

- SUBJECT:** Entitling a parent to view a deceased child's body before an autopsy
- COMMITTEE:** Judiciary and Civil Jurisprudence — committee substitute recommended
- VOTE:** 9 ayes — Smithee, Farrar, Gutierrez, Hernandez, Laubenberg, Murr, Neave, Rinaldi, Schofield
- 0 nays
- WITNESSES:** For — Bill Gravell, Justices of the Peace and Constables Association Of Texas; Lara McDaniel; (*Registered, but did not testify:* Gina Ferguson, Brazoria County Clerk; Joyce Hudman, County and District Clerks Association; Bobby Gutierrez, Carlos Lopez, Roxanne Nelson, Wayne Mack, Jama Pantel, and Margaret Sawyer, Justices of the Peace and Constables Association of Texas; Joann Assawamatiyanont; Cindy Atkins; Theresa Chamberlain; Paul Hudman)
- Against — (*Registered, but did not testify:* Andrea Schiele, Justices of the Peace and Constables Association of Texas)
- BACKGROUND:** Code of Criminal Procedure, ch. 49 governs inquests upon dead bodies. An inquest is defined as an investigation into the cause and circumstances of a death. Sec. 49.04 determines the circumstances in which an inquest into a death of a person is required, including when a person dies an unnatural death.
- DIGEST:** CSHB 298 would entitle a parent of a deceased child to view a child's body before a justice of the peace or medical examiner assumed control of the body. If the child's death occurred at a hospital or other health care facility, the viewing could take place there.
- A parent of a deceased child would not be allowed to view the child's body after the justice of the peace or medical examiner had assumed control unless the parent first obtained consent from the justice of the peace or medical examiner, or a person acting on their behalf.

If the death of the child was subject to an inquest as determined by the justice of the peace or medical examiner, a viewing of the body would have to be conducted under certain conditions. The viewing would have to be supervised by a physician, registered nurse, licensed vocational nurse, justice of the peace, or the medical examiner. The parent would not be permitted to have contact with the child's body without first obtaining consent from the justice of the peace or medical examiner, or someone acting on their behalf.

A person would be prohibited from removing a medical device from the child's body or otherwise altering the condition of the body for the purposes of the viewing without first obtaining consent from the justice of the peace, medical examiner, or someone acting on their behalf. A person would not be entitled to compensation for performing duties on behalf of a justice of the peace or medical examiner unless compensation was approved by the applicable commissioners court.

The bill would take effect September 1, 2017.

**SUPPORTERS
SAY:**

CSHB 298 would protect a parent's right to view the body of their deceased child and say goodbye before a justice of the peace or medical examiner assumed control of the body, which would help ensure that families are treated respectfully by authorities at an immensely difficult and emotional time.

Currently, in situations in which an inquest has been ordered because a child died an unnatural death, parents can be prohibited from seeing their child's body until after the body has undergone an autopsy. Parents deserve the right to see their child before law enforcement has examined the body.

The committee substitute made changes to the bill as filed to ensure that the proper protections were in place to make sure that a body was not tampered with in a way that could jeopardize an investigation. After a justice of the peace or medical examiner had assumed control of the body, a parent would be supervised by these officials, a person acting on their behalf, or a physician, registered nurse, or licensed vocational nurse

during the viewing. The body could not be touched or altered without the consent of these officials, which would prevent any potential tampering with evidence.

No parent should have to bury their child, but this bill would ensure that families had the right to say goodbye to loved ones in these tragic circumstances.

**OPPONENTS
SAY:**

CSHB 298 appropriately would focus on the rights of parents, but the rights of the deceased, who may have been the victim of wrongdoing, also deserve protection. While the committee substitute would be more effective than the bill as filed in protecting the rights of the deceased by ensuring that the chain of custody for evidence was protected, the state should remain cautious about changing the law in a way that could affect chain-of-custody issues and should ensure that those who might oversee or permit a viewing were narrowly defined.

NOTES:

The committee substitute differs from the bill as filed in that CSHB 298 would allow a parent to have contact with the body of their deceased child if the justice of the peace or medical examiner who had assumed control over the body first gave consent. The committee substitute also would impose these conditions on parents viewing the child's body if the death was under inquest, rather than if the death did not occur at a hospital or other institution.

A companion bill, SB 239 by Campbell, was approved the Senate on April 20.