

SUBJECT: Texas Department of Criminal Justice procedures upon inmate death

COMMITTEE: Corrections — favorable, without amendment

VOTE: 6 ayes — Hightower, Allen, Gray, Hupp, Marchant, Serna

0 nays

3 absent — Alexander, Edwards, Farrar

WITNESSES: For — None

Against — None

On — Carl Reynolds, Texas Board of Criminal Justice

BACKGROUND : Code of Criminal Procedure Art. 49.18 establishes procedures to be followed if someone dies while in the custody of a peace officer or in a jail or prison. Sec. (a) requires sheriffs or other persons in charge of penal institutions to inform the local justice of the peace if an inmate confined in a penal institution dies. Sec. (b) requires the director of a peace officer's law enforcement agency or of a facility in which an inmate dies to investigate the death and file a written report of the cause of death with the attorney general within 20 days of the death. The attorney general is required to make the report available to the public. Sec. (c) exempts from these requirements deaths that occur in a facility operated by or under contract with the Texas Department of Criminal Justice (TDCJ).

Government Code sec. 501.055 establishes procedures to be followed if an inmate dies while in a facility operated by or under contract with TDCJ. The requirements do not apply if an inmate dies of natural causes while attended by a physician and an autopsy is to be performed or if the inmate is lawfully executed. Otherwise, if an inmate dies, an employee in charge of the inmate is required to notify the nearest justice of the peace in the county where the inmate died and TDCJ's internal affairs department. The justice is required to make an inquiry about the cause of death and to give written copies of the evidence taken during the inquest to TDCJ's director and a district judge. The judge is required to give the evidence to a grand jury, and

upon evidence of wrongdoing, instruct the grand jury to thoroughly investigate the death.

DIGEST:

HB 2827 would require directors of prisons and jails operated by or under contract with TDCJ in which inmates die to investigate the death and file a written report with the attorney general for deaths other than those due to natural causes while attended by a physician and for which an autopsy is to be performed or if the inmate is lawfully executed.

The requirement that sheriffs or other persons in charge of penal institutions inform the local justice of the peace if an inmate confined in a penal institution dies would not apply to deaths in facilities operated by or under contract with TDCJ.

HB 2827 would take immediate effect if finally approved by a two-thirds record vote of the membership in each house.

**SUPPORTERS
SAY:**

HB 2827 would correct an overly broad exemption made in 1995 to the procedures that TDCJ must follow if an inmate dies. The Legislature amended the Code of Criminal Procedure to exempt TDCJ from requirements that justices of the peace be notified and that facility directors investigate all deaths and file a report with the attorney general. This exemption is too broad and should apply only to deaths that are not due to natural causes while attended by a physician or to lawful executions. Despite the exemption, TDCJ has continued to follow this requirement and file reports with the attorney general.

HB 2827 would correct this overly broad exemption and require facility directors to investigate any unnatural, non-execution death and to file a report with the attorney general. This would help make TDCJ accountable to the attorney general, who would be able to monitor the investigation of any suspicious death, and would ensure that the information is available to the public.

HB 2827 would retain TDCJ's current exemption from the Code of Criminal Procedure Art. 42.18 (a) requirement that justices of the peace be notified upon a death because the Government Code already requires TDCJ to do this for unnatural, non-execution deaths. Justices would continue to be

required to to forward a report on unnatural, non-execution deaths to the district judge who is required to give the information to a grand jury.

OPPONENTS
SAY:

No apparent opposition.