

By: Rodriguez

H.B. No. 2901

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to reporting requirements for certain in-custody deaths;  
3 providing a civil penalty.

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

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

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

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

1 applicable.

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

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

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

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

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

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

26 (a) A person commits an offense if the person is required to  
27 conduct an investigation [~~and file a report~~] by Article 49.18, Code

1 of Criminal Procedure, and the person fails to investigate the  
2 death[, ~~fails to file the report as required, or fails to include in~~  
3 ~~a filed report facts known or discovered in the investigation~~].

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

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

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

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

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

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

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