

1-1 By: Hull (Senate Sponsor - Huffman) H.B. No. 3161  
1-2 (In the Senate - Received from the House May 3, 2023;  
1-3 May 5, 2023, read first time and referred to Committee on Criminal  
1-4 Justice; May 17, 2023, reported adversely, with favorable  
1-5 Committee Substitute by the following vote: Yeas 7, Nays 0;  
1-6 May 17, 2023, sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15	X			

1-16 COMMITTEE SUBSTITUTE FOR H.B. No. 3161 By: Bettencourt

1-17 A BILL TO BE ENTITLED  
1-18 AN ACT

1-19 relating to the duties of a justice of the peace, medical examiner,  
1-20 or other investigator regarding the bodies of unidentified deceased  
1-21 persons and to the control by certain persons of the disposition of  
1-22 a deceased person's remains.

1-23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-24 SECTION 1. Article 49.01, Code of Criminal Procedure, is  
1-25 amended to read as follows:

1-26 Art. 49.01. DEFINITIONS. (a) In this chapter [~~article~~]:

1-27 (1) "Autopsy" means a post mortem examination of the  
1-28 body of a person, including X-rays and an examination of the  
1-29 internal organs and structures after dissection, to determine the  
1-30 cause of death or the nature of any pathological changes that may  
1-31 have contributed to the death.

1-32 (2) "Inquest" means an investigation into the cause  
1-33 and circumstances of the death of a person, and a determination,  
1-34 made with or without a formal court hearing, as to whether the death  
1-35 was caused by an unlawful act or omission.

1-36 (3) "Inquest hearing" means a formal court hearing  
1-37 held to determine whether the death of a person was caused by an  
1-38 unlawful act or omission and, if the death was caused by an unlawful  
1-39 act or omission, to obtain evidence to form the basis of a criminal  
1-40 prosecution.

1-41 (4) "Institution" means any place where health care  
1-42 services are rendered, including a hospital, clinic, health  
1-43 facility, nursing home, extended-care facility, out-patient  
1-44 facility, foster-care facility, and retirement home.

1-45 (5) "Physician" means a practicing doctor of medicine  
1-46 or doctor of osteopathic medicine who is licensed by the Texas State  
1-47 Board of Medical Examiners under Subtitle B, Title 3, Occupations  
1-48 Code.

1-49 (b) For purposes of this chapter, a person or body is  
1-50 considered unidentified if:

1-51 (1) the deceased person's legal name is unknown; and

1-52 (2) there is no known person with the duty to inter the  
1-53 deceased person's remains under Section 711.002(a), Health and  
1-54 Safety Code.

1-55 SECTION 2. Article 49.04(a), Code of Criminal Procedure, is  
1-56 amended to read as follows:

1-57 (a) A justice of the peace shall conduct an inquest into the  
1-58 death of a person who dies in the county served by the justice if:

1-59 (1) the person dies in prison under circumstances  
1-60 other than those described by Section 501.055(b), Government Code,

2-1 or in jail;

2-2 (2) the person dies an unnatural death from a cause  
2-3 other than a legal execution;

2-4 (3) the body or a body part of a person is found and  
2-5 either:

2-6 (A) the person is identified but [7] the cause or  
2-7 circumstances of death are unknown[7 and:

2-8 [~~(A) the person is identified~~]; or

2-9 (B) the person is unidentified, regardless of  
2-10 whether the cause or circumstances of death are known;

2-11 (4) the circumstances of the death indicate that the  
2-12 death may have been caused by unlawful means;

2-13 (5) the person commits suicide or the circumstances of  
2-14 the death indicate that the death may have been caused by suicide;

2-15 (6) the person dies without having been attended by a  
2-16 physician;

2-17 (7) the person dies while attended by a physician who  
2-18 is unable to certify the cause of death and who requests the justice  
2-19 of the peace to conduct an inquest; or

2-20 (8) the person is a child younger than six years of age  
2-21 and an inquest is required by Chapter 264, Family Code.

2-22 SECTION 3. Section 6(a), Article 49.25, Code of Criminal  
2-23 Procedure, is amended to read as follows:

2-24 (a) Any medical examiner, or his duly authorized deputy,  
2-25 shall be authorized, and it shall be his duty, to hold inquests with  
2-26 or without a jury within his county, in the following cases:

2-27 1. When a person shall die within twenty-four hours  
2-28 after admission to a hospital or institution or in prison or in  
2-29 jail;

2-30 2. When any person is killed; or from any cause dies an  
2-31 unnatural death, except under sentence of the law; or dies in the  
2-32 absence of one or more good witnesses;

2-33 3. When the body or a body part of a person is found and  
2-34 either:

2-35 (A) the person is identified but [7] the cause or  
2-36 circumstances of death are unknown[7 and:

2-37 [~~(A) the person is identified~~]; or

2-38 (B) the person is unidentified, regardless of  
2-39 whether the cause or circumstances of death are known;

2-40 4. When the circumstances of the death of any person  
2-41 are such as to lead to suspicion that he came to his death by  
2-42 unlawful means;

2-43 5. When any person commits suicide, or the  
2-44 circumstances of his death are such as to lead to suspicion that he  
2-45 committed suicide;

2-46 6. When a person dies without having been attended by a  
2-47 duly licensed and practicing physician, and the local health  
2-48 officer or registrar required to report the cause of death under  
2-49 Section 193.005, Health and Safety Code, does not know the cause of  
2-50 death. When the local health officer or registrar of vital  
2-51 statistics whose duty it is to certify the cause of death does not  
2-52 know the cause of death, he shall so notify the medical examiner of  
2-53 the county in which the death occurred and request an inquest;

2-54 7. When the person is a child who is younger than six  
2-55 years of age and the death is reported under Chapter 264, Family  
2-56 Code; and

2-57 8. When a person dies who has been attended  
2-58 immediately preceding his death by a duly licensed and practicing  
2-59 physician or physicians, and such physician or physicians are not  
2-60 certain as to the cause of death and are unable to certify with  
2-61 certainty the cause of death as required by Section 193.004, Health  
2-62 and Safety Code. In case of such uncertainty the attending  
2-63 physician or physicians, or the superintendent or general manager  
2-64 of the hospital or institution in which the deceased shall have  
2-65 died, shall so report to the medical examiner of the county in which  
2-66 the death occurred, and request an inquest.

2-67 SECTION 4. Section 711.002, Health and Safety Code, is  
2-68 amended by amending Subsection (1) and adding Subsections (1-1) and  
2-69 (1-2) to read as follows:

3-1 (1) A person listed in Subsection (a) may not control the  
3-2 disposition of the decedent's remains if:

3-3 (1) ~~[7]~~ in connection with the decedent's death, ~~[an~~  
3-4 ~~indictment has been filed charging]~~ the person has been arrested or  
3-5 an arrest warrant has been issued for the person for ~~[with]~~ a crime  
3-6 under Chapter 19, Penal Code, that involves family violence against  
3-7 the decedent; or

3-8 (2) the decedent had filed an application for a  
3-9 protective order against or with respect to the person under  
3-10 Subchapter A, Chapter 7B, Code of Criminal Procedure, Article  
3-11 17.292, Code of Criminal Procedure, Section 6.504, Family Code, or  
3-12 Subtitle B, Title 4, Family Code, or an order has been issued  
3-13 against or with respect to the person under one of those provisions.

3-14 (1-1) A person regulated under Chapter 651, Occupations  
3-15 Code, who knowingly allows a person described by Subsection (1)  
3-16 ~~[the person charged with a crime]~~ to control the disposition of the  
3-17 decedent's remains in violation of that ~~[this]~~ subsection commits a  
3-18 prohibited practice under Section 651.460, Occupations Code, and  
3-19 the Texas Funeral Service Commission may take disciplinary action  
3-20 or assess an administrative penalty against the regulated person  
3-21 under that chapter.

3-22 (1-2) A court with jurisdiction over probate proceedings  
3-23 shall expedite the proceedings to resolve any dispute over the  
3-24 right to control the disposition of a decedent's remains among the  
3-25 persons listed in Subsection (a) if the dispute involves the  
3-26 control of the disposition of the remains by a prohibited person  
3-27 described by Subsection (1).

3-28 SECTION 5. Articles 49.01, 49.04, and 49.25, Code of  
3-29 Criminal Procedure, as amended by this Act, apply only to an  
3-30 investigation of a death of an unidentified person that commences  
3-31 on or after the effective date of this Act. An investigation of the  
3-32 death of an unidentified person that commences before the effective  
3-33 date of this Act is governed by the law in effect when the  
3-34 investigation commenced, and the former law is continued in effect  
3-35 for that purpose.

3-36 SECTION 6. This Act takes effect September 1, 2023.

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