

## **BILL ANALYSIS**

Senate Research Center  
88R26374 AJZ-D

C.S.H.B. 3161  
By: Hull (Huffman)  
Criminal Justice  
5/16/2023  
Committee Report (Substituted)

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Death inquests are required to be conducted by justices of the peace or medical examiners under certain circumstances outlined in statute. If an individual is unidentified and the cause or circumstance of their death are unknown, then a death inquest must be conducted and the identifying information of the decedent must be collected and entered into the National Unidentified and Missing Persons System. In certain circumstances, the cause or circumstance may be known if the death is attended by a physician, but the individual is unidentified. Additionally, after conducting a death inquest, justices of the peace or medical examiners must ensure that the decedent's remains are provided to the person who has the duty to inter.

H.B. 3161 expands the statutory authority of death inquests that are conducted by justices of the peace and medical examiners to include when the person is unidentified, regardless of whether the cause or circumstances of death are known. A decedent is considered unidentified if their legal name is unknown and there is no person with the duty to inter the deceased person's remains, meaning that they would be buried by the county with no known next of kin.

#### **Committee Substitute**

A committee substitute adds that a person may not control the disposition of the decedent's remains if the person has been arrested or an arrest warrant has been issued for a homicide involving family violence against the person, or a protective order had been filed for or issued against the person. Finally, the substitute requires a probate court to expedite proceedings to resolve any dispute over the right to control the disposition of a decedent's remains if it involves a prohibited person.

(Original Author's/Sponsor's Statement of Intent)

C.S.H.B. 3161 amends current law relating to the duties of a justice of the peace, medical examiner, or other investigator regarding the bodies of unidentified deceased persons and to the control by certain persons of the disposition of a deceased person's remains.

### **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 Article 49.01, Code of Criminal Procedure, as follows:

Art. 49.01. DEFINITIONS. (a) Creates this subsection from existing text.

(b) Provides that a person or body, for the purposes of Chapter 49 (Inquests Upon Dead bodies), is considered unidentified if:

(1) the deceased person's legal name is unknown; and

(2) there is no known person with the duty to inter the deceased person's remains under Section 711.002(a) (relating to providing that unless a decedent has left directions in writing for the disposition of the decedent's remains, certain persons in the priority listed, have the right to control the disposition, including cremation, of the decedent's remains, are required to inter the remains, and are liable for the reasonable cost of interment), Health and Safety Code

SECTION 2. Amends Article 49.04(a), Code of Criminal Procedure, as follows:

(a) Requires a justice of the peace to conduct an inquest into the death of a person who dies in the county served by the justice if:

(1)-(2) makes no changes to these subdivisions;

(3) the body or a body part of a person is found and either:

(A) the person is identified but the cause or circumstances of death are unknown; or

(B) the person is unidentified, regardless of whether the cause or circumstances of death are known; or

(4)-(8) makes no changes to these subdivisions.

Makes nonsubstantive changes.

SECTION 3. Amends Section 6(a), Article 49.25, Code of Criminal Procedure, as follows:

(a) Requires any medical examiner or his duly authorized deputy to be authorized, and requires that it be his duty, to hold inquests with or without a jury within his county in the following cases:

(1)-(2) makes no changes to these subdivisions;

(3) when the body or a body part of a person is found and either:

(A) the person is identified by the cause or circumstances of death are unknown; or

(B) the person is unidentified, regardless of whether the cause or circumstances of the death are known; and

(4)-(8) makes no changes to these subdivisions.

Makes nonsubstantive changes.

SECTION 4. Amends Section 711.002, Health and Safety Code, by amending Subsection (1) and adding Subsection (1-1) and (1-2), as follows:

(1) Prohibits a person listed in Subsection (a) (relating to requiring that certain persons have the right to control the disposition, including cremation, of the decedent's remains, are required to inter the remains, and are liable for the reasonable cost of interment), from controlling the disposition of the decedent's remains if:

(1) in connection with the decedent's death, the person has been arrested or an arrest warrant has been issued for the person for a crime under Chapter 19 (Criminal Homicide), Penal Code, that involves family violence against the decedent; or

(2) the decedent had filed an application for a protective order against or with respect to a person under Subchapter A (Protective Order for Victims of Sexual Assault or Abuse, Indecent Assault, Stalking, or Trafficking), Chapter 7B, Code of Criminal Procedure, Article 17.292 (Magistrate's Order for Emergency Protection), Code of Criminal Procedure, Section 6.504 (Protective Orders), Family Code, or Subtitle B (Protective Orders), Title 4, Family Code, or an order had been issued against or with respect to the person under one of those provisions.

Deletes existing text prohibiting a person listed in Subsection (a) from controlling the disposition of the decedent's remains if, in connection with the decedent's death, an indictment has been filed charging the person with a crime under Chapter 19, Penal Code.

(1-1) Provides that a person regulated under Chapter 651 (Crematory Services, Funeral Directing, and Embalming), Occupations Code, who knowingly allows a person described by Subsection (1), rather than who knowingly allows the person charged with a crime, to control the disposition of the decedent's remains in violation of that subsection commits a prohibited practice under Section 651.460 (Prohibited Practices Related to Failure to Comply with Other Legal Requirements), Occupations Code, and authorizes the Texas Funeral Service Commission to take disciplinary action or assess an administrative penalty against the regulated person under that chapter. Makes nonsubstantive changes.

(1-2) Requires a court with jurisdiction over probate proceedings to expedite the proceedings to resolve any dispute over the right to control the disposition of a decedent's remains among the persons listed in Subsection (a) if the dispute involves the control of the disposition of the remains by a prohibited person described by Subsection (1).

SECTION 5. Makes application of Articles 49.01, 49.04, and 49.25, Code of Criminal Procedure, as amended by this Act, prospective.

SECTION 6. Effective date: September 1, 2023.