

## **BILL ANALYSIS**

Senate Research Center  
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S.B. 826  
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### **DIGEST AND PURPOSE**

Currently, state and local law enforcement and correctional agencies must report custodial deaths to both the State Attorney General's Office and the U.S. Department of Justice. State and federal reporting requirements mandate the use of different forms with duplicate data elements and follow different definitions for what constitutes a reportable death in custody. The Texas Code of Criminal Procedure requires superintendents or general managers of institutions, including nursing homes, extended care facilities, and retirement homes, to notify the local justice of the peace if a person residing in an institution dies and there is no attending physician or the physician is not able to certify the cause of death. As proposed, S.B. 826 changes state reporting requirements to match those of the federal government. This bill also requires notification of the attorney general, in addition to the justice of the peace, if a person residing in an institution dies and there is no attending physician or the physician is not able to certify the cause of death.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Chapter 49, Code of Criminal Procedure, by adding Article 49.24, as follows:

Art. 49.24. NOTIFICATION AND REPORT OF DEATH OF RESIDENT OF INSTITUTION. (a) Requires the superintendent or general manager, in addition to any other notification or report required by law, if a person dies while in the care or custody of, or while residing in, an institution, and the superintendent or general manager of the institution is required by Article 49.04 of this code to notify a justice of the peace of the death, to not later than 24 hours after the person's death, notify the attorney general of that person's death, and not later than 72 hours after the person's death, prepare and submit to the attorney general a report containing all facts relevant to the death. Requires the superintendent or general manager of the institution to make a good faith effort to obtain all facts relevant to the death and include those facts in the report.

(b) Authorizes the attorney general to investigate each death reported to him by an institution that receives payments through the medical assistance program provided under Chapter 32 (Medical Assistance Program), Human Resources Code.

(c) Requires the attorney general to make the report submitted pursuant to Subsection (a), with the exception of any portion of the report that the attorney general determines is privileged from discovery or excepted from required public disclosure under Chapter 552 (Public Information), Government Code, available to any interested person, when requested in writing.

SECTION 2. Amends Chapter 38, Penal Code, by adding Section 38.19, as follows:

Sec. 38.19. FAILURE TO REPORT DEATH OF RESIDENT OF INSTITUTION. (a)

Provides that a person commits an offense if the person is required to notify and prepare and submit a report to the attorney general by Article 49.24, Code of Criminal Procedure, and the person fails to provide notice of the death, fails to file the report as required, or fails to include in a filed report facts known or discovered by the person.

(b) Provides that an offense under this section is a Class B misdemeanor.

SECTION 3. (a) and (b) Make application of this Act prospective.

SECTION 4. Effective date: September 1, 2003.