87R5858 MCF-D

By:  Rodriguez H.B. No. 2901

A BILL TO BE ENTITLED

AN ACT

relating to reporting requirements for certain in-custody deaths; providing a civil penalty.

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

SECTION 1.  Chapter 2, Code of Criminal Procedure, is amended by adding Article 2.33 to read as follows:

Art. 2.33.  NOTICE OF VIOLATION OF REPORTING REQUIREMENTS FOR CERTAIN DEATHS IN CUSTODY; CIVIL PENALTY. (a) The office of the attorney general shall conduct an investigation after receiving a written and signed report, on a form prescribed by the office, asserting that a person failed to submit a report required by Article 49.18 or failed to include in that report all relevant facts known to the person as required by that article. If the office determines that the person failed to submit the report or failed to include in the report all relevant facts known to the person, the office shall provide notice of the failure to the person. The notice must summarize the applicable requirement and state that the person may be subject to a civil penalty as provided by Subsection (b) or (c), as applicable.

(b)  Except as provided by Subsection (c), beginning on the eighth day after the date of receiving notice under Subsection (a), a person is liable for a civil penalty in the amount of $1,000 for each day the person fails to submit the required report or a supplemental report with all relevant facts known to the person, as applicable.

(c)  Beginning on the day after the date of receiving notice under Subsection (a), a person who, in the five-year period preceding the date the person received the notice, has been liable for a civil penalty under Subsection (b) or this subsection is liable for a civil penalty for each day the person fails to submit the required report or a supplemental report with all relevant facts known to the person, as applicable. The amount of a civil penalty under this subsection is $10,000 for the first day and $1,000 for each additional day that the person fails to submit the report or a supplemental report, as applicable.

(d)  The attorney general may sue to collect a civil penalty under this article.

(e)  A civil penalty collected under this article shall be deposited to the credit of the compensation to victims of crime fund established under Subchapter J, Chapter 56B.

SECTION 2.  Article 49.18, Code of Criminal Procedure, is amended by adding Subsection (b-1) to read as follows:

(b-1)  If after filing the report under Subsection (b) the director determines that the report was filed with incomplete or incorrect information regarding the circumstances of the death, the director shall promptly file with the attorney general a supplemental report containing the additional information.

SECTION 3.  Sections 39.05(a) and (b), Penal Code, are amended to read as follows:

(a)  A person commits an offense if the person is required to conduct an investigation [~~and file a report~~] by Article 49.18, Code of Criminal Procedure, and the person fails to investigate the death[~~, fails to file the report as required, or fails to include in a filed report facts known or discovered in the investigation~~].

(b)  A person commits an offense if the person is required by Section 501.055(a) [~~501.055~~], Government Code, to[~~:~~

[~~(1)~~]  give notice of the death of an inmate and the person fails to give the notice[~~; or~~

[~~(2)  conduct an investigation and file a report and the person:~~

[~~(A)  fails to conduct the investigation or file the report; or~~

[~~(B)  fails to include in the report facts known to the person or discovered by the person in the investigation~~].

SECTION 4.  Section 39.05, Penal Code, as amended by this Act, applies only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is governed by the law in effect on the date the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

SECTION 5.  This Act takes effect September 1, 2021.