

By: Leach

H.B. No. 1610

A BILL TO BE ENTITLED

AN ACT

relating to the nonsubstantive revision of certain provisions of the Code of Criminal Procedure, including conforming amendments.

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

ARTICLE 1. NONSUBSTANTIVE REVISION OF CERTAIN PROVISIONS OF THE

CODE OF CRIMINAL PROCEDURE

SECTION 1.01. Title 1, Code of Criminal Procedure, is amended by adding Chapters 5A, 9A, 49A, and 50A to read as follows:

TITLE 1. CODE OF CRIMINAL PROCEDURE

CHAPTER 5A. PREVENTING, INVESTIGATING, AND PROSECUTING FAMILY

VIOLENCE

Art. 5A.001. LEGISLATIVE STATEMENT

Art. 5A.002. DEFINITIONS

Art. 5A.003. PRIMARY DUTIES OF PEACE OFFICER

INVESTIGATING FAMILY VIOLENCE

Art. 5A.004. NO WAIVER OR EXCEPTION CREATED BY FAMILY

OR HOUSEHOLD RELATIONSHIP

Art. 5A.005. FOSTER HOME ADDRESS INQUIRY

Art. 5A.006. REQUIRED NOTICE FOR ADULT VICTIM

Art. 5A.007. PEACE OFFICER ACCESS TO AND ACCEPTANCE OF

PROTECTIVE ORDERS

Art. 5A.008. STANDBY ASSISTANCE; LIABILITY

Art. 5A.009. REQUIRED REPORTS

Art. 5A.010. ACCESS TO RECORDS

1 Art. 5A.011. PROSECUTOR'S NOTICE OF RESPONSIBILITY FOR
2 FILING APPLICATIONS FOR PROTECTIVE
3 ORDERS

4 Art. 5A.012. PROSECUTOR'S FILING OF PROTECTIVE ORDER:
5 PROHIBITED CONSIDERATION; AUTHORITY TO
6 REQUIRE INFORMATION

7 Art. 5A.013. DELAY OR DISMISSAL OF PROSECUTION BASED
8 ON STATUS OF CERTAIN CIVIL PROCEEDINGS
9 PROHIBITED

10 Art. 5A.014. REFERRAL TO MEDIATION, ARBITRATION,
11 DISPUTE RESOLUTION, OR SIMILAR
12 PROCEDURE PROHIBITED IN CRIMINAL
13 PROSECUTION

14 TITLE 1. CODE OF CRIMINAL PROCEDURE
15 CHAPTER 5A. PREVENTING, INVESTIGATING, AND PROSECUTING FAMILY
16 VIOLENCE

17 Art. 5A.001. LEGISLATIVE STATEMENT. (a) Family violence
18 is a serious danger and threat to society and its members. Victims
19 of family violence are entitled to the maximum protection as
20 permitted by law from harm or abuse or the threat of harm or abuse.

21 (b) In any law enforcement, prosecutorial, or judicial
22 response to an allegation of family violence, the responding peace
23 or judicial officer shall protect the victim without regard to the
24 relationship between the alleged offender and victim. (Code Crim.
25 Proc., Art. 5.01.)

26 Art. 5A.002. DEFINITIONS. In this chapter, "family,"
27 "family violence," "household," and "member of a household" have

1 the meanings assigned by Chapter 71, Family Code. (Code Crim.
2 Proc., Art. 5.02.)

3 Art. 5A.003. PRIMARY DUTIES OF PEACE OFFICER INVESTIGATING
4 FAMILY VIOLENCE. The primary duties of a peace officer who
5 investigates a family violence allegation or who responds to a
6 disturbance call that may involve family violence are to:

7 (1) protect any potential victim of family violence;

8 (2) enforce the law of this state;

9 (3) enforce a protective order from another
10 jurisdiction as provided by Chapter 88, Family Code; and

11 (4) make lawful arrests of violators. (Code Crim.
12 Proc., Art. 5.04(a).)

13 Art. 5A.004. NO WAIVER OR EXCEPTION CREATED BY FAMILY OR
14 HOUSEHOLD RELATIONSHIP. (a) A general duty prescribed for an
15 officer by Chapter 2A is not waived or excepted in any family
16 violence case or investigation because of a family or household
17 relationship between an alleged violator and a victim of family
18 violence.

19 (b) A peace officer's or magistrate's duty to prevent the
20 commission of a criminal offense, including an act of family
21 violence, is not waived or excepted because of a family or household
22 relationship between a potential violator and victim. (Code Crim.
23 Proc., Art. 5.03.)

24 Art. 5A.005. FOSTER HOME ADDRESS INQUIRY. A peace officer
25 who investigates a family violence allegation or who responds to a
26 disturbance call that may involve family violence shall determine
27 whether the address of a person involved in the allegation or call

1 matches the address of a licensed foster home or verified agency
2 foster home listed in the Texas Crime Information Center. (Code
3 Crim. Proc., Art. 5.04(a-1).)

4 Art. 5A.006. REQUIRED NOTICE FOR ADULT VICTIM. (a) A peace
5 officer who investigates a family violence allegation or who
6 responds to a disturbance call that may involve family violence
7 shall advise any possible adult victim of all reasonable means to
8 prevent further family violence, including by providing the written
9 notice adopted by the Health and Human Services Commission under
10 Section 51A.003, Human Resources Code.

11 (b) In addition to the required notice under Subsection (a),
12 a peace officer may provide to the possible victim any available
13 written information regarding local resources for victims of family
14 violence. (Code Crim. Proc., Art. 5.04(b).)

15 Art. 5A.007. PEACE OFFICER ACCESS TO AND ACCEPTANCE OF
16 PROTECTIVE ORDERS. (a) To ensure that a peace officer responding
17 to a disturbance call is aware of the existence and terms of any
18 protective order, each municipal police department and sheriff
19 shall establish procedures within the department or sheriff's
20 office to provide peace officers adequate information or access to
21 information regarding the names of:

- 22 (1) persons protected by a protective order; and
23 (2) persons to whom protective orders are directed.

24 (b) Each peace officer shall accept a certified copy of an
25 original or modified protective order as proof of the validity of
26 the order, and the order is presumed valid unless:

- 27 (1) the order contains a termination date that has

1 passed;

2 (2) more than one year has elapsed after the date the
3 order was issued; or

4 (3) the peace officer has been notified by the clerk of
5 the court vacating the order that the order has been vacated. (Code
6 Crim. Proc., Arts. 5.05(c), (d).)

7 Art. 5A.008. STANDBY ASSISTANCE; LIABILITY. (a) In a peace
8 officer's discretion, the officer may stay with a victim of family
9 violence to protect the victim and allow the victim to take the
10 personal property of the victim or of a child in the care of the
11 victim to a place of safety in an orderly manner.

12 (b) A peace officer who provides assistance under
13 Subsection (a) is not:

14 (1) civilly liable for an act or omission of the
15 officer that arises in connection with providing the assistance or
16 determining whether to provide the assistance; or

17 (2) civilly or criminally liable for the wrongful
18 appropriation of any personal property by the victim. (Code Crim.
19 Proc., Art. 5.045.)

20 Art. 5A.009. REQUIRED REPORTS. (a) A peace officer who
21 investigates a family violence incident or who responds to a
22 disturbance call that may involve family violence shall make a
23 written report that includes:

24 (1) the names of the suspect and complainant;

25 (2) the date, time, and location of the incident;

26 (3) any visible or reported injuries;

27 (4) a description of the incident and a statement of

1 its disposition; and

2 (5) whether the suspect is a member of the state
3 military forces or is serving in the armed forces of the United
4 States in an active-duty status.

5 (b) If a suspect is identified as being a member of the
6 military, as described by Subsection (a)(5), the peace officer
7 shall provide written notice of the incident or disturbance call to
8 the staff judge advocate at Joint Force Headquarters or the provost
9 marshal of the military installation to which the suspect is
10 assigned with the intent that the commanding officer will be
11 notified, as applicable.

12 (c) In addition to the written report required under
13 Subsection (a), a peace officer who investigates a family violence
14 incident or who responds to a disturbance call that may involve
15 family violence shall make a report to the Department of Family and
16 Protective Services if the location of the incident or call, or the
17 known address of a person involved in the incident or call, matches
18 the address of a licensed foster home or a verified agency foster
19 home as listed in the Texas Crime Information Center. The report
20 under this subsection may be made orally or electronically and
21 must:

22 (1) include the information required by Subsection
23 (a); and

24 (2) be filed with the Department of Family and
25 Protective Services within 24 hours of the beginning of the
26 investigation or receipt of the disturbance call.

27 (d) A peace officer who makes a report under Subsection (a)

1 shall provide information concerning the incident or disturbance to
2 the bureau of identification and records of the Department of
3 Public Safety for its recordkeeping function under Section 411.042,
4 Government Code. The bureau shall prescribe the form and nature of
5 the information required to be reported to the bureau by this
6 subsection. (Code Crim. Proc., Arts. 5.05(a), (a-1), (a-2), (e).)

7 Art. 5A.010. ACCESS TO RECORDS. (a) Each local law
8 enforcement agency shall establish a departmental code for
9 identifying and retrieving a written report made under Article
10 5A.009(a).

11 (b) A district or county attorney with jurisdiction in the
12 county where the law enforcement agency maintains records under
13 this article or Article 5A.009(a) is entitled to access to the
14 records.

15 (c) The Department of Family and Protective Services is
16 entitled to access to the records described by Subsection (b)
17 relating to any person who is 14 years of age or older and who
18 resides in a licensed foster home or a verified agency foster home.

19 (d) On request of a victim of an incident of family
20 violence, the local law enforcement agency responsible for
21 investigating the incident shall provide the victim, at no cost to
22 the victim, with any information that is:

- 23 (1) described by Article 5A.009(a)(1) or (2); and
24 (2) not exempt from disclosure under Chapter 552,
25 Government Code, or other law. (Code Crim. Proc., Arts. 5.05(b),
26 (f).)

27 Art. 5A.011. PROSECUTOR'S NOTICE OF RESPONSIBILITY FOR

1 FILING APPLICATIONS FOR PROTECTIVE ORDERS. The prosecuting
2 attorney who has responsibility under Section 81.007, Family Code,
3 for filing an application for a protective order under Title 4,
4 Family Code, shall provide notice of that responsibility to all law
5 enforcement agencies within the jurisdiction of the prosecuting
6 attorney. (Code Crim. Proc., Art. 5.06(c).)

7 Art. 5A.012. PROSECUTOR'S FILING OF PROTECTIVE ORDER:
8 PROHIBITED CONSIDERATION; AUTHORITY TO REQUIRE INFORMATION. A
9 prosecuting attorney's decision to file an application for a
10 protective order under Title 4, Family Code, should be made without
11 regard to whether a criminal complaint has been filed by the
12 applicant. A prosecuting attorney may require the applicant to
13 provide to a local law enforcement agency information relating to
14 the facts alleged in the application for an offense report. (Code
15 Crim. Proc., Art. 5.06(b).)

16 Art. 5A.013. DELAY OR DISMISSAL OF PROSECUTION BASED ON
17 STATUS OF CERTAIN CIVIL PROCEEDINGS PROHIBITED. A prosecuting
18 attorney or a court may not:

19 (1) dismiss or delay any criminal proceeding that
20 involves a prosecution for an offense that constitutes family
21 violence because a civil proceeding is pending or not pending; or

22 (2) require proof that a complaining witness, victim,
23 or defendant is a party to a suit for the dissolution of a marriage
24 or a suit affecting the parent-child relationship before presenting
25 a criminal allegation to a grand jury, filing an information, or
26 otherwise proceeding with the prosecution of a criminal case.
27 (Code Crim. Proc., Art. 5.06(a).)

Art. 5A.014. REFERRAL TO MEDIATION, ARBITRATION, DISPUTE
RESOLUTION, OR SIMILAR PROCEDURE PROHIBITED IN CRIMINAL
PROSECUTION. Notwithstanding Article 26.13(g) or 42A.301(b)(14),
in a criminal prosecution arising from family violence a court may
not refer or order the victim or the defendant involved to
mediation, arbitration, dispute resolution, or another similar
procedure. (Code Crim. Proc., Art. 5.08.)

CHAPTER 9A. TRADE, BUSINESS, OR OCCUPATION INJURIOUS TO PUBLIC
HEALTH

Art. 9A.001. ORDER REGARDING INJURIOUS TRADE,
BUSINESS, OR OCCUPATION

Art. 9A.002. PERMANENT RESTRAINT AND BOND ON
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Art. 9A.003. BOND REQUIREMENTS

Art. 9A.004. CONSEQUENCE OF REFUSAL TO EXECUTE BOND

Art. 9A.005. ACTION FOR BREACH OF BOND

Art. 9A.006. SEIZURE AND DESTRUCTION OF UNWHOLESOME
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CHAPTER 9A. TRADE, BUSINESS, OR OCCUPATION INJURIOUS TO PUBLIC
HEALTH

Art. 9A.001. ORDER REGARDING INJURIOUS TRADE, BUSINESS, OR
OCCUPATION. After an indictment or information has been presented
against a person for carrying on a trade, business, or occupation
injurious to the health of persons in the neighborhood, the court in
which the indictment or information is pending may issue an order:

(1) on the application of an interested person and
after hearing proof for and against the defendant, restraining the

defendant from carrying on the trade, business, or occupation
subject to a penalty the court considers proper; or

(2) regarding the manner and place of carrying on the
trade, business, or occupation as the court considers advisable.
(Code Crim. Proc., Art. 9.01 (part); New.)

Art. 9A.002. PERMANENT RESTRAINT AND BOND ON CONVICTION.
On conviction of the defendant at trial:

(1) the order restraining the defendant issued under
Article 9A.001 shall be made permanent; and

(2) the defendant shall be required to execute a bond
with security conditioned on the defendant not continuing, to the
detriment of the health of any neighborhood in the county where the
defendant carried on the trade, business, or occupation, the trade,
business, or occupation for which the defendant was convicted.
(Code Crim. Proc., Art. 9.01 (part); New.)

Art. 9A.003. BOND REQUIREMENTS. A bond executed under
Article 9A.002 shall:

(1) be payable to this state;

(2) be in a reasonable amount set by the court;

(3) specify the trade, business, or occupation for
which the defendant was convicted and the place where the defendant
carried on the trade, business, or occupation;

(4) be conditioned on the defendant not carrying on,
to the detriment of the health of any neighborhood in the county,
the specified trade, business, or occupation at the specified place
or any other place in the county;

(5) be signed and dated by the defendant and the

1 defendant's sureties; and

2 (6) be approved by and filed with the court. (Code
3 Crim. Proc., Art. 9.03; New.)

4 Art. 9A.004. CONSEQUENCE OF REFUSAL TO EXECUTE BOND. If a
5 defendant refuses to execute a bond when required under Article
6 9A.002, the court may:

7 (1) commit the defendant to jail; or

8 (2) issue an order requiring the sheriff to seize and
9 destroy the implements of or the goods and property used in
10 conducting the trade, business, or occupation for which the
11 defendant was convicted. (Code Crim. Proc., Art. 9.02.)

12 Art. 9A.005. ACTION FOR BREACH OF BOND. (a) The district
13 or county attorney may bring an action in the name of the state for
14 breach of a bond executed under Article 9A.002 within two years
15 after the date of the breach.

16 (b) Showing the defendant continued, after executing the
17 bond, to carry on the trade, business, or occupation for which the
18 bond was executed is sufficient proof of the defendant's breach of
19 the bond. The full amount of the bond may be recovered from the
20 defendant and the defendant's sureties.

21 (c) An action brought under this article is governed by the
22 same rules governing a civil action. (Code Crim. Proc., Arts. 9.04,
23 9.05.)

24 Art. 9A.006. SEIZURE AND DESTRUCTION OF UNWHOLESOME FOOD OR
25 ADULTERATED MEDICINE. After a defendant is convicted of selling
26 unwholesome food or adulterated medicine, the court shall issue an
27 order for the sheriff or other proper officer to seize and destroy

any unwholesome food or adulterated medicine that remains in the
defendant's possession. (Code Crim. Proc., Art. 9.06.)

CHAPTER 49A. DEATH INQUESTS

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9 CHAPTER 49A. DEATH INQUESTS

10 SUBCHAPTER A. GENERAL PROVISIONS

11 Art. 49A.001. DEFINITIONS. In this chapter:

12 (1) "Autopsy" means a postmortem examination of the
13 body of a person, including x-rays and an examination of the
14 internal organs and structures after dissection, to determine the
15 cause of death or the nature of any pathological changes that may
16 have contributed to the death.

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

21 (3) "Inquest hearing" means a formal court hearing
22 held:

23 (A) to determine whether the death of a person
24 was caused by an unlawful act or omission; and

25 (B) if the death was caused by an unlawful act or
26 omission, to obtain evidence supporting a criminal prosecution.

27 (4) "Institution" means a place where health care

1 services are provided, including a hospital, clinic, health
2 facility, nursing home, extended care facility, outpatient
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
6 Medical Board under Subtitle B, Title 3, Occupations Code. (Code
7 Crim. Proc., Art. 49.01(a).)

8 Art. 49A.002. WHEN DECEASED PERSON OR BODY CONSIDERED
9 UNIDENTIFIED. For purposes of this chapter, a deceased person or a
10 deceased person's body is considered unidentified if:

- 11 (1) the deceased person's legal name is unknown; and
12 (2) there is no known person with the duty to inter the
13 deceased person's remains under Section 711.002(a), Health and
14 Safety Code. (Code Crim. Proc., Art. 49.01(b).)

15 SUBCHAPTER B. INQUESTS BY JUSTICE OF THE PEACE

16 Art. 49A.051. APPLICABILITY. This subchapter applies to
17 the inquest into a person's death that occurs in a county that:

- 18 (1) does not have an office of medical examiner; and
19 (2) is not part of a medical examiner's district.
20 (Code Crim. Proc., Art. 49.02.)

21 Art. 49A.052. INDEPENDENT AUTHORITY AND DUTIES OF JUSTICE
22 OF THE PEACE. The powers granted to and duties imposed on a justice
23 of the peace under this subchapter are independent of the powers and
24 duties of a law enforcement agency investigating a person's death.
25 (Code Crim. Proc., Art. 49.03.)

26 Art. 49A.053. DEATHS REQUIRING INQUEST. (a) A justice of
27 the peace shall conduct an inquest into the death of a person who

1 dies in the county served by the justice if:

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

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

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

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

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

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

15 (5) the person dies by suicide or the circumstances of
16 the death indicate that the death may have been caused by suicide;

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

19 (7) the person dies while attended by a physician who:

20 (A) is unable to certify the cause of death; and

21 (B) requests the justice to conduct an inquest;

22 or

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

25 (b) Except as provided by Subsection (c), a physician who
26 attends the death of a person and is unable to certify the cause of
27 death shall report the death to the justice of the peace of the

precinct where the death occurred and request that the justice conduct an inquest.

(c) If a person dies in an institution and an attending physician is unable to certify the cause of death, the superintendent or general manager of the institution shall report the death to the justice of the peace of the precinct where the institution is located. (Code Crim. Proc., Arts. 49.04(a), (b), (c).)

Art. 49A.054. REQUIRED NOTICE TO JUSTICE OF THE PEACE; OFFENSE. (a) A physician or other person who possesses a body or body part of a person whose death requires an inquest under Article 49A.053 shall immediately notify the justice of the peace of the precinct in which the body or body part was found.

(b) A peace officer who is notified of a death that requires an inquest under Article 49A.053 shall immediately notify the justice of the peace of the precinct in which the body or body part was found.

(c) A person commits an offense if the person is required by this article to give notice and intentionally or knowingly fails to give the notice. An offense under this subsection is a Class C misdemeanor. (Code Crim. Proc., Arts. 49.07(a), (b), (d).)

Art. 49A.055. ALTERNATE OFFICIALS REQUIRED TO CONDUCT INQUESTS; OFFENSE. (a) If the justice of the peace of the precinct in which the body or body part was found is not available to conduct an inquest, a person required to give notice under Article 49A.054 shall notify the nearest available justice of the peace of the county in which the body or body part was found, and that justice of

1 the peace shall conduct the inquest.

2 (b) If each justice of the peace of the county in which the
3 body or body part was found is not available to conduct an inquest,
4 a person required to give notice under Article 49A.054 shall notify
5 the county judge of that county, and the county judge shall initiate
6 the inquest. Subject to Subsection (d), the county judge may
7 exercise any power and perform any duty otherwise granted or
8 imposed under this subchapter to or on the justice of the peace of
9 the county in which the body or body part was found.

10 (c) This subsection applies only if each justice of the
11 peace of the county in which the body or body part was found and the
12 county judge of that county are not available to conduct an inquest.
13 A person required to give notice under Article 49A.054 may ask the
14 justice of the peace of the precinct in which the body or body part
15 was found or the county judge of that precinct's county to request a
16 justice of the peace of another county described by Article 49A.051
17 to initiate the inquest. All expenses related to the inquest must
18 be paid as provided by this chapter.

19 (d) A person who initiates an inquest under Subsection (b)
20 or (c) shall, not later than the fifth day after the date the
21 inquest is initiated, transfer all information obtained by the
22 person and related to the inquest to the justice of the peace of the
23 precinct in which the body or body part was found for final
24 disposition of the matter.

25 (e) A person commits an offense if the person is required by
26 this article to give notice and intentionally or knowingly fails to
27 give the notice. An offense under this subsection is a Class C

1 misdemeanor. (Code Crim. Proc., Arts. 49.07(c), (d).)

2 Art. 49A.056. REQUIRED NOTICE OF DEATH IN PENAL
3 INSTITUTION. (a) If a person confined in a penal institution dies,
4 the sheriff or other person in charge of the penal institution shall
5 as soon as practicable provide notice of the death to the justice of
6 the peace of the precinct in which the penal institution is located.

7 (b) This article does not apply to a death that occurs in a
8 facility operated by or under contract with the Texas Department of
9 Criminal Justice. (Code Crim. Proc., Arts. 49.18(a), (c) (part).)

10 Art. 49A.057. AUTHORITY TO ACT ON CERTAIN INFORMATION. A
11 justice of the peace conducting an inquest may act on:

12 (1) information the justice receives from a credible
13 person; or

14 (2) facts within the justice's knowledge. (Code Crim.
15 Proc., Art. 49.08.)

16 Art. 49A.058. TIME AND PLACE OF INQUEST. (a) A justice of
17 the peace shall conduct an inquest as soon as practicable after the
18 justice receives notice of the death.

19 (b) A justice of the peace may conduct an inquest:

20 (1) at the place where the death occurred;

21 (2) at the place where the body was found;

22 (3) by videoconference with a person who is:

23 (A) designated by the justice of the peace; and

24 (B) present with the body for a death described
25 by Article 49A.053(a)(6) or (7); or

26 (4) at any other place the justice determines is
27 reasonable. (Code Crim. Proc., Arts. 49.05(a), (b).)

1 Art. 49A.059. OFFENSE: HINDERING AN INQUEST. (a) A person
2 commits an offense if the person intentionally or knowingly hinders
3 the entrance of a justice of the peace to a premises where a death
4 occurred or a body was found.

5 (b) An offense under this article is a Class B misdemeanor.
6 (Code Crim. Proc., Art. 49.06.)

7 Art. 49A.060. LIMITATIONS ON MOVING BODY AND PHYSICAL
8 SURROUNDINGS; OFFENSE. (a) A justice of the peace may direct the
9 removal of a body from the place of death or move any part of the
10 physical surroundings of a body only after:

11 (1) a law enforcement agency is notified of the death
12 and a peace officer has conducted an investigation into the death;
13 or

14 (2) if a law enforcement agency has not begun an
15 investigation into the death, a reasonable period has elapsed from
16 the time the law enforcement agency was notified.

17 (b) A law enforcement agency that is notified of a death
18 requiring an inquest under Article 49A.053 shall begin its
19 investigation into the death as soon as practicable after the law
20 enforcement agency receives notice of the death.

21 (c) Except in emergency circumstances, a peace officer or
22 other person conducting a death investigation for a law enforcement
23 agency may not move the body or any part of the physical
24 surroundings of the place of death without authorization from a
25 justice of the peace.

26 (d) A person not authorized by law to move the body of a
27 deceased person or any part of the physical surroundings of the body

commits an offense if the person tampers with:

(1) a body that is subject to an inquest under Article 49A.053; or

(2) any part of the physical surroundings of the body described by Subdivision (1).

(e) An offense under Subsection (d) is punishable by a fine in an amount not to exceed \$500. (Code Crim. Proc., Arts. 49.05(c), (d), (e), (f).)

Art. 49A.061. AUTHORITY TO LOCK AND SEAL PREMISES OF DECEASED PERSON; LIABILITY OF ESTATE FOR EXPENSES; OFFENSE. (a) If a body or body part that is subject to an inquest under Article 49A.053 is found on premises that were under the sole control of the deceased person, a justice of the peace or other person authorized under this subchapter to conduct an inquest may direct that the premises be locked and sealed to prohibit entrance by any person other than a peace officer investigating the death.

(b) Rent, utility charges, taxes, and any other reasonable expense that accrues against the property of the deceased person during the period the premises of the deceased person are locked and sealed under this article may be charged against the estate of the deceased person.

(c) A person, other than a peace officer, commits an offense if the person tampers with or removes a lock or seal placed on premises under this article.

(d) An offense under this article is a Class B misdemeanor. (Code Crim. Proc., Art. 49.22.)

Art. 49A.062. AUTHORITY TO DISINTER BODY. If a body or body

1 part subject to an inquest under Article 49A.053 is interred and an
2 authorized person has not conducted an inquest required under this
3 subchapter, a justice of the peace may direct the disinterment of
4 the body or body part to conduct an inquest. (Code Crim. Proc.,
5 Art. 49.09(a).)

6 Art. 49A.063. AUTOPSIES. (a) A justice of the peace may
7 obtain the opinion of a county health officer or a physician
8 regarding whether an autopsy is necessary to determine or confirm
9 the nature and cause of a death.

10 (b) Unless an autopsy is required under Subsection (c)(2),
11 for each body that is the subject of an inquest by a justice of the
12 peace, the justice shall, in the justice's discretion:

13 (1) direct a physician to perform an autopsy; or

14 (2) certify that an autopsy is not necessary.

15 (c) A justice of the peace shall order an autopsy to be
16 performed on a body if:

17 (1) the justice determines that an autopsy is
18 necessary to determine or confirm the nature and cause of death;

19 (2) the deceased person was a child younger than six
20 years of age and the death is determined under Section 264.514,
21 Family Code, to be unexpected or the result of abuse or neglect; or

22 (3) the district attorney, criminal district
23 attorney, or, if there is not a district or criminal district
24 attorney, the county attorney directs the justice to order the
25 autopsy.

26 (d) A justice of the peace shall request a physician to
27 perform the autopsy.

(e) A justice of the peace may not order a person to perform an autopsy on the body of a deceased person whose death was caused by:

- (1) Asiatic cholera;
- (2) bubonic plague;
- (3) typhus fever;
- (4) smallpox; or
- (5) a communicable disease during a public health disaster.

(f) If a person is injured in one county and dies in another county as a result of that injury, the attorney representing the state in the prosecution of felonies in the county in which the injury occurred may request a justice of the peace of the county in which the death occurred to order an autopsy to be performed on the body of that person. If the justice of the peace orders the autopsy to be performed, the county in which the person's injury occurred shall reimburse the county in which the person's death occurred.

(g) The commissioners court of the county shall pay a reasonable fee:

(1) to a physician performing an autopsy on the order of a justice of the peace, if a fee is assessed;

(2) for an opinion obtained by a justice of the peace under Subsection (a); and

(3) for the transportation of a body on the order of a justice of the peace to a place where an autopsy may be performed under this article or Article 49A.064. (Code Crim. Proc., Arts. [49.10](#)(a), (b), (c), (d), (e), (f), (g), (h), (o).)

1 Art. 49A.064. TAKING SAMPLES; LIMITED AUTOPSIES. (a) If a
2 justice of the peace determines that a complete autopsy is
3 unnecessary to confirm or determine the cause of death, the justice
4 may order a physician to take or remove from a body a sample of body
5 fluids, tissues, or organs to determine the nature and cause of
6 death. Except as provided by Subsection (b), a justice may not
7 order a person other than a physician to take a sample from the body
8 of a deceased person.

9 (b) A justice of the peace may order a physician, qualified
10 technician, paramedic, chemist, registered nurse, or licensed
11 vocational nurse to take a specimen of blood from the body of a
12 person:

13 (1) who died as the result of a motor vehicle collision
14 if the justice determines that circumstances indicate that the
15 person may have been driving while intoxicated; or

16 (2) to aid in the confirmation or determination of the
17 cause and manner of the person's death while conducting an inquest.
18 (Code Crim. Proc., Arts. [49.10](#)(i), (j).)

19 Art. 49A.065. CHEMICAL ANALYSES. (a) A justice of the
20 peace may obtain a chemical analysis of a sample taken from a body
21 to determine whether the death was caused, wholly or partly, by the
22 ingestion, injection, or introduction into the body of a poison or
23 other chemical substance. A justice may obtain a chemical analysis
24 under this subsection from a chemist, toxicologist, pathologist, or
25 other medical expert.

26 (b) A justice of the peace shall obtain a chemical analysis
27 under Subsection (a) if requested by the physician who performed an

1 autopsy on the body.

2 (c) The commissioners court shall pay a reasonable fee to a
3 person who conducts a chemical analysis at the request of a justice
4 of the peace. (Code Crim. Proc., Art. [49.11.](#))

5 Art. 49A.066. LIABILITY OF PERSON PERFORMING AUTOPSY OR
6 TEST. A person who performs an autopsy or a test on a body on the
7 order of a justice of the peace in the good faith belief that the
8 order is valid is not liable for damages if the order is invalid.
9 (Code Crim. Proc., Art. [49.12.](#))

10 Art. 49A.067. UNIDENTIFIED BODY. (a) A justice of the
11 peace investigating an unidentified person's death described by
12 Article 49A.053(a)(3)(B) shall report the death to the missing
13 children and missing persons information clearinghouse of the
14 Department of Public Safety and the National Crime Information
15 Center not later than the 10th working day after the date the
16 investigation began.

17 (b) A justice of the peace investigating an unidentified
18 person's death described by Article 49A.053(a)(3)(B), or the
19 justice's designee, shall enter into the National Missing and
20 Unidentified Persons System information regarding all available
21 identifying features of the unidentified body, including
22 fingerprints, dental records, any unusual physical
23 characteristics, and the clothing found on the body, not later than
24 the earlier of:

25 (1) the 10th working day after the date that one or
26 more identifying features of the unidentified body are determined;
27 or

1 (2) the 60th day after the date the investigation
2 began.

3 (c) A justice of the peace may order an investigative or
4 laboratory test to determine the identity of a deceased person.
5 After proper removal of a sample from a body, a justice may order a
6 person specially trained in identification work to complete any
7 test necessary to determine the identity of the deceased person.

8 (d) To enable the timely and accurate identification of the
9 person, a medical examination on an unidentified person:

10 (1) must include:

11 (A) all available fingerprints and palm prints;

12 (B) dental charts and radiographs, including
13 x-rays, of the teeth;

14 (C) frontal and lateral facial photographs with
15 scale indicated;

16 (D) notation and photographs, with scale
17 indicated, of a significant scar, mark, tattoo, or item of clothing
18 or other personal effect found with or near the body;

19 (E) notation of any antemortem medical
20 condition;

21 (F) notation of any observation relevant to the
22 estimation of time of death; and

23 (G) precise documentation of the body's burial
24 location; and

25 (2) may include:

26 (A) full body radiographs, including x-rays; and

27 (B) hair specimens with roots.

1 (e) On discovering the body or body part of a deceased
2 person in the circumstances described by Article 49A.053(a)(3)(B),
3 the justice of the peace may request aid in the examination of the
4 body or body part from a forensic anthropologist who holds a
5 doctoral degree in anthropology with an emphasis in physical
6 anthropology. The forensic anthropologist:

7 (1) shall attempt to establish:

8 (A) whether the body or body part is of a human or
9 animal;

10 (B) whether evidence of childbirth, injury, or
11 disease exists; and

12 (C) the sex, race, age, stature, and physical
13 anomalies of the body or body part; and

14 (2) may attempt to establish the cause, manner, and
15 time of death.

16 (f) A person may not cremate or direct the cremation of an
17 unidentified person's body under Article 49A.068(a). If the body is
18 buried, the justice of the peace shall record and maintain for a
19 period of at least 10 years all information relating to the body and
20 the burial location. (Code Crim. Proc., Arts. [49.04](#)(d), (e),
21 [49.09](#)(e), [49.10](#)(k), (l), (m), (n).)

22 Art. 49A.068. CREMATION; OFFENSE. (a) A person may not
23 cremate or direct the cremation of a body subject to an inquest
24 under Article 49A.053 unless:

25 (1) the body is identified; and

26 (2) the person has received from the justice of the
27 peace a certificate signed by the justice stating that:

1 (A) an autopsy was performed on the body under
2 Article 49A.063 or 49A.064; or

3 (B) no autopsy was necessary.

4 (b) An owner or operator of a crematory shall retain a
5 certificate received under Subsection (a) for a period of 10 years
6 after the cremation date for the body named on the certificate.

7 (c) A person commits an offense if the person cremates or
8 directs the cremation of a body without obtaining a certificate
9 from a justice of the peace as required by Subsection (a). An
10 offense under this subsection is a Class B misdemeanor. (Code Crim.
11 Proc., Arts. [49.09](#)(b), (c), (d).)

12 Art. 49A.069. INQUEST HEARING; CONTEMPT. (a) A justice of
13 the peace conducting an inquest may hold an inquest hearing if the
14 justice determines that the circumstances warrant the hearing. The
15 justice shall hold an inquest hearing if requested by a district
16 attorney or a criminal district attorney of the county in which the
17 body was found.

18 (b) An inquest hearing may be held with or without a jury
19 unless the district attorney or criminal district attorney requests
20 a jury for the hearing.

21 (c) A jury in an inquest hearing is composed of six persons.
22 Jurors must be summoned in the same manner as jurors are summoned
23 for county court.

24 (d) A justice of the peace may hold a public or private
25 inquest hearing. If a person is arrested and charged with causing
26 the death of another, the person and the person's counsel are
27 entitled to be present at the inquest hearing, examine witnesses,

1 and introduce evidence.

2 (e) A justice of the peace may:

3 (1) issue a subpoena to enforce the attendance of a
4 witness at an inquest hearing;

5 (2) issue an attachment for a witness who is
6 subpoenaed and fails to appear at the time and place cited on the
7 subpoena; and

8 (3) require bail of a witness to secure the appearance
9 of the witness at an inquest hearing or before a grand jury,
10 examining court, or other court investigating a death.

11 (f) The justice of the peace shall:

12 (1) swear witnesses appearing at an inquest hearing;

13 (2) direct that all sworn testimony be reduced to
14 writing; and

15 (3) sign the transcription.

16 (g) Only the following persons may question a witness at an
17 inquest hearing:

18 (1) the justice of the peace;

19 (2) a person charged in the death under investigation
20 and the person's counsel; and

21 (3) the attorney representing the state.

22 (h) A justice of the peace may hold in contempt of court a
23 person who disrupts the proceedings of an inquest hearing. A peace
24 officer may remove from court a person who is held in contempt of
25 court under this subsection. The penalty for contempt of court
26 under this subsection is a fine in an amount not to exceed \$100.

27 (Code Crim. Proc., Arts. [49.14](#)(a), (b), (c) (part), (d), (e), (f),

1 (g) (part), (h), (i).)

2 Art. 49A.070. OFFENSE: FAILING TO APPEAR AT INQUEST
3 HEARING. (a) A juror who is properly summoned for an inquest
4 hearing under Article 49A.069(c) and fails to appear, other than a
5 juror exempted by law from jury service, commits an offense.

6 (b) An offense under this article is punishable by a fine
7 not to exceed \$100. (Code Crim. Proc., Art. [49.14](#)(c) (part).)

8 Art. 49A.071. INQUEST RECORD. (a) A justice of the peace
9 or other person authorized under this subchapter to conduct an
10 inquest shall make an inquest record for each inquest the justice or
11 person conducts. The inquest record must include:

12 (1) a report of the events, proceedings, findings, and
13 conclusions of the inquest;

14 (2) any autopsy report prepared in the case; and

15 (3) all other papers of the case.

16 (b) As part of the inquest record, the justice of the peace
17 shall make and keep a complete and permanent record of each inquest
18 hearing. The inquest hearing record must include:

19 (1) the name of the deceased person or, if the person
20 is unidentified, a description of the body;

21 (2) the time, date, and place where the body was found;

22 (3) the time, date, and place where the inquest was
23 held;

24 (4) the name of each witness who testified at the
25 inquest;

26 (5) the name of each person who provided to the justice
27 information relevant to the inquest;

1 (6) the amount of bail set for each witness and for
2 each person charged in the death;

3 (7) a transcript of the testimony given by each
4 witness at the inquest hearing;

5 (8) the autopsy report, if an autopsy was performed;
6 and

7 (9) the name of each person arrested as a suspect in
8 the death who appeared at the inquest and the details of that
9 person's arrest.

10 (c) All papers of the inquest record must be:

11 (1) marked with the case number;

12 (2) clearly indexed;

13 (3) maintained in the office of the justice of the
14 peace; and

15 (4) made available to the appropriate officials on
16 request.

17 (d) The commissioners court shall pay a reasonable fee to a
18 person who records or transcribes sworn testimony during an inquest
19 hearing. (Code Crim. Proc., Art. [49.15](#).)

20 Art. 49A.072. WARRANT OF ARREST. (a) A justice of the
21 peace who is conducting an inquest into a person's death under this
22 subchapter may issue a warrant for the arrest of a person suspected
23 of causing the death if:

24 (1) the justice has knowledge that the suspect caused
25 the death;

26 (2) the justice receives an affidavit stating that the
27 suspect caused the death; or

1 (3) evidence is adduced at an inquest hearing that
2 shows probable cause to believe the suspect caused the death.

3 (b) A peace officer who receives an arrest warrant issued by
4 a justice of the peace shall:

5 (1) execute the warrant immediately; and

6 (2) detain the arrested person until the arrested
7 person's discharge is ordered by the justice of the peace or other
8 proper authority.

9 (c) A person who is charged in a death and arrested under a
10 warrant issued by a justice of the peace shall remain in the custody
11 of the arresting peace officer. A warrant issued by another
12 magistrate is not sufficient authority to remove the arrested
13 person from the peace officer's custody.

14 (d) A person charged in a death who has not been arrested
15 under a warrant issued by a justice of the peace may be arrested on
16 the order of a magistrate other than the justice of the peace and
17 examined by that magistrate while an inquest is pending.

18 (e) A warrant of arrest issued under Subsection (a) is
19 sufficient if it:

20 (1) is issued in the name of "The State of Texas";

21 (2) specifies the name of the person whose arrest is
22 ordered or, if the person's name is unknown, reasonably describes
23 the person;

24 (3) recites in plain language the offense with which
25 the person is charged; and

26 (4) is signed and dated by a justice of the peace.

27 (Code Crim. Proc., Arts. [49.19](#), [49.20](#).)

1 Art. 49A.073. COMMITMENT OF SUSPECT. If a justice of the
2 peace finds at the conclusion of an inquest that a person who has
3 been arrested in the case caused or contributed to the death that is
4 the subject of the inquest, the justice may:

5 (1) commit the person to jail; or

6 (2) require the person to execute a bail bond with
7 security for the person's appearance before the proper court to
8 answer for the offense. (Code Crim. Proc., Art. [49.21.](#))

9 Art. 49A.074. PRESERVATION OF EVIDENCE. A justice of the
10 peace shall:

11 (1) preserve all tangible evidence that the justice
12 obtains in the course of an inquest that tends to identify the
13 person who caused the death that is the subject of the inquest or
14 show the actual cause of death; and

15 (2) deposit the evidence described by Subdivision (1)
16 with the appropriate law enforcement agency to be stored in the
17 agency's property room for safekeeping. (Code Crim. Proc., Art.
18 [49.17.](#))

19 Art. 49A.075. OFFICE OF DEATH INVESTIGATOR. (a) The
20 commissioners court of a county may establish an office of death
21 investigator and employ one or more death investigators to assist a
22 person in the county who conducts an inquest. A death investigator
23 serves at the will of the commissioners court and on terms set by
24 the commissioners court.

25 (b) To be eligible for employment as a death investigator, a
26 person must have experience or training in investigative procedures
27 concerning the circumstances, manner, and cause of the death of a

1 person.

2 (c) At the request and under the supervision of a justice of
3 the peace or other person who conducts an inquest, a death
4 investigator may assist the person conducting the inquest to:

5 (1) investigate the time, place, and manner of death;
6 and

7 (2) lock and seal the premises of the deceased person.

8 (d) A death investigator who assists in an inquest under
9 Subsection (c) shall, not later than eight hours after the death
10 investigator completes the investigation, make a complete report of
11 the death investigator's activities, findings, and conclusions to
12 the justice of the peace or other person conducting the inquest.

13 (e) A death investigator employed under this article is
14 entitled to receive compensation from the county in an amount set by
15 the commissioners court. (Code Crim. Proc., Art. [49.23.](#))

16 Art. 49A.076. DUTY TO SIGN DEATH CERTIFICATES AND INQUEST
17 ORDERS. The justice of the peace or other person who conducts an
18 inquest under this subchapter shall sign the death certificate and
19 each order that the justice or other person makes as a necessary
20 part of the inquest. (Code Crim. Proc., Art. [49.16.](#))

21 Art. 49A.077. AUTHORITY TO REOPEN INQUEST BASED ON CERTAIN
22 INFORMATION. A justice of the peace may reopen an inquest if, based
23 on information provided by a credible person or facts within the
24 knowledge of the justice of the peace, the justice of the peace
25 determines that reopening the inquest may reveal a different cause
26 or different circumstances of death. (Code Crim. Proc., Art.
27 [49.041.](#))

SUBCHAPTER C. INQUESTS BY MEDICAL EXAMINER

Art. 49A.101. CREATION OF OFFICE REQUIRED IN CERTAIN COUNTIES; AUTHORITY TO ESTABLISH OFFICE. The commissioners court of a county with a population of more than 2.5 million shall establish and maintain an office of medical examiner. The commissioners court of any other county may establish and maintain an office of medical examiner. (Code Crim. Proc., Art. 49.25, Sec. 1 (part).)

Art. 49A.102. CREATION OF MULTI-COUNTY MEDICAL EXAMINERS DISTRICT; WITHDRAWAL. (a) The commissioners courts of two or more counties may enter into an agreement to create a medical examiners district and to jointly operate and maintain an office of medical examiner of the district. The district must include the entire area of each county involved. The counties in the district must, when taken together, form a continuous area.

(b) A medical examiners district may have only one medical examiner. When a county becomes part of a medical examiners district, the effect is the same within the county as if an office of medical examiner had been established solely in that county.

(c) The district medical examiner has all the powers and duties within the district that a medical examiner who serves in a single county has within that county.

(d) The commissioners court of a county that is part of a medical examiners district may withdraw the county from the district if the court gives 12 months' notice of withdrawal to the commissioners courts of all other counties in the district. (Code Crim. Proc., Art. 49.25, Sec. 1-a.)

1 Art. 49A.103. INQUEST POWERS AND DUTIES OF JUSTICE OF THE
2 PEACE APPLY TO MEDICAL EXAMINER; CONFLICT OF LAWS. (a) When the
3 commissioners court of a county establishes an office of medical
4 examiner, all powers and duties of justices of the peace in that
5 county relating to a death investigation or an inquest transfer to
6 the office of medical examiner.

7 (b) A subsequent general law relating to a duty of a justice
8 of the peace in a death investigation or inquest applies to the
9 medical examiner in that county only to the extent that the law is
10 not inconsistent with this subchapter, Article 49A.152, or Article
11 49A.251, and those provisions prevail over a law or a part of law
12 that otherwise conflicts with those provisions. (Code Crim. Proc.,
13 Art. 49.25, Sec. 12.)

14 Art. 49A.104. WHICH MEDICAL EXAMINER REQUIRED TO CONDUCT
15 INQUEST. An inquest authorized and required by this subchapter
16 shall be conducted by the medical examiner of the county in which
17 the death subject to the inquest occurred. (Code Crim. Proc., Art.
18 49.25, Sec. 6(b).)

19 Art. 49A.105. APPOINTMENT AND QUALIFICATION OF MEDICAL
20 EXAMINER. (a) The commissioners court of a county that establishes
21 an office of medical examiner shall appoint the medical examiner. A
22 person appointed as the medical examiner must be:

23 (1) a physician licensed by the Texas Medical Board;
24 or

25 (2) a person who:

26 (A) is licensed and in good standing as a
27 physician in another state;

1 (B) has applied to the Texas Medical Board for a
2 license to practice medicine in this state; and

3 (C) has been granted a provisional license under
4 Section 155.101, Occupations Code.

5 (b) A medical examiner serves at the will of the
6 commissioners court that appointed the medical examiner.

7 (c) To the greatest extent possible, the commissioners
8 court shall appoint a medical examiner who has training and
9 experience in pathology, toxicology, histology, and other
10 medico-legal sciences. (Code Crim. Proc., Art. 49.25, Secs. 2(a),
11 (b).)

12 Art. 49A.106. EMPLOYEES. Subject to the approval of the
13 commissioners court, the medical examiner may employ deputy
14 examiners, scientific experts, trained technicians, officers, and
15 other employees as necessary to properly perform the duties imposed
16 on the medical examiner by this subchapter. (Code Crim. Proc., Art.
17 49.25, Sec. 3.)

18 Art. 49A.107. SALARIES. The commissioners court of a
19 county that establishes an office of medical examiner shall
20 establish and pay the salaries and compensations of the medical
21 examiner and the medical examiner's employees. (Code Crim. Proc.,
22 Art. 49.25, Sec. 4.)

23 Art. 49A.108. PROVISION OF OFFICE SPACE AND LABORATORY
24 FACILITIES. The commissioners court of a county that establishes
25 an office of medical examiner shall:

26 (1) provide the medical examiner and the medical
27 examiner's employees with adequate office space; and

1 (2) on request of the medical examiner, provide the
2 medical examiner and the medical examiner's employees with
3 laboratory facilities or make arrangements for the use of existing
4 laboratory facilities in the county. (Code Crim. Proc., Art. 49.25,
5 Sec. 5.)

6 Art. 49A.109. DEATHS REQUIRING INQUEST BY MEDICAL EXAMINER.

7 (a) A medical examiner, or a medical examiner's authorized deputy,
8 shall conduct an inquest if:

9 (1) a person dies within 24 hours after the person is
10 admitted to an institution or in prison or jail;

11 (2) a person:

12 (A) dies an unnatural death from a cause other
13 than a legal execution; or

14 (B) dies in the absence of a good witness;

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

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

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

21 (4) the circumstances of the death of a person
22 indicate that the person may have died by unlawful means;

23 (5) a person dies by suicide or the circumstances of
24 the person's death indicate that the person may have died by
25 suicide;

26 (6) a person dies without having been attended by a
27 physician, and the local health officer or registrar required to

1 report the cause of death under Section 193.005, Health and Safety
2 Code, does not know the cause of death;

3 (7) a person dies while attended by a physician who is
4 unable to certify with certainty the cause of death as required by
5 Section 193.004, Health and Safety Code; and

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

8 (b) When a medical examiner or an employee of the medical
9 examiner receives notice under Article 49A.110(c) of a death of a
10 person designated as a prospective organ donor for transplantation,
11 the medical examiner or the medical examiner's deputy shall conduct
12 an inquest on the person.

13 (c) The medical examiner, or the medical examiner's
14 authorized deputy, shall conduct an inquest required by Subsection
15 (a) in the county in which the medical examiner was appointed. The
16 inquest may be conducted with or without a jury. (Code Crim. Proc.,
17 Art. 49.25, Secs. 6(a) (part), 6a(b).)

18 Art. 49A.110. REQUIRED NOTICE TO MEDICAL EXAMINER OF
19 DEATHS. (a) A police officer, superintendent or general manager of
20 an institution, physician, or other person who becomes aware of a
21 person's death under circumstances described by Article 49A.109(a)
22 shall immediately report the death to the office of medical
23 examiner or the municipal or county police department. A report to
24 the municipal or county police department under this subsection
25 shall be immediately transmitted to the office of medical examiner.

26 (b) When a person dies under circumstances described by
27 Article 49A.109(a)(7), the attending physician, or the

1 superintendent or general manager of the institution in which the
2 person died, shall report the death to the medical examiner of the
3 county in which the death occurred and request an inquest.

4 (c) When a person designated as a prospective organ donor
5 for transplantation by a physician dies under circumstances
6 requiring the medical examiner of the county in which the death
7 occurred, or the medical examiner's authorized deputy, to conduct
8 an inquest, the administrative head of the facility in which the
9 transplantation is to be performed shall provide notice of the
10 death to the medical examiner or an employee of the medical
11 examiner.

12 (d) If a local health officer or registrar of vital
13 statistics who is required to certify a person's cause of death does
14 not know the cause of death, the officer or registrar shall provide
15 notice of the death to the medical examiner of the county in which
16 the death occurred and request an inquest. (Code Crim. Proc., Art.
17 [49.25](#), Secs. 6(a) (part), 6a(a), 7(a).)

18 Art. 49A.111. AUTHORITY TO ADMINISTER OATHS AND TAKE
19 AFFIDAVITS DURING INQUEST. The medical examiner, or the medical
20 examiner's authorized deputy, may administer oaths and take
21 affidavits while conducting an inquest under this subchapter. (Code
22 Crim. Proc., Art. [49.25](#), Sec. 6(c) (part).)

23 Art. 49A.112. MEDICAL EXAMINER MUST AUTHORIZE REMOVAL OF
24 BODY; EXCEPTIONS. If a death occurs under circumstances described
25 by Article 49A.109(a), a person may not disturb or remove the body
26 from the position in which the body is found without authorization
27 from the medical examiner, or the medical examiner's authorized

1 deputy, except to:

2 (1) preserve the body from loss or destruction; or

3 (2) maintain the flow of traffic on a highway,
4 railroad, or airport. (Code Crim. Proc., Art. 49.25, Sec. 8.)

5 Art. 49A.113. AUTHORITY TO DISINTER BODY. The medical
6 examiner may cause a body to be disinterred for the purpose of an
7 inquest if an inquest should have been conducted on the body before
8 interment. (Code Crim. Proc., Art. 49.25, Sec. 10 (part).)

9 Art. 49A.114. WHEN AUTOPSIES REQUIRED; USE OF FACILITIES.

10 (a) The medical examiner, or the medical examiner's authorized
11 deputy, shall immediately perform an autopsy if:

12 (1) in the opinion of the medical examiner an autopsy
13 is necessary; or

14 (2) an autopsy is requested by the district attorney
15 or criminal district attorney or by the county attorney if there is
16 not a district attorney or criminal district attorney.

17 (b) A medical examiner is not required to perform an autopsy
18 on the body of a person whose death was caused by a communicable
19 disease during a public health disaster.

20 (c) In performing an autopsy, the medical examiner or the
21 medical examiner's authorized deputy may use a facility of a
22 municipal or county hospital in the county or any other facility
23 that is made available. (Code Crim. Proc., Art. 49.25, Secs. 9(a)
24 (part), 10 (part).)

25 Art. 49A.115. LIMITED AUTOPSY. If the medical examiner
26 considers a complete autopsy to be unnecessary to determine a
27 person's cause of death, the medical examiner may perform a limited

1 autopsy by taking blood samples or other samples of body fluids,
2 tissues, or organs, to determine the cause of death or whether a
3 crime has been committed. (Code Crim. Proc., Art. [49.25](#), Sec. 9(a)
4 (part).)

5 Art. 49A.116. UNIDENTIFIED BODY: TESTING, REPORTING, AND
6 DISPOSITION. (a) A person investigating an unidentified person's
7 death described by Article 49A.109(a)(3)(B) shall report the death
8 to the missing children and missing persons information
9 clearinghouse of the Department of Public Safety and the National
10 Crime Information Center not later than the 10th working day after
11 the date the investigation began.

12 (b) A person investigating an unidentified person's death
13 described by Article 49A.109(a)(3)(B), or the person's designee,
14 shall enter into the National Missing and Unidentified Persons
15 System information regarding all available identifying features of
16 the unidentified body, including fingerprints, dental records, any
17 unusual physical characteristics, and the clothing found on the
18 body, not later than the earlier of:

19 (1) the 10th working day after the date that one or
20 more identifying features of the unidentified body are determined;
21 or

22 (2) the 60th day after the date the investigation
23 began.

24 (c) If a deceased person's body is unidentified, the medical
25 examiner may authorize any investigative or laboratory test or
26 process required to determine the person's identity and cause of
27 death.

(d) To enable a timely and accurate identification of the person, a medical examination on an unidentified person:

(1) must include:

(A) all available fingerprints and palm prints;

(B) dental charts and radiographs, including x-rays, of the teeth;

(C) frontal and lateral facial photographs with scale indicated;

(D) notation and photographs, with scale indicated, of a significant scar, mark, tattoo, or item of clothing or other personal effect found with or near the body;

(E) notation of any antemortem medical condition;

(F) notation of any observation relevant to the estimation of time of death; and

(G) precise documentation of the body's burial location; and

(2) may include:

(A) full body radiographs, including x-rays; and

(B) hair specimens with roots.

(e) On discovering the body or body part of a deceased person in the circumstances described by Article 49A.109(a)(3)(B), the medical examiner may request aid in the examination of the body or body part from a forensic anthropologist who holds a doctoral degree in anthropology with an emphasis in physical anthropology. The forensic anthropologist:

(1) shall attempt to establish:

1 (A) whether the body or body part is of a human or
2 animal;

3 (B) whether evidence of childbirth, injury, or
4 disease exists; and

5 (C) the sex, race, age, stature, and physical
6 anomalies of the body or body part; and

7 (2) may attempt to establish the cause, manner, and
8 time of death.

9 (f) A person may not cremate or direct the cremation of an
10 unidentified person's body under Article 49A.118. If the body is
11 buried, the investigating agency responsible for the burial shall
12 record and maintain for a period of at least 10 years all
13 information relating to the body and the burial location. (Code
14 Crim. Proc., Art. 49.25, Secs. 7(b), (d), 9(a) (part), (b), (c),
15 10b, 13.)

16 Art. 49A.117. DUTY TO TAKE CHARGE OF BODY IN ABSENCE OF NEXT
17 OF KIN OR LEGAL REPRESENTATIVE. In the absence of a next of kin or a
18 legal representative of the deceased person, the medical examiner,
19 or the medical examiner's authorized deputy, shall take charge of
20 the person's body and all property found with the body. (Code Crim.
21 Proc., Art. 49.25, Sec. 6(c) (part).)

22 Art. 49A.118. CREMATION. (a) A body on which an inquest is
23 authorized by this subchapter may not be cremated unless the body is
24 identified and:

25 (1) an autopsy was performed as provided by this
26 subchapter; or

27 (2) an autopsy was not necessary.

1 (b) Before a body may be cremated, the owner or operator of
2 the crematory shall demand, and the medical examiner of the county
3 in which the death occurred shall provide, a certificate that is
4 signed by the medical examiner and that shows:

5 (1) an autopsy was performed on the body; or

6 (2) an autopsy was not necessary.

7 (c) Before providing a certificate under Subsection (b),
8 the medical examiner shall determine whether, from all the
9 circumstances surrounding the death, an autopsy is necessary.

10 (d) The owner or operator of a crematory shall preserve a
11 certificate provided by a medical examiner under this article for a
12 period of two years after the cremation date for the body.

13 (e) An autopsy by the medical examiner is not required as a
14 prerequisite to cremation if the person's death was caused by:

15 (1) Asiatic cholera;

16 (2) bubonic plague;

17 (3) typhus fever; or

18 (4) smallpox. (Code Crim. Proc., Art. [49.25](#), Sec. 10
19 (part).)

20 Art. 49A.119. REPORTING CAUSE OF DEATH; KEEPING RECORDS;
21 ISSUING DEATH CERTIFICATES. (a) For each inquest conducted, the
22 medical examiner shall file with the district attorney or criminal
23 district attorney of the county in which the death occurred, or
24 shall file with the county attorney of that county if there is not a
25 district attorney or criminal district attorney, a report stating:

26 (1) if the cause of death is determined beyond a
27 reasonable doubt as a result of the inquest, the specific cause of

1 death; and

2 (2) on completion of an autopsy, if any, the detailed
3 findings of the autopsy.

4 (b) The medical examiner shall:

5 (1) keep full and complete records properly indexed
6 for each person whose death is investigated, which must include:

7 (A) the name, if known;

8 (B) the place where the body was found;

9 (C) the date;

10 (D) the cause and manner of death; and

11 (E) the full report and detailed findings of the
12 autopsy, if any; and

13 (2) issue a death certificate.

14 (c) In any case in which further investigation of a person's
15 death is advisable, the medical examiner shall promptly deliver
16 copies of all records to the proper district, county, or criminal
17 district attorney. (Code Crim. Proc., Art. 49.25, Secs. 9(a)
18 (part), 11(a) (part).)

19 Art. 49A.120. WITHHOLDING OF RECORDS NOT PERMITTED;
20 EXCEPTIONS. (a) Except as provided by Subsection (b) and subject
21 to a discretionary exception under Chapter 552, Government Code,
22 records described by Article 49A.119(b) may not be withheld.

23 (b) A photograph or x-ray of a body taken during an autopsy
24 is excepted from required public disclosure under Chapter 552,
25 Government Code, but is subject to disclosure:

26 (1) under a subpoena or under other law; or

27 (2) if the photograph or x-ray is of the body of a

1 person who died while in the custody of law enforcement.

2 (c) A governmental body, as defined by Section 552.003,
3 Government Code, may withhold a photograph or x-ray under
4 Subsection (b) without requesting a decision from the attorney
5 general under Subchapter G, Chapter 552, Government Code. This
6 subsection does not affect the disclosure of a photograph or x-ray
7 that is otherwise required by Subsection (b). (Code Crim. Proc.,
8 Art. 49.25, Secs. 11(a) (part), (b).)

9 Art. 49A.121. RELEASE OF CERTAIN RECORDS. (a) A medical
10 examiner may release a copy of an autopsy report of a deceased
11 person to an organ and tissue procurement organization, hospital,
12 or other covered entity, as defined by Section 181.001, Health and
13 Safety Code, that:

14 (1) treated the person before death; or

15 (2) procured an anatomical gift from the body of the
16 person.

17 (b) The release of a report under this article is not
18 considered a disclosure under Chapter 552, Government Code.

19 (c) A report obtained under this article is confidential and
20 not subject to disclosure under Chapter 552, Government Code.
21 (Code Crim. Proc., Art. 49.25, Sec. 11(c).)

22 Art. 49A.122. FEES. (a) Subject to Subsections (b) and
23 (c), a medical examiner may charge reasonable fees for services
24 provided by the medical examiner's office under this subchapter and
25 Article 49A.251, including cremation approvals, court testimonies,
26 consultations, and depositions.

27 (b) The commissioners court must approve the amount of the

1 fee described by Subsection (a) before the fee may be assessed. The
2 fee may not exceed the amount necessary to provide the services
3 described by that subsection.

4 (c) The fee described by Subsection (a) may not be assessed
5 against the county's district attorney or a county office. (Code
6 Crim. Proc., Art. 49.25, Sec. 13A.)

7 Art. 49A.123. GENERAL CRIMINAL OFFENSE. (a) A person
8 commits an offense if the person knowingly violates this
9 subchapter.

10 (b) An offense under this article is a Class B misdemeanor.
11 (Code Crim. Proc., Art. 49.25, Sec. 14.)

12 SUBCHAPTER D. INVESTIGATIONS AND REPORTS OF CERTAIN DEATHS BY
13 OTHER OFFICIALS

14 Art. 49A.151. COUNTY SERVED BY JUSTICE OF THE PEACE: NOTICE
15 AND REPORT OF DEATH OCCURRING IN INSTITUTION. (a) For the purposes
16 of this article, "institution" does not include a hospital.

17 (b) A superintendent or general manager of an institution
18 who is required by Article 49A.053 to report to a justice of the
19 peace the death of a person under the care, custody, or control of
20 or residing in the institution shall:

21 (1) within 24 hours after the death of a person, notify
22 the office of the attorney general of the person's death; and

23 (2) within 72 hours after the death of a person,
24 prepare and submit to the office of the attorney general a report
25 containing all facts relevant to the person's death.

26 (c) The superintendent or general manager shall make a good
27 faith effort to obtain all facts relevant to a person's death and to

1 include those facts in the report submitted under Subsection
2 (b)(2).

3 (d) The office of the attorney general may investigate each
4 death reported to the office by an institution that receives
5 payments through the medical assistance program under Chapter 32,
6 Human Resources Code.

7 (e) Subject to Subsection (f), the office of the attorney
8 general shall make a report submitted under Subsection (b)(2)
9 available to any interested person who submits a written request
10 for access to the report.

11 (f) The office of the attorney general may deny a person
12 access to the report or part of the report if the office determines
13 that the report or part of the report is:

14 (1) privileged from discovery; or

15 (2) exempt from required public disclosure under
16 Chapter 552, Government Code. (Code Crim. Proc., Arts. 49.24(a),
17 (b), (c), (d), (e), (g).)

18 Art. 49A.152. COUNTY SERVED BY MEDICAL EXAMINER: NOTICE AND
19 REPORT OF DEATH OCCURRING IN INSTITUTION; OFFENSE. (a) A
20 superintendent or general manager of an institution who reports a
21 death that occurred under circumstances described by Article
22 49A.109(a) to a medical examiner's office or a municipal or county
23 police department must comply with the notice and reporting
24 requirements of Article 49A.151.

25 (b) The office of the attorney general has the same powers
26 and duties provided to the office under Article 49A.151 regarding
27 the dissemination and investigation of the report.

1 (c) A person commits an offense if the person knowingly
2 violates this article. An offense under this subsection is a Class B
3 misdemeanor. (Code Crim. Proc., Art. 49.25, Secs. 7(c), 14.)

4 Art. 49A.153. COUNTY SERVED BY JUSTICE OF THE PEACE:
5 INVESTIGATION AND REPORT OF DEATH OCCURRING WHILE CONFINED OR IN
6 PEACE OFFICER CUSTODY. (a) In this article:

7 (1) "Correctional facility" means a confinement
8 facility or halfway house operated by or under contract with the
9 Texas Department of Criminal Justice.

10 (2) "In the custody of a peace officer" means:

11 (A) under arrest by a peace officer; or

12 (B) under the physical control or restraint of a
13 peace officer.

14 (3) "State juvenile facility" means any facility or
15 halfway house:

16 (A) operated by or under contract with the Texas
17 Juvenile Justice Department; or

18 (B) described by Section 51.02(13) or (14),
19 Family Code.

20 (b) This article applies to the inquest into a death
21 occurring in a county described by Article 49A.051.

22 (c) If a person dies while in the custody of a peace officer
23 or as a result of a peace officer's use of force or if a person
24 confined in a jail, correctional facility, or state juvenile
25 facility dies, the director of the law enforcement agency of which
26 the officer is a member or of the facility in which the person was
27 confined shall:

1 (1) not later than the 30th day after the date on which
2 the person died, investigate the death and file a written report of
3 the cause of death with the attorney general; and

4 (2) make a good faith effort to obtain all facts
5 relevant to the death and include those facts in the report
6 described by Subdivision (1).

7 (d) The attorney general shall make the report available to
8 any interested person but may exclude any part of the report that
9 the attorney general determines is privileged.

10 (e) Subsections (c) and (d) do not apply if a person's death
11 occurs under circumstances described by Section 501.055(b)(2),
12 Government Code, in a facility operated by or under contract with
13 the Texas Department of Criminal Justice. (Code Crim. Proc., Arts.
14 49.02, 49.18(b), (c) (part), (d).)

15 SUBCHAPTER E. INFORMED CONSENT FOR POSTMORTEM EXAMINATION OR
16 AUTOPSY IN ALL COUNTIES

17 Art. 49A.201. APPLICABILITY. This subchapter does not
18 apply to an autopsy that:

19 (1) is ordered by the Texas Department of Criminal
20 Justice or an authorized official of the department in accordance
21 with Section 501.055(d), Government Code; or

22 (2) a justice of the peace or medical examiner
23 determines is required under this chapter or other law. (Code Crim.
24 Proc., Art. 49.31.)

25 Art. 49A.202. INFORMED CONSENT TO POSTMORTEM EXAMINATION OR
26 AUTOPSY REQUIRED. (a) Except as provided by Subsection (b), a
27 physician may not perform, or assist in the performance of, a

1 postmortem examination or autopsy on the body of a deceased person
2 unless the physician obtains the written informed consent of a
3 person authorized to provide consent under Article 49A.203. The
4 consent must be provided on the form prescribed under Article
5 49A.204.

6 (b) If, after exercising due diligence, a physician is
7 unable to identify or contact a person authorized under Article
8 49A.203 to give consent to a postmortem examination or autopsy on
9 the body of a deceased person, the physician may perform the
10 examination or autopsy. The physician must:

11 (1) be authorized by a medical examiner, justice of
12 the peace, or county judge, as appropriate, to perform the
13 postmortem examination or autopsy; and

14 (2) perform the postmortem examination or autopsy not
15 less than 24 hours and not more than 48 hours from the time:

16 (A) of the deceased person's death; or

17 (B) the physician or other person took possession
18 of the body. (Code Crim.Proc., Art. [49.32.](#))

19 Art. 49A.203. PERSONS AUTHORIZED TO CONSENT TO POSTMORTEM
20 EXAMINATION OR AUTOPSY. (a) Subject to Subsections (b) and (c),
21 consent for a postmortem examination or autopsy may be given by any
22 member of the following classes of persons who is reasonably
23 available, in the following order of priority:

24 (1) the spouse of the decedent;

25 (2) the person acting as guardian of the person of the
26 decedent at the time of death or the executor or administrator of
27 the decedent's estate;

1 (3) the adult children of the decedent;

2 (4) the parents of the decedent; and

3 (5) the adult siblings of the decedent.

4 (b) If two or more members of a class listed in Subsection
5 (a)(2), (3), (4), or (5) are entitled to give consent to a
6 postmortem examination or autopsy, consent may be given by one
7 member of the class unless another member of the class files an
8 objection with the physician, medical examiner, justice of the
9 peace, or county judge. If an objection is filed, the consent may
10 be given only by a majority of the members of the class who are
11 reasonably available.

12 (c) A person may not give consent under this article if, at
13 the time of the decedent's death, a person in a class granted higher
14 priority under Subsection (a) is reasonably available to give
15 consent or to file an objection to a postmortem examination or
16 autopsy. (Code Crim. Proc., Art. [49.33.](#))

17 Art. 49A.204. POSTMORTEM EXAMINATION OR AUTOPSY CONSENT
18 FORM. The commissioner of state health services, in consultation
19 with the Texas Medical Board, shall prescribe a standard written
20 consent form for a postmortem examination or autopsy. The form
21 must:

22 (1) include the name of the institution and the
23 department of the institution that will perform the examination or
24 autopsy;

25 (2) include a statement that the removal from the
26 deceased person's body and retention by the physician of organs,
27 fluids, prosthetic devices, or tissue may be required for purposes

1 of comprehensive evaluation or accurate determination of a cause of
2 death;

3 (3) provide the family of the deceased person with an
4 opportunity to place restrictions or special limitations on the
5 examination or autopsy;

6 (4) include a separate section regarding the
7 disposition of organs, fluids, prosthetic devices, or tissue after
8 the examination or autopsy, including a prioritized list of the
9 persons authorized to control that disposition, as provided by
10 Chapter 692A, Health and Safety Code;

11 (5) provide for documented and witnessed consent;

12 (6) allow authorization for the release of the
13 deceased person's remains to a funeral home or individual
14 designated by the person giving consent for the postmortem
15 examination or autopsy;

16 (7) include information regarding the rights
17 described by Article 49A.205;

18 (8) list the circumstances under which a medical
19 examiner is required by law to conduct an inquest or autopsy under
20 Subchapter C;

21 (9) include a statement that the form is required by
22 state law; and

23 (10) be written in plain language designed to be
24 easily understood by the average person. (Code Crim. Proc., Art.
25 49.34.)

26 Art. 49A.205. RIGHT TO NONAFFILIATED PHYSICIAN REVIEWING OR
27 PERFORMING AUTOPSY. (a) A person authorized to consent to a

1 postmortem examination or autopsy of a decedent under Article
2 49A.203 may request that a physician who is not affiliated with the
3 institution where the death occurred:

4 (1) perform the postmortem examination or autopsy at
5 another institution; or

6 (2) review the postmortem examination or autopsy
7 conducted by a physician affiliated with the institution where the
8 death occurred.

9 (b) A representative of the institution shall inform the
10 person described by Subsection (a) of the person's right to request
11 the performance or review of a postmortem examination or autopsy by
12 a nonaffiliated physician under Subsection (a) before the person
13 consents to the postmortem examination or autopsy.

14 (c) A person who requests a nonaffiliated physician to
15 perform or review a postmortem examination or autopsy shall bear
16 the additional costs incurred as a result of the nonaffiliated
17 physician's performance or review of the examination or autopsy
18 under Subsection (a). (Code Crim. Proc., Art. [49.35.](#))

19 SUBCHAPTER F. MISCELLANEOUS PROVISIONS APPLICABLE IN ALL COUNTIES

20 Art. 49A.251. WAITING PERIOD BEFORE CREMATION; OFFENSE.

21 (a) The body of a deceased person may not be cremated within 48
22 hours after the time of death as indicated on the death certificate,
23 unless:

24 (1) the death certificate indicates death was caused
25 by:

26 (A) Asiatic cholera;

27 (B) bubonic plague;

(C) typhus fever; or

(D) smallpox; or

(2) the time requirement is waived in writing by the medical examiner or, in counties not having a medical examiner, a justice of the peace.

(b) In a public health disaster, the Department of State Health Services may designate additional communicable diseases for which cremation within 48 hours after the time of death is authorized.

(c) A person commits an offense if the person knowingly violates this article. An offense under this subsection is a Class B misdemeanor. (Code Crim. Proc., Art. 49.25, Secs. 10a, 14.)

Art. 49A.252. RIGHT OF PARENT OF DECEASED PERSON TO VIEW PERSON'S BODY. (a) In this article, "parent" has the meaning assigned by Section 160.102, Family Code.

(b) Except as otherwise provided by this article, a parent of a deceased person is entitled to view the person's body before a justice of the peace or the medical examiner, as applicable, for the county in which the death occurred assumes control over the body under Subchapter B or C, as applicable. If the person's death occurred at a hospital or other health care facility, the parent may view the body at the hospital or facility.

(c) A parent of a deceased person may not view the person's body after the justice of the peace or medical examiner described by Subsection (b) assumes control over the body unless the parent first obtains the consent of the justice of the peace or medical examiner or a person acting on behalf of the justice of the peace or

1 medical examiner.

2 (d) A parent may view the body of a deceased person under
3 this article whose death is determined to be subject to an inquest
4 under Article 49A.053 or 49A.109, as applicable, provided that the
5 viewing is supervised by:

6 (1) if law enforcement has assumed control over the
7 body at the time of the viewing, an appropriate peace officer or,
8 with the officer's consent, a person described by Subdivision (2)
9 or (3);

10 (2) a physician, registered nurse, or licensed
11 vocational nurse; or

12 (3) the justice of the peace or medical examiner or a
13 person acting on behalf of the justice of the peace or medical
14 examiner.

15 (e) During a viewing under this article, a parent of a
16 deceased person whose death is determined to be subject to an
17 inquest under Article 49A.053 or 49A.109 may not have contact with
18 the person's body unless the parent first obtains the consent of the
19 justice of the peace or medical examiner or a person acting on
20 behalf of the justice of the peace or medical examiner.

21 (f) During a viewing under this article, a person may not
22 remove a medical device from or otherwise alter the condition of the
23 body of a deceased person whose death is determined to be subject to
24 an inquest under Article 49A.053 or 49A.109 for purposes of
25 conducting the viewing unless the person first obtains the consent
26 of the justice of the peace or medical examiner or a person acting
27 on behalf of the justice of the peace or medical examiner. (Code

1 Crim. Proc., Arts. 49.51, 49.52.)

2 CHAPTER 50A. FIRE INQUESTS

3 Art. 50A.001. FIRES REQUIRING INQUEST

4 Art. 50A.002. FIRE INQUEST PROCEEDINGS GOVERNED BY

5 LAWS RELATING TO DEATH INQUESTS;

6 POWERS OF INVESTIGATOR

7 Art. 50A.003. WITNESS TESTIMONY

8 Art. 50A.004. JURY VERDICT IN FIRE INQUEST

9 Art. 50A.005. WITNESSES BOUND OVER

10 Art. 50A.006. ISSUANCE OF ARREST WARRANT

11 Art. 50A.007. INQUEST RESULT REPORTED TO DISTRICT

12 COURT

13 Art. 50A.008. COMPENSATION FOR OFFICERS AND JURY

14 CHAPTER 50A. FIRE INQUESTS

15 Art. 50A.001. FIRES REQUIRING INQUEST. A justice of the
16 peace shall conduct a fire inquest if a credible person makes an
17 affidavit before the justice of the peace that there is reason to
18 believe a building has been unlawfully set or attempted to be set on
19 fire. (Code Crim. Proc., Art. 50.01.)

20 Art. 50A.002. FIRE INQUEST PROCEEDINGS GOVERNED BY LAWS
21 RELATING TO DEATH INQUESTS; POWERS OF INVESTIGATOR. (a) Except as
22 otherwise provided by this chapter, a fire inquest proceeding under
23 this chapter is governed by the laws relating to death inquests
24 under Chapter 49A.

25 (b) An officer conducting a fire inquest under this chapter
26 has the same powers as a justice of the peace under Chapter 49A.
27 (Code Crim. Proc., Art. 50.02; New.)

1 Art. 50A.003. WITNESS TESTIMONY. The testimony of each
2 witness examined before a jury in a fire inquest under this chapter
3 shall be:

4 (1) reduced to writing by or under the direction of the
5 justice of the peace; and

6 (2) signed by the witness. (Code Crim. Proc., Art.
7 50.06 (part).)

8 Art. 50A.004. JURY VERDICT IN FIRE INQUEST. (a) After
9 inspecting the location that is the subject of a fire inquest and
10 hearing the testimony, a jury in the inquest shall deliver to the
11 justice of the peace conducting the inquest the jury's written
12 signed verdict, in which the jury shall find and certify:

13 (1) how and in what manner the fire occurred or was
14 attempted to be set and all other circumstances attending the fire
15 or attempted fire; and

16 (2) the person guilty of setting or attempting to set
17 the fire, and the manner of the person's guilt.

18 (b) If the jury is unable to make a determination under
19 Subsection (a)(1) or (2), the jury shall find and certify
20 accordingly. (Code Crim. Proc., Art. 50.03.)

21 Art. 50A.005. WITNESSES BOUND OVER. If the jury finds that
22 a building has been unlawfully set or attempted to be set on fire,
23 the justice of the peace conducting the fire inquest shall bind over
24 each witness to appear and testify before the next grand jury of the
25 county in which the offense was committed. (Code Crim. Proc., Art.
26 50.04.)

27 Art. 50A.006. ISSUANCE OF ARREST WARRANT. If a person

1 charged with the offense described by Article 50A.005 is not in
2 custody, the justice of the peace conducting the fire inquest shall
3 issue a warrant for the person's arrest. (Code Crim. Proc., Art.
4 50.05.)

5 Art. 50A.007. INQUEST RESULT REPORTED TO DISTRICT COURT.

6 (a) The justice of the peace conducting the inquest shall certify
7 the testimony described by Article 50A.003, the verdict, and all
8 bail bonds taken in the case.

9 (b) The justice of the peace shall return the items
10 described by Subsection (a) to the next district or criminal
11 district court of the justice's county. (Code Crim. Proc., Art.
12 50.06 (part).)

13 Art. 50A.008. COMPENSATION FOR OFFICERS AND JURY. The
14 amount and manner of compensation for the officers and jury members
15 performing a fire inquest under this chapter shall, to the extent
16 applicable, be the same as that allowed for an inquest conducted
17 under Chapter 49A. (Code Crim. Proc., Art. 50.07.)

18 ARTICLE 2. CONFORMING AMENDMENTS

19 SECTION 2.01. Articles 2A.202(b) and (c), Code of Criminal
20 Procedure, are amended to read as follows:

21 (b) A peace officer who investigates the alleged commission
22 of an offense to which Subsection (a) applies shall prepare a
23 written report that includes the information required under Article
24 5A.009(a) [~~5.05(a)~~].

25 (c) On request of a victim of an offense to which Subsection
26 (a) applies, the local law enforcement agency responsible for
27 investigating the commission of the offense shall provide to the

victim, at no cost to the victim, any information contained in the written report prepared under Subsection (b) that is:

(1) described by Article 5A.009(a)(1) or (2) [~~5.05(a)(1) or (2)~~]; and

(2) not exempt from disclosure under Chapter 552, Government Code, or other law.

SECTION 2.02. Article 63.056(a), Code of Criminal Procedure, is amended to read as follows:

(a) A physician acting on the request of a justice of the peace under Subchapter B [~~A~~], Chapter 49A [~~49~~], a county coroner, a county medical examiner, or other law enforcement entity, as appropriate, shall collect samples from unidentified human remains. The justice of the peace, coroner, medical examiner, or other law enforcement entity shall submit those samples to the center for forensic DNA analysis and inclusion of the results in the DNA database.

SECTION 2.03. Section 81.007(c), Family Code, is amended to read as follows:

(c) The prosecuting attorney shall comply with Articles 5A.011, 5A.012, and 5A.013 [~~Article 5.06~~], Code of Criminal Procedure, in filing an application under this subtitle.

SECTION 2.04. Section 264.501(1), Family Code, is amended to read as follows:

(1) "Autopsy" and "inquest" have the meanings assigned by Article 49A.001 [~~49.01~~], Code of Criminal Procedure.

SECTION 2.05. Section 264.514(a), Family Code, is amended to read as follows:

1 (a) A medical examiner or justice of the peace notified of a
2 death of a child under Section 264.513 shall hold an inquest under
3 Chapter 49A [49], Code of Criminal Procedure, to determine whether
4 the death is unexpected or the result of abuse or neglect. An
5 inquest is not required under this subchapter if the child's death
6 is expected and is due to a congenital or neoplastic disease. A
7 death caused by an infectious disease may be considered an expected
8 death if:

9 (1) the disease was not acquired as a result of trauma
10 or poisoning;

11 (2) the infectious organism is identified using
12 standard medical procedures; and

13 (3) the death is not reportable to the Department of
14 State Health Services under Chapter 81, Health and Safety Code.

15 SECTION 2.06. Section 27.0545(a), Government Code, is
16 amended to read as follows:

17 (a) If a justice of the peace or the county judge of a county
18 to which Subchapter B [A], Chapter 49A [49], Code of Criminal
19 Procedure, applies is not available to conduct an inquest into a
20 person's death occurring in the county, the justice of the peace of
21 the precinct in which the death occurred or the county judge may
22 request a justice of the peace of another county to which that
23 subchapter applies to conduct the inquest.

24 SECTION 2.07. Section 501.055(d), Government Code, is
25 amended to read as follows:

26 (d) If the next of kin consents to the autopsy or does not
27 within eight hours of the time of death file an objection with the

1 department about the autopsy, the department or an authorized
2 official of the department shall order an autopsy to be conducted on
3 the inmate. The order of an autopsy under this subsection
4 constitutes consent to an autopsy for the purposes of Article
5 49A.202 [~~49.32~~], Code of Criminal Procedure.

6 SECTION 2.08. Section 552.108(h)(2), Government Code, is
7 amended to read as follows:

8 (2) "Medical examiner's report" means a report and the
9 contents of such a report created by a medical examiner under
10 Subchapter C, Chapter 49A [~~Article 49.25~~], Code of Criminal
11 Procedure, including an autopsy report and toxicology report. The
12 term does not include a photograph or medical image contained in a
13 report.

14 SECTION 2.09. Section 81.045(c), Health and Safety Code, is
15 amended to read as follows:

16 (c) A justice of the peace acting as coroner or a county
17 medical examiner in the course of an inquest under Chapter 49A [~~49~~],
18 Code of Criminal Procedure, who finds that a person's cause of death
19 was a reportable disease or other communicable disease that the
20 coroner or medical examiner believes may be a threat to the public
21 health shall immediately notify the health authority of the
22 jurisdiction in which the finding is made or the department.

23 SECTION 2.10. Section 88.006(d), Health and Safety Code, is
24 amended to read as follows:

25 (d) A justice of the peace acting as coroner or a medical
26 examiner in the course of an inquest under Chapter 49A [~~49~~], Code of
27 Criminal Procedure, who finds that a child's cause of death was lead

1 poisoning that resulted from exposure to a dangerous level of lead
2 that the justice of the peace or medical examiner believes may be a
3 threat to the public health shall immediately notify the health
4 authority or the regional director in the jurisdiction in which the
5 finding is made.

6 SECTION 2.11. Sections 193.0025(a) and (b), Health and
7 Safety Code, are amended to read as follows:

8 (a) This section applies only to a county:

9 (1) with an office of medical examiner established in
10 accordance with [~~Section 17,~~] Article 49A.101 [~~49.25~~], Code of
11 Criminal Procedure; and

12 (2) for which the commissioners court of the county by
13 resolution elects for this section to apply.

14 (b) This section does not apply to a county that entered
15 into an agreement with another county to create a medical examiners
16 district under [~~Section 1-a,~~] Article 49A.102 [~~49.25~~], Code of
17 Criminal Procedure, unless:

18 (1) the office of medical examiner is located in the
19 county and the county has adopted a resolution described by
20 Subsection (a)(2); or

21 (2) notwithstanding Subsection (a), the county elects
22 for this section to apply in the agreement creating the district.

23 SECTION 2.12. Sections 193.005(d) and (e), Health and
24 Safety Code, are amended to read as follows:

25 (d) If a death or fetal death occurs without medical
26 attendance or is otherwise subject to Chapter 49A [~~49~~], Code of
27 Criminal Procedure, the person required to file the death or fetal

1 death certificate shall notify the appropriate authority of the
2 death.

3 (e) A person conducting an inquest required by Chapter 49A
4 [49], Code of Criminal Procedure, shall:

5 (1) complete the medical certification not later than
6 five days after receiving the death or fetal death certificate; and

7 (2) state on the medical certification the disease
8 that caused the death or, if the death was from external causes, the
9 means of death and whether the death was probably accidental,
10 suicidal, or homicidal, and any other information required by the
11 state registrar to properly classify the death.

12 SECTION 2.13. Section 672.001(2), Health and Safety Code,
13 is amended to read as follows:

14 (2) "Autopsy" and "inquest" have the meanings assigned
15 by Article 49A.001 [49.01], Code of Criminal Procedure.

16 SECTION 2.14. Section 672.013(a), Health and Safety Code,
17 is amended to read as follows:

18 (a) A medical examiner or justice of the peace notified of a
19 death under Section 672.012 may hold an inquest under Chapter 49A
20 [49], Code of Criminal Procedure, to determine whether the death
21 was caused by suicide, family violence, or abuse.

22 SECTION 2.15. Sections 711.004(f) and (f-1), Health and
23 Safety Code, are amended to read as follows:

24 (f) Except as is authorized for a justice of the peace
25 acting as coroner or medical examiner under Chapter 49A [49], Code
26 of Criminal Procedure, remains may not be removed from a cemetery
27 except on the written order of the state registrar or the state

1 registrar's designee. The cemetery organization shall keep a
2 duplicate copy of the order as part of its records. The Texas
3 Funeral Service Commission may adopt rules to implement this
4 subsection.

5 (f-1) For unmarked graves contained within an abandoned,
6 unknown, or unverified cemetery, a justice of the peace acting as
7 coroner or medical examiner under Chapter 49A [~~49~~], Code of
8 Criminal Procedure, or a person described by Section 711.0105(a)
9 may investigate or remove remains without written order of the
10 state registrar or the state registrar's designee.

11 SECTION 2.16. Section 1001.241(b), Health and Safety Code,
12 is amended to read as follows:

13 (b) The information provided under Subsection (a) must
14 include guidelines for:

15 (1) determining when a comprehensive toxicology
16 screening should be performed on a person whose death was related to
17 pregnancy;

18 (2) determining when a death should be reported to or
19 investigated by a medical examiner or justice of the peace under
20 Chapter 49A [~~49~~], Code of Criminal Procedure; and

21 (3) correctly completing the death certificate of a
22 person whose death was related to pregnancy.

23 SECTION 2.17. Section 42.0448, Human Resources Code, is
24 amended to read as follows:

25 Sec. 42.0448. NOTIFICATION OF FAMILY VIOLENCE CALLS. The
26 department shall notify a child-placing agency or a
27 continuum-of-care residential operation that includes a

child-placing agency of each family violence report the department receives under Article 5A.009 [~~5.05~~], Code of Criminal Procedure, that:

(1) occurred at an agency foster home; or

(2) involves a person who resides at an agency foster home.

SECTION 2.18. Section 42.0449, Human Resources Code, is amended to read as follows:

Sec. 42.0449. REQUIRED ACTIONS AFTER NOTICE OF FAMILY VIOLENCE CALL. The executive commissioner shall adopt rules specifying the actions that the department, a child-placing agency, and a continuum-of-care residential operation that includes a child-placing agency shall take after receiving notice of a family violence report under Article 5A.009 [~~5.05~~], Code of Criminal Procedure, or Section 42.0448 to ensure the health, safety, and welfare of each child residing in the verified agency foster home.

SECTION 2.19. Section 651.456, Occupations Code, is amended to read as follows:

Sec. 651.456. UNETHICAL CONDUCT REGARDING CUSTODY OF DEAD HUMAN BODY. A person violates this chapter if the person:

(1) takes custody of a dead human body without the permission of:

(A) the person or the agent of the person authorized to make funeral arrangements for the deceased; or

(B) a medical examiner or a justice of the peace who has jurisdiction over the body under Subchapter B, Chapter 49A [~~Articles 49.02-49.05~~], Code of Criminal Procedure;

1 (2) refuses to promptly surrender a dead human body to
2 a person or agent authorized to make funeral arrangements for the
3 deceased; or

4 (3) violates any state law governing the
5 transportation, storage, refrigeration, inurnment, interment, or
6 disinterment of a dead human body.

7 SECTION 2.20. Section 38.19(a), Penal Code, is amended to
8 read as follows:

9 (a) A superintendent or general manager of an institution
10 commits an offense if, as required by Article 49A.151 [49.24] or
11 49A.152 [49.25], Code of Criminal Procedure, the person fails to:

12 (1) provide notice of the death of an individual under
13 the care, custody, or control of or residing in the institution;

14 (2) submit a report on the death of the individual; or

15 (3) include in the report material facts known or
16 discovered by the person at the time the report was filed.

17 SECTION 2.21. Section 39.05(a), Penal Code, is amended to
18 read as follows:

19 (a) A person commits an offense if the person is required to
20 conduct an investigation and file a report by Article 49A.153
21 [49.18], Code of Criminal Procedure, and the person fails to
22 investigate the death, fails to file the report as required, or
23 fails to include in a filed report facts known or discovered in the
24 investigation.

25 SECTION 2.22. Sections 547.751(a) and (c), Transportation
26 Code, are amended to read as follows:

27 (a) In this section, "medical examiner vehicle" means a

1 motor vehicle that is owned or leased by a governmental entity for
2 use by a medical examiner or an employee of an office of a medical
3 examiner in the performance of the examiner's or employee's duties
4 relating to an inquest conducted under Subchapter C [~~B~~], Chapter
5 49A [~~49~~], Code of Criminal Procedure.

6 (c) The operator of a medical examiner vehicle may use the
7 lighting equipment described by Subsection (b) only when:

8 (1) necessary to warn other vehicle operators or
9 pedestrians of the approach of the medical examiner vehicle; and

10 (2) operating the vehicle in the course and scope of
11 the operator's duties relating to an inquest conducted under
12 Subchapter C [~~B~~], Chapter 49A [~~49~~], Code of Criminal Procedure.

13 SECTION 2.23. Section 547.752, Transportation Code, is
14 amended to read as follows:

15 Sec. 547.752. ADDITIONAL LIGHTING EQUIPMENT AUTHORIZED FOR
16 VEHICLES OPERATED BY JUSTICES OF THE PEACE IN CERTAIN
17 CIRCUMSTANCES. (a) A vehicle operated by a justice of the peace in
18 the course and scope of the justice's duties as a coroner under
19 Subchapter B [~~A~~], Chapter 49A [~~49~~], Code of Criminal Procedure, may
20 be equipped with either:

21 (1) mounted signal lamps that comply with the
22 requirements of Section 547.702(c); or

23 (2) a signal lamp that is temporarily attached to the
24 vehicle roof and flashes red and blue lights visible at a distance
25 of at least 500 feet in normal sunlight.

26 (b) A justice of the peace may use the lighting equipment
27 described by Subsection (a) only when:

1 (1) necessary to warn other vehicle operators or
2 pedestrians of the approach of a vehicle operated by a justice of
3 the peace; and

4 (2) operating the vehicle in the course and scope of
5 the justice's duties relating to an inquest conducted under
6 Subchapter B [~~A~~], Chapter 49A [~~49~~], Code of Criminal Procedure.

7 ARTICLE 3. REPEALER

8 SECTION 3.01. Chapters 5, 9, 49, and 50, Code of Criminal
9 Procedure, are repealed.

10 ARTICLE 4. GENERAL MATTERS

11 SECTION 4.01. This Act is enacted under Section 43, Article
12 III, Texas Constitution. This Act is intended as a codification
13 only, and no substantive change in the law is intended by this Act.

14 SECTION 4.02. (a) Chapter 311, Government Code (Code
15 Construction Act), applies to the construction of each provision in
16 the Code of Criminal Procedure that is enacted under Section 43,
17 Article III, Texas Constitution (authorizing the continuing
18 statutory revision program), in the same manner as to a code enacted
19 under the continuing statutory revision program, except as
20 otherwise expressly provided by the Code of Criminal Procedure.

21 (b) A reference in a law to a statute or a part of a statute
22 in the Code of Criminal Procedure enacted under Section 43, Article
23 III, Texas Constitution (authorizing the continuing statutory
24 revision program), is considered to be a reference to the part of
25 that code that revises that statute or part of that statute.

26 SECTION 4.03. This Act takes effect April 1, 2027.