duties Performed by Justices of the Peace) or B (Duties Performed by Medical Examiners), as applicable. Authorizes the viewing, if the child's death occurred at a hospital or other health care facility, to be conducted at the hospital or facility.

(b) Prohibits a parent of a deceased child from viewing the child's body after a justice of the peace or medical examiner assumes control over the body unless the parent first obtains the consent of the justice of the peace or medical examiner or a person acting on behalf of the justice of the peace or medical examiner.

(c) Requires that a viewing of the body of a deceased child whose death is determined to be subject to an inquest under Article 49.04 (Deaths Requiring an Inquest) or 49.25 (Medical Examiners), as applicable, be conducted in compliance with the following conditions:

(1) requires that the viewing be supervised by:

(A) if law enforcement has assumed control over the body at the time of the viewing, an appropriate peace officer or, with the officer's consent, a person described by Paragraph (B); or

(B) a physician, registered nurse, or licensed vocational nurse or the justice of the peace or medical examiner or a person acting on behalf of the justice of the peace or medical examiner;

(2) prohibits a parent of the deceased child from having contact with the child's body unless the parent first obtains the consent of the justice of the peace or medical examiner or a person acting on behalf of the justice of the peace or medical examiner; and

(3) prohibits a person from removing a medical device from the child's body or otherwise altering the condition of the body for purposes of conducting a viewing unless the person first obtains the consent of the justice of the peace or medical examiner or a person acting on behalf of the justice of the peace or medical examiner.

(d) Provides that a person is not entitled to compensation for performing duties on behalf of a justice of the peace or medical examiner unless the commissioners court of the applicable county approves the compensation.

SECTION 2. Effective date: September 1, 2017.