

CHAPTER 529

H.B. No. 1104

AN ACT

relating to qualifications, powers, and duties of a justice of the peace in regard to inquests and the creation of certain offenses concerning dead bodies; providing penalties.

*Be it enacted by the Legislature of the State of Texas:*

SECTION 1. Articles 49.01 through 49.23, Code of Criminal Procedure, are designated as Subchapter A, Chapter 49, Code of Criminal Procedure, and amended to read as follows:

**SUBCHAPTER A. DUTIES PERFORMED BY JUSTICES OF THE PEACE**

*Art. 49.01. DEFINITIONS. In this article:*

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

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

(3) "Inquest hearing" means a formal court hearing held to determine whether the death of a person was caused by an unlawful act or omission and, if the death was caused by an unlawful act or omission, to obtain evidence to form the basis of a criminal prosecution.

(4) "Institution" means any place where health care services are rendered, including a hospital, clinic, health facility, nursing home, extended-care facility, out-patient facility, foster-care facility, and retirement home.

(5) "Physician" means a practicing medical doctor who is licensed by the Texas State Board of Medical Examiners under the Medical Practice Act (Article 4495b, Vernon's Texas Civil Statutes).

*Art. 49.02. APPLICABILITY. This subchapter applies to the inquest into a death occurring in a county that does not have a medical examiner's office or that is not part of a medical examiner's district.*

*Art. 49.03. POWERS AND DUTIES. The powers granted and duties imposed on a justice of the peace under this article are independent of the powers and duties of a law enforcement agency investigating a death.*

*Art. 49.04. DEATHS REQUIRING AN INQUEST. (a) A justice of the peace shall conduct an inquest into the death of a person who dies in the county served by the justice if:*

- (1) the person dies in prison or in jail;*
- (2) the person dies an unnatural death from a cause other than a legal execution;*
- (3) the body of the person is found and the cause or circumstances of death are unknown;*
- (4) the circumstances of the death indicate that the death may have been caused by unlawful means;*
- (5) the person commits suicide or the circumstances of the death indicate that the death may have been caused by suicide;*
- (6) the person dies without having been attended by a physician;*
- (7) the person dies while attended by a physician who is unable to certify the cause of death and who requests the justice of the peace to conduct an inquest; or*
- (8) the person is a child who is younger than 18 months of age and the suspected cause of death is sudden infant death syndrome.*

*(b) Except as provided by Subsection (c) of this section, a physician who attends the death of a person and who is unable to certify the cause of 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 a hospital or other institution and an attending physician is unable to certify the cause of death, the superintendent or general manager of the hospital or institution shall report the death to the justice of the peace of the precinct where the hospital or institution is located.*

*Art. 49.05. TIME AND PLACE OF INQUEST; REMOVAL OF PROPERTY AND BODY FROM PLACE OF DEATH. (a) A justice of the peace shall conduct an inquest immediately or as soon as practicable after the justice receives notification of the death.*

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

- (1) at the place where the death occurred;*
- (2) where the body was found; or*
- (3) at any other place determined to be reasonable by the justice.*

*(c) A justice of the peace may direct the removal of a body from the scene of death or move any part of the physical surroundings of a body only after a law enforcement agency is notified of the death and a peace officer has conducted an investigation or, if a law enforcement agency has not begun an investigation, a reasonable time has elapsed from the time the law enforcement agency was notified.*

*(d) A law enforcement agency that is notified of a death requiring an inquest under Article 49.04 of this code shall begin its investigation immediately or as soon as practicable after the law enforcement agency receives notification of the death.*

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

*(f) A person not authorized by law to move the body of a decedent or any part of the physical surroundings of the body commits an offense if the person tampers with a body that is subject to an inquest under Article 49.04 of this code or any part of the physical surroundings of the body. An offense under this section is punishable by a fine in an amount not to exceed \$500.*

*Art. 49.06. HINDERING AN INQUEST. (a) A person commits an offense if the person intentionally or knowingly hinders the entrance of a justice of the peace to a premises where a death occurred or a body is found.*

*(b) An offense under this article is a Class B misdemeanor.*

*Art. 49.07. NOTIFICATION OF INVESTIGATING OFFICIAL. (a) A physician or other person who has possession of a body of a person whose death requires an inquest under Article 49.04 of this code shall immediately notify the justice of the peace who serves the precinct in which the body was found.*

*(b) A peace officer who has been notified of the death of a person whose death requires an inquest under Article 49.04 of this code shall immediately notify the justice of the peace who serves the precinct in which the body was found.*

*(c) If the justice of the peace who serves the precinct in which the body was found is not available to conduct an inquest, a person required to give notice under this article shall notify the nearest available justice of the peace, municipal court judge, county judge, or judge of the county court at law of the county in which the death occurred or in which the body was found.*

*(d) 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 punishable by a fine in an amount not to exceed \$500.*

*Art. 49.08. INFORMATION LEADING TO AN INQUEST. A justice of the peace conducting an inquest may act on information the justice receives from any credible person or on facts within his knowledge.*

*Art. 49.09. BODY DISINTERRED OR CREMATED. (a) If a body subject to investigation under Article 49.04 of this code is interred and an authorized person has not conducted an inquest required under this subchapter, a justice of the peace may direct the disinterment of the body in order to conduct an inquest.*

*(b) A person may not cremate or direct the cremation of a body subject to investigation under Article 49.04 unless the person has received from the justice of the peace a certificate signed by the justice stating that:*

- (1) an autopsy was performed on the body under Article 49.10 of this code; or*
- (2) no autopsy was necessary.*

*(c) An owner or operator of a crematory shall retain a certificate received under Subsection (b) of this article for a period of 10 years from the date of cremation of the body named on the certificate.*

*(d) A person commits an offense if the person cremates or directs the cremation of a body without obtaining a certificate from a justice of the peace as required by Subsection (b) of this article. An offense under this section is punishable by confinement in jail for a term not to exceed six months, a fine not less than \$500 or more than \$1,000, or both the fine and confinement.*

*Art. 49.10. AUTOPSIES AND TESTS. (a) At his discretion, a justice of the peace may obtain the opinion of a county health officer or a physician concerning the necessity of obtaining an autopsy in order to determine or confirm the nature and cause of a death.*

*(b) The commissioners court of the county shall pay a reasonable fee for a consultation obtained by a justice of the peace under Subsection (a) of this article. (c) For each body that is the subject of an inquest by a justice of the peace, the justice shall:*

- (1) direct a physician to perform an autopsy; or*
- (2) certify that no autopsy is necessary.*

*(d) 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 Asiatic cholera, bubonic plague, typhus fever, or smallpox.*

*(e) A justice of the peace shall order an autopsy performed on a body if:*

- (1) the justice determines that an autopsy is necessary to determine or confirm the nature and cause of death; or*
- (2) directed to do so by the district attorney, criminal district attorney, or, if there is no district or criminal district attorney, the county attorney.*

(f) A justice of the peace shall request a physician to perform the autopsy.

(g) The commissioners court shall pay a reasonable fee to a physician performing an autopsy on the order of a justice of the peace, if a fee is assessed.

(h) The commissioners court shall pay a reasonable fee for the transportation of a body to a place where an autopsy can be performed under this article if a justice of the peace orders the body to be transported to the place.

(i) If a justice of the peace determines that a complete autopsy is unnecessary to confirm or determine the cause of death, the justice may order a physician to take or remove from a body a sample of body fluids, tissues, or organs in order to determine the nature and cause of death. Except as provided by Subsection (j) of this article, a justice may not order any person other than a physician to take samples from the body of a deceased person.

(j) A justice of the peace may order a physician, qualified technician, chemist, registered professional nurse, or licensed vocational nurse to take a specimen of blood from the body of a person who died as the result of a motor vehicle accident if the justice determines that circumstances indicate the person may have been driving while intoxicated.

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

Art. 49.11. CHEMICAL ANALYSIS. (a) A justice of the peace may obtain a chemical analysis of a sample taken from a body in order to determine whether death was caused, in whole or in part, by the ingestion, injection, or introduction into the body of a poison or other chemical substance. A justice may obtain a chemical analysis under this article from a chemist, toxicologist, pathologist, or other medical expert.

(b) A justice of the peace shall obtain a chemical analysis under Subsection (a) of this article if requested to do so by the physician who performed an autopsy on the body.

(c) The commissioners court shall pay a reasonable fee to a person who conducts a chemical analysis at the request of a justice of the peace.

Art. 49.12. LIABILITY OF PERSON PERFORMING AUTOPSY OR TEST. A person who performs an autopsy or makes a test on a body on the order of a justice of the peace in the good faith belief that the order is valid is not liable for damages if the order is invalid.

Art. 49.13. CONSENT TO AUTOPSY. Consent for a physician to conduct an autopsy is sufficient if given by the following:

(1) if the deceased was married, the surviving spouse;

(2) if the deceased was married but not survived by a spouse, an adult child of the deceased;

(3) if the deceased was married but not survived by a spouse, and a child of the deceased is under the care of a guardian or a court, the guardian or court having care of the child; or

(4) if the deceased person was unmarried or is not survived by a spouse or a child, the following persons in the order stated:

(A) a parent;

(B) a guardian;

(C) the next of kin; or

(D) any person who assumes custody of and responsibility for the burial of the body.

Art. 49.14. INQUEST HEARING. (a) A justice of the peace conducting an inquest may hold an inquest hearing if the justice determines that the circumstances

warrant the hearing. The justice shall hold an inquest hearing if requested to do so by a district attorney or a criminal district attorney who serves the county in which the body was found.

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

(c) A jury in an inquest hearing is composed of six persons. Jurors shall be summoned in the same manner as are jurors for county court. A juror who is properly summoned and fails to appear, other than a juror exempted by law, commits an offense. An offense under this subsection is punishable by a fine not to exceed \$100.

(d) A justice of the peace may hold a public or a private inquest hearing. If a person has been arrested and charged with causing the death of the deceased, the defendant and the defendant's counsel are entitled to be present at the inquest hearing, examine witnesses, and introduce evidence.

(e) A justice of the peace may issue a subpoena to enforce the attendance of a witness at an inquest hearing and may issue an attachment for a person who is subpoenaed and fails to appear at the time and place cited on the subpoena.

(f) A justice of the peace may require bail of a witness to secure the appearance of the witness at an inquest hearing or before a grand jury, examining court, or other court investigating a death.

(g) The justice of the peace shall swear witnesses appearing at an inquest hearing. The justice and an attorney representing the state may examine witnesses at an inquest hearing. The justice shall direct that all sworn testimony be reduced to writing and the justice shall subscribe the transcription.

(h) Only the justice of the peace, a person charged in the death under investigation, the counsel for the person charged, and an attorney representing the state may question a witness at an inquest hearing.

(i) A justice of the peace may hold a person who disrupts the proceedings of an inquest hearing in contempt of court. A person who is found in contempt of court under this subsection may be fined in an amount not to exceed \$100 and removed from court by a peace officer.

Art. 49.15. **INQUEST RECORD.** (a) A justice of the peace or other person authorized under this subchapter to conduct an inquest shall make an inquest record for each inquest he conducts. The inquest record must include a report of the events, proceedings, findings, and conclusions of the inquest. The record must also include any autopsy prepared in the case and all other papers of the case. All papers of the inquest record must be marked with the case number and be clearly indexed and be maintained in the office of the justice of the peace and be made available to the appropriate officials upon request.

(b) As part of the inquest record, the justice of the peace shall make and keep complete and permanent records of all inquest hearings. The inquest hearing records must include:

- (1) the name of the deceased person or, if the person is unidentified, a description of the body;
- (2) the time, date, and place where the body was found;
- (3) the time, date, and place where the inquest was held;
- (4) the name of every witness who testified at the inquest;
- (5) the name of every person who provided to the justice information pertinent to the inquest;
- (6) the amount of bail set for each witness and person charged in the death;
- (7) a transcript of the testimony given by each witness at the inquest hearing;
- (8) the autopsy report, if an autopsy was performed; and

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

(c) *The commissioners court shall pay a reasonable fee to a person who records or transcribes sworn testimony during an inquest hearing.*

(d) *The justice of the peace shall certify a copy of the inquest summary report and deliver the certified copy in a sealed envelope to the clerk of the district court. The clerk of the district court shall retain the summary report subject to an order by the district court.*

**Art. 49.16. ORDERS AND DEATH CERTIFICATES.** *The justice of the peace or other person who conducts an inquest under this subchapter shall sign the death certificate and all orders made as a necessary part of the inquest.*

**Art. 49.17. EVIDENCE.** *A justice of the peace shall preserve all tangible evidence that the justice accumulates in the course of an inquest that tends to show the real cause of death or identify the person who caused the death. The justice shall:*

(1) *deposit the evidence with the appropriate law enforcement agency to be stored in the agency's property room for safekeeping; or*

(2) *deliver the evidence to the district clerk for safekeeping subject to the order of the court.*

**Art. 49.18. DEATH IN CUSTODY.** (a) *If a person confined in a penal institution dies, the sheriff or other person in charge of the penal institution shall as soon as practicable inform the justice of the peace of the precinct where the penal institution is located of the death.*

(b) *If a person dies while in the custody of a peace officer or if a prisoner dies while confined in a jail or prison, the director of the law enforcement agency of which the officer is a member or of the facility in which the prisoner was confined shall investigate the death and file a written report of the cause of death with the attorney general no later than the 20th day after the date on which the person in custody or the prisoner died. The director shall make a good faith effort to obtain all facts relevant to the death and include those facts in the report. The attorney general shall make the report, with the exception of any portion of the report that the attorney general determines is privileged, available to any interested person.*

**Art. 49.19. WARRANT OF ARREST.** (a) *A justice of the peace who is conducting an inquest of a death under this subchapter may issue a warrant for the arrest of a person suspected of causing the death if:*

(1) *the justice has knowledge that the person caused the death of the deceased;*

(2) *the justice receives an affidavit stating that the person caused the death; or*

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

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

(1) *execute the warrant without delay; and*

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

(c) *A person who is charged in a death and arrested under a warrant of a justice of the peace shall remain in the custody of the arresting peace officer and may not be removed from the peace officer's custody on the authority of a warrant from another magistrate. A person charged in a death who has not been arrested under a warrant of a justice of the peace may be arrested on the order of a magistrate other than the justice of the peace and examined by that magistrate while an inquest is pending.*

**Art. 49.20. REQUISITES OF WARRANT.** *A warrant of arrest issued under Article 49.19 of this code is sufficient if it:*

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

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

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

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

Art. 49.21. **COMMITMENT OF HOMICIDE SUSPECT.** At the conclusion of an inquest, if a justice of the peace finds that a person who has been arrested in the case caused or contributed to the death of the deceased, the justice may:

(1) commit the person to jail; or

(2) require the person to execute a bail bond with security for the person's appearance before the proper court to answer for the offense.

Sec. 49.22. **SEALING PREMISES OF DECEASED.** (a) If a body that is subject to an inquest under Article 49.04 of this code is found on premises that were under the sole control of the deceased, 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 conducting an investigation of the death.

(b) Rent, utility charges, taxes, and all other reasonable expenses accruing against the property of the deceased during the time the premises of the deceased are locked and sealed under this article may be charged against the estate of the deceased.

(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 punishable by confinement in jail for a term not to exceed 30 days, a fine not to exceed \$1,000, or both the fine and confinement.

Art. 49.23. **OFFICE OF DEATH INVESTIGATOR.** (a) The commissioners court of a county may establish an office of death investigator and employ one or more death investigators to provide assistance to those persons in the county who conduct inquests. A death investigator employed under this article is entitled to receive compensation from the county in an amount set by the commissioners court. A death investigator serves at the will of the commissioners court and on terms and conditions set by the commissioners court.

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

(c) At the request of and under the supervision of a justice of the peace or other person conducting an inquest, a death investigator may assist the person conducting the inquest to investigate the time, place, and manner of death and lock and seal the premises of the deceased. A death investigator who assists in an inquest under this subsection shall make a complete report of the death investigator's activities, findings, and conclusions to the justice of the peace or other person conducting the inquest not later than eight hours after the death investigator completes the investigation.

~~[Art. 49.01. **WHEN HELD.** It is the duty of the justice of the peace to hold inquests, with or without a jury, within his county in the following cases:~~

~~[1. When a person dies in prison or in jail;~~

~~[2. When any person is killed, or from any cause dies an unnatural death, except under sentence of the law; or dies in the absence of one or more good witnesses;~~

~~[3. When the body of a human being is found, and the circumstances of his death are unknown;~~

~~[4. When the circumstances of the death of any person are such as to lead to suspicion that he came to his death by unlawful means;~~

~~[5. When any person commits suicide, or the circumstances of his death are such as to lead to suspicion that he committed suicide;~~

~~[6. When a person dies without having been attended by a duly licensed and practicing physician, and the local health officer or registrar required to report the cause of death~~

under Rule 41a, Sanitary Code of Texas, Article 4477, Revised Civil Statutes, General Laws, 46th Legislature, 1939, page 343, does not know the cause of death. When the local health officer or registrar of vital statistics whose duty it is to certify the cause of death does not know the cause of death, he shall so notify the justice of the peace of the precinct in which the death occurred and request an inquest;

[7. When a person dies who has been attended by a duly licensed and practicing physician or physicians, and such physician or physicians are not certain as to the cause of death and are unable to certify with certainty the cause of death as required by Rule 40a, Sanitary Code of Texas, Article 4477, Revised Civil Statutes, Chapter 41, Acts, First Called Session, 40th Legislature, 1927, page 116. In case of such uncertainty the attending physician or physicians, or the superintendent or general manager of the hospital or institution in which the deceased shall have died, shall so report to the justice of the peace of the precinct in which the death occurred, and request an inquest.

[The inquests authorized and required by this Article shall be held by the justice of the peace of the precinct in which the death occurred, but in event the justice of the peace of such precinct is unavailable, or shall fail or refuse to act, then such inquest shall be conducted by the nearest available justice of the peace, corporation court judge, county judge or judge of the county court at law of the county in which the death occurred.

[Art. 49.02. BODY DISINTERRED OR CREMATED

[Sec. 1. When a body upon which an inquest ought to have been held has been interred, the justice may cause it to be disinterred for the purpose of holding such inquest.

[Sec. 2. Before any body, upon which an inquest is authorized by the provisions of Article 49.01 can lawfully be cremated, an autopsy shall be performed thereon as provided in this Article, or a certificate that no autopsy was necessary shall be furnished by the justice of the peace. Before any dead body can be lawfully cremated, the owner or operator of the crematory shall demand and be furnished with a certificate, signed by the justice of the peace of the justice precinct in which the death occurred showing that an autopsy was performed on said body or that no autopsy thereon was necessary. No autopsy shall be required by the justice of the peace as a prerequisite to cremation in case death was caused by the pestilential diseases of Asiatic cholera, bubonic plague, typhus fever, or smallpox, named in Rule 77, Sanitary Code of Texas, Article 4477, Revised Civil Statutes of Texas, 1925. All certificates furnished the owner or operator of a crematory by any justice of the peace, under the terms of this Article, shall be preserved by such owner or operator of such crematory for a period of two years from the date of the cremation of said body.

[Sec. 3. Any person violating any provision of this Article insofar as it relates to the cremation of bodies, shall be guilty of a misdemeanor, and upon conviction shall be fined in any sum not less than \$500 and not more than \$1,000, or by imprisonment in the county jail for not more than six months, or by both such fine and imprisonment.

[Art. 49.03. AUTOPSIES AND TESTS. The justice of the peace may in all cases call in the County Health Officer, or if there be none or if his services are not then obtainable, then a duly licensed and practicing physician, and shall procure their opinions and their advice on whether or not to order an autopsy to determine the cause of death. If upon his own determination he deems an autopsy necessary, or if he is requested to order an autopsy by the district attorney, criminal district attorney, or if there is no district or criminal district attorney, by the county attorney, the justice of the peace shall, by proper order, request the County Health Officer, or if there be none or if it be impracticable to secure his service, then some duly licensed and practicing physician who is trained in pathology to make an autopsy in order to determine the cause of death, and whether death was from natural causes or resulting from violence, and the nature and character of either of them. The county in which such autopsy is ordered shall pay the physician making such autopsy a reasonable fee. The Commissioners Court may authorize payment for transportation of the body within this state for the performance of an autopsy ordered by a justice of the peace. In those cases where a complete autopsy is deemed unnecessary by the officers authorized by this article to request an autopsy, the justice of the peace may by proper order, order the taking of blood samples or any other samples of



fluids, body tissues or organs in order to ascertain the cause of death or whether any crime has been committed. In the case of a body of a human being whose identity is unknown, the justice of the peace may, by proper order, authorize such investigative and laboratory tests and processes as are required to determine the identity as well as the cause of death.

~~[Art. 49.04. LIABILITY OF PHYSICIAN PERFORMING AUTOPSY WHERE ORDER INVALID. A physician authorized to practice medicine in this State who performs an autopsy upon an order of a justice of the peace, or a person who makes a test on a body upon an order of a justice of the peace, who does so in the good faith belief that the order is a valid one, shall not be held liable for damages in the event it is determined that the order was for any reason invalid.~~

~~[Art. 49.05. CONSENT TO AUTOPSY~~

~~[Sec. 1. Consent for a licensed physician to conduct an autopsy of the body of a deceased person shall be deemed sufficient when given by the following: In the case of a married person, the surviving spouse, or if no spouse survive him, by any child of such marriage, or in the event of a minor child of such marriage, the guardian of such child if any there be, or in the absence of such guardian, the court having jurisdiction of the person of such minor; in the event that neither spouse nor child survives such deceased, then permission for an autopsy shall be valid when given by a person who would be allowed to give such permission in the case of an unmarried deceased.~~

~~[If the deceased be unmarried, then permission shall be given by the following for such autopsy, in the order stated: parent, guardian, or next of kin, and in the absence of any of the foregoing, by any natural person assuming custody of and responsibility for burial of the body of such deceased. If two or more of the above-named persons assume custody of the body, consent of one of them shall be deemed sufficient.~~

~~[Sec. 2. For purposes of this Article, "licensed physician" shall be defined as any person duly licensed by the Texas State Board of Medical Examiners, and whose license is current in all respects.~~

~~[Art. 49.06. CHEMICAL ANALYSIS. If upon such inquest, it becomes necessary to determine whether the death has been produced by poison, the justice of the peace, upon his own determination, or upon request of the physician performing such autopsy, shall call in to his aid, if necessary, some medical expert, chemist, toxicologist or licensed physician practicing pathology, qualified to make an analysis of the stomach and its contents, together with such other portions of the body as may be necessary to be analyzed and tested, for the purpose of determining the presence of poison in such body. The commissioners court shall pay to such expert or specialist such fee as it may determine reasonable not to exceed \$300.~~

~~[Art. 49.07. UPON WHAT JUSTICE MAY ACT. The justice shall act in such cases upon information given him by any credible person or upon facts within his knowledge.~~

~~[Art. 49.08. DEATH IN JAIL OR OTHER CUSTODY. (a) The sheriff and every keeper of any prison shall inform such justice of the death of any person confined therein.~~

~~(b) If a person dies while in the custody of a peace officer or if a prisoner dies while confined in a municipal or county jail or in the Texas Department of Corrections, the director of the law enforcement agency of which the officer is a member or of the facility in which the prisoner was confined shall investigate the death and file a written report of the cause of death with the attorney general no later than the 20th day after the day on which the prisoner died. The director shall make a good faith effort to obtain all facts relevant to the death and include those facts in the report. The attorney general shall make the report, with the exception of any portion of the report that he determines is privileged, available to any interested person.~~

~~[Art. 49.09. SUBPOENAS. The justice may issue subpoenas to enforce the attendance of witnesses upon an inquest and may issue attachments for those subpoenaed who fail to attend.~~

~~[Art. 49.10. TESTIMONY. Witnesses shall be sworn and examined by the justice and their testimony reduced to writing by or under his direction, and subscribed by them.~~

~~[Art. 49.11. PRIVATE INQUEST. Should the justice deem proper, the inquest may be held in private; but in all cases where a person has been arrested, charged with having caused the death of the deceased, such person and his counsel shall have the right to be present at the inquest, and to examine witnesses and introduce evidence.~~

~~[Art. 49.12. HINDERING PROCEEDINGS. If any other person than the justice, the accused and his counsel, and the counsel for the State, are present at the inquest, they shall not interfere with the proceedings. No questions shall be asked a witness, except by the justice, the accused or his counsel, and the counsel for the State. The justice of the peace may fine any person violating this Article for contempt of court, not exceeding \$20, and may cause such person to be placed in the custody of a peace officer and removed from the presence of the inquest.~~

~~[Art. 49.13. INQUEST RECORD. The justice shall keep full and complete records properly indexed, of all the proceedings relating to every inquest held by him. The record shall include:~~

- ~~1. The name of the deceased, if known, or if not, as accurate a description of him as can be given;~~
- ~~2. The time, date and place where the body was found, and the time, date and place where the inquest was held;~~
- ~~3. The testimony taken by the justice, and by whom;~~
- ~~4. The full report and detailed findings of the autopsy, if any;~~
- ~~5. The findings by the justice at the inquest;~~
- ~~6. Whether any person was arrested as a suspect before the inquest, and the person's identity, as well as everything material relating to the arrest.~~

~~[Art. 49.14. IN HOMICIDE CASES. When the justice has knowledge that the killing was the act of any person, or when an affidavit is made that such person has killed the deceased, a warrant may issue for the arrest of the accused before inquest held; and the accused and his counsel shall have the right to be present when the same is held, and to examine the witnesses and introduce evidence before the jury.~~

~~[Art. 49.15. WARRANT OF ARREST. Any peace officer to whose hands the justice's warrant of arrest shall come is bound to execute the same without delay, and he shall detain the person arrested until his discharge is ordered by the justice or other proper authority.~~

~~[Art. 49.16. COMMITMENT OF HOMICIDE SUSPECT. If it be found by the justice, upon evidence adduced at the inquest, that a person already arrested did in fact kill the deceased, or was a party to the death, the justice may, according to the facts of the case, commit him to jail or require him to execute a bail bond with security for his appearance before the proper court to answer for the offense.~~

~~[Art. 49.17. BAIL. Bail bond taken before a justice shall be sufficient if it state the grade of offense of which the party is accused, be payable to the State of Texas, be dated and signed by the principal and his surety, if any. Bail may be forfeited, and judgment recovered thereon, and the same collected as in the case of any other bail.~~

~~[Art. 49.18. WARRANT OF ARREST. When, by the evidence adduced before a justice holding an inquest, it is found that any person not in custody killed the deceased, or was a party to the death, the justice shall forthwith issue his warrant of arrest to the sheriff or other peace officer, commanding him to arrest the person accused, and bring him before such justice, or before some other magistrate named in the writ.~~

~~[Art. 49.19. REQUISITES OF WARRANT. A warrant of arrest shall be sufficient if it run in the name of "The State of Texas," give the name of the accused, or describe him when his name is unknown, recite the offense with which he is charged in plain language, and be dated and signed officially by the justice.~~

~~[Art. 49.20. OFFICER SHALL EXECUTE WARRANT. The peace officer into whose hands such warrant may come shall forthwith execute the same by arresting the accused and taking him before the magistrate named in the warrant; and the same proceedings~~

~~shall be had thereon as in other cases where persons accused of offenses are brought before him.~~

~~[Art. 49.21. ARREST PENDING INQUEST. Nothing contained in this title shall prevent proceedings being had for the arrest and examination of an accused before a magistrate, pending the inquest. When a person accused of an offense has been already arrested under a warrant from the justice, he shall not be taken from the hands of the peace officer by a warrant from any other magistrate.~~

~~[Art. 49.22. TO CERTIFY PROCEEDINGS. The justice holding an inquest shall certify to the proceedings, and shall enclose in an envelope the testimony taken, the finding of the justice, the bail, if any, and all other papers connected with the inquest, shall seal up such envelope and without delay deliver it properly endorsed to the clerk of the district court, who shall safely keep the same in his office subject to the order of the court.]~~

SECTION 2. Articles 49.23 and 49.24, Code of Criminal Procedure, are repealed.

SECTION 3. Article 49.25, Code of Criminal Procedure, is designated as Subchapter B, Chapter 49, Code of Criminal Procedure, to be titled as follows:

*SUBCHAPTER B. DUTIES PERFORMED BY MEDICAL EXAMINERS*

SECTION 4. This Act takes effect September 1, 1987, and applies to inquests and investigations of the deaths of persons who die on or after that date. An inquest or investigation of the death of a person who dies before the effective date of this Act is covered by the law as it existed when the person died, and that law is continued in effect for that purpose.

SECTION 5. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Passed by the House on April 29, 1987, by a non-record vote; and that the House concurred in Senate amendments to H.B. No. 1104 on May 21, 1987, by a non-record vote. Passed by the Senate, with amendments, on May 19, 1987, by the following vote: Yeas 30, Nays 0.

Approved June 17, 1987.

Effective Sept. 1, 1987.