

## **BILL ANALYSIS**

Senate Research Center

C.S.H.B. 2827  
By: Place (Duncan)  
Criminal Justice  
5-14-97  
Committee Report (Substituted)

### **DIGEST**

Legislation enacted during the 74th Legislative Session amended the Code of Criminal Procedure to exempt the Texas Department of Criminal Justice (TDCJ) from the requirement that justices of the peace be notified, investigations conducted, and reports filed with the attorney general following the death of an inmate. Concern has been raised that this exemption is too broad and should apply only to deaths that are not due to natural causes or lawful execution. C.S.H.B. 2827 addresses this problem by requiring TDCJ to report inmate deaths, other than deaths attributable to natural causes or deaths due to legal execution, to the Attorney General's Office. In addition, this legislation requires TDCJ or an authorized TDCJ official to order autopsies for inmates who die of natural causes if the inmate's next of kin consents to the autopsy or does not object within a certain period, and defines an "inmate in the custody of TDCJ" as a convicted felon who is confined in a TDCJ secure correctional facility or who has been hospitalized while remaining in TDCJ custody. This bill also sets forth the procedure by which an inmate can become an eye, tissue, or organ donor if the inmate dies while in the custody of TDCJ.

### **PURPOSE**

As proposed, C.S.H.B. 2827 establishes provisions regarding the death of an inmate in the custody of the Texas Department of Criminal Justice (TDCJ) or imprisoned in a facility operated by or under contract with TDCJ.

### **RULEMAKING AUTHORITY**

Rulemaking authority is granted to the Texas Department of Criminal Justice in SECTION 3 (Section 501.0551(c), Government Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Article 49.18(c), Code of Criminal Procedure, to provide that Subsection (a) does not apply to a death that occurs in a facility operated by or under contract with the Texas Department of Criminal Justice (TDCJ). Establishes that Subsection (b) does not apply to a death that occurs in a facility operated by or under contract with TDCJ if the death occurs under circumstances described by Section 501.055(b), Government Code.

SECTION 2. Amends Section 501.055, Government Code, to require a facility employee who is in charge of an inmate who dies while in TDCJ's custody to immediately notify certain persons and entities. Deletes existing text regarding an inmate who dies while confined in certain TDCJ facilities. Provides that Subsection (a) does not apply if the inmate dies of natural causes while attended by a physician or a registered nurse. Deletes existing text regarding performance of an autopsy. Requires TDCJ or an authorized TDCJ official, if an inmate dies as described by Subsection (b)(1), to immediately attempt to notify the next of kin of the inmate that the inmate has died, state the time of death, and inform the next of kin that unless he or she objects to TDCJ within a certain period, an autopsy will be conducted. Sets forth the terms under which TDCJ or an authorized TDCJ official is required to order an autopsy to be conducted on the inmate. Provides that an "inmate in custody of the department" is a convicted felon who is confined in a secure correctional facility operated by or under contract with TDCJ, or who has been admitted for treatment into a hospital while remaining in TDCJ custody.

SECTION 3. Amends Chapter 501B, Government Code, by adding Section 501.0551, as follows:

Sec. 501.0551. ANATOMICAL GIFTS. Requires TDCJ, during the diagnostic process, to provide each inmate with a form on which the inmate may indicate whether the inmate wishes to be an eye, tissue, or organ donor if the inmate dies while in TDCJ custody. Requires TDCJ to adopt procedures to provide inmates with the form described by Subsection (a). Requires TDCJ to make the forms described by Subsection (a) available to inmates in the custody of TDCJ who have completed the diagnostic process. Sets forth other provisions regarding anatomical gifts. Provides that this subsection expires September 1, 2002.

SECTION 4. Amends Article 49.13, Code of Criminal Procedure, to provide that, notwithstanding Subsection (a), consent for a physician to conduct an autopsy is sufficient if given by TDCJ or an authorized TDCJ official in accordance with Section 501.055, Government Code.

SECTION 5. Makes application of this Act prospective regarding SECTIONS 1, 2, and 4 of this Act.

SECTION 6. Emergency clause.  
Effective date: upon passage.

### **SUMMARY OF COMMITTEE CHANGES**

Amends the relating clause to remove the reference to procedures applicable to an investigation involving the death of a TDCJ inmate.

SECTION 2.

Amends Section 501.055, Government Code, to set forth the terms by which TDCJ or an authorized TDCJ official is required to attempt to notify the next of kin of an inmate's death, and inform the next of kin that unless he or she objects, an autopsy will be performed; and is required to order an autopsy to be conducted on the inmate.

SECTION 3.

Adds Section 501.0551, Government Code, to set forth the terms by which TDCJ is required to provide each inmate with a form on which the inmate may indicate whether the inmate wishes to make anatomical gifts if the inmate dies while in the custody of TDCJ.