

PRELIMINARY DRAFT

TEXAS LEGISLATIVE COUNCIL
Code of Criminal Procedure
Chapter 49A
12/20/24

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20 CHAPTER 49A. DEATH INQUESTS
21 SUBCHAPTER A. GENERAL PROVISIONS
22 Revised Law
23 Art. 49A.001. DEFINITIONS. In this chapter:
24 (1) "Autopsy" means a postmortem examination of the
25 body of a person, including x-rays and an examination of the
26 internal organs and structures after dissection, to determine the
27 cause of death or the nature of any pathological changes that may
28 have contributed to the death.
29 (2) "Inquest" means an investigation into the cause
30 and circumstances of the death of a person, and a determination,
31 made with or without a formal court hearing, regarding whether the
32 death was caused by an unlawful act or omission.
33 (3) "Inquest hearing" means a formal court hearing
34 held:

1 (A) to determine whether the death of a person
2 was caused by an unlawful act or omission; and

3 (B) if the death was caused by an unlawful act or
4 omission, to obtain evidence supporting a criminal prosecution.

5 (4) "Institution" means a place where health care
6 services are provided, including a hospital, clinic, health
7 facility, nursing home, extended care facility, outpatient
8 facility, foster care facility, and retirement home.

9 (5) "Physician" means a practicing doctor of medicine
10 or doctor of osteopathic medicine who is licensed by the Texas
11 Medical Board under Subtitle B, Title 3, Occupations Code. (Code
12 Crim. Proc., Art. 49.01(a).)

13 Source Law

14 Art. 49.01. DEFINITIONS. (a) In this chapter:

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

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

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

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

37 (5) "Physician" means a practicing doctor
38 of medicine or doctor of osteopathic medicine who is
39 licensed by the Texas State Board of Medical Examiners
40 under Subtitle B, Title 3, Occupations Code.

41 Revisor's Note

42 Article 49.01(a), Code of Criminal Procedure,
43 defines physician as a practicing doctor of medicine
44 or osteopathic medicine who is licensed by the "Texas
45 State Board of Medical Examiners." The revised law
46 substitutes "Texas Medical Board" for "Texas State
47 Board of Medical Examiners" because Chapter 269, Acts

1 of the 79th Legislature, Regular Session, 2005,
2 changed the name of the board. The revised law is
3 drafted accordingly.

4 Revised Law

5 Art. 49A.002. WHEN DECEASED PERSON OR BODY CONSIDERED
6 UNIDENTIFIED. For purposes of this chapter, a deceased person or a
7 deceased person's body is considered unidentified if:

- 8 (1) the deceased person's legal name is unknown; and
9 (2) there is no known person with the duty to inter the
10 deceased person's remains under Section 711.002(a), Health and
11 Safety Code. (Code Crim. Proc., Art. 49.01(b).)

12 Source Law

13 (b) For purposes of this chapter, a person or
14 body is considered unidentified if:
15 (1) the deceased person's legal name is
16 unknown; and
17 (2) there is no known person with the duty
18 to inter the deceased person's remains under Section
19 711.002(a), Health and Safety Code.

20 SUBCHAPTER B. INQUESTS BY JUSTICE OF THE PEACE

21 Revised Law

22 Art. 49A.051. APPLICABILITY. This subchapter applies to
23 the inquest into a person's death that occurs in a county that:

- 24 (1) does not have an office of medical examiner; and
25 (2) is not part of a medical examiner's district.
26 (Code Crim. Proc., Art. 49.02.)

27 Source Law

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

32 Revisor's Note

33 (1) Article 49.02, Code of Criminal Procedure,
34 provides that "this subchapter," meaning Subchapter A,
35 Chapter 49, Code of Criminal Procedure, applies to an
36 inquest into a death occurring in certain counties.
37 One or more provisions of Subchapter A, Chapter 49,
38 revised substantially as Subchapter B, Chapter 49A,

1 are revised in a subchapter other than Subchapter B.
2 To preserve the applicability of language that governs
3 those provisions, the substance of Article 49.02, Code
4 of Criminal Procedure, is repeated in each article of
5 Chapter 49A that was originally derived from
6 Subchapter A, Chapter 49, but is now revised in a
7 subchapter other than Subchapter B, Chapter 49A,
8 except for Articles 49A.001 and 49A.002, because they
9 apply chapter-wide under the terms of Article 49.01,
10 Code of Criminal Procedure, the law from which they are
11 derived. To the extent of any conflict, Article 49.01
12 prevails as the statute latest in date of enactment.
13 See Section 311.025, Government Code (Code
14 Construction Act), and Section 1, Chapter 737 (H.B.
15 3161), Acts of the 88th Legislature, Regular Session,
16 2023. The Code Construction Act applies to the revised
17 law and any other provision of the Code of Criminal
18 Procedure enacted under Section 43, Article III, Texas
19 Constitution (authorizing the continuing statutory
20 revision program), in the same manner as to an entire
21 code enacted under the continuing statutory revision
22 program, except as otherwise provided by the Code of
23 Criminal Procedure. See Section 6.02(a), Chapter 1058
24 (H.B. 2931), Acts of the 85th Legislature, Regular
25 Session, 2017.

26 (2) Article 49.02, Code of Criminal Procedure,
27 provides that this subchapter applies to an inquest
28 into a death occurring in a county that does not have a
29 medical examiner's office "or" that is not part of a
30 medical examiner's district. The revised law
31 substitutes "and" for "or" because it is clear from the
32 context that the subchapter applies only if the county
33 meets both of the negative conditions described by
34 Subdivisions (1) and (2) of the revised article. In a

1 county that either has a medical examiner's office or
2 is part of a medical examiner's district, the medical
3 examiner would assume the powers and duties related to
4 inquests conducted by the justices of the peace of that
5 county. See Section 12, Article 49.25, Code of
6 Criminal Procedure, which states in part, "When the
7 commissioners court of any county shall establish the
8 office of medical examiner, all powers and duties of
9 justices of the peace in such county relating to the
10 investigation of deaths and inquests shall vest in the
11 office of the medical examiner." See also Section
12 1-a(b), Article 49.25, Code of Criminal Procedure,
13 which states in part, "When a county becomes a part of
14 a medical examiners district, the effect is the same
15 within the county as if the office of medical examiner
16 had been established in that county alone. The
17 district medical examiner has all the powers and
18 duties within the district that a medical examiner who
19 serves in a single county has within that county."

20 Revised Law

21 Art. 49A.052. INDEPENDENT AUTHORITY AND DUTIES OF JUSTICE
22 OF THE PEACE. The powers granted to and duties imposed on a justice
23 of the peace under this subchapter are independent of the powers and
24 duties of a law enforcement agency investigating a person's death.
25 (Code Crim. Proc., Art. 49.03.)

26 Source Law

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

32 Revisor's Note

33 Article 49.03, Code of Criminal Procedure, refers
34 to powers granted to and duties imposed on a justice of
35 the peace under "this article." The revised law
36 substitutes "subchapter" for "article" because it is

1 clear from the context that the word "article" is a
2 drafting error and the "powers granted and duties
3 imposed on a justice of the peace" refer to the powers
4 and duties under Subchapter A, Chapter 49, Code of
5 Criminal Procedure, which is revised in relevant part
6 as Subchapter B of the revised chapter.

7 Revised Law

8 Art. 49A.053. DEATHS REQUIRING INQUEST. (a) A justice of
9 the peace shall conduct an inquest into the death of a person who
10 dies in the county served by the justice if:

11 (1) the person dies in prison under circumstances
12 other than those described by Section 501.055(b), Government Code,
13 or in jail;

14 (2) the person dies an unnatural death from a cause
15 other than a legal execution;

16 (3) the body or a body part of a person is found and
17 either:

18 (A) the person is identified but the cause or
19 circumstances of death are unknown; or

20 (B) the person is unidentified, regardless of
21 whether the cause or circumstances of death are known;

22 (4) the circumstances of the death indicate that the
23 death may have been caused by unlawful means;

24 (5) the person dies by suicide or the circumstances of
25 the death indicate that the death may have been caused by suicide;

26 (6) the person dies without having been attended by a
27 physician;

28 (7) the person dies while attended by a physician who:

29 (A) is unable to certify the cause of death; and

30 (B) requests the justice to conduct an inquest;

31 or

32 (8) the person is a child younger than six years of age
33 and an inquest is required by Chapter 264, Family Code.

34 (b) Except as provided by Subsection (c), a physician who

1 attends the death of a person and is unable to certify the cause of
2 death shall report the death to the justice of the peace of the
3 precinct where the death occurred and request that the justice
4 conduct an inquest.

5 (c) If a person dies in an institution and an attending
6 physician is unable to certify the cause of death, the
7 superintendent or general manager of the institution shall report
8 the death to the justice of the peace of the precinct where the
9 institution is located. (Code Crim. Proc., Arts. 49.04(a), (b),
10 (c).)

11 Source Law

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

16 (1) the person dies in prison under
17 circumstances other than those described by Section
18 501.055(b), Government Code, or in jail;

19 (2) the person dies an unnatural death
20 from a cause other than a legal execution;

21 (3) the body or a body part of a person is
22 found and either:

23 (A) the person is identified but the
24 cause or circumstances of death are unknown; or

25 (B) the person is unidentified,
26 regardless of whether the cause or circumstances of
27 death are known;

28 (4) the circumstances of the death
29 indicate that the death may have been caused by
30 unlawful means;

31 (5) the person commits suicide or the
32 circumstances of the death indicate that the death may
33 have been caused by suicide;

34 (6) the person dies without having been
35 attended by a physician;

36 (7) the person dies while attended by a
37 physician who is unable to certify the cause of death
38 and who requests the justice of the peace to conduct an
39 inquest; or

40 (8) the person is a child younger than six
41 years of age and an inquest is required by Chapter 264,
42 Family Code.

43 (b) Except as provided by Subsection (c) of this
44 section, a physician who attends the death of a person
45 and who is unable to certify the cause of death shall
46 report the death to the justice of the peace of the
47 precinct where the death occurred and request that the
48 justice conduct an inquest.

49 (c) If a person dies in a hospital or other
50 institution and an attending physician is unable to
51 certify the cause of death, the superintendent or
52 general manager of the hospital or institution shall
53 report the death to the justice of the peace of the
54 precinct where the hospital or institution is located.

1 Revisor's Note

2 (1) Article 49.04(a)(5), Code of Criminal
3 Procedure, requires a justice of the peace to conduct
4 an inquest into a person's death if the person
5 "commits" suicide. The revised law substitutes "dies
6 by" for "commits" because, in this context, the terms
7 are synonymous, and the former is more consistent with
8 modern usage.

9 (2) Article 49.04(c), Code of Criminal
10 Procedure, requires the superintendent or general
11 manager of a "hospital or institution" to report the
12 death of a person who dies in a "hospital or other
13 institution." Throughout this chapter, the revised
14 law omits references to "hospital" when they are
15 combined with references to "institution" because
16 Article 49.01, Code of Criminal Procedure, revised as
17 Article 49A.001 and applicable to the revised chapter,
18 defines "institution" to include "hospital."

19 Revised Law

20 Art. 49A.054. REQUIRED NOTICE TO JUSTICE OF THE PEACE;
21 OFFENSE. (a) A physician or other person who possesses a body or
22 body part of a person whose death requires an inquest under Article
23 49A.053 shall immediately notify the justice of the peace of the
24 precinct in which the body or body part was found.

25 (b) A peace officer who is notified of a death that requires
26 an inquest under Article 49A.053 shall immediately notify the
27 justice of the peace of the precinct in which the body or body part
28 was found.

29 (c) A person commits an offense if the person is required by
30 this article to give notice and intentionally or knowingly fails to
31 give the notice. An offense under this subsection is a Class C
32 misdemeanor. (Code Crim. Proc., Arts. 49.07(a), (b), (d).)

33 Source Law

34 Art. 49.07. NOTIFICATION OF INVESTIGATING

1 OFFICIAL. (a) A physician or other person who has
2 possession of a body or body part of a person whose
3 death requires an inquest under Article 49.04 of this
4 code shall immediately notify the justice of the peace
5 who serves the precinct in which the body or body part
6 was found.

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

12 (d) A person commits an offense if the person is
13 required by this article to give notice and
14 intentionally or knowingly fails to give the notice.
15 An offense under this subsection is a Class C
16 misdemeanor.

17 Revisor's Note

18 (1) Articles 49.07(a) and (b), Code of Criminal
19 Procedure, require certain persons to notify the
20 justice of the peace of a death requiring an inquest
21 "under Article 49.04," meaning Article 49.04, Code of
22 Criminal Procedure. The provisions of Article 49.04
23 specifying which deaths require an inquest are revised
24 in Article 49A.053. The revised law is drafted
25 accordingly.

26 (2) Article 49.07(b), Code of Criminal
27 Procedure, requires a peace officer to notify a
28 justice of the peace if the peace officer has been
29 notified of the death "of a person whose death"
30 requires an inquest under Article 49.04, Code of
31 Criminal Procedure. The revised law omits the quoted
32 language as unnecessary because the cross-reference to
33 Article 49.04, revised in relevant part as Article
34 49A.053, provides that an inquest is required only in
35 the death of a person.

36 (3) Article 49.07(d), Code of Criminal
37 Procedure, provides that a person commits an offense
38 if the person intentionally or knowingly fails to give
39 notice required by "this article," meaning Article
40 49.07, Code of Criminal Procedure. The provisions of
41 Article 49.07 that impose the duty of notice are

1 revised as Articles 49A.054 and 49A.055. To preserve
2 the applicability of the offense to the provisions
3 imposing the duty of notice, the revised law repeats
4 the offense in each of those articles.

5 Revised Law

6 Art. 49A.055. ALTERNATE OFFICIALS REQUIRED TO CONDUCT
7 INQUESTS; OFFENSE. (a) If the justice of the peace of the precinct
8 in which the body or body part was found is not available to conduct
9 an inquest, a person required to give notice under Article 49A.054
10 shall notify the nearest available justice of the peace of the
11 county in which the body or body part was found, and that justice of
12 the peace shall conduct the inquest.

13 (b) If each justice of the peace of the county in which the
14 body or body part was found is not available to conduct an inquest,
15 a person required to give notice under Article 49A.054 shall notify
16 the county judge of that county, and the county judge shall initiate
17 the inquest. Subject to Subsection (d), the county judge may
18 exercise any power and perform any duty otherwise granted or
19 imposed under this subchapter to or on the justice of the peace of
20 the county in which the body or body part was found.

21 (c) This subsection applies only if each justice of the
22 peace of the county in which the body or body part was found and the
23 county judge of that county are not available to conduct an inquest.
24 A person required to give notice under Article 49A.054 may ask the
25 justice of the peace of the precinct in which the body or body part
26 was found or the county judge of that precinct's county to request a
27 justice of the peace of another county described by Article 49A.051
28 to initiate the inquest. All expenses related to the inquest must
29 be paid as provided by this chapter.

30 (d) A person who initiates an inquest under Subsection (b)
31 or (c) shall, not later than the fifth day after the date the
32 inquest is initiated, transfer all information obtained by the
33 person and related to the inquest to the justice of the peace of the
34 precinct in which the body or body part was found for final

1 disposition of the matter.

2 (e) A person commits an offense if the person is required by
3 this article to give notice and intentionally or knowingly fails to
4 give the notice. An offense under this subsection is a Class C
5 misdemeanor. (Code Crim. Proc., Arts. 49.07(c), (d).)

6 Source Law

7 (c)(1) If the justice of the peace who serves
8 the precinct in which the body or body part was found
9 is not available to conduct an inquest, a person
10 required to give notice under this article shall
11 notify the nearest available justice of the peace
12 serving the county in which the body or body part was
13 found, and that justice of the peace shall conduct the
14 inquest.

15 (2) If no justice of the peace serving the
16 county in which the body or body part was found is
17 available to conduct an inquest, a person required to
18 give notice under this article shall notify the county
19 judge, and the county judge shall initiate the
20 inquest. The county judge may exercise any power and
21 perform any duty otherwise granted to or imposed under
22 this subchapter on the justice of the peace serving the
23 county in which the body or body part was found, except
24 that not later than the fifth day after the day on
25 which the inquest is initiated, the county judge shall
26 transfer all information obtained by the judge to the
27 justice of the peace in whose precinct the body or body
28 part was found for final disposition of the matter.

29 (3) If a justice of the peace or the county
30 judge serving the county in which the body or body part
31 was found is not available to conduct an inquest, a
32 person required to give notice under this article may
33 ask the justice of the peace of the precinct in which
34 the body or body part was found or the county judge to
35 request a justice of the peace of another county to
36 which this subchapter applies to conduct the inquest.
37 The justice of the peace that conducts the inquest
38 shall, not later than the fifth day after the date the
39 inquest is initiated, transfer all information related
40 to the inquest to the justice of the peace of the
41 precinct in which the body or body part was found for
42 final disposition of the matter. All expenses related
43 to the inquest must be paid as provided by this
44 chapter.

45 (d) A person commits an offense if the person is
46 required by this article to give notice and
47 intentionally or knowingly fails to give the notice.
48 An offense under this subsection is a Class C
49 misdemeanor.

50 Revisor's Note

51 (1) Articles 49.07(c)(1), (2), and (3), Code of
52 Criminal Procedure, provide alternate notification
53 duties to a person required to give notice under "this
54 article," meaning Article 49.07, Code of Criminal
55 Procedure. The provision of Article 49.07 that

1 describes the initial circumstances in which the duty
2 of notice applies is revised as Article 49A.054. The
3 revised law is drafted accordingly.

4 (2) Article 49.07(c)(2), Code of Criminal
5 Procedure, authorizes a county judge initiating an
6 inquest under that provision to exercise any power and
7 perform any duty granted to or imposed on a justice of
8 the peace under "this subchapter," meaning Subchapter
9 A, Chapter 49, Code of Criminal Procedure. Although
10 one or more provisions of Subchapter A, Chapter 49,
11 revised substantially as Subchapter B, Chapter 49A,
12 are revised in a subchapter other than Subchapter B,
13 the revised law preserves the reference to "this
14 subchapter" because the provisions granting a power to
15 or imposing a duty on a justice of the peace conducting
16 an inquest are revised in Subchapter B.

17 (3) Article 49.07(c)(2), Code of Criminal
18 Procedure, requires a county judge who initiates an
19 inquest under Subdivision (2) to "transfer all
20 information *obtained by the judge* to the justice of the
21 peace in whose precinct the body or body part was found
22 for final disposition of the matter" (emphasis added).
23 Similarly, Article 49.07(c)(3), Code of Criminal
24 Procedure, requires a justice of the peace who
25 initiates an inquest under Subdivision (3) to
26 "transfer all information *related to the inquest* to
27 the justice of the peace of the precinct in which the
28 body or body part was found for final disposition of
29 the matter" (emphasis added). It is clear from the
30 context that, regardless of which person initiates the
31 inquest, the information required to be transferred is
32 limited to that obtained by the person, as the person
33 cannot transfer information the person does not have.
34 Additionally, the information required to be

1 transferred must relate to the inquest because the
2 authority to transfer information is limited by the
3 context and purpose of the provision, which is to
4 facilitate the final disposition of the inquest. The
5 revised law is drafted accordingly.

6 (4) Article 49.07(c)(3), Code of Criminal
7 Procedure, authorizes a person required to give notice
8 under Article 49.07 to ask a certain justice of the
9 peace to request that a justice of the peace of another
10 county conduct an inquest, but only if each justice of
11 the peace of the county in which the body or body part
12 was found "or" the county judge of that county is
13 unavailable. The revised law substitutes "and" for
14 "or" because if any justice of the peace of the county
15 in which the body or body part was found or the county
16 judge of that county is available, then Article
17 49.07(c)(1) or (2), Code of Criminal Procedure, would
18 apply and render Article 49.07(c)(3) superfluous.
19 Article 49.07(c)(3) applies only if all of the
20 justices of the peace of the county and the county
21 judge are unavailable.

22 (5) Article 49.07(c)(3), Code of Criminal
23 Procedure, refers to a justice of the peace of another
24 county "to which this subchapter applies," meaning
25 Subchapter A, Chapter 49, Code of Criminal Procedure,
26 revised substantially as Subchapter B, Chapter 49A.
27 For clarity and the convenience of the reader, the
28 revised law substitutes "described by Article 49A.051"
29 for "to which this subchapter applies," because
30 Article 49A.051 states which counties are subject to
31 the revised subchapter.

32 (6) Article 49.07(c)(3), Code of Criminal
33 Procedure, authorizes the justice of the peace in
34 whose precinct the body or body part was found to

1 request that a justice of the peace of another county
2 "conduct" the inquest. Additionally, the provision
3 requires the requested justice who "conducts" the
4 inquest to transfer certain information, not later
5 than the fifth day after the date the inquest is
6 initiated, to the justice of the peace in whose
7 precinct the body or body part was found for final
8 disposition of the matter. The revised law
9 substitutes "initiate" for "conduct" and "initiates"
10 for "conducts" for consistency in terminology in the
11 revised article and because it is clear from the
12 context that the requested justice of the peace may
13 initiate but not finally dispose of the inquest.

14 Revised Law

15 Art. 49A.056. REQUIRED NOTICE OF DEATH IN PENAL
16 INSTITUTION. (a) If a person confined in a penal institution dies,
17 the sheriff or other person in charge of the penal institution shall
18 as soon as practicable provide notice of the death to the justice of
19 the peace of the precinct in which the penal institution is located.

20 (b) This article does not apply to a death that occurs in a
21 facility operated by or under contract with the Texas Department of
22 Criminal Justice. (Code Crim. Proc., Arts. 49.18(a), (c) (part).)

23 Source Law

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

30 (c) Subsection (a) does not apply to a death
31 that occurs in a facility operated by or under contract
32 with the Texas Department of Criminal Justice. . . .

33 Revised Law

34 Art. 49A.057. AUTHORITY TO ACT ON CERTAIN INFORMATION. A
35 justice of the peace conducting an inquest may act on:

36 (1) information the justice receives from a credible
37 person; or

1 (2) facts within the justice's knowledge. (Code Crim.
2 Proc., Art. 49.08.)

3 Source Law

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

8 Revised Law

9 Art. 49A.058. TIME AND PLACE OF INQUEST. (a) A justice of
10 the peace shall conduct an inquest as soon as practicable after the
11 justice receives notice of the death.

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

13 (1) at the place where the death occurred;

14 (2) at the place where the body was found;

15 (3) by videoconference with a person who is:

16 (A) designated by the justice of the peace; and

17 (B) present with the body for a death described

18 by Article 49A.053(a)(6) or (7); or

19 (4) at any other place the justice determines is
20 reasonable. (Code Crim. Proc., Arts. 49.05(a), (b).)

21 Source Law

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

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

29 (1) at the place where the death occurred;

30 (2) where the body was found;

31 (3) by videoconference with an individual

32 who is:

33 (A) designated by the justice of the
34 peace; and

35 (B) present with the body for a death
36 described by Article 49.04(a)(6) or (7); or

37 (4) at any other place determined to be
38 reasonable by the justice.

39 Revisor's Note

40 (1) Article 49.05(a), Code of Criminal
41 Procedure, requires a justice of the peace to conduct
42 an inquest "immediately or as soon as practicable"
43 after receiving notice of a death. The revised law

1 omits "immediately or" as unnecessary because the
2 authority to conduct an inquest as soon as practicable
3 includes the authority to conduct the inquest
4 immediately.

5 (2) Article 49.05(b), Code of Criminal
6 Procedure, refers to a videoconference with a
7 designated "individual," meaning a natural person.
8 The revised law substitutes "person" for "individual"
9 for consistency in terminology throughout this
10 chapter. Under Section 311.005, Government Code (Code
11 Construction Act), which applies to the revised law,
12 "person" includes natural persons and corporations.
13 In this context, however, "person" necessarily means a
14 natural person.

15 Revised Law

16 Art. 49A.059. OFFENSE: HINDERING AN INQUEST. (a) A person
17 commits an offense if the person intentionally or knowingly hinders
18 the entrance of a justice of the peace to a premises where a death
19 occurred or a body was found.

20 (b) An offense under this article is a Class B misdemeanor.
21 (Code Crim. Proc., Art. 49.06.)

22 Source Law

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

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

30 Revised Law

31 Art. 49A.060. LIMITATIONS ON MOVING BODY AND PHYSICAL
32 SURROUNDINGS; OFFENSE. (a) A justice of the peace may direct the
33 removal of a body from the place of death or move any part of the
34 physical surroundings of a body only after:

35 (1) a law enforcement agency is notified of the death
36 and a peace officer has conducted an investigation into the death;
37 or

1 (2) if a law enforcement agency has not begun an
2 investigation into the death, a reasonable period has elapsed from
3 the time the law enforcement agency was notified.

4 (b) A law enforcement agency that is notified of a death
5 requiring an inquest under Article 49A.053 shall begin its
6 investigation into the death as soon as practicable after the law
7 enforcement agency receives notice of the death.

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

13 (d) A person not authorized by law to move the body of a
14 deceased person or any part of the physical surroundings of the body
15 commits an offense if the person tampers with:

16 (1) a body that is subject to an inquest under Article
17 49A.053; or

18 (2) any part of the physical surroundings of the body
19 described by Subdivision (1).

20 (e) An offense under Subsection (d) is punishable by a fine
21 in an amount not to exceed \$500. (Code Crim. Proc., Arts. 49.05(c),
22 (d), (e), (f).)

23 Source Law

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

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

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

43 (f) A person not authorized by law to move the
44 body of a decedent or any part of the physical

1 surroundings of the body commits an offense if the
2 person tampers with a body that is subject to an
3 inquest under Article 49.04 of this code or any part of
4 the physical surroundings of the body. An offense
5 under this section is punishable by a fine in an amount
6 not to exceed \$500.

7 Revisor's Note

8 (1) Article 49.05(d), Code of Criminal
9 Procedure, requires a law enforcement agency that is
10 notified of a death requiring an inquest under
11 "Article 49.04," meaning Article 49.04, Code of
12 Criminal Procedure, to begin its death investigation
13 "immediately or as soon as practicable" after the
14 agency receives notice of the death. Article
15 49.05(f), Code of Criminal Procedure, refers to a body
16 that is subject to an inquest under Article 49.04. The
17 revised law substitutes "Article 49A.053" for "Article
18 49.04" because the provisions of Article 49.04
19 specifying which deaths or bodies require or are
20 subject to an inquest are revised in Article 49A.053.
21 Additionally, the revised law omits "immediately or"
22 for the reason stated in Revisor's Note (1) to Article
23 49A.058.

24 (2) Article 49.05(f), Code of Criminal
25 Procedure, revised as Subsections (d) and (e) of this
26 article, creates an offense and provides that the
27 offense under "this section" is punishable by a fine.
28 The quoted language is a drafting error because
29 Chapter 49, Code of Criminal Procedure, is organized
30 in articles rather than sections. The revised law
31 substitutes "Subsection (d)" for "this section" to
32 address the drafting error and to specify which
33 offense is subject to the punishment.

34 Revised Law

35 Art. 49A.061. AUTHORITY TO LOCK AND SEAL PREMISES OF
36 DECEASED PERSON; LIABILITY OF ESTATE FOR EXPENSES; OFFENSE. (a) If
37 a body or body part that is subject to an inquest under Article

1 49A.053 is found on premises that were under the sole control of the
2 deceased person, a justice of the peace or other person authorized
3 under this subchapter to conduct an inquest may direct that the
4 premises be locked and sealed to prohibit entrance by any person
5 other than a peace officer investigating the death.

6 (b) Rent, utility charges, taxes, and any other reasonable
7 expense that accrues against the property of the deceased person
8 during the period the premises of the deceased person are locked and
9 sealed under this article may be charged against the estate of the
10 deceased person.

11 (c) A person, other than a peace officer, commits an offense
12 if the person tampers with or removes a lock or seal placed on
13 premises under this article.

14 (d) An offense under this article is a Class B misdemeanor.
15 (Code Crim. Proc., Art. 49.22.)

16 Source Law

17 Art. 49.22. SEALING PREMISES OF DECEASED. (a)
18 If a body or body part that is subject to an inquest
19 under Article 49.04 of this code is found on premises
20 that were under the sole control of the deceased, a
21 justice of the peace or other person authorized under
22 this subchapter to conduct an inquest may direct that
23 the premises be locked and sealed to prohibit entrance
24 by any person other than a peace officer conducting an
25 investigation of the death.

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

31 (c) A person other than a peace officer commits
32 an offense if the person tampers with or removes a lock
33 or seal placed on premises under this article.

34 (d) An offense under this article is a Class B
35 misdemeanor.

36 Revisor's Note

37 (1) Article 49.22(a), Code of Criminal
38 Procedure, provides that a justice of the peace or
39 other person authorized to conduct an inquest may lock
40 and seal certain premises where a deceased person's
41 body or body part is found, if the body or body part is
42 subject to an inquest under "Article 49.04," meaning
43 Article 49.04, Code of Criminal Procedure. The revised

1 law substitutes "Article 49A.053" for "Article 49.04"
2 because the provisions of Article 49.04 specifying
3 which bodies or body parts are subject to an inquest
4 are revised in Article 49A.053.

5 (2) Article 49.22(a), Code of Criminal
6 Procedure, refers to a justice of the peace or other
7 person authorized to conduct an inquest under "this
8 subchapter," meaning Subchapter A, Chapter 49, Code of
9 Criminal Procedure. Although one or more provisions of
10 Subchapter A, Chapter 49, revised substantially as
11 Subchapter B, Chapter 49A, are revised in a subchapter
12 other than Subchapter B, the revised law preserves the
13 reference to "this subchapter" because the provisions
14 authorizing those persons to conduct inquests are
15 revised in Subchapter B.

16 Revised Law

17 Art. 49A.062. AUTHORITY TO DISINTER BODY. If a body or body
18 part subject to an inquest under Article 49A.053 is interred and an
19 authorized person has not conducted an inquest required under this
20 subchapter, a justice of the peace may direct the disinterment of
21 the body or body part to conduct an inquest. (Code Crim. Proc.,
22 Art. 49.09(a).)

23 Source Law

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

31 Revisor's Note

32 (1) Article 49.09(a), Code of Criminal
33 Procedure, refers to a body or body part subject to
34 "investigation under Article 49.04," meaning Article
35 49.04, Code of Criminal Procedure. For clarity and
36 consistency in terminology used in the revised
37 chapter, the revised law substitutes "inquest" for

1 "investigation" because under Article 49.01, Code of
2 Criminal Procedure, revised as Article 49A.001 and
3 applicable to the revised chapter, an inquest means an
4 investigation into the cause and circumstances of a
5 person's death. The revised law also substitutes
6 "Article 49A.053" for "Article 49.04" for the reason
7 stated in Revisor's Note (1) to Article 49A.061.

8 (2) Article 49.09(a), Code of Criminal
9 Procedure, provides that a justice of the peace may
10 direct the disinterment of a body to conduct an inquest
11 if an authorized person has not conducted an inquest
12 required under "this subchapter," meaning Subchapter
13 A, Chapter 49, Code of Criminal Procedure. Although
14 one or more provisions of Subchapter A, revised
15 substantially as Subchapter B, Chapter 49A, are
16 revised in a subchapter other than Subchapter B, the
17 revised law preserves the reference to "this
18 subchapter" because the provisions specifying when an
19 inquest is required are revised in Subchapter B.

20 Revised Law

21 Art. 49A.063. AUTOPSIES. (a) A justice of the peace may
22 obtain the opinion of a county health officer or a physician
23 regarding whether an autopsy is necessary to determine or confirm
24 the nature and cause of a death.

25 (b) Unless an autopsy is required under Subsection (c)(2),
26 for each body that is the subject of an inquest by a justice of the
27 peace, the justice shall, in the justice's discretion:

- 28 (1) direct a physician to perform an autopsy; or
29 (2) certify that an autopsy is not necessary.

30 (c) A justice of the peace shall order an autopsy to be
31 performed on a body if:

- 32 (1) the justice determines that an autopsy is
33 necessary to determine or confirm the nature and cause of death;
34 (2) the deceased person was a child younger than six

1 years of age and the death is determined under Section 264.514,
2 Family Code, to be unexpected or the result of abuse or neglect; or

3 (3) the district attorney, criminal district
4 attorney, or, if there is not a district or criminal district
5 attorney, the county attorney directs the justice to order the
6 autopsy.

7 (d) A justice of the peace shall request a physician to
8 perform the autopsy.

9 (e) A justice of the peace may not order a person to perform
10 an autopsy on the body of a deceased person whose death was caused
11 by:

12 (1) Asiatic cholera;

13 (2) bubonic plague;

14 (3) typhus fever;

15 (4) smallpox; or

16 (5) a communicable disease during a public health
17 disaster.

18 (f) If a person is injured in one county and dies in another
19 county as a result of that injury, the attorney representing the
20 state in the prosecution of felonies in the county in which the
21 injury occurred may request a justice of the peace of the county in
22 which the death occurred to order an autopsy to be performed on the
23 body of that person. If the justice of the peace orders the autopsy
24 to be performed, the county in which the person's injury occurred
25 shall reimburse the county in which the person's death occurred.

26 (g) The commissioners court of the county shall pay a
27 reasonable fee:

28 (1) to a physician performing an autopsy on the order
29 of a justice of the peace, if a fee is assessed;

30 (2) for an opinion obtained by a justice of the peace
31 under Subsection (a); and

32 (3) for the transportation of a body on the order of a
33 justice of the peace to a place where an autopsy may be performed
34 under this article or Article 49A.064. (Code Crim. Proc., Arts.

1 49.10(a), (b), (c), (d), (e), (f), (g), (h), (o).)

2 Source Law

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

9 (b) The commissioners court of the county shall
10 pay a reasonable fee for a consultation obtained by a
11 justice of the peace under Subsection (a) of this
12 article.

13 (c) Except as required by Section 264.514,
14 Family Code, for each body that is the subject of an
15 inquest by a justice of the peace, the justice, in the
16 justice's discretion, shall:

17 (1) direct a physician to perform an
18 autopsy; or

19 (2) certify that no autopsy is necessary.

20 (d) A justice of the peace may not order a person
21 to perform an autopsy on the body of a deceased person
22 whose death was caused by Asiatic cholera, bubonic
23 plague, typhus fever, or smallpox. A justice of the
24 peace may not order a person to perform an autopsy on
25 the body of a deceased person whose death was caused by
26 a communicable disease during a public health
27 disaster.

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

30 (1) the justice determines that an autopsy
31 is necessary to determine or confirm the nature and
32 cause of death;

33 (2) the deceased was a child younger than
34 six years of age and the death is determined under
35 Section 264.514, Family Code, to be unexpected or the
36 result of abuse or neglect; or

37 (3) directed to do so by the district
38 attorney, criminal district attorney, or, if there is
39 no district or criminal district attorney, the county
40 attorney.

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

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

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

52 (o) If a person is injured in one county and dies
53 as a result of those injuries, with the death occurring
54 in another county, the attorney representing the state
55 in the prosecution of felonies in the county in which
56 the injury occurred may request a justice of the peace
57 in the county in which the death occurred to order an
58 autopsy be performed on the body of the deceased
59 person. If the justice of the peace orders that the
60 autopsy be performed, the county in which the injury
61 occurred shall reimburse the county in which the death
62 occurred.

1 Revisor's Note

2 (1) Article 49.10(a), Code of Criminal
3 Procedure, provides that "[a]t his discretion," a
4 justice of the peace may obtain an opinion of a county
5 health officer or physician. The revised law omits the
6 quoted language as unnecessary because, in this
7 context, it is included within the meaning of "may."

8 [[[Art. 45A.403, 88C2(2)]]]

9 (2) Article 49.10(b), Code of Criminal
10 Procedure, refers to a "consultation" obtained by a
11 justice of the peace under Subsection (a) of that
12 article. The revised law substitutes "opinion" for
13 "consultation" for consistency in terminology used in
14 the revised article and because it is clear, in this
15 context, that the "consultation" is the "opinion"
16 referenced in Article 49.10(a), revised as Subsection
17 (a) of this article.

18 (3) Article 49.10(c), Code of Criminal
19 Procedure, provides that a justice of the peace shall
20 either order an autopsy or certify that an autopsy is
21 not necessary "[e]xcept as required by Section
22 264.514, Family Code." For the convenience of the
23 reader, the revised law substitutes "[u]nless an
24 autopsy is required under Subsection (c)(2)" for the
25 quoted language because the requirement to perform an
26 autopsy on a child younger than six years of age under
27 Section 264.514, Family Code, is incorporated by
28 reference under Subsection (c)(2).

29 (4) Article 49.10(h), Code of Criminal
30 Procedure, refers to a place where an autopsy is
31 performed under "this article." The provisions
32 governing the performance of an autopsy under Article
33 49.10 are revised as this article and Article 49A.064,
34 and the revised law is drafted accordingly.

1 Revised Law

2 Art. 49A.064. TAKING SAMPLES; LIMITED AUTOPSIES. (a) If a
3 justice of the peace determines that a complete autopsy is
4 unnecessary to confirm or determine the cause of death, the justice
5 may order a physician to take or remove from a body a sample of body
6 fluids, tissues, or organs to determine the nature and cause of
7 death. Except as provided by Subsection (b), a justice may not
8 order a person other than a physician to take a sample from the body
9 of a deceased person.

10 (b) A justice of the peace may order a physician, qualified
11 technician, paramedic, chemist, registered nurse, or licensed
12 vocational nurse to take a specimen of blood from the body of a
13 person:

14 (1) who died as the result of a motor vehicle collision
15 if the justice determines that circumstances indicate that the
16 person may have been driving while intoxicated; or

17 (2) to aid in the confirmation or determination of the
18 cause and manner of the person's death while conducting an inquest.
19 (Code Crim. Proc., Arts. 49.10(i), (j).)

20 Source Law

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

30 (j) A justice of the peace may order a
31 physician, qualified technician, paramedic, chemist,
32 registered professional nurse, or licensed vocational
33 nurse to take a specimen of blood from the body of a
34 person:

35 (1) who died as the result of a motor
36 vehicle collision if the justice determines that
37 circumstances indicate that the person may have been
38 driving while intoxicated; or

39 (2) to aid in the confirmation or
40 determination of the cause and manner of death while
41 conducting an inquest.

42 Revisor's Note

43 Article 49.10(j), Code of Criminal Procedure,
44 provides that a justice of the peace may order a

1 "registered professional nurse" to take a blood
2 specimen from a body. The revised law omits
3 "professional" because Section 301.351, Occupations
4 Code, states that a person who holds a license as a
5 registered nurse is referred to as a registered nurse.

6 Revised Law

7 Art. 49A.065. CHEMICAL ANALYSES. (a) A justice of the
8 peace may obtain a chemical analysis of a sample taken from a body
9 to determine whether the death was caused, wholly or partly, by the
10 ingestion, injection, or introduction into the body of a poison or
11 other chemical substance. A justice may obtain a chemical analysis
12 under this subsection from a chemist, toxicologist, pathologist, or
13 other medical expert.

14 (b) A justice of the peace shall obtain a chemical analysis
15 under Subsection (a) if requested by the physician who performed an
16 autopsy on the body.

17 (c) The commissioners court shall pay a reasonable fee to a
18 person who conducts a chemical analysis at the request of a justice
19 of the peace. (Code Crim. Proc., Art. 49.11.)

20 Source Law

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

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

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

36 Revised Law

37 Art. 49A.066. LIABILITY OF PERSON PERFORMING AUTOPSY OR
38 TEST. A person who performs an autopsy or a test on a body on the
39 order of a justice of the peace in the good faith belief that the
40 order is valid is not liable for damages if the order is invalid.
41 (Code Crim. Proc., Art. 49.12.)

1 Source Law

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

7 Revisor's Note

8 Article 49.12, Code of Criminal Procedure,
9 relieves from liability a person who performs an
10 autopsy or "makes" a test on a body on the order of a
11 justice of the peace and who has a good faith belief
12 that the order is valid. The revised law substitutes
13 "performs" for "makes" in the context of tests,
14 because the terms are synonymous in that context and
15 "performs" is more consistent with modern usage.

16 Revised Law

17 Art. 49A.067. UNIDENTIFIED BODY. (a) A justice of the
18 peace investigating an unidentified person's death described by
19 Article 49A.053(a)(3)(B) shall report the death to the missing
20 children and missing persons information clearinghouse of the
21 Department of Public Safety and the National Crime Information
22 Center not later than the 10th working day after the date the
23 investigation began.

24 (b) A justice of the peace investigating an unidentified
25 person's death described by Article 49A.053(a)(3)(B), or the
26 justice's designee, shall enter into the National Missing and
27 Unidentified Persons System information regarding all available
28 identifying features of the unidentified body, including
29 fingerprints, dental records, any unusual physical
30 characteristics, and the clothing found on the body, not later than
31 the earlier of:

32 (1) the 10th working day after the date that one or
33 more identifying features of the unidentified body are determined;
34 or

35 (2) the 60th day after the date the investigation
36 began.

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

6 (d) To enable the timely and accurate identification of the
7 person, a medical examination on an unidentified person:

8 (1) must include:

9 (A) all available fingerprints and palm prints;

10 (B) dental charts and radiographs, including
11 x-rays, of the teeth;

12 (C) frontal and lateral facial photographs with
13 scale indicated;

14 (D) notation and photographs, with scale
15 indicated, of a significant scar, mark, tattoo, or item of clothing
16 or other personal effect found with or near the body;

17 (E) notation of any antemortem medical
18 condition;

19 (F) notation of any observation relevant to the
20 estimation of time of death; and

21 (G) precise documentation of the body's burial
22 location; and

23 (2) may include:

24 (A) full body radiographs, including x-rays; and

25 (B) hair specimens with roots.

26 (e) On discovering the body or body part of a deceased
27 person in the circumstances described by Article 49A.053(a)(3)(B),
28 the justice of the peace may request aid in the examination of the
29 body or body part from a forensic anthropologist who holds a
30 doctoral degree in anthropology with an emphasis in physical
31 anthropology. The forensic anthropologist:

32 (1) shall attempt to establish:

33 (A) whether the body or body part is of a human or
34 animal;

1 (B) whether evidence of childbirth, injury, or
2 disease exists; and

3 (C) the sex, race, age, stature, and physical
4 anomalies of the body or body part; and

5 (2) may attempt to establish the cause, manner, and
6 time of death.

7 (f) A person may not cremate or direct the cremation of an
8 unidentified person's body under Article 49A.068(a). If the body is
9 buried, the justice of the peace shall record and maintain for a
10 period of at least 10 years all information relating to the body and
11 the burial location. (Code Crim. Proc., Arts. 49.04(d), (e),
12 49.09(e), 49.10(k), (l), (m), (n).)

13 Source Law

14 [Art. 49.04]

15 (d) A justice of the peace investigating a death
16 described by Subsection (a)(3)(B) shall report the
17 death to the missing children and missing persons
18 information clearinghouse of the Department of Public
19 Safety and the national crime information center not
20 later than the 10th working day after the date the
21 investigation began.

22 (e) A justice of the peace investigating a death
23 described by Subsection (a)(3)(B), or the justice's
24 designee, shall, not later than the 10th working day
25 after the date that one or more identifying features of
26 the unidentified body are determined or the 60th day
27 after the date the investigation began, whichever is
28 earlier, enter all available identifying features of
29 the unidentified body (fingerprints, dental records,
30 any unusual physical characteristics, and a
31 description of the clothing found on the body) into the
32 National Missing and Unidentified Persons System.

33 [Art. 49.09]

34 (e) If the body of a deceased person is
35 unidentified, a person may not cremate or direct the
36 cremation of the body under this article. If the body
37 is buried, the justice of the peace shall record and
38 maintain for not less than 10 years all information
39 pertaining to the body and the location of burial.

40 [Art. 49.10]

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

48 (l) A medical examination on an unidentified
49 person shall include the following information to
50 enable a timely and accurate identification of the
51 person:

52 (1) all available fingerprints and palm

1 prints;
2 (2) dental charts and radiographs (X-rays)
3 of the person's teeth;
4 (3) frontal and lateral facial photographs
5 with scale indicated;
6 (4) notation and photographs, with scale
7 indicated, of a significant scar, mark, tattoo, or
8 item of clothing or other personal effect found with or
9 near the body;
10 (5) notation of antemortem medical
11 conditions;
12 (6) notation of observations pertinent to
13 the estimation of time of death; and
14 (7) precise documentation of the location
15 of burial of the remains.

16 (m) A medical examination on an unidentified
17 person may include the following information to enable
18 a timely and accurate identification of the person:

- 19 (1) full body radiographs (X-rays); and
20 (2) hair specimens with roots.

21 (n) On discovering the body or body part of a
22 deceased person in the circumstances described by
23 Article 49.04(a)(3)(B), the justice of the peace may
24 request the aid of a forensic anthropologist in the
25 examination of the body or body part. The forensic
26 anthropologist must hold a doctoral degree in
27 anthropology with an emphasis in physical
28 anthropology. The forensic anthropologist shall
29 attempt to establish whether the body or body part is
30 of a human or animal, whether evidence of childbirth,
31 injury, or disease exists, and the sex, race, age,
32 stature, and physical anomalies of the body or body
33 part. The forensic anthropologist may also attempt to
34 establish the cause, manner, and time of death.

35 Revisor's Note

36 Article 49.09(e), Code of Criminal Procedure,
37 prohibits a person from cremating or directing the
38 cremation of an unidentified body under "this
39 article," meaning Article 49.09, Code of Criminal
40 Procedure. The provision of Article 49.09 specifying
41 the circumstances under which a person may lawfully
42 cremate or direct the cremation of a body is revised as
43 Article 49A.068(a). The revised law is drafted
44 accordingly.

45 Revised Law

46 Art. 49A.068. CREMATION; OFFENSE. (a) A person may not
47 cremate or direct the cremation of a body subject to an inquest
48 under Article 49A.053 unless:

49 (1) the body is identified; and

50 (2) the person has received from the justice of the
51 peace a certificate signed by the justice stating that:

1 (A) an autopsy was performed on the body under
2 Article 49A.063 or 49A.064; or

3 (B) no autopsy was necessary.

4 (b) An owner or operator of a crematory shall retain a
5 certificate received under Subsection (a) for a period of 10 years
6 after the cremation date for the body named on the certificate.

7 (c) A person commits an offense if the person cremates or
8 directs the cremation of a body without obtaining a certificate
9 from a justice of the peace as required by Subsection (a). An
10 offense under this subsection is a Class B misdemeanor. (Code Crim.
11 Proc., Arts. 49.09(b), (c), (d).)

12 Source Law

13 (b) A person may not cremate or direct the
14 cremation of a body subject to investigation under
15 Article 49.04 unless the body is identified and the
16 person has received from the justice of the peace a
17 certificate signed by the justice stating that:

18 (1) an autopsy was performed on the body
19 under Article 49.10 of this code; or

20 (2) no autopsy was necessary.

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

25 (d) A person commits an offense if the person
26 cremates or directs the cremation of a body without
27 obtaining a certificate from a justice of the peace as
28 required by Subsection (b) of this article. An offense
29 under this section is a Class B misdemeanor.

30 Revisor's Note

31 (1) Article 49.09(b), Code of Criminal
32 Procedure, refers to a body subject to "investigation
33 under Article 49.04." The revised law substitutes
34 "inquest" for "investigation" for the reason stated in
35 Revisor's Note (1) to Article 49A.062. The revised law
36 also substitutes "Article 49A.053" for "Article 49.04"
37 for the reason stated in Revisor's Note (1) to Article
38 49A.060.

39 (2) Article 49.09(b), Code of Criminal
40 Procedure, refers to an autopsy performed under
41 "Article 49.10 of this code." The revised law
42 substitutes "Article 49A.063 or 49A.064" for the

1 quoted language for the reason stated in Revisor's Note
2 (4) to Article 49A.063.

3 (3) Article 49.09(d), Code of Criminal
4 Procedure, revised as Subsection (c) of this article,
5 creates an offense and provides that an offense under
6 "this section" is a Class B misdemeanor. The quoted
7 language is a drafting error because Chapter 49, Code
8 of Criminal Procedure, is organized in articles rather
9 than sections. The revised law substitutes "this
10 subsection" for "this section" to address the drafting
11 error and to specify which offense is subject to the
12 punishment.

13 Revised Law

14 Art. 49A.069. INQUEST HEARING; CONTEMPT. (a) A justice of
15 the peace conducting an inquest may hold an inquest hearing if the
16 justice determines that the circumstances warrant the hearing. The
17 justice shall hold an inquest hearing if requested by a district
18 attorney or a criminal district attorney of the county in which the
19 body was found.

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

23 (c) A jury in an inquest hearing is composed of six persons.
24 Jurors must be summoned in the same manner as jurors are summoned
25 for county court.

26 (d) A justice of the peace may hold a public or private
27 inquest hearing. If a person is arrested and charged with causing
28 the death of another, the person and the person's counsel are
29 entitled to be present at the inquest hearing, examine witnesses,
30 and introduce evidence.

31 (e) A justice of the peace may:

32 (1) issue a subpoena to enforce the attendance of a
33 witness at an inquest hearing;

34 (2) issue an attachment for a witness who is

1 subpoenaed and fails to appear at the time and place cited on the
2 subpoena; and

3 (3) require bail of a witness to secure the appearance
4 of the witness at an inquest hearing or before a grand jury,
5 examining court, or other court investigating a death.

6 (f) The justice of the peace shall:

7 (1) swear witnesses appearing at an inquest hearing;

8 (2) direct that all sworn testimony be reduced to
9 writing; and

10 (3) sign the transcription.

11 (g) Only the following persons may question a witness at an
12 inquest hearing:

13 (1) the justice of the peace;

14 (2) a person charged in the death under investigation
15 and the person's counsel; and

16 (3) the attorney representing the state.

17 (h) A justice of the peace may hold in contempt of court a
18 person who disrupts the proceedings of an inquest hearing. A peace
19 officer may remove from court a person who is held in contempt of
20 court under this subsection. The penalty for contempt of court
21 under this subsection is a fine in an amount not to exceed \$100.

22 (Code Crim. Proc., Arts. 49.14(a), (b), (c) (part), (d), (e), (f),
23 (g) (part), (h), (i).)

24 Source Law

25 Art. 49.14. INQUEST HEARING. (a) A justice of
26 the peace conducting an inquest may hold an inquest
27 hearing if the justice determines that the
28 circumstances warrant the hearing. The justice shall
29 hold an inquest hearing if requested to do so by a
30 district attorney or a criminal district attorney who
31 serves the county in which the body was found.

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

36 (c) A jury in an inquest hearing is composed of
37 six persons. Jurors shall be summoned in the same
38 manner as are jurors for county court. . . .

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

1 and introduce evidence.

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

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

11 (g) The justice of the peace shall swear
12 witnesses appearing at an inquest hearing. . . . The
13 justice shall direct that all sworn testimony be
14 reduced to writing and the justice shall subscribe the
15 transcription.

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

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

26 Revisor's Note

27 (1) Article 49.14(d), Code of Criminal
28 Procedure, authorizes the "defendant" and the
29 "defendant's" counsel to be present at the inquest
30 hearing, examine witnesses, and introduce evidence.
31 The revised law substitutes "person" and "person's"
32 for "defendant" and "defendant's," respectively, for
33 consistency of terminology used in the revised article
34 and because it is clear, in this context, that the
35 "defendant" is the arrested "person" referenced
36 earlier in that subsection.

37 (2) Article 49.14(e), Code of Criminal
38 Procedure, states that a justice of the peace may issue
39 an attachment for a "person" who is subpoenaed and
40 fails to appear. The revised law substitutes
41 "witness" for "person" for consistency in terminology
42 used in the revised article and because Article 24.11,
43 Code of Criminal Procedure, defines "attachment" as a
44 writ commanding a peace officer to bring a witness to
45 testify before a court, magistrate, or grand jury.

46 (3) Article 49.14(g), Code of Criminal

1 Procedure, states that "[t]he justice and an attorney
2 representing the state may examine witnesses at an
3 inquest hearing." The revised law omits this
4 provision because it duplicates in substance part of
5 Article 49.14(h), revised as Subsection (g) of this
6 article. The omitted law reads:

7 . . . The justice and an attorney
8 representing the state may examine
9 witnesses at an inquest hearing. . . .

10 (4) Article 49.14(g), Code of Criminal
11 Procedure, requires a justice of the peace to
12 "subscribe" the transcription from the inquest
13 hearing. The revised law substitutes "sign" for
14 "subscribe" because *Merriam-Webster's Collegiate*
15 *Dictionary* (11th ed. 2006) defines "subscribe" as "to
16 sign (as a document) with one's own hand in token of
17 consent or obligation" and "sign" is more consistent
18 with modern usage.

19 Revised Law

20 Art. 49A.070. OFFENSE: FAILING TO APPEAR AT INQUEST
21 HEARING. (a) A juror who is properly summoned for an inquest
22 hearing under Article 49A.069(c) and fails to appear, other than a
23 juror exempted by law from jury service, commits an offense.

24 (b) An offense under this article is punishable by a fine
25 not to exceed \$100. (Code Crim. Proc., Art. 49.14(c) (part).)

26 Source Law

27 (c) . . . A juror who is properly summoned and
28 fails to appear, other than a juror exempted by law,
29 commits an offense. An offense under this subsection
30 is punishable by a fine not to exceed \$100.

31 Revisor's Note

32 (1) Article 49.14(c), Code of Criminal
33 Procedure, provides that a "jury in an inquest hearing
34 is composed of six persons." That Subsection (c) also
35 creates a criminal offense for a juror who is "properly
36 summoned and fails to appear." Because it is clear

1 from the context of the subsection that the offense
2 applies to a juror summoned to appear at an inquest
3 hearing and because the provision establishing that
4 context is revised as Article 49A.069(c), the revised
5 law adds "for an inquest hearing under Article
6 49A.069(c)."

7 (2) Article 49.14(c), Code of Criminal
8 Procedure, provides a penalty for an offense committed
9 under "this subsection," meaning Subsection (c),
10 Article 49.14, Code of Criminal Procedure. The
11 provision of Subsection (c) that creates the offense
12 is revised in this article. The revised law is drafted
13 accordingly.

14 Revised Law

15 Art. 49A.071. INQUEST RECORD. (a) A justice of the peace
16 or other person authorized under this subchapter to conduct an
17 inquest shall make an inquest record for each inquest the justice or
18 person conducts. The inquest record must include:

19 (1) a report of the events, proceedings, findings, and
20 conclusions of the inquest;

21 (2) any autopsy report prepared in the case; and

22 (3) all other papers of the case.

23 (b) As part of the inquest record, the justice of the peace
24 shall make and keep a complete and permanent record of each inquest
25 hearing. The inquest hearing record must include:

26 (1) the name of the deceased person or, if the person
27 is unidentified, a description of the body;

28 (2) the time, date, and place where the body was found;

29 (3) the time, date, and place where the inquest was
30 held;

31 (4) the name of each witness who testified at the
32 inquest;

33 (5) the name of each person who provided to the justice
34 information relevant to the inquest;

1 (6) the amount of bail set for each witness and for
2 each person charged in the death;

3 (7) a transcript of the testimony given by each
4 witness at the inquest hearing;

5 (8) the autopsy report, if an autopsy was performed;
6 and

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

10 (c) All papers of the inquest record must be:

11 (1) marked with the case number;

12 (2) clearly indexed;

13 (3) maintained in the office of the justice of the
14 peace; and

15 (4) made available to the appropriate officials on
16 request.

17 (d) The commissioners court shall pay a reasonable fee to a
18 person who records or transcribes sworn testimony during an inquest
19 hearing. (Code Crim. Proc., Art. 49.15.)

20 Source Law

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

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

37 (1) the name of the deceased person or, if
38 the person is unidentified, a description of the body;

39 (2) the time, date, and place where the
40 body was found;

41 (3) the time, date, and place where the
42 inquest was held;

43 (4) the name of every witness who
44 testified at the inquest;

45 (5) the name of every person who provided
46 to the justice information pertinent to the inquest;

47 (6) the amount of bail set for each witness

1 and person charged in the death;
2 (7) a transcript of the testimony given by
3 each witness at the inquest hearing;
4 (8) the autopsy report, if an autopsy was
5 performed; and
6 (9) the name of every person arrested as a
7 suspect in the death who appeared at the inquest and
8 the details of that person's arrest.
9 (c) The commissioners court shall pay a
10 reasonable fee to a person who records or transcribes
11 sworn testimony during an inquest hearing.

12 Revisor's Note

13 Article 49.15(a), Code of Criminal Procedure,
14 refers to a justice of the peace or other person
15 authorized to conduct an inquest under "this
16 subchapter," meaning Subchapter A, Chapter 49, Code of
17 Criminal Procedure. The revised law preserves the
18 reference to "this subchapter" for the reason stated
19 in Revisor's Note (2) to Article 49A.061.

20 Revised Law

21 Art. 49A.072. WARRANT OF ARREST. (a) A justice of the
22 peace who is conducting an inquest into a person's death under this
23 subchapter may issue a warrant for the arrest of a person suspected
24 of causing the death if:

25 (1) the justice has knowledge that the suspect caused
26 the death;

27 (2) the justice receives an affidavit stating that the
28 suspect caused the death; or

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

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

33 (1) execute the warrant immediately; and

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

37 (c) A person who is charged in a death and arrested under a
38 warrant issued by a justice of the peace shall remain in the custody
39 of the arresting peace officer. A warrant issued by another

1 magistrate is not sufficient authority to remove the arrested
2 person from the peace officer's custody.

3 (d) A person charged in a death who has not been arrested
4 under a warrant issued by a justice of the peace may be arrested on
5 the order of a magistrate other than the justice of the peace and
6 examined by that magistrate while an inquest is pending.

7 (e) A warrant of arrest issued under Subsection (a) is
8 sufficient if it:

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

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

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

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

16 (Code Crim. Proc., Arts. 49.19, 49.20.)

17 Source Law

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

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

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

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

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

31 (1) execute the warrant without delay; and

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

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

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

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

50 (2) specifies the name of the person whose

1 arrest is ordered or, if the person's name is unknown,
2 reasonably describes the person;
3 (3) recites in plain language the offense
4 with which the person is charged; and
5 (4) is signed and dated by a justice of the
6 peace.

7 Revisor's Note

8 (1) Article 49.19(a), Code of Criminal
9 Procedure, refers to a justice of the peace who
10 conducts an inquest under "this subchapter," meaning
11 Subchapter A, Chapter 49, Code of Criminal Procedure.
12 The revised law preserves the reference to "this
13 subchapter" for the reason stated in Revisor's Note (2)
14 to Article 49A.061.

15 (2) Article 49.19(b), Code of Criminal
16 Procedure, requires that a peace officer execute an
17 arrest warrant issued by a justice of the peace
18 "without delay." The revised law substitutes
19 "immediately" for "without delay" because, in this
20 context, the terms are synonymous, and "immediately"
21 is more consistent with modern usage.

22 (3) Article 49.20, Code of Criminal Procedure,
23 provides that an arrest warrant issued under "Article
24 49.19," meaning Article 49.19, Code of Criminal
25 Procedure, is sufficient if the warrant is signed and
26 dated by a justice of the peace and meets certain other
27 conditions. The revised law substitutes "Subsection
28 (a)" for "Article 49.19" because Article 49.19(a),
29 revised as Subsection (a) of this article, provides
30 the only authority for a justice of the peace to issue
31 an arrest warrant under Article 49.19.

32 Revised Law

33 Art. 49A.073. COMMITMENT OF SUSPECT. If a justice of the
34 peace finds at the conclusion of an inquest that a person who has
35 been arrested in the case caused or contributed to the death that is
36 the subject of the inquest, the justice may:

37 (1) commit the person to jail; or

1 (2) require the person to execute a bail bond with
2 security for the person's appearance before the proper court to
3 answer for the offense. (Code Crim. Proc., Art. 49.21.)

4 Source Law

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

- 10 (1) commit the person to jail; or
11 (2) require the person to execute a bail
12 bond with security for the person's appearance before
13 the proper court to answer for the offense.

14 Revised Law

15 Art. 49A.074. PRESERVATION OF EVIDENCE. A justice of the
16 peace shall:

17 (1) preserve all tangible evidence that the justice
18 obtains in the course of an inquest that tends to identify the
19 person who caused the death that is the subject of the inquest or
20 show the actual cause of death; and

21 (2) deposit the evidence described by Subdivision (1)
22 with the appropriate law enforcement agency to be stored in the
23 agency's property room for safekeeping. (Code Crim. Proc., Art.
24 49.17.)

25 Source Law

26 Art. 49.17. EVIDENCE. A justice of the peace
27 shall preserve all tangible evidence that the justice
28 accumulates in the course of an inquest that tends to
29 show the real cause of death or identify the person who
30 caused the death. The justice shall deposit the
31 evidence with the appropriate law enforcement agency
32 to be stored in the agency's property room for
33 safekeeping.

34 Revised Law

35 Art. 49A.075. OFFICE OF DEATH INVESTIGATOR. (a) The
36 commissioners court of a county may establish an office of death
37 investigator and employ one or more death investigators to assist a
38 person in the county who conducts an inquest. A death investigator
39 serves at the will of the commissioners court and on terms set by
40 the commissioners court.

41 (b) To be eligible for employment as a death investigator, a

1 person must have experience or training in investigative procedures
2 concerning the circumstances, manner, and cause of the death of a
3 person.

4 (c) At the request and under the supervision of a justice of
5 the peace or other person who conducts an inquest, a death
6 investigator may assist the person conducting the inquest to:

7 (1) investigate the time, place, and manner of death;
8 and

9 (2) lock and seal the premises of the deceased person.

10 (d) A death investigator who assists in an inquest under
11 Subsection (c) shall, not later than eight hours after the death
12 investigator completes the investigation, make a complete report of
13 the death investigator's activities, findings, and conclusions to
14 the justice of the peace or other person conducting the inquest.

15 (e) A death investigator employed under this article is
16 entitled to receive compensation from the county in an amount set by
17 the commissioners court. (Code Crim. Proc., Art. 49.23.)

18 Source Law

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

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

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

46 Revisor's Note

47 Article 49.23(a), Code of Criminal Procedure,

1 refers to the "terms and conditions" of service for a
2 death investigator that are set by the commissioners
3 court. The revised law omits "and conditions" from the
4 quoted phrase because, in that context, the meaning of
5 "conditions" is included in the meaning of "terms."

6 Revised Law

7 Art. 49A.076. DUTY TO SIGN DEATH CERTIFICATES AND INQUEST
8 ORDERS. The justice of the peace or other person who conducts an
9 inquest under this subchapter shall sign the death certificate and
10 each order that the justice or other person makes as a necessary
11 part of the inquest. (Code Crim. Proc., Art. 49.16.)

12 Source Law

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

18 Revisor's Note

19 Article 49.16, Code of Criminal Procedure, refers
20 to a justice of the peace or other person who conducts
21 an inquest under "this subchapter," meaning Subchapter
22 A, Chapter 49, Code of Criminal Procedure. Although
23 one or more provisions of Subchapter A, revised
24 substantially as Subchapter B, Chapter 49A, are
25 revised in a subchapter other than Subchapter B, the
26 revised law preserves the reference to "this
27 subchapter" because the provisions that govern the
28 conducting of an inquest are revised in Subchapter B.

29 Revised Law

30 Art. 49A.077. AUTHORITY TO REOPEN INQUEST BASED ON CERTAIN
31 INFORMATION. A justice of the peace may reopen an inquest if, based
32 on information provided by a credible person or facts within the
33 knowledge of the justice of the peace, the justice of the peace
34 determines that reopening the inquest may reveal a different cause
35 or different circumstances of death. (Code Crim. Proc., Art.
36 49.041.)

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Source Law

Art. 49.041. REOPENING AN INQUEST. A justice of the peace may reopen an inquest if, based on information provided by a credible person or facts within the knowledge of the justice of the peace, the justice of the peace determines that reopening the inquest may reveal a different cause or different circumstances of death.

SUBCHAPTER C. INQUESTS BY MEDICAL EXAMINER

Revised Law

Art. 49A.101. CREATION OF OFFICE REQUIRED IN CERTAIN COUNTIES; AUTHORITY TO ESTABLISH OFFICE. The commissioners court of a county with a population of more than 2.5 million shall establish and maintain an office of medical examiner. The commissioners court of any other county may establish and maintain an office of medical examiner. (Code Crim. Proc., Art. 49.25, Sec. 1 (part).)

Source Law

Art. 49.25. MEDICAL EXAMINERS
Sec. 1. OFFICE AUTHORIZED. Subject to the provisions of this article, the commissioners court of any county having a population of more than 2.5 million shall establish and maintain the office of medical examiner, and the commissioners court of any county may establish and provide for the maintenance of the office of medical examiner. . . .

Revisor's Note

(1) Section 1, Article 49.25, Code of Criminal Procedure, requires certain counties and authorizes other counties to establish the office of medical examiner "[s]ubject to the provisions of this article," meaning Article 49.25, Code of Criminal Procedure. The revised law omits the quoted language as unnecessary because the provisions of Article 49.25, revised as Subchapter C, Article 49A.152, and Article 49A.251, apply on their own terms.

(2) Section 1, Article 49.25, Code of Criminal Procedure, requires a county's population to be calculated according to the last preceding federal census. The revised law omits that requirement

1 because Section 311.005(3), Government Code (Code
2 Construction Act), applicable to the revised law,
3 defines "population" to mean the population shown by
4 the most recent federal decennial census. The omitted
5 law reads:

6 Sec. 1. . . . Population shall be
7 according to the last preceding federal
8 census.

9 Revised Law

10 Art. 49A.102. CREATION OF MULTI-COUNTY MEDICAL EXAMINERS
11 DISTRICT; WITHDRAWAL. (a) The commissioners courts of two or more
12 counties may enter into an agreement to create a medical examiners
13 district and to jointly operate and maintain an office of medical
14 examiner of the district. The district must include the entire area
15 of each county involved. The counties in the district must, when
16 taken together, form a continuous area.

17 (b) A medical examiners district may have only one medical
18 examiner. When a county becomes part of a medical examiners
19 district, the effect is the same within the county as if an office
20 of medical examiner had been established solely in that county.

21 (c) The district medical examiner has all the powers and
22 duties within the district that a medical examiner who serves in a
23 single county has within that county.

24 (d) The commissioners court of a county that is part of a
25 medical examiners district may withdraw the county from the
26 district if the court gives 12 months' notice of withdrawal to the
27 commissioners courts of all other counties in the district. (Code
28 Crim. Proc., Art. 49.25, Sec. 1-a.)

29 Source Law

30 Sec. 1-a. MULTI-COUNTY DISTRICT; JOINT OFFICE.

31 (a) The commissioners courts of two or more counties
32 may enter into an agreement to create a medical
33 examiners district and to jointly operate and maintain
34 the office of medical examiner of the district. The
35 district must include the entire area of all counties
36 involved. The counties within the district must, when
37 taken together, form a continuous area.

38 (b) There may be only one medical examiner in a
39 medical examiners district, although he may employ,
40 within the district, necessary staff personnel. When

1 a county becomes a part of a medical examiners
2 district, the effect is the same within the county as
3 if the office of medical examiner had been established
4 in that county alone. The district medical examiner
5 has all the powers and duties within the district that
6 a medical examiner who serves in a single county has
7 within that county.

8 (c) The commissioners court of any county which
9 has become a part of a medical examiners district may
10 withdraw the county from the district, but twelve
11 months' notice of withdrawal must be given to the
12 commissioners courts of all other counties in the
13 district.

14 Revisor's Note

15 Section 1-a(b), Article 49.25, Code of Criminal
16 Procedure, provides that there may be only one medical
17 examiner in a medical examiners district, "although he
18 may employ, within the district, necessary staff
19 personnel." The revised law omits the quoted language
20 because it duplicates in substance Section 3, Article
21 49.25, Code of Criminal Procedure, revised in this
22 subchapter as Article 49A.106.

23 Revised Law

24 Art. 49A.103. INQUEST POWERS AND DUTIES OF JUSTICE OF THE
25 PEACE APPLY TO MEDICAL EXAMINER; CONFLICT OF LAWS. (a) When the
26 commissioners court of a county establishes an office of medical
27 examiner, all powers and duties of justices of the peace in that
28 county relating to a death investigation or an inquest transfer to
29 the office of medical examiner.

30 (b) A subsequent general law relating to a duty of a justice
31 of the peace in a death investigation or inquest applies to the
32 medical examiner in that county only to the extent that the law is
33 not inconsistent with this subchapter, Article 49A.152, or Article
34 49A.251, and those provisions prevail over a law or a part of law
35 that otherwise conflicts with those provisions. (Code Crim. Proc.,
36 Art. 49.25, Sec. 12.)

37 Source Law

38 Sec. 12. TRANSFER OF DUTIES OF JUSTICE OF
39 PEACE. When the commissioners court of any county
40 shall establish the office of medical examiner, all
41 powers and duties of justices of the peace in such
42 county relating to the investigation of deaths and
43 inquests shall vest in the office of the medical

1 examiner. Any subsequent General Law pertaining to
2 the duties of justices of the peace in death
3 investigations and inquests shall apply to the medical
4 examiner in such counties as to the extent not
5 inconsistent with this Article, and all laws or parts
6 of laws otherwise in conflict herewith are hereby
7 declared to be inapplicable to this Article.

8 Revisor's Note

9 Section 12, Article 49.25, Code of Criminal
10 Procedure, provides that a law that conflicts
11 "herewith" is inapplicable to "this Article" in
12 referring to Article 49.25, Code of Criminal
13 Procedure. Article 49.25 is revised in this chapter as
14 Subchapter C, Article 49A.152, and Article 49A.251.
15 The revised law is drafted accordingly.

16 Revised Law

17 Art. 49A.104. WHICH MEDICAL EXAMINER REQUIRED TO CONDUCT
18 INQUEST. An inquest authorized and required by this subchapter
19 shall be conducted by the medical examiner of the county in which
20 the death subject to the inquest occurred. (Code Crim. Proc., Art.
21 49.25, Sec. 6(b).)

22 Source Law

23 (b) The inquests authorized and required by this
24 Article shall be held by the medical examiner of the
25 county in which the death occurred.

26 Revisor's Note

27 (1) Section 6(b), Article 49.25, Code of
28 Criminal Procedure, requires certain medical
29 examiners to conduct inquests authorized and required
30 by "this Article," meaning Article 49.25, Code of
31 Criminal Procedure. Although one or more provisions
32 of Article 49.25, revised substantially as Subchapter
33 C, Chapter 49A, are revised in a subchapter other than
34 Subchapter C, the revised law substitutes "this
35 subchapter" for "this Article" because the provisions
36 authorizing and requiring medical examiners to conduct
37 inquests are revised in Subchapter C.

38 (2) Section 6(b), Article 49.25, Code of

1 Criminal Procedure, requires certain inquests to be
2 "held" by the medical examiner. For consistency of
3 terminology used in the revised chapter, throughout
4 this subchapter, the revised law substitutes
5 "conducted" for "held" because, in this context, the
6 terms are synonymous.

7 Revised Law

8 Art. 49A.105. APPOINTMENT AND QUALIFICATION OF MEDICAL
9 EXAMINER. (a) The commissioners court of a county that establishes
10 an office of medical examiner shall appoint the medical examiner. A
11 person appointed as the medical examiner must be:

12 (1) a physician licensed by the Texas Medical Board;

13 or

14 (2) a person who:

15 (A) is licensed and in good standing as a
16 physician in another state;

17 (B) has applied to the Texas Medical Board for a
18 license to practice medicine in this state; and

19 (C) has been granted a provisional license under
20 Section 155.101, Occupations Code.

21 (b) A medical examiner serves at the will of the
22 commissioners court that appointed the medical examiner.

23 (c) To the greatest extent possible, the commissioners
24 court shall appoint a medical examiner who has training and
25 experience in pathology, toxicology, histology, and other
26 medico-legal sciences. (Code Crim. Proc., Art. 49.25, Secs. 2(a),
27 (b).)

28 Source Law

29 Sec. 2. APPOINTMENTS AND QUALIFICATIONS. (a)
30 The commissioners court shall appoint the medical
31 examiner, who serves at the pleasure of the
32 commissioners court. A person appointed as the
33 medical examiner must be:

34 (1) a physician licensed by the Texas
35 Medical Board; or

36 (2) a person who:

37 (A) is licensed and in good standing
38 as a physician in another state;

39 (B) has applied to the Texas Medical

1 Board for a license to practice medicine in this state;
2 and

3 (C) has been granted a provisional
4 license under Section 155.101, Occupations Code.

5 (b) To the greatest extent possible, the medical
6 examiner shall be appointed from persons having
7 training and experience in pathology, toxicology,
8 histology and other medico-legal sciences.

9 Revisor's Note

10 (1) Section 2(a), Article 49.25, Code of
11 Criminal Procedure, requires "[t]he commissioners
12 court" to appoint the medical examiner. The revised
13 law adds "of a county that establishes an office of
14 medical examiner" following the reference to the
15 commissioners court to clarify that the duty to
16 appoint the medical examiner applies only if the
17 county establishes that office.

18 (2) Section 2(a), Article 49.25, Code of
19 Criminal Procedure, provides that a medical examiner
20 "serves at the pleasure of" the commissioners court.
21 The revised law substitutes "serves at the will of" for
22 the quoted language because, in this context, the
23 phrases are synonymous and "serves at the will of" is
24 more consistent with modern usage.

25 (3) Section 2(c), Article 49.25, Code of
26 Criminal Procedure, requires the medical examiner to
27 devote the time and energy necessary to perform the
28 duties conferred by this Article, meaning Article
29 49.25, Code of Criminal Procedure. The revised law
30 omits that provision as unnecessary because the duties
31 required by Article 49.25 of a medical examiner are all
32 revised in this subchapter and apply on their own
33 terms. The omitted law reads:

34 (c) The medical examiner shall devote
35 the time and energy necessary to perform the
36 duties conferred by this Article.

37 Revised Law

38 Art. 49A.106. EMPLOYEES. Subject to the approval of the
39 commissioners court, the medical examiner may employ deputy

1 examiners, scientific experts, trained technicians, officers, and
2 other employees as necessary to properly perform the duties imposed
3 on the medical examiner by this subchapter. (Code Crim. Proc., Art.
4 49.25, Sec. 3.)

5 Source Law

6 Sec. 3. ASSISTANTS. The medical examiner may,
7 subject to the approval of the commissioners court,
8 employ such deputy examiners, scientific experts,
9 trained technicians, officers and employees as may be
10 necessary to the proper performance of the duties
11 imposed by this Article upon the medical examiner.

12 Revisor's Note

13 Section 3, Article 49.25, Code of Criminal
14 Procedure, provides that a medical examiner may employ
15 employees as necessary to properly perform the duties
16 imposed on the medical examiner by "this Article,"
17 meaning Article 49.25, Code of Criminal Procedure.
18 Although one or more provisions of Article 49.25,
19 revised substantially as Subchapter C, are revised in
20 a subchapter other than Subchapter C, the revised law
21 substitutes "this subchapter" for "this Article"
22 because the duties imposed on a medical examiner by
23 Article 49.25 are all revised in this subchapter.

24 Revised Law

25 Art. 49A.107. SALARIES. The commissioners court of a
26 county that establishes an office of medical examiner shall
27 establish and pay the salaries and compensations of the medical
28 examiner and the medical examiner's employees. (Code Crim. Proc.,
29 Art. 49.25, Sec. 4.)

30 Source Law

31 Sec. 4. SALARIES. The commissioners court
32 shall establish and pay the salaries and compensations
33 of the medical examiner and his staff.

34 Revisor's Note

35 Section 4, Article 49.25, Code of Criminal
36 Procedure, requires "[t]he commissioners court" to
37 establish and pay the salaries and compensations of

1 the medical examiner and the medical examiner's staff.
2 The revised law adds "of a county that establishes an
3 office of medical examiner" following the reference to
4 the commissioners court to clarify that the duty to
5 establish and pay the salaries and compensations of
6 the medical examiner and staff applies only if the
7 county establishes that office.

8 Revised Law

9 Art. 49A.108. PROVISION OF OFFICE SPACE AND LABORATORY
10 FACILITIES. The commissioners court of a county that establishes
11 an office of medical examiner shall:

12 (1) provide the medical examiner and the medical
13 examiner's employees with adequate office space; and

14 (2) on request of the medical examiner, provide the
15 medical examiner and the medical examiner's employees with
16 laboratory facilities or make arrangements for the use of existing
17 laboratory facilities in the county. (Code Crim. Proc., Art. 49.25,
18 Sec. 5.)

19 Source Law

20 Sec. 5. OFFICES. The commissioners court shall
21 provide the medical examiner and his staff with
22 adequate office space and shall provide laboratory
23 facilities or make arrangements for the use of
24 existing laboratory facilities in the county, if so
25 requested by the medical examiner.

26 Revisor's Note

27 Section 5, Article 49.25, Code of Criminal
28 Procedure, requires "[t]he commissioners court" to
29 provide the medical examiner and the medical
30 examiner's staff with adequate office space and
31 certain facilities. The revised law adds "of a county
32 that establishes an office of medical examiner"
33 following the reference to the commissioners court to
34 clarify that the duty to provide the office space and
35 facilities to the medical examiner and staff applies
36 only if the county establishes that office.

1 Revised Law

2 Art. 49A.109. DEATHS REQUIRING INQUEST BY MEDICAL EXAMINER.

3 (a) A medical examiner, or a medical examiner's authorized deputy,
4 shall conduct an inquest if:

5 (1) a person dies within 24 hours after the person is
6 admitted to an institution or in prison or jail;

7 (2) a person:

8 (A) dies an unnatural death from a cause other
9 than a legal execution; or

10 (B) dies in the absence of a good witness;

11 (3) the body or a body part of a person is found and
12 either:

13 (A) the person is identified but the cause or
14 circumstances of death are unknown; or

15 (B) the person is unidentified, regardless of
16 whether the cause or circumstances of death are known;

17 (4) the circumstances of the death of a person
18 indicate that the person may have died by unlawful means;

19 (5) a person dies by suicide or the circumstances of
20 the person's death indicate that the person may have died by
21 suicide;

22 (6) a person dies without having been attended by a
23 physician, and the local health officer or registrar required to
24 report the cause of death under Section 193.005, Health and Safety
25 Code, does not know the cause of death;

26 (7) a person dies while attended by a physician who is
27 unable to certify with certainty the cause of death as required by
28 Section 193.004, Health and Safety Code; and

29 (8) the person is a child younger than six years of age
30 and an inquest is required by Chapter 264, Family Code.

31 (b) When a medical examiner or an employee of the medical
32 examiner receives notice under Article 49A.110(c) of a death of a
33 person designated as a prospective organ donor for transplantation,
34 the medical examiner or the medical examiner's deputy shall conduct

1 an inquest on the person.

2 (c) The medical examiner, or the medical examiner's
3 authorized deputy, shall conduct an inquest required by Subsection
4 (a) in the county in which the medical examiner was appointed. The
5 inquest may be conducted with or without a jury. (Code Crim. Proc.,
6 Art. 49.25, Secs. 6(a) (part), 6a(b).)

7 Source Law

8 Sec. 6. DEATH INVESTIGATIONS. (a) Any medical
9 examiner, or his duly authorized deputy, shall be
10 authorized, and it shall be his duty, to hold inquests
11 with or without a jury within his county, in the
12 following cases:

13 1. When a person shall die within
14 twenty-four hours after admission to a hospital or
15 institution or in prison or in jail;

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

20 3. When the body or a body part of a person
21 is found and either:

22 (A) the person is identified but the
23 cause or circumstances of death are unknown; or

24 (B) the person is unidentified,
25 regardless of whether the cause or circumstances of
26 death are known;

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

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

33 6. When a person dies without having been
34 attended by a duly licensed and practicing physician,
35 and the local health officer or registrar required to
36 report the cause of death under Section 193.005,
37 Health and Safety Code, does not know the cause of
38 death. . . .

39 7. When the person is a child who is
40 younger than six years of age and the death is reported
41 under Chapter 264, Family Code; and

42 8. When a person dies who has been attended
43 immediately preceding his death by a duly licensed and
44 practicing physician or physicians, and such physician
45 or physicians are not certain as to the cause of death
46 and are unable to certify with certainty the cause of
47 death as required by Section 193.004, Health and
48 Safety Code. . . .

49 [Sec. 6a]

50 (b) When notified pursuant to Subsection (a) of
51 this Section, the medical examiner or the medical
52 examiner's deputy shall perform an inquest on the
53 deceased prospective organ donor.

54 Revisor's Note

55 (1) Section 6(a)(2), Article 49.25, Code of
56 Criminal Procedure, requires a medical examiner to

1 conduct an inquest when a person is "killed" and when a
2 person "dies an unnatural death." The revised law
3 omits "killed" as unnecessary because, in this
4 context, "killed" is included in the meaning of
5 "unnatural death."

6 (2) Section 6(a)(2), Article 49.25, Code of
7 Criminal Procedure, refers to an unnatural death
8 "except under sentence of the law." For consistency in
9 terminology used in the revised chapter, the revised
10 law substitutes "other than a legal execution" for the
11 quoted language because, in this context, the phrases
12 are synonymous.

13 (3) Section 6(a)(2), Article 49.25, Code of
14 Criminal Procedure, requires a medical examiner to
15 conduct an inquest when a person dies in the absence of
16 "one or more" good witnesses. Section 6(a)(8) of that
17 article requires a medical examiner to conduct an
18 inquest when a person dies while attended by a
19 physician "or physicians" and when the physician "or
20 physicians" are unable to certify with certainty the
21 cause of death. The revised law omits the quoted
22 language in both instances because under Section
23 311.012, Government Code (Code Construction Act), the
24 singular includes the plural and the plural includes
25 the singular.

26 (4) Section 6(a)(5), Article 49.25, Code of
27 Criminal Procedure, requires a medical examiner to
28 conduct an inquest when a person "commits" suicide.
29 The revised law substitutes "dies by" for "commits"
30 for the reason stated in Revisor's Note (1) to Article
31 49A.053.

32 (5) Sections 6(a)(6) and (8), Article 49.25,
33 Code of Criminal Procedure, refer to a "licensed and
34 practicing physician." The revised law omits

1 "licensed and practicing" because the quoted language
2 is included in the term "physician" as defined in
3 Article 49A.001, which applies to the revised chapter.

4 (6) Section 6(a)(7), Article 49.25, Code of
5 Criminal Procedure, requires a medical examiner to
6 conduct an inquest when a child younger than six years
7 old dies and "the death is reported under" Chapter 264,
8 Family Code. Under Chapter 264, a medical examiner is
9 required to conduct an inquest if a child's death is
10 reported under Section 264.513 of that chapter, unless
11 the death was expected and due to certain causes. For
12 clarity and convenience of the reader, the revised law
13 substitutes "an inquest is required by" for "the death
14 is reported under" because the phrase "an inquest is
15 required by" more accurately reflects that an inquest
16 is not required for each death reported under Section
17 264.513, Family Code. See Section 264.514, Family
18 Code.

19 (7) Section 6(a)(8), Article 49.25, Code of
20 Criminal Procedure, requires a medical examiner to
21 conduct an inquest when a person dies and the physician
22 is both "not certain as to the cause of death" and
23 "unable to certify with certainty the cause of death."
24 The revised law omits "not certain as to the cause of
25 death" as unnecessary because, in this context, "not
26 certain as to the cause of death" is included in the
27 meaning of "unable to certify with certainty the cause
28 of death."

29 (8) Section 6a(b), Article 49.25, Code of
30 Criminal Procedure, requires a medical examiner to
31 "perform" an inquest when notified under Section 6a(a)
32 of that article of the death of a person designated as
33 a prospective organ donor for transplantation. For
34 consistency in terminology used in the revised

1 chapter, the revised law substitutes "conduct" for
2 "perform" because, in this context, the terms are
3 synonymous.

4 Revised Law

5 Art. 49A.110. REQUIRED NOTICE TO MEDICAL EXAMINER OF
6 DEATHS. (a) A police officer, superintendent or general manager of
7 an institution, physician, or other person who becomes aware of a
8 person's death under circumstances described by Article 49A.109(a)
9 shall immediately report the death to the office of medical
10 examiner or the municipal or county police department. A report to
11 the municipal or county police department under this subsection
12 shall be immediately transmitted to the office of medical examiner.

13 (b) When a person dies under circumstances described by
14 Article 49A.109(a)(7), the attending physician, or the
15 superintendent or general manager of the institution in which the
16 person died, shall report the death to the medical examiner of the
17 county in which the death occurred and request an inquest.

18 (c) When a person designated as a prospective organ donor
19 for transplantation by a physician dies under circumstances
20 requiring the medical examiner of the county in which the death
21 occurred, or the medical examiner's authorized deputy, to conduct
22 an inquest, the administrative head of the facility in which the
23 transplantation is to be performed shall provide notice of the
24 death to the medical examiner or an employee of the medical
25 examiner.

26 (d) If a local health officer or registrar of vital
27 statistics who is required to certify a person's cause of death does
28 not know the cause of death, the officer or registrar shall provide
29 notice of the death to the medical examiner of the county in which
30 the death occurred and request an inquest. (Code Crim. Proc., Art.
31 49.25, Secs. 6(a) (part), 6a(a), 7(a).)

32 Source Law

33 [Sec. 6]

34 (a) . . . When the local health officer or
35 registrar of vital statistics whose duty it is to

1 certify the cause of death does not know the cause of
2 death, he shall so notify the medical examiner of the
3 county in which the death occurred and request an
4 inquest;

5
6 8. [When a person dies who has been
7 attended immediately preceding his death by a duly
8 licensed and practicing physician or physicians, and
9 such physician or physicians are not certain as to the
10 cause of death and are unable to certify with certainty
11 the cause of death as required by Section 193.004,
12 Health and Safety Code.] In case of such uncertainty
13 the attending physician or physicians, or the
14 superintendent or general manager of the hospital or
15 institution in which the deceased shall have died,
16 shall so report to the medical examiner of the county
17 in which the death occurred, and request an inquest.

18 Sec. 6a. ORGAN TRANSPLANT DONORS; NOTICE;
19 INQUESTS. (a) When death occurs to an individual
20 designated a prospective organ donor for
21 transplantation by a licensed physician under
22 circumstances requiring the medical examiner of the
23 county in which death occurred, or the medical
24 examiner's authorized deputy, to hold an inquest, the
25 medical examiner, or a member of his staff will be so
26 notified by the administrative head of the facility in
27 which the transplantation is to be performed.

28 Sec. 7. REPORTS OF DEATH. (a) Any police
29 officer, superintendent or general manager of an
30 institution, physician, or private citizen who shall
31 become aware of a death under any of the circumstances
32 set out in Section 6(a) of this Article, shall
33 immediately report such death to the office of the
34 medical examiner or to the city or county police
35 departments; any such report to a city or county
36 police department shall be immediately transmitted to
37 the office of the medical examiner.

38 Revisor's Note

39 (1) Section 6(a)(8), Article 49.25, Code of
40 Criminal Procedure, requires that in cases where the
41 attending physician "or physicians" are uncertain of
42 the patient's cause of death, the physician or the
43 superintendent or general manager of a hospital or
44 institution must report the death to the medical
45 examiner and request an inquest. The revised law omits
46 "or physicians" for the reason stated in Revisor's Note
47 (3) to Article 49A.109.

48 (2) Section 6a, Article 49.25, Code of Criminal
49 Procedure, refers to an organ transplantation by a
50 "licensed physician." The revised law omits
51 "licensed" because the quoted language is included in

1 the term "physician" as defined in Article 49A.001,
2 which applies to the revised law.

3 (3) Section 7(a), Article 49.25, Code of
4 Criminal Procedure, requires certain persons who
5 become aware of a death under circumstances described
6 by "Section 6(a) of this Article," meaning Section
7 6(a), Article 49.25, Code of Criminal Procedure, to
8 report the death to the medical examiner or to the city
9 or county police department. The provision of Section
10 6(a) describing the circumstances under which an
11 inquest is required is revised as Article 49A.109(a).
12 The revised law is drafted accordingly.

13 Revised Law

14 Art. 49A.111. AUTHORITY TO ADMINISTER OATHS AND TAKE
15 AFFIDAVITS DURING INQUEST. The medical examiner, or the medical
16 examiner's authorized deputy, may administer oaths and take
17 affidavits while conducting an inquest under this subchapter. (Code
18 Crim. Proc., Art. 49.25, Sec. 6(c) (part).)

19 Source Law

20 [Sec. 6(b). The inquests authorized and
21 required by this Article shall be held by the medical
22 examiner of the county in which the death occurred.]
23 (c) In making such investigations and holding
24 such inquests, the medical examiner or an authorized
25 deputy may administer oaths and take affidavits. . . .

26 Revisor's Note

27 Section 6(c), Article 49.25, Code of Criminal
28 Procedure, provides that in "making such
29 investigations" and in "holding such inquests," the
30 medical examiner and the medical examiner's authorized
31 deputy may administer oaths and take affidavits. The
32 revised law omits "making such investigations" because
33 Article 49.01, Code of Criminal Procedure, revised as
34 Article 49A.001 and applicable to the revised chapter,
35 defines an inquest into a death to include an
36 investigation into the death.

1 Revised Law

2 Art. 49A.112. MEDICAL EXAMINER MUST AUTHORIZE REMOVAL OF
3 BODY; EXCEPTIONS. If a death occurs under circumstances described
4 by Article 49A.109(a), a person may not disturb or remove the body
5 from the position in which the body is found without authorization
6 from the medical examiner, or the medical examiner's authorized
7 deputy, except to:

8 (1) preserve the body from loss or destruction; or

9 (2) maintain the flow of traffic on a highway,
10 railroad, or airport. (Code Crim. Proc., Art. 49.25, Sec. 8.)

11 Source Law

12 Sec. 8. REMOVAL OF BODIES. When any death
13 under circumstances set out in Section 6 shall have
14 occurred, the body shall not be disturbed or removed
15 from the position in which it is found by any person
16 without authorization from the medical examiner or
17 authorized deputy, except for the purpose of
18 preserving such body from loss or destruction or
19 maintaining the flow of traffic on a highway, railroad
20 or airport.

21 Revisor's Note

22 Section 8, Article 49.25, Code of Criminal
23 Procedure, prohibits a person from disturbing or
24 removing a body if a death occurs under circumstances
25 described by "Section 6," meaning Section 6, Article
26 49.25, Code of Criminal Procedure. The provision of
27 Section 6 describing the circumstances under which an
28 inquest is required is revised as Article 49A.109(a).
29 The revised law is drafted accordingly.

30 Revised Law

31 Art. 49A.113. AUTHORITY TO DISINTER BODY. The medical
32 examiner may cause a body to be disinterred for the purpose of an
33 inquest if an inquest should have been conducted on the body before
34 interment. (Code Crim. Proc., Art. 49.25, Sec. 10 (part).)

35 Source Law

36 Sec. 10. DISINTERMENTS AND CREMATIONS. When a
37 body upon which an inquest ought to have been held has
38 been interred, the medical examiner may cause it to be
39 disinterred for the purpose of holding such
40 inquest. . . .

1 Revised Law

2 Art. 49A.114. WHEN AUTOPSIES REQUIRED; USE OF FACILITIES.

3 (a) The medical examiner, or the medical examiner's authorized
4 deputy, shall immediately perform an autopsy if:

5 (1) in the opinion of the medical examiner an autopsy
6 is necessary; or

7 (2) an autopsy is requested by the district attorney
8 or criminal district attorney or by the county attorney if there is
9 not a district attorney or criminal district attorney.

10 (b) A medical examiner is not required to perform an autopsy
11 on the body of a person whose death was caused by a communicable
12 disease during a public health disaster.

13 (c) In performing an autopsy, the medical examiner or the
14 medical examiner's authorized deputy may use a facility of a
15 municipal or county hospital in the county or any other facility
16 that is made available. (Code Crim. Proc., Art. 49.25, Secs. 9(a)
17 (part), 10 (part).)

18 Source Law

19 [Sec. 9]

20 (a) . . . If in the opinion of the medical
21 examiner an autopsy is necessary, or if such is
22 requested by the district attorney or criminal
23 district attorney, or county attorney where there is
24 no district attorney or criminal district attorney,
25 the autopsy shall be immediately performed by the
26 medical examiner or a duly authorized deputy. . . . In
27 performing an autopsy the medical examiner or
28 authorized deputy may use the facilities of any city or
29 county hospital within the county or such other
30 facilities as are made available. . . .

31 Sec. 10. . . . A medical examiner is not
32 required to perform an autopsy on the body of a
33 deceased person whose death was caused by a
34 communicable disease during a public health disaster.

35 Revised Law

36 Art. 49A.115. LIMITED AUTOPSY. If the medical examiner
37 considers a complete autopsy to be unnecessary to determine a
38 person's cause of death, the medical examiner may perform a limited
39 autopsy by taking blood samples or other samples of body fluids,
40 tissues, or organs, to determine the cause of death or whether a
41 crime has been committed. (Code Crim. Proc., Art. 49.25, Sec. 9(a))

1 (part).)

2 Source Law

3 (a) . . . In those cases where a complete
4 autopsy is deemed unnecessary by the medical examiner
5 to ascertain the cause of death, the medical examiner
6 may perform a limited autopsy involving the taking of
7 blood samples or any other samples of body fluids,
8 tissues or organs, in order to ascertain the cause of
9 death or whether a crime has been committed. . . .

10 Revised Law

11 Art. 49A.116. UNIDENTIFIED BODY: TESTING, REPORTING, AND
12 DISPOSITION. (a) A person investigating an unidentified person's
13 death described by Article 49A.109(a)(3)(B) shall report the death
14 to the missing children and missing persons information
15 clearinghouse of the Department of Public Safety and the National
16 Crime Information Center not later than the 10th working day after
17 the date the investigation began.

18 (b) A person investigating an unidentified person's death
19 described by Article 49A.109(a)(3)(B), or the person's designee,
20 shall enter into the National Missing and Unidentified Persons
21 System information regarding all available identifying features of
22 the unidentified body, including fingerprints, dental records, any
23 unusual physical characteristics, and the clothing found on the
24 body, not later than the earlier of:

25 (1) the 10th working day after the date that one or
26 more identifying features of the unidentified body are determined;
27 or

28 (2) the 60th day after the date the investigation
29 began.

30 (c) If a deceased person's body is unidentified, the medical
31 examiner may authorize any investigative or laboratory test or
32 process required to determine the person's identity and cause of
33 death.

34 (d) To enable a timely and accurate identification of the
35 person, a medical examination on an unidentified person:

36 (1) must include:

37 (A) all available fingerprints and palm prints;

1 (B) dental charts and radiographs, including
2 x-rays, of the teeth;

3 (C) frontal and lateral facial photographs with
4 scale indicated;

5 (D) notation and photographs, with scale
6 indicated, of a significant scar, mark, tattoo, or item of clothing
7 or other personal effect found with or near the body;

8 (E) notation of any antemortem medical
9 condition;

10 (F) notation of any observation relevant to the
11 estimation of time of death; and

12 (G) precise documentation of the body's burial
13 location; and

14 (2) may include:

15 (A) full body radiographs, including x-rays; and

16 (B) hair specimens with roots.

17 (e) On discovering the body or body part of a deceased
18 person in the circumstances described by Article 49A.109(a)(3)(B),
19 the medical examiner may request aid in the examination of the body
20 or body part from a forensic anthropologist who holds a doctoral
21 degree in anthropology with an emphasis in physical
22 anthropology. The forensic anthropologist:

23 (1) shall attempt to establish:

24 (A) whether the body or body part is of a human or
25 animal;

26 (B) whether evidence of childbirth, injury, or
27 disease exists; and

28 (C) the sex, race, age, stature, and physical
29 anomalies of the body or body part; and

30 (2) may attempt to establish the cause, manner, and
31 time of death.

32 (f) A person may not cremate or direct the cremation of an
33 unidentified person's body under Article 49A.118. If the body is
34 buried, the investigating agency responsible for the burial shall

1 record and maintain for a period of at least 10 years all
2 information relating to the body and the burial location. (Code
3 Crim. Proc., Art. 49.25, Secs. 7(b), (d), 9(a) (part), (b), (c),
4 10b, 13.)

5 Source Law

6 [Sec. 7]

7 (b) A person investigating a death described by
8 Subdivision 3(B) of Section 6(a) shall report the
9 death to the missing children and missing persons
10 information clearinghouse of the Department of Public
11 Safety and the national crime information center not
12 later than the 10th working day after the date the
13 investigation began.

14 (d) A person investigating a death described by
15 Section 6(a)(3)(B), or the person's designee, shall,
16 not later than the 10th working day after the date that
17 one or more identifying features of the unidentified
18 body are determined or the 60th day after the date the
19 investigation began, whichever is earlier, enter all
20 available identifying features of the unidentified
21 body (fingerprints, dental records, any unusual
22 physical characteristics, and a description of the
23 clothing found on the body) into the National Missing
24 and Unidentified Persons System.

25 [Sec. 9]

26 (a) . . . In the case of a body of a human being
27 whose identity is unknown, the medical examiner may
28 authorize such investigative and laboratory tests and
29 processes as are required to determine its identity as
30 well as the cause of death. . . .

31 (b) A medical examination on an unidentified
32 person shall include the following information to
33 enable a timely and accurate identification of the
34 person:

35 (1) all available fingerprints and palm
36 prints;

37 (2) dental charts and radiographs (X-rays)
38 of the person's teeth;

39 (3) frontal and lateral facial photographs
40 with scale indicated;

41 (4) notation and photographs, with scale
42 indicated, of a significant scar, mark, tattoo, or
43 item of clothing or other personal effect found with or
44 near the body;

45 (5) notation of antemortem medical
46 conditions;

47 (6) notation of observations pertinent to
48 the estimation of time of death; and

49 (7) precise documentation of the location
50 of burial of the remains.

51 (c) A medical examination on an unidentified
52 person may include the following information to enable
53 a timely and accurate identification of the person:

54 (1) full body radiographs (X-rays); and

55 (2) hair specimens with roots.

56 Sec. 10b. DISPOSAL OF UNIDENTIFIED BODY. If
57 the body of a deceased person is unidentified, a person
58 may not cremate or direct the cremation of the body
59 under this article. If the body is buried, the

1 investigating agency responsible for the burial shall
2 record and maintain for not less than 10 years all
3 information pertaining to the body and the location of
4 burial.

5 Sec. 13. USE OF FORENSIC ANTHROPOLOGIST. On
6 discovering the body or body part of a deceased person
7 in the circumstances described by Subdivision 3(B) of
8 Section 6(a), the medical examiner may request the aid
9 of a forensic anthropologist in the examination of the
10 body or body part. The forensic anthropologist must
11 hold a doctoral degree in anthropology with an
12 emphasis in physical anthropology. The forensic
13 anthropologist shall attempt to establish whether the
14 body or body part is of a human or animal, whether
15 evidence of childbirth, injury, or disease exists, and
16 the sex, race, age, stature, and physical anomalies of
17 the body or body part. The forensic anthropologist
18 may also attempt to establish the cause, manner, and
19 time of death.

20 Revisor's Note

21 Section 10b, Article 49.25, Code of Criminal
22 Procedure, prohibits a person from cremating an
23 unidentified person's body under "this article,"
24 meaning Article 49.25, Code of Criminal Procedure.
25 For clarity and the convenience of the reader, the
26 revised law substitutes "Article 49A.118" for "this
27 article" because the provisions of Article 49.25
28 authorizing cremation are revised as Article 49A.118.

29 Revised Law

30 Art. 49A.117. DUTY TO TAKE CHARGE OF BODY IN ABSENCE OF NEXT
31 OF KIN OR LEGAL REPRESENTATIVE. In the absence of a next of kin or a
32 legal representative of the deceased person, the medical examiner,
33 or the medical examiner's authorized deputy, shall take charge of
34 the person's body and all property found with the body. (Code Crim.
35 Proc., Art. 49.25, Sec. 6(c) (part).)

36 Source Law

37 (c) . . . In the absence of next of kin or legal
38 representatives of the deceased, the medical examiner
39 or authorized deputy shall take charge of the body and
40 all property found with it.

41 Revised Law

42 Art. 49A.118. CREMATION. (a) A body on which an inquest is
43 authorized by this subchapter may not be cremated unless the body is
44 identified and:

1 (1) an autopsy was performed as provided by this
2 subchapter; or

3 (2) an autopsy was not necessary.

4 (b) Before a body may be cremated, the owner or operator of
5 the crematory shall demand, and the medical examiner of the county
6 in which the death occurred shall provide, a certificate that is
7 signed by the medical examiner and that shows:

8 (1) an autopsy was performed on the body; or

9 (2) an autopsy was not necessary.

10 (c) Before providing a certificate under Subsection (b),
11 the medical examiner shall determine whether, from all the
12 circumstances surrounding the death, an autopsy is necessary.

13 (d) The owner or operator of a crematory shall preserve a
14 certificate provided by a medical examiner under this article for a
15 period of two years after the cremation date for the body.

16 (e) An autopsy by the medical examiner is not required as a
17 prerequisite to cremation if the person's death was caused by:

18 (1) Asiatic cholera;

19 (2) bubonic plague;

20 (3) typhus fever; or

21 (4) smallpox. (Code Crim. Proc., Art. 49.25, Sec. 10
22 (part).)

23 Source Law

24 Sec. 10. . . .

25 Before any body, upon which an inquest is
26 authorized by the provisions of this Article, can be
27 lawfully cremated, an autopsy shall be performed
28 thereon as provided in this Article, or a certificate
29 that no autopsy was necessary shall be furnished by the
30 medical examiner. Before any dead body can be
31 lawfully cremated, the owner or operator of the
32 crematory shall demand and be furnished with a
33 certificate, signed by the medical examiner of the
34 county in which the death occurred showing that an
35 autopsy was performed on said body or that no autopsy
36 thereon was necessary. It shall be the duty of the
37 medical examiner to determine whether or not, from all
38 the circumstances surrounding the death, an autopsy is
39 necessary prior to issuing a certificate under the
40 provisions of this section. No autopsy shall be
41 required by the medical examiner as a prerequisite to
42 cremation in case death is caused by the pestilential
43 diseases of Asiatic cholera, bubonic plague, typhus
44 fever, or smallpox. All certificates furnished to the

1 owner or operator of a crematory by any medical
2 examiner, under the terms of this Article, shall be
3 preserved by such owner or operator of such crematory
4 for a period of two years from the date of the
5 cremation of said body. . . .

6 [Sec. 10b. DISPOSAL OF UNIDENTIFIED BODY. If
7 the body of a deceased person is unidentified, a person
8 may not cremate or direct the cremation of the body
9 under this article. . . .]

10 Revisor's Note

11 (1) Section 10, Article 49.25, Code of Criminal
12 Procedure, provides that before a body for which an
13 inquest is authorized by "this Article" may be
14 cremated, an autopsy must be performed on the body as
15 provided by "this Article," and in both instances,
16 "this Article" means Article 49.25, Code of Criminal
17 Procedure. Although one or more provisions of Article
18 49.25, revised substantially as Subchapter C, Chapter
19 49A, are revised in a subchapter other than Subchapter
20 C, the revised law substitutes "this subchapter" for
21 "this Article" in both instances because the
22 provisions specifying the circumstances under which an
23 inquest is authorized and the provisions governing
24 autopsies are revised in Subchapter C.

25 (2) Section 10, Article 49.25, Code of Criminal
26 Procedure, provides that "a certificate that no
27 autopsy was necessary shall be furnished by the
28 medical examiner." The revised law omits the quoted
29 language because it duplicates in substance another
30 provision in Section 10, Article 49.25, Code of
31 Criminal Procedure, revised as Article 49A.118(b) of
32 this chapter.

33 (3) Section 10, Article 49.25, Code of Criminal
34 Procedure, requires the medical examiner to determine
35 whether an autopsy is necessary before issuing a
36 certificate under "the provisions of this section,"
37 meaning Section 10, Article 49.25, Code of Criminal
38 Procedure. For clarity and the convenience of the

1 reader, the revised law substitutes "Subsection (b)"
2 for "the provisions of this section" because the
3 provisions of Section 10, Article 49.25, providing for
4 the issuance of the certificate are revised as
5 Subsection (b) of this article.

6 (4) Section 10, Article 49.25, Code of Criminal
7 Procedure, refers to deaths caused by the
8 "pestilential diseases" of Asiatic cholera, bubonic
9 plague, typhus fever, and smallpox. Throughout this
10 chapter, the revised law omits the quoted language as
11 unnecessary because the list of diseases applies on
12 its own terms and describing them as "pestilential"
13 does not add to the clear meaning of the law.

14 (5) Section 10, Article 49.25, Code of Criminal
15 Procedure, provides that all certificates furnished to
16 the owner or operator of a crematory by a medical
17 examiner under the terms of "this Article," meaning
18 Article 49.25, Code of Criminal Procedure, must be
19 preserved for a certain period. Although the
20 provisions of Article 49.25 are revised in Subchapters
21 C, D, and E of Chapter 49A, the revised law preserves
22 the reference to "this article," meaning Article
23 49A.118 of the revised chapter, because all provisions
24 of Article 49.25 that govern the certificates
25 furnished by a medical examiner to the owner or
26 operator of a crematory are revised in Article
27 49A.118.

28 (6) Section 10b, Article 49.25, Code of Criminal
29 Procedure, prohibits a person from cremating a body
30 unless the body is identified. The revised law repeats
31 in revised Article 49A.118(a) the substance of Section
32 10b, Article 49.25, revised in this chapter as Article
33 49A.116(f), for the convenience of the reader because
34 identification of a body is a prerequisite for the

1 cremation of the body.

2 Revised Law

3 Art. 49A.119. REPORTING CAUSE OF DEATH; KEEPING RECORDS;
4 ISSUING DEATH CERTIFICATES. (a) For each inquest conducted, the
5 medical examiner shall file with the district attorney or criminal
6 district attorney of the county in which the death occurred, or
7 shall file with the county attorney of that county if there is not a
8 district attorney or criminal district attorney, a report stating:

9 (1) if the cause of death is determined beyond a
10 reasonable doubt as a result of the inquest, the specific cause of
11 death; and

12 (2) on completion of an autopsy, if any, the detailed
13 findings of the autopsy.

14 (b) The medical examiner shall:

15 (1) keep full and complete records properly indexed
16 for each person whose death is investigated, which must include:

17 (A) the name, if known;

18 (B) the place where the body was found;

19 (C) the date;

20 (D) the cause and manner of death; and

21 (E) the full report and detailed findings of the
22 autopsy, if any; and

23 (2) issue a death certificate.

24 (c) In any case in which further investigation of a person's
25 death is advisable, the medical examiner shall promptly deliver
26 copies of all records to the proper district, county, or criminal
27 district attorney. (Code Crim. Proc., Art. 49.25, Secs. 9(a)
28 (part), 11(a) (part).)

29 Source Law

30 Sec. 9. AUTOPSY. (a) If the cause of death
31 shall be determined beyond a reasonable doubt as a
32 result of the investigation, the medical examiner
33 shall file a report thereof setting forth specifically
34 the cause of death with the district attorney or
35 criminal district attorney, or in a county in which
36 there is no district attorney or criminal district
37 attorney with the county attorney, of the county in
38 which the death occurred. . . . Upon completion of the

1 autopsy, the medical examiner shall file a report
2 setting forth the findings in detail with the office of
3 the district attorney or criminal district attorney of
4 the county, or if there is no district attorney or
5 criminal district attorney, with the county attorney
6 of the county.

7 Sec. 11. RECORDS. (a) The medical examiner
8 shall keep full and complete records properly indexed,
9 giving the name if known of every person whose death is
10 investigated, the place where the body was found, the
11 date, the cause and manner of death, and shall issue a
12 death certificate. The full report and detailed
13 findings of the autopsy, if any, shall be a part of the
14 record. Copies of all records shall promptly be
15 delivered to the proper district, county, or criminal
16 district attorney in any case where further
17 investigation is advisable. . . .

18 Revisor's Note

19 Section 9(a), Article 49.25, Code of Criminal
20 Procedure, requires the medical examiner to file a
21 report stating the cause of death determined as a
22 result of the investigation and the detailed findings
23 of any autopsy. For the convenience of the reader, the
24 revised law adds "[f]or each inquest conducted,"
25 because it is clear from the context that the medical
26 examiner is required to file a report relating to a
27 death only if the medical examiner conducted an
28 inquest into that death. The revised law also
29 substitutes "inquest" for "investigation" for the
30 reasons stated in Revisor's Note (1) to Article
31 49A.062.

32 Revised Law

33 Art. 49A.120. WITHHOLDING OF RECORDS NOT PERMITTED;
34 EXCEPTIONS. (a) Except as provided by Subsection (b) and subject
35 to a discretionary exception under Chapter 552, Government Code,
36 records described by Article 49A.119(b) may not be withheld.

37 (b) A photograph or x-ray of a body taken during an autopsy
38 is excepted from required public disclosure under Chapter 552,
39 Government Code, unless the photograph or x-ray:

40 (1) is subject to disclosure under a subpoena or under
41 other law; or

42 (2) is of the body of a person who died while in the

1 custody of law enforcement.

2 (c) A governmental body, as defined by Section 552.003,
3 Government Code, may withhold a photograph or x-ray under
4 Subsection (b) without requesting a decision from the attorney
5 general under Subchapter G, Chapter 552, Government Code. This
6 subsection does not affect the disclosure of a photograph or x-ray
7 that is otherwise required by Subsection (b). (Code Crim. Proc.,
8 Art. 49.25, Secs. 11(a) (part), (b).)

9 Source Law

10 (a) . . . The records may not be withheld,
11 subject to a discretionary exception under Chapter
12 552, Government Code, except that a photograph or
13 x-ray of a body taken during an autopsy is excepted
14 from required public disclosure in accordance with
15 Chapter 552, Government Code, but is subject to
16 disclosure:

17 (1) under a subpoena or authority of other
18 law; or

19 (2) if the photograph or x-ray is of the
20 body of a person who died while in the custody of law
21 enforcement.

22 (b) Under the exception to public disclosure
23 provided by Subsection (a), a governmental body as
24 defined by Section 552.003, Government Code, may
25 withhold a photograph or x-ray described by Subsection
26 (a) without requesting a decision from the attorney
27 general under Subchapter G, Chapter 552, Government
28 Code. This subsection does not affect the required
29 disclosure of a photograph or x-ray under Subsection
30 (a)(1) or (2).

31 Revisor's Note

32 Section 11(a), Article 49.25, Code of Criminal
33 Procedure, refers to certain "records" that may not be
34 withheld, subject to certain exceptions. It is clear
35 from the context that the reference to the "records"
36 means the reference to the "full and complete records"
37 in the preceding portion of Section 11(a), Article
38 49.25, that the medical examiner is required to
39 maintain. The portion of Section 11, Article 49.25,
40 that describes those records in detail is revised in
41 this chapter as Article 49A.119(b), and the revised
42 law adds a cross-reference to that provision for the
43 convenience of the reader.

1 Revised Law

2 Art. 49A.121. RELEASE OF CERTAIN RECORDS. (a) A medical
3 examiner may release a copy of an autopsy report of a deceased
4 person to an organ and tissue procurement organization, hospital,
5 or other covered entity, as defined by Section 181.001, Health and
6 Safety Code, that:

7 (1) treated the person before death; or

8 (2) procured an anatomical gift from the body of the
9 person.

10 (b) The release of a report under this article is not
11 considered a disclosure under Chapter 552, Government Code.

12 (c) A report obtained under this article is confidential and
13 not subject to disclosure under Chapter 552, Government Code.
14 (Code Crim. Proc., Art. 49.25, Sec. 11(c).)

15 Source Law

16 (c) The medical examiner may release a copy of
17 an autopsy report of a deceased person to any organ and
18 tissue procurement organization, hospital, or other
19 covered entity as defined by Section 181.001, Health
20 and Safety Code, that treated the deceased person
21 before death or procured any anatomical gift from the
22 body of the deceased person. The release of a report
23 under this subsection is not considered a disclosure
24 under Chapter 552, Government Code. A report obtained
25 under this subsection is confidential and not subject
26 to disclosure under Chapter 552, Government Code.

27 Revised Law

28 Art. 49A.122. FEES. (a) Subject to Subsections (b) and
29 (c), a medical examiner may charge reasonable fees for services
30 provided by the medical examiner's office under this subchapter and
31 Article 49A.251, including cremation approvals, court testimonies,
32 consultations, and depositions.

33 (b) The commissioners court must approve the amount of the
34 fee described by Subsection (a) before the fee may be assessed. The
35 fee may not exceed the amount necessary to provide the services
36 described by that subsection.

37 (c) The fee described by Subsection (a) may not be assessed
38 against the county's district attorney or a county office. (Code
39 Crim. Proc., Art. 49.25, Sec. 13A.)

1 Source Law

2 Sec. 13A. FEES. (a) A medical examiner may
3 charge reasonable fees for services provided by the
4 office of medical examiner under this article,
5 including cremation approvals, court testimonies,
6 consultations, and depositions.

7 (b) The commissioners court must approve the
8 amount of the fee before the fee may be assessed. The
9 fee may not exceed the amount necessary to provide the
10 services described by Subsection (a).

11 (c) The fee may not be assessed against the
12 county's district attorney or a county office.

13 Revisor's Note

14 Section 13A, Article 49.25, Code of Criminal
15 Procedure, authorizes a medical examiner to charge
16 reasonable fees for services provided by the medical
17 examiner's office under "this article," meaning
18 Article 49.25, Code of Criminal Procedure. The
19 revised law substitutes "this subchapter and Article
20 49A.251" for "this article" because the provisions
21 authorizing the medical examiner to provide services
22 are revised in Subchapter C and Article 49A.251.

23 Revised Law

24 Art. 49A.123. GENERAL CRIMINAL OFFENSE. (a) A person
25 commits an offense if the person knowingly violates this
26 subchapter.

27 (b) An offense under this article is a Class B misdemeanor.
28 (Code Crim. Proc., Art. 49.25, Sec. 14.)

29 Source Law

30 Sec. 14. PENALTY. (a) A person commits an
31 offense if the person knowingly violates this article.

32 (b) An offense under this section is a Class B
33 misdemeanor.

34 Revisor's Note

35 Section 14, Article 49.25, Code of Criminal
36 Procedure, provides a criminal penalty if a person
37 knowingly violates "this article," meaning Article
38 49.25, Code of Criminal Procedure. One or more
39 provisions of Article 49.25, revised substantially as
40 Subchapter C, Chapter 49A, are revised in a subchapter

1 other than Subchapter C. To preserve the applicability
2 of the offense to those provisions, the revised law
3 repeats the offense in each article of Chapter 49A that
4 was originally derived from Article 49.25 but is
5 revised in a subchapter other than Subchapter C,
6 Chapter 49A.

7 SUBCHAPTER D. INVESTIGATIONS AND REPORTS OF CERTAIN DEATHS BY
8 OTHER OFFICIALS

9 Revised Law

10 Art. 49A.151. COUNTY SERVED BY JUSTICE OF THE PEACE: NOTICE
11 AND REPORT OF DEATH OCCURRING IN INSTITUTION. (a) For the purposes
12 of this article, "institution" does not include a hospital.

13 (b) A superintendent or general manager of an institution
14 who is required by Article 49A.053 to report to a justice of the
15 peace the death of a person under the care, custody, or control of
16 or residing in the institution shall:

17 (1) within 24 hours after the death of a person, notify
18 the office of the attorney general of the person's death; and

19 (2) within 72 hours after the death of a person,
20 prepare and submit to the office of the attorney general a report
21 containing all facts relevant to the person's death.

22 (c) The superintendent or general manager shall make a good
23 faith effort to obtain all facts relevant to a person's death and to
24 include those facts in the report submitted under Subsection
25 (b)(2).

26 (d) The office of the attorney general may investigate each
27 death reported to the office by an institution that receives
28 payments through the medical assistance program under Chapter 32,
29 Human Resources Code.

30 (e) Subject to Subsection (f), the office of the attorney
31 general shall make a report submitted under Subsection (b)(2)
32 available to any interested person who submits a written request
33 for access to the report.

34 (f) The office of the attorney general may deny a person

1 access to the report or part of the report if the office determines
2 that the report or part of the report is:

- 3 (1) privileged from discovery; or
- 4 (2) exempt from required public disclosure under
5 Chapter 552, Government Code. (Code Crim. Proc., Arts. 49.24(a),
6 (b), (c), (d), (e), (g).)

7 Source Law

8 Art. 49.24. NOTIFICATION AND REPORT OF DEATH OF
9 RESIDENT OF INSTITUTION. (a) A superintendent or
10 general manager of an institution who is required by
11 Article 49.04 to report to a justice of the peace the
12 death of an individual under the care, custody, or
13 control of or residing in the institution shall:

14 (1) notify the office of the attorney
15 general of the individual's death within 24 hours of
16 the death; and

17 (2) prepare and submit to the office of the
18 attorney general a report containing all facts
19 relevant to the individual's death within 72 hours of
20 the death.

21 (b) The superintendent or general manager of the
22 institution shall make a good faith effort to obtain
23 all facts relevant to an individual's death and to
24 include those facts in the report submitted under
25 Subsection (a)(2).

26 (c) The office of the attorney general may
27 investigate each death reported to the office by an
28 institution that receives payments through the medical
29 assistance program under Chapter 32, Human Resources
30 Code.

31 (d) Except as provided by Subsection (e), the
32 office of the attorney general shall make a report
33 submitted under Subsection (a)(2) available to any
34 interested person who submits a written request for
35 access to the report.

36 (e) The office of the attorney general may deny
37 a person access to a report or a portion of a report
38 filed under Subsection (a)(2) if the office determines
39 that the report or a portion of the report is:

- 40 (1) privileged from discovery; or
- 41 (2) exempt from required public disclosure
42 under Chapter 552, Government Code.

43 (g) For the purposes of this article, the
44 definition of "institution" excludes hospitals.

45 Revisor's Note

46 (1) Article 49.24(a), Code of Criminal
47 Procedure, requires a superintendent or general
48 manager of an institution who is required to report a
49 death occurring under certain circumstances to a
50 justice of the peace under "Article 49.04," meaning
51 Article 49.04, Code of Criminal Procedure, to also

1 submit a report of that death to the office of the
2 attorney general. The revised law substitutes
3 "Article 49A.053" for "Article 49.04" because the
4 provisions of Article 49.04 specifying the
5 circumstances under which the superintendent or
6 general manager is required to make a report to a
7 justice of the peace are revised in Article 49A.053.
8 Notwithstanding Revisor's Note (1) to Article 49A.051,
9 the revised law does not repeat in this article the
10 substance of Article 49.02, Code of Criminal
11 Procedure, revised in this chapter as Article 49A.051,
12 because, as described in this note, the duty to report
13 a death to the office of the attorney general under the
14 revised article is conditioned on the duty to report a
15 death to the justice of the peace under Article
16 49A.053. Because the applicability of Article 49A.053
17 to a county is determined under Article 49A.051, the
18 repetition of the substance of Article 49A.051 in this
19 article is unnecessary.

20 (2) Article 49.24(f), Code of Criminal
21 Procedure, provides that a superintendent or general
22 manager of an institution is not relieved of the duty
23 of making any other notification or report as required
24 by law. The revised law omits that provision as
25 unnecessary because any other law imposing a duty to
26 give notice or to make a report of a person's death
27 applies on its own terms. The omitted law reads:

28 (f) This article does not relieve a
29 superintendent or general manager of an
30 institution of the duty of making any other
31 notification or report of an individual's
32 death as required by law.

33 Revised Law

34 Art. 49A.152. COUNTY SERVED BY MEDICAL EXAMINER: NOTICE AND
35 REPORT OF DEATH OCCURRING IN INSTITUTION; OFFENSE. (a) A
36 superintendent or general manager of an institution who reports a

1 death that occurred under circumstances described by Article
2 49A.109(a) to a medical examiner's office or a municipal or county
3 police department must comply with the notice and reporting
4 requirements of Article 49A.151.

5 (b) The office of the attorney general has the same powers
6 and duties provided to the office under Article 49A.151 regarding
7 the dissemination and investigation of the report.

8 (c) A person commits an offense if the person knowingly
9 violates this article. An offense under this subsection is a Class B
10 misdemeanor. (Code Crim. Proc., Art. 49.25, Secs. 7(c), 14.)

11 Source Law

12 [Sec. 7. REPORTS OF DEATH. (a) Any . . .
13 superintendent or general manager of an institution,
14 . . . who shall become aware of a death under any of
15 the circumstances set out in Section 6(a) of this
16 Article, shall immediately report such death to the
17 office of the medical examiner or to the city or county
18 police departments;]

19 (c) A superintendent or general manager of an
20 institution who reports a death under Subsection (a)
21 must comply with the notice and reporting requirements
22 of Article 49.24. The office of the attorney general
23 has the same powers and duties provided the office
24 under that article regarding the dissemination and
25 investigation of the report.

26 Sec. 14. PENALTY. (a) A person commits an
27 offense if the person knowingly violates this article.

28 (b) An offense under this section is a Class B
29 misdemeanor.

30 Revisor's Note

31 Section 7(c), Article 49.25, Code of Criminal
32 Procedure, requires a superintendent or general
33 manager of an institution who reports a death under
34 "Subsection (a)," meaning Section 7(a), Article 49.25,
35 Code of Criminal Procedure, to comply with the notice
36 and reporting requirements of Article 49.24, Code of
37 Criminal Procedure. For the convenience of the reader,
38 the revised law substitutes the substance of Section
39 7(a), revised as Article 49A.110(a) of this chapter,
40 for "reports a death under Subsection (a)."

1 Revised Law

2 Art. 49A.153. COUNTY SERVED BY JUSTICE OF THE PEACE:
3 INVESTIGATION AND REPORT OF DEATH OCCURRING WHILE CONFINED OR IN
4 PEACE OFFICER CUSTODY. (a) In this article:

5 (1) "Correctional facility" means a confinement
6 facility or halfway house operated by or under contract with the
7 Texas Department of Criminal Justice.

8 (2) "In the custody of a peace officer" means:

9 (A) under arrest by a peace officer; or

10 (B) under the physical control or restraint of a
11 peace officer.

12 (3) "State juvenile facility" means any facility or
13 halfway house:

14 (A) operated by or under contract with the Texas
15 Juvenile Justice Department; or

16 (B) described by Section 51.02(13) or (14),
17 Family Code.

18 (b) This article applies to the inquest into a death
19 occurring in a county described by Article 49A.051.

20 (c) If a person dies while in the custody of a peace officer
21 or as a result of a peace officer's use of force or if a person
22 confined in a jail, correctional facility, or state juvenile
23 facility dies, the director of the law enforcement agency of which
24 the officer is a member or of the facility in which the person was
25 confined shall:

26 (1) not later than the 30th day after the date on which
27 the person died, investigate the death and file a written report of
28 the cause of death with the attorney general; and

29 (2) make a good faith effort to obtain all facts
30 relevant to the death and include those facts in the report
31 described by Subdivision (1).

32 (d) The attorney general shall make the report available to
33 any interested person but may exclude any part of the report that
34 the attorney general determines is privileged.

1 (e) Subsections (c) and (d) do not apply if a person's death
2 occurs under circumstances described by Section 501.055(b)(2),
3 Government Code, in a facility operated by or under contract with
4 the Texas Department of Criminal Justice. (Code Crim. Proc., Arts.
5 49.02, 49.18(b), (c) (part), (d).)

6 Source Law

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

11 [Art. 49.18]

12 (b) If a person dies while in the custody of a
13 peace officer or as a result of a peace officer's use of
14 force or if a person incarcerated in a jail,
15 correctional facility, or state juvenile facility
16 dies, the director of the law enforcement agency of
17 which the officer is a member or of the facility in
18 which the person was incarcerated shall investigate
19 the death and file a written report of the cause of
20 death with the attorney general no later than the 30th
21 day after the date on which the person in custody or
22 the incarcerated person died. The director shall make
23 a good faith effort to obtain all facts relevant to the
24 death and include those facts in the report. The
25 attorney general shall make the report, with the
26 exception of any portion of the report that the
27 attorney general determines is privileged, available
28 to any interested person.

29 (c) . . . Subsection (b) does not apply to a
30 death that occurs in a facility operated by or under
31 contract with the Texas Department of Criminal Justice
32 if the death occurs under circumstances described by
33 Section 501.055(b)(2), Government Code.

34 (d) In this article:

35 (1) "Correctional facility" means a
36 confinement facility or halfway house operated by or
37 under contract with any division of the Texas
38 Department of Criminal Justice.

39 (2) "In the custody of a peace officer"
40 means:

41 (A) under arrest by a peace officer;
42 or

43 (B) under the physical control or
44 restraint of a peace officer.

45 (3) "State juvenile facility" means any
46 facility or halfway house:

47 (A) operated by or under contract
48 with the Texas Juvenile Justice Department; or

49 (B) described by Section 51.02(13) or
50 (14), Family Code.

51 Revisor's Note

52 Article 49.02, Code of Criminal Procedure,
53 revised in this chapter as Article 45A.051, limits the
54 applicability of Subchapter A, Chapter 49, Code of
55 Criminal Procedure, to inquests into deaths occurring

1 in certain counties. Because Article 49.18, Code of
2 Criminal Procedure, revised substantially as this
3 article, was originally included in Subchapter A, the
4 limitation of Article 49.02 applies. Accordingly, the
5 revised law adds a cross-reference to Article 49A.051
6 in Subsection (a) of the revised article.

7 SUBCHAPTER E. INFORMED CONSENT FOR POSTMORTEM EXAMINATION OR
8 AUTOPSY IN ALL COUNTIES

9 Revised Law

10 Art. 49A.201. APPLICABILITY. This subchapter does not
11 apply to an autopsy that:

12 (1) is ordered by the Texas Department of Criminal
13 Justice or an authorized official of the department in accordance
14 with Section 501.055(d), Government Code; or

15 (2) a justice of the peace or medical examiner
16 determines is required under this chapter or other law. (Code Crim.
17 Proc., Art. 49.31.)

18 Source Law

19 Art. 49.31. APPLICABILITY. This subchapter
20 does not apply to an autopsy that:

21 (1) is ordered by the Texas Department of
22 Criminal Justice or an authorized official of the
23 department in accordance with Section 501.055,
24 Government Code; or

25 (2) a justice of the peace or medical
26 examiner determines is required under this chapter or
27 other law.

28 Revisor's Note

29 Article 49.31, Code of Criminal Procedure,
30 provides that Subchapter C, Chapter 49, does not apply
31 to certain autopsies, including autopsies ordered in
32 accordance with "Section 501.055, Government Code."
33 The provision requiring an autopsy to be ordered is
34 Subsection (d), Section 501.055, Government Code, and
35 the revised law adds a cross-reference to that
36 subsection for the convenience of the reader.

37 Revised Law

38 Art. 49A.202. INFORMED CONSENT TO POSTMORTEM EXAMINATION OR

1 AUTOPSY REQUIRED. (a) Except as provided by Subsection (b), a
2 physician may not perform, or assist in the performance of, a
3 postmortem examination or autopsy on the body of a deceased person
4 unless the physician obtains the written informed consent of a
5 person authorized to provide consent under Article 49A.203. The
6 consent must be provided on the form prescribed under Article
7 49A.204.

8 (b) If, after exercising due diligence, a physician is
9 unable to identify or contact a person authorized under Article
10 49A.203 to give consent to a postmortem examination or autopsy on
11 the body of a deceased person, the physician may perform the
12 examination or autopsy. The physician must:

13 (1) be authorized by a medical examiner, justice of
14 the peace, or county judge, as appropriate, to perform the
15 postmortem examination or autopsy; and

16 (2) perform the postmortem examination or autopsy not
17 less than 24 hours and not more than 48 hours from the time:

18 (A) of the deceased person's death; or

19 (B) the physician or other person took possession
20 of the body. (Code Crim. Proc., Art. 49.32.)

21 Source Law

22 Art. 49.32. CONSENT TO POSTMORTEM EXAMINATION
23 OR AUTOPSY. (a) Except as provided by Subsection (b)
24 of this article, a physician may not perform, or assist
25 in the performance of, a postmortem examination or
26 autopsy on the body of a deceased person unless the
27 physician obtains the written informed consent of a
28 person authorized to provide consent under Article
29 49.33 of this code. The consent must be provided on
30 the form prescribed under Article 49.34 of this code.

31 (b) If, after due diligence, a physician is
32 unable to identify or contact a person authorized to
33 give consent under Article 49.33 of this code, the
34 physician may, as authorized by a medical examiner,
35 justice of the peace, or county judge, as appropriate,
36 perform a postmortem examination or autopsy on the
37 body of a deceased person not less than 24 hours and
38 not more than 48 hours from the time of the decedent's
39 death or the time the physician or other person took
40 possession of the body.

41 Revised Law

42 Art. 49A.203. PERSONS AUTHORIZED TO CONSENT TO POSTMORTEM
43 EXAMINATION OR AUTOPSY. (a) Subject to Subsections (b) and (c),

1 consent for a postmortem examination or autopsy may be given by any
2 member of the following classes of persons who is reasonably
3 available, in the following order of priority:

4 (1) the spouse of the decedent;

5 (2) the person acting as guardian of the person of the
6 decedent at the time of death or the executor or administrator of
7 the decedent's estate;

8 (3) the adult children of the decedent;

9 (4) the parents of the decedent; and

10 (5) the adult siblings of the decedent.

11 (b) If two or more members of a class listed in Subsection
12 (a)(2), (3), (4), or (5) are entitled to give consent to a
13 postmortem examination or autopsy, consent may be given by one
14 member of the class unless another member of the class files an
15 objection with the physician, medical examiner, justice of the
16 peace, or county judge. If an objection is filed, the consent may
17 be given only by a majority of the members of the class who are
18 reasonably available.

19 (c) A person may not give consent under this article if, at
20 the time of the decedent's death, a person in a class granted higher
21 priority under Subsection (a) is reasonably available to give
22 consent or to file an objection to a postmortem examination or
23 autopsy. (Code Crim. Proc., Art. 49.33.)

24 Source Law

25 Art. 49.33. PERSONS AUTHORIZED TO CONSENT TO
26 POSTMORTEM EXAMINATION OR AUTOPSY. (a) Subject to
27 Subsections (b) and (c) of this article, consent for a
28 postmortem examination or autopsy may be given by any
29 member of the following classes of persons who is
30 reasonably available, in the order of priority listed:

31 (1) the spouse of the decedent;

32 (2) the person acting as guardian of the
33 person of the decedent at the time of death or the
34 executor or administrator of the decedent's estate;

35 (3) the adult children of the decedent;

36 (4) the parents of the decedent; and

37 (5) the adult siblings of the decedent.

38 (b) If there is more than one member of a class
39 listed in Subsection (a)(2), (3), (4), or (5) of this
40 article entitled to give consent to a postmortem
41 examination or autopsy, consent may be given by a
42 member of the class unless another member of the class
43 files an objection with the physician, medical

1 examiner, justice of the peace, or county judge. If
2 an objection is filed, the consent may be given only by
3 a majority of the members of the class who are
4 reasonably available.

5 (c) A person may not give consent under this
6 article if, at the time of the decedent's death, a
7 person in a class granted higher priority under
8 Subsection (a) of this article is reasonably available
9 to give consent or to file an objection to a postmortem
10 examination or autopsy.

11 Revised Law

12 Art. 49A.204. POSTMORTEM EXAMINATION OR AUTOPSY CONSENT
13 FORM. The commissioner of state health services, in consultation
14 with the Texas Medical Board, shall prescribe a standard written
15 consent form for a postmortem examination or autopsy. The form
16 must:

17 (1) include the name of the institution and the
18 department of the institution that will perform the examination or
19 autopsy;

20 (2) include a statement that the removal from the
21 deceased person's body and retention by the physician of organs,
22 fluids, prosthetic devices, or tissue may be required for purposes
23 of comprehensive evaluation or accurate determination of a cause of
24 death;

25 (3) provide the family of the deceased person with an
26 opportunity to place restrictions or special limitations on the
27 examination or autopsy;

28 (4) include a separate section regarding the
29 disposition of organs, fluids, prosthetic devices, or tissue after
30 the examination or autopsy, including a prioritized list of the
31 persons authorized to control that disposition, as provided by
32 Chapter 692A, Health and Safety Code;

33 (5) provide for documented and witnessed consent;

34 (6) allow authorization for the release of the
35 deceased person's remains to a funeral home or individual
36 designated by the person giving consent for the postmortem
37 examination or autopsy;

38 (7) include information regarding the rights
39 described by Article 49A.205;

1 (8) list the circumstances under which a medical
2 examiner is required by law to conduct an inquest or autopsy under
3 Subchapter C;

4 (9) include a statement that the form is required by
5 state law; and

6 (10) be written in plain language designed to be
7 easily understood by the average person. (Code Crim. Proc., Art.
8 49.34.)

9 Source Law

10 Art. 49.34. POSTMORTEM EXAMINATION OR AUTOPSY
11 CONSENT FORM. The commissioner of state health
12 services, in consultation with the Texas Medical
13 Board, shall prescribe a standard written consent form
14 for a postmortem examination or autopsy. The form
15 must:

16 (1) include the name of the hospital or
17 other institution and the department that will perform
18 the examination or autopsy;

19 (2) include a statement that the removal
20 from the deceased person's body and retention by the
21 physician of organs, fluids, prosthetic devices, or
22 tissue may be required for purposes of comprehensive
23 evaluation or accurate determination of a cause of
24 death;

25 (3) provide the family of the deceased
26 person with an opportunity to place restrictions or
27 special limitations on the examination or autopsy;

28 (4) include a separate section regarding
29 the disposition of organs, fluids, prosthetic devices,
30 or tissue after the examination or autopsy, including
31 a prioritized list of the persons authorized to
32 control that disposition, as provided by Chapter 692A,
33 Health and Safety Code;

34 (5) provide for documented and witnessed
35 consent;

36 (6) allow authorization for the release of
37 human remains to a funeral home or individual
38 designated by the person giving consent for the
39 postmortem examination or autopsy;

40 (7) include information regarding the
41 rights described by Article 49.35 of this code;

42 (8) list the circumstances under which a
43 medical examiner is required by law to conduct an
44 investigation, inquest, or autopsy under Article 49.25
45 of this code;

46 (9) include a statement that the form is
47 required by state law; and

48 (10) be written in plain language designed
49 to be easily understood by the average person.

50 Revisor's Note

51 Article 49.34(8), Code of Criminal Procedure,
52 requires the consent form for a postmortem examination
53 or autopsy to list circumstances under which a medical

1 examiner is required "under Article 49.25," meaning
2 Article 49.25, Code of Criminal Procedure, to conduct
3 an "investigation, inquest, or autopsy." Although one
4 or more provisions of Article 49.25, revised
5 substantially as Subchapter C, Chapter 49A, are
6 revised in a subchapter other than Subchapter C, the
7 revised law substitutes "Subchapter C" for "Article
8 49.25" because the provisions requiring a medical
9 examiner to conduct an inquest or autopsy are revised
10 in Subchapter C. The revised law also omits
11 "investigation" for the reason stated in the revisor's
12 note to Article 49A.111.

13 Revised Law

14 Art. 49A.205. RIGHT TO NONAFFILIATED PHYSICIAN REVIEWING OR
15 PERFORMING AUTOPSY. (a) A person authorized to consent to a
16 postmortem examination or autopsy of a decedent under Article
17 49A.203 may request that a physician who is not affiliated with the
18 institution where the death occurred:

19 (1) perform the postmortem examination or autopsy at
20 another institution; or

21 (2) review the postmortem examination or autopsy
22 conducted by a physician affiliated with the institution where the
23 death occurred.

24 (b) A representative of the institution shall inform the
25 person described by Subsection (a) of the person's right to request
26 the performance or review of a postmortem examination or autopsy by
27 a nonaffiliated physician under Subsection (a) before the person
28 consents to the postmortem examination or autopsy.

29 (c) A person who requests a nonaffiliated physician to
30 perform or review a postmortem examination or autopsy shall bear
31 the additional costs incurred as a result of the nonaffiliated
32 physician's performance or review of the examination or autopsy
33 under Subsection (a). (Code Crim. Proc., Art. 49.35.)

1 Source Law

2 Art. 49.35. RIGHT TO NONAFFILIATED PHYSICIAN.
3 (a) A person authorized to consent to a postmortem
4 examination or autopsy under Article 49.33 of this
5 code may request that a physician who is not affiliated
6 with the hospital or other institution where the
7 deceased person died:

8 (1) perform the postmortem examination or
9 autopsy at another hospital or institution; or

10 (2) review the postmortem examination or
11 autopsy conducted by a physician affiliated with the
12 hospital or other institution where the deceased
13 person died.

14 (b) A representative of the hospital or other
15 institution shall inform the person of the person's
16 right to request the performance or review of a
17 postmortem examination or autopsy by a nonaffiliated
18 physician under Subsection (a) before the person
19 consents to the postmortem examination or autopsy.

20 (c) A person requesting a nonaffiliated
21 physician to perform or review a postmortem
22 examination or autopsy shall bear the additional costs
23 incurred as a result of the nonaffiliated physician's
24 performance or review of the examination or autopsy
25 under Subsection (a) of this article.

26 SUBCHAPTER F. MISCELLANEOUS PROVISIONS APPLICABLE IN ALL COUNTIES

27 Revised Law

28 Art. 49A.251. WAITING PERIOD BEFORE CREMATION; OFFENSE.

29 (a) The body of a deceased person may not be cremated within 48
30 hours after the time of death as indicated on the death certificate,
31 unless:

32 (1) the death certificate indicates death was caused
33 by:

34 (A) Asiatic cholera;

35 (B) bubonic plague;

36 (C) typhus fever; or

37 (D) smallpox; or

38 (2) the time requirement is waived in writing by the
39 medical examiner or, in counties not having a medical examiner, a
40 justice of the peace.

41 (b) In a public health disaster, the Department of State
42 Health Services may designate additional communicable diseases for
43 which cremation within 48 hours after the time of death is
44 authorized.

45 (c) A person commits an offense if the person knowingly

1 violates this article. An offense under this subsection is a Class
2 B misdemeanor. (Code Crim. Proc., Art. 49.25, Secs. 10a, 14.)

3 Source Law

4 Sec. 10a. WAITING PERIOD BETWEEN DEATH AND
5 CREMATION. The body of a deceased person shall not be
6 cremated within 48 hours after the time of death as
7 indicated on the regular death certificate, unless the
8 death certificate indicates death was caused by the
9 pestilential diseases of Asiatic cholera, bubonic
10 plague, typhus fever, or smallpox, or unless the time
11 requirement is waived in writing by the county medical
12 examiner or, in counties not having a county medical
13 examiner, a justice of the peace. In a public health
14 disaster, the commissioner of public health may
15 designate other communicable diseases for which
16 cremation within 48 hours of the time of death is
17 authorized.

18 Sec. 14. PENALTY. (a) A person commits an
19 offense if the person knowingly violates this article.

20 (b) An offense under this section is a Class B
21 misdemeanor.

22 Revisor's Note

23 (1) Section 10a, Article 49.25, Code of Criminal
24 Procedure, refers to a "regular death certificate."
25 Before the adoption of the Health and Safety Code, the
26 law referred to the form required for death
27 certificates prescribed by the predecessor agency of
28 the Department of State Health Services as the
29 "standard certificate of death." See Article 4477,
30 Rule 40a, Vernon's Texas Civil Statutes, as of August
31 31, 1989. The law made similar references to the form
32 required by the department for filing a certificate of
33 fetal death, "standard certificate of fetal death."
34 See Article 4477, Rule 39a, Vernon's Texas Civil
35 Statutes, as of August 31, 1989. With the adoption of
36 the Health and Safety Code by the 71st Legislature, the
37 law omitted these descriptors. See Section 193.001,
38 Health and Safety Code. For consistency in
39 terminology with the law governing death certificates
40 in the Health and Safety Code, the revised law omits
41 the descriptor "regular."

42 (2) Section 10a, Article 49.25, Code of Criminal

1 Procedure, refers to the "commissioner of public
2 health." The revised law substitutes "Department of
3 State Health Services" for the quoted language because
4 Chapters 1 and 837 (S.B. 219 and S.B. 200,
5 respectively), Acts of the 84th Legislature, Regular
6 Session, 2015, abolished the office of the
7 commissioner of public health and transferred the
8 commissioner's general duties related to communicable
9 diseases to the Department of State Health Services.
10 See Sections 3.0003 and 3.0005, Chapter 1 (S.B. 219),
11 Acts of the 84th Legislature, Regular Session, 2015.
12 See Section 531.02013(2), Government Code, as added by
13 Section 1.01, Chapter 837 (S.B. 200), Acts of the 84th
14 Legislature, Regular Session, 2015. See also Section
15 1001.071, Health and Safety Code.

16 Revised Law

17 Art. 49A.252. RIGHT OF PARENT OF DECEASED PERSON TO VIEW
18 PERSON'S BODY. (a) In this article, "parent" has the meaning
19 assigned by Section 160.102, Family Code.

20 (b) Except as otherwise provided by this article, a parent
21 of a deceased person is entitled to view the person's body before a
22 justice of the peace or the medical examiner, as applicable, for the
23 county in which the death occurred assumes control over the body
24 under Subchapter B or C, as applicable. If the person's death
25 occurred at a hospital or other health care facility, the parent may
26 view the body at the hospital or facility.

27 (c) A parent of a deceased person may not view the person's
28 body after the justice of the peace or medical examiner described by
29 Subsection (b) assumes control over the body unless the parent
30 first obtains the consent of the justice of the peace or medical
31 examiner or a person acting on behalf of the justice of the peace or
32 medical examiner.

33 (d) A parent may view the body of a deceased person under
34 this article whose death is determined to be subject to an inquest

1 under Article 49A.053 or 49A.109, as applicable, provided that the
2 viewing is supervised by:

3 (1) if law enforcement has assumed control over the
4 body at the time of the viewing, an appropriate peace officer or,
5 with the officer's consent, a person described by Subdivision (2)
6 or (3);

7 (2) a physician, registered nurse, or licensed
8 vocational nurse; or

9 (3) the justice of the peace or medical examiner or a
10 person acting on behalf of the justice of the peace or medical
11 examiner.

12 (e) During a viewing under this article, a parent of a
13 deceased person whose death is determined to be subject to an
14 inquest under Article 49A.053 or 49A.109 may not have contact with
15 the person's body unless the parent first obtains the consent of the
16 justice of the peace or medical examiner or a person acting on
17 behalf of the justice of the peace or medical examiner.

18 (f) During a viewing under this article, a person may not
19 remove a medical device from or otherwise alter the condition of the
20 body of a deceased person whose death is determined to be subject to
21 an inquest under Article 49A.053 or 49A.109 for purposes of
22 conducting the viewing unless the person first obtains the consent
23 of the justice of the peace or medical examiner or a person acting
24 on behalf of the justice of the peace or medical examiner. (Code
25 Crim. Proc., Arts. 49.51, 49.52.)

26 Source Law

27 Art. 49.51. DEFINITIONS. In this subchapter:

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

30 Art. 49.52. RIGHT OF PARENT OF DECEASED PERSON
31 TO VIEW PERSON'S BODY. (a) Except as provided by
32 Subsection (b) or (c), a parent of a deceased person is
33 entitled to view the person's body before a justice of
34 the peace or the medical examiner, as applicable, for
35 the county in which the death occurred assumes control
36 over the body under Subchapter A or B, as applicable.
37 If the person's death occurred at a hospital or other
38 health care facility, the viewing may be conducted at
39 the hospital or facility.

40 (b) A parent of a deceased person may not view
41 the person's body after a justice of the peace or

1 medical examiner described by Subsection (a) assumes
2 control over the body under Subchapter A or B, as
3 applicable, unless the parent first obtains the
4 consent of the justice of the peace or medical examiner
5 or a person acting on behalf of the justice of the
6 peace or medical examiner.

7 (c) A viewing of the body of a deceased person
8 under this article whose death is determined to be
9 subject to an inquest under Article 49.04 or 49.25, as
10 applicable, must be conducted in compliance with the
11 following conditions:

12 (1) the viewing must be supervised by:

13 (A) if law enforcement has assumed
14 control over the body at the time of the viewing, an
15 appropriate peace officer or, with the officer's
16 consent, a person described by Paragraph (B); or

17 (B) a physician, registered nurse, or
18 licensed vocational nurse or the justice of the peace
19 or the medical examiner or a person acting on behalf of
20 the justice of the peace or medical examiner;

21 (2) a parent of the deceased person may not
22 have contact with the person's body unless the parent
23 first obtains the consent of the justice of the peace
24 or medical examiner or a person acting on behalf of the
25 justice of the peace or medical examiner; and

26 (3) a person may not remove a medical
27 device from the deceased person's body or otherwise
28 alter the condition of the body for purposes of
29 conducting the viewing unless the person first obtains
30 the consent of the justice of the peace or medical
31 examiner or a person acting on behalf of the justice of
32 the peace or medical examiner.

33 Revisor's Note

34 (1) Articles 49.52(a) and (b), Code of Criminal
35 Procedure, govern the right of a deceased person's
36 parent to view the person's body before and after a
37 justice of the peace or a medical examiner assumes
38 control over the body under "Subchapter A or B,"
39 meaning Subchapter A or B, Chapter 49, Code of Criminal
40 Procedure. Although one or more provisions of
41 Subchapter A, revised substantially as Subchapter B,
42 Chapter 49A, are revised in a subchapter other than
43 Subchapter B, the provisions under which a justice of
44 the peace assumes control over a deceased person's body
45 are revised in Subchapter B. Similarly, although one
46 or more provisions of Subchapter B, Chapter 49, Code of
47 Criminal Procedure, revised substantially as
48 Subchapter C, Chapter 49A, are revised in a subchapter
49 other than Subchapter C, the provisions under which a
50 medical examiner assumes control over a deceased

1 person's body are revised in Subchapter C.
2 Accordingly, the revised law substitutes "Subchapter B
3 or C" for "Subchapter A or B."

4 (2) Article 49.52(c), Code of Criminal
5 Procedure, conditions the right of a deceased person's
6 parent to view the person's body if the death is
7 subject to an inquest under "Article 49.04 or 49.25,"
8 meaning Articles 49.04 and 49.25, Code of Criminal
9 Procedure, respectively. Although one or more
10 provisions of Articles 49.04 and 49.25, revised
11 substantially as Articles 49A.053 and 49A.109, are
12 revised in provisions other than Articles 49A.053 and
13 49A.109, the provisions specifying when a death is
14 subject to an inquest by a justice of the peace are
15 revised in Article 49A.053, and the provisions
16 specifying when a death is subject to an inquest by a
17 medical examiner are revised in Article 49A.109.
18 Accordingly, the revised law substitutes "Article
19 49A.053 or 49A.109" for "Article 49.04 or 49.25."