

## **BILL ANALYSIS**

C.S.H.B. 298  
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Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Interested parties are concerned that the parents of a deceased child are not always given the opportunity to view their child's body before an autopsy is performed. C.S.H.B. 298 seeks to address this issue by entitling a parent to view the body before an applicable justice of the peace or medical examiner assumes control over the body.

### **CRIMINAL JUSTICE IMPACT**

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

C.S.H.B. 298 amends the Code of Criminal Procedure to entitle a parent of a deceased child younger than 18 years of age to view the child'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 and to authorize the viewing of a child whose death occurred at a health care facility to be conducted at the facility. The bill prohibits a parent of a deceased child from viewing the child's body after such a justice of the peace or medical examiner 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 medical examiner.

C.S.H.B. 298 requires a viewing of the body of a deceased child whose death has been determined by the justice of the peace or medical examiner to be subject to an inquest under applicable state law to be conducted under the following conditions: the viewing must be supervised by a physician, registered nurse, or licensed vocational nurse or by the justice of the peace or the medical examiner or a person acting on behalf of the justice or examiner, the parent may not have contact with the child's 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 or examiner, and a person may not remove a medical device from the child's body or otherwise alter the body's condition for purposes of conducting the viewing unless the person first obtains such consent. The bill establishes that a person is not entitled to compensation for performing duties on behalf of a justice of the peace or medical examiner under the bill's provisions unless the commissioners court of the applicable county approves the compensation.

### **EFFECTIVE DATE**

September 1, 2017.

## COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 298 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

### INTRODUCED

SECTION 1. Chapter 49, Code of Criminal Procedure, is amended by adding Subchapter D to read as follows:

#### SUBCHAPTER D. PARENTAL RIGHT TO VIEW DECEASED CHILD

Art. 49.51. DEFINITIONS. In this subchapter:

(1) "Child" means a person younger than 18 years of age.

(2) "Parent" has the meaning assigned by Section 160.102(11), Family Code.

Art. 49.52. PARENTAL RIGHT TO VIEW DECEASED CHILD. (a) Except as provided by Subsection (b), a parent of a deceased child whose death occurred at a hospital or other institution is entitled to view the child's body, if practicable, before the body is examined by a justice of the peace or the medical examiner, as applicable, for the county in which the death occurred.

(b) A parent of a deceased child whose death did not occur at a hospital or other institution may not view or otherwise have contact with the child's body after a justice of the peace or medical examiner described by Subsection (a) assumes control over the body under Subchapter A or B, as applicable, 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 medical examiner.

(c) A viewing under Subsection (b)

must be supervised by a physician, registered nurse, or licensed vocational

### HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Chapter 49, Code of Criminal Procedure, is amended by adding Subchapter D to read as follows:

#### SUBCHAPTER D. PARENTAL RIGHT TO VIEW DECEASED CHILD

Art. 49.51. Same as introduced version.

Art. 49.52. PARENTAL RIGHT TO VIEW DECEASED CHILD. (a) Except as provided by Subsection (b), a parent of a deceased child is entitled to view the child'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 A or B, as applicable. If the child's death occurred at a hospital or other health care facility, the viewing may be conducted at the hospital or facility.

(b) A parent of a deceased child may not view the child's body after a justice of the peace or medical examiner described by Subsection (a) assumes control over the body under Subchapter A or B, as applicable, 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 medical examiner.

(c) A viewing under Subsection (b) of the body of a deceased child whose death has been determined by a justice of the peace or medical examiner described by Subsection (a) to be subject to an inquest under Article 49.04 or Article 49.25, as applicable, must be conducted in compliance with the following conditions:

(1) the viewing must be supervised by a physician, registered nurse, or licensed

nurse or by the justice of the peace or the medical examiner or a person acting on behalf of the justice of the peace or medical examiner.

(d) A person may not remove a medical device from the child's body or otherwise alter the condition of the body for purposes of conducting a viewing under this article unless the person 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 medical examiner.

No equivalent provision.

SECTION 2. This Act takes effect September 1, 2017.

vocational nurse or by the justice of the peace or the medical examiner or a person acting on behalf of the justice of the peace or medical examiner;

(2) a parent of the deceased child may not have contact with the child's 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 medical examiner; and

(3) a person may not remove a medical device from the child's body or otherwise alter the condition of the body for purposes of conducting the viewing unless the person 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 medical examiner.

(d) A person is not entitled to compensation for performing duties on behalf of a justice of the peace or medical examiner under this article unless the commissioners court of the applicable county approves the compensation.

SECTION 2. Same as introduced version.