

SENATE AMENDMENTS

2nd Printing

By: Hull

H.B. No. 3161

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the duties of a justice of the peace, medical examiner,
3 or other investigator regarding the bodies of unidentified deceased
4 persons.

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

6 SECTION 1. Article 49.01, Code of Criminal Procedure, is
7 amended to read as follows:

8 Art. 49.01. DEFINITIONS. (a) In this chapter [~~article~~]:

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

14 (2) "Inquest" means an investigation into the cause
15 and circumstances of the death of a person, and a determination,
16 made with or without a formal court hearing, as to whether the death
17 was caused by an unlawful act or omission.

18 (3) "Inquest hearing" means a formal court hearing
19 held to determine whether the death of a person was caused by an
20 unlawful act or omission and, if the death was caused by an unlawful
21 act or omission, to obtain evidence to form the basis of a criminal
22 prosecution.

23 (4) "Institution" means any place where health care
24 services are rendered, including a hospital, clinic, health

1 facility, nursing home, extended-care facility, out-patient
2 facility, foster-care facility, and retirement home.

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

7 (b) For purposes of this chapter, a person or body is
8 considered unidentified if:

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

10 (2) there is no known person with the duty to inter the
11 deceased person's remains under Section 711.002(a), Health and
12 Safety Code.

13 SECTION 2. Article 49.04(a), Code of Criminal Procedure, is
14 amended to read as follows:

15 (a) A justice of the peace shall conduct an inquest into the
16 death of a person who dies in the county served by the justice if:

17 (1) the person dies in prison under circumstances
18 other than those described by Section 501.055(b), Government Code,
19 or in jail;

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

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

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

26 [(A) the person is identified]; or

27 (B) the person is unidentified, regardless of

1 whether the cause or circumstances of death are known;

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

4 (5) the person commits suicide or the circumstances of
5 the death indicate that the death may have been caused by suicide;

6 (6) the person dies without having been attended by a
7 physician;

8 (7) the person dies while attended by a physician who
9 is unable to certify the cause of death and who requests the justice
10 of the peace to conduct an inquest; or

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

13 SECTION 3. Section 6(a), Article 49.25, Code of Criminal
14 Procedure, is amended to read as follows:

15 (a) Any medical examiner, or his duly authorized deputy,
16 shall be authorized, and it shall be his duty, to hold inquests with
17 or without a jury within his county, in the following cases:

18 1. When a person shall die within twenty-four hours
19 after admission to a hospital or institution or in prison or in
20 jail;

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

24 3. When the body or a body part of a person is found and
25 either:

26 (A) the person is identified but [7] the cause or
27 circumstances of death are unknown~~[7 and]~~

1 ~~[(A) the person is identified]~~; or

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

4 4. When the circumstances of the death of any person
5 are such as to lead to suspicion that he came to his death by
6 unlawful means;

7 5. When any person commits suicide, or the
8 circumstances of his death are such as to lead to suspicion that he
9 committed suicide;

10 6. When a person dies without having been attended by a
11 duly licensed and practicing physician, and the local health
12 officer or registrar required to report the cause of death under
13 Section 193.005, Health and Safety Code, does not know the cause of
14 death. When the local health officer or registrar of vital
15 statistics whose duty it is to certify the cause of death does not
16 know the cause of death, he shall so notify the medical examiner of
17 the county in which the death occurred and request an inquest;

18 7. When the person is a child who is younger than six
19 years of age and the death is reported under Chapter 264, Family
20 Code; and

21 8. When a person dies who has been attended
22 immediately preceding his death by a duly licensed and practicing
23 physician or physicians, and such physician or physicians are not
24 certain as to the cause of death and are unable to certify with
25 certainty the cause of death as required by Section 193.004, Health
26 and Safety Code. In case of such uncertainty the attending
27 physician or physicians, or the superintendent or general manager

1 of the hospital or institution in which the deceased shall have
2 died, shall so report to the medical examiner of the county in which
3 the death occurred, and request an inquest.

4 SECTION 4. Articles 49.01, 49.04, and 49.25, Code of
5 Criminal Procedure, as amended by this Act, apply only to an
6 investigation of a death of an unidentified person that commences
7 on or after the effective date of this Act. An investigation of the
8 death of an unidentified person that commences before the effective
9 date of this Act is governed by the law in effect when the
10 investigation commenced, and the former law is continued in effect
11 for that purpose.

12 SECTION 5. This Act takes effect September 1, 2023.

ADOPTED

MAY 21 2023

Lately Spaw
Secretary of the Senate

By: *Joan Huffman*

___.B. No. 3101

Substitute the following for ___.B. No. _____:

By: *Paul Bellercoat*

C.S. ___.B. No. _____

A BILL TO BE ENTITLED

AN ACT

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

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.

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

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

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

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

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

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

(4) "Institution" means any place where health care

1 services are rendered, including a hospital, clinic, health
2 facility, nursing home, extended-care facility, out-patient
3 facility, foster-care facility, and retirement home.

4 (5) "Physician" means a practicing doctor of medicine
5 or doctor of osteopathic medicine who is licensed by the Texas State
6 Board of Medical Examiners under Subtitle B, Title 3, Occupations
7 Code.

8 (b) For purposes of this chapter, a person or body is
9 considered unidentified if:

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

11 (2) there is no known person with the duty to inter the
12 deceased person's remains under Section 711.002(a), Health and
13 Safety Code.

14 SECTION 2. Article 49.04(a), Code of Criminal Procedure, is
15 amended to read as follows:

16 (a) A justice of the peace shall conduct an inquest into the
17 death of a person who dies in the county served by the justice if:

18 (1) the person dies in prison under circumstances
19 other than those described by Section 501.055(b), Government Code,
20 or in jail;

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

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

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

27 [(A) the person is identified]; or

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

3 (4) the circumstances of the death indicate that the
4 death may have been caused by unlawful means;

5 (5) the person commits suicide or the circumstances of
6 the death indicate that the death may have been caused by suicide;

7 (6) the person dies without having been attended by a
8 physician;

9 (7) the person dies while attended by a physician who
10 is unable to certify the cause of death and who requests the justice
11 of the peace to conduct an inquest; or

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

14 SECTION 3. Section 6(a), Article 49.25, Code of Criminal
15 Procedure, is amended to read as follows:

16 (a) Any medical examiner, or his duly authorized deputy,
17 shall be authorized, and it shall be his duty, to hold inquests with
18 or without a jury within his county, in the following cases:

19 1. When a person shall die within twenty-four hours
20 after admission to a hospital or institution or in prison or in
21 jail;

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

25 3. When the body or a body part of a person is found and
26 either:

27 (A) the person is identified but [7] the cause or

1 circumstances of death are unknown[~~, and:~~

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

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

5 4. When the circumstances of the death of any person
6 are such as to lead to suspicion that he came to his death by
7 unlawful means;

8 5. When any person commits suicide, or the
9 circumstances of his death are such as to lead to suspicion that he
10 committed suicide;

11 6. When a person dies without having been attended by a
12 duly licensed and practicing physician, and the local health
13 officer or registrar required to report the cause of death under
14 Section 193.005, Health and Safety Code, does not know the cause of
15 death. When the local health officer or registrar of vital
16 statistics whose duty it is to certify the cause of death does not
17 know the cause of death, he shall so notify the medical examiner of
18 the county in which the death occurred and request an inquest;

19 7. When the person is a child who is younger than six
20 years of age and the death is reported under Chapter 264, Family
21 Code; and

22 8. When a person dies who has been attended
23 immediately preceding his death by a duly licensed and practicing
24 physician or physicians, and such physician or physicians are not
25 certain as to the cause of death and are unable to certify with
26 certainty the cause of death as required by Section 193.004, Health
27 and Safety Code. In case of such uncertainty the attending

1 physician or physicians, or the superintendent or general manager
2 of the hospital or institution in which the deceased shall have
3 died, shall so report to the medical examiner of the county in which
4 the death occurred, and request an inquest.

5 SECTION 4. Section 711.002, Health and Safety Code, is
6 amended by amending Subsection (1) and adding Subsections (1-1) and
7 (1-2) to read as follows:

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

10 (1) ~~[]~~ in connection with the decedent's death, ~~[an~~
11 ~~indictment has been filed charging]~~ the person has been arrested or
12 an arrest warrant has been issued for the person for ~~[with]~~ a crime
13 under Chapter 19, Penal Code, that involves family violence against
14 the decedent; or

15 (2) the decedent had filed an application for a
16 protective order against or with respect to the person under
17 Subchapter A, Chapter 7B, Code of Criminal Procedure, Article
18 17.292, Code of Criminal Procedure, Section 6.504, Family Code, or
19 Subtitle B, Title 4, Family Code, or an order has been issued
20 against or with respect to the person under one of those provisions.

21 (1-1) A person regulated under Chapter 651, Occupations
22 Code, who knowingly allows a person described by Subsection (1)
23 ~~[the person charged with a crime]~~ to control the disposition of the
24 decedent's remains in violation of that ~~[this]~~ subsection commits a
25 prohibited practice under Section 651.460, Occupations Code, and
26 the Texas Funeral Service Commission may take disciplinary action
27 or assess an administrative penalty against the regulated person

1 under that chapter.

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

8 SECTION 5. Articles 49.01, 49.04, and 49.25, Code of
9 Criminal Procedure, as amended by this Act, apply only to an
10 investigation of a death of an unidentified person that commences
11 on or after the effective date of this Act. An investigation of the
12 death of an unidentified person that commences before the effective
13 date of this Act is governed by the law in effect when the
14 investigation commenced, and the former law is continued in effect
15 for that purpose.

16 SECTION 6. This Act takes effect September 1, 2023.

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 88TH LEGISLATIVE REGULAR SESSION

May 22, 2023

TO: Honorable Dade Phelan, Speaker of the House, House of Representatives

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB3161 by Hull (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.), **As Passed 2nd House**

No significant fiscal implication to the State is anticipated.

It is assumed that any costs associated with the bill could be absorbed using existing resources.

Local Government Impact

Based on information provided by the Office of Court Administration, the bill would increase the workload of local justices of the peace. However, the fiscal implications of the bill cannot be determined because the number of people who would die unidentified is unknown.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 503 Texas Medical Board

LBB Staff: JMc, SD, DDeI, DKN, MW

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 88TH LEGISLATIVE REGULAR SESSION

May 17, 2023

TO: Honorable John Whitmire, Chair, Senate Committee on Criminal Justice

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: **HB3161** by Hull (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.), **Committee Report 2nd House, Substituted**

No significant fiscal implication to the State is anticipated.

It is assumed that any costs associated with the bill could be absorbed using existing resources.

Local Government Impact

Based on information provided by the Office of Court Administration, the bill would increase the workload of local justices of the peace. However, the fiscal implications of the bill cannot be determined because the number of people who would die unidentified is unknown.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 503 Texas Medical Board

LBB Staff: JMc, DDel, DKN, MW

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 88TH LEGISLATIVE REGULAR SESSION

May 12, 2023

TO: Honorable John Whitmire, Chair, Senate Committee on Criminal Justice

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB3161 by Hull (Relating to the duties of a justice of the peace, medical examiner, or other investigator regarding the bodies of unidentified deceased persons.), **As Engrossed**

No significant fiscal implication to the State is anticipated.

It is assumed that any costs associated with the bill could be absorbed using existing resources.

Local Government Impact

Based on information provided by the Office of Court Administration, the bill would increase the workload of local justices of the peace. However, the fiscal implications of the bill cannot be determined because the number of people who would die unidentified is unknown.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 503 Texas Medical Board

LBB Staff: JMc, DDel, MW, DKN

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 88TH LEGISLATIVE REGULAR SESSION

April 10, 2023

TO: Honorable Joe Moody, Chair, House Committee on Criminal Jurisprudence

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB3161 by Hull (Relating to the duties of a justice of the peace, medical examiner, or other investigator regarding the bodies of unidentified deceased persons.), **As Introduced**

No significant fiscal implication to the State is anticipated.

It is assumed that any costs associated with the bill could be absorbed using existing resources.

Local Government Impact

Based on information provided by the Office of Court Administration, the bill would increase the workload of local justices of the peace. However, the fiscal implications of the bill cannot be determined because the number of people who would die unidentified is unknown.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 503 Texas Medical Board

LBB Staff: JMc, DDeI, MW, DKN