

BILL ANALYSIS

Senate Research Center

H.B. 2899
By: Crabb (Whitmire)
Criminal Justice
5-16-97
Engrossed

DIGEST

State law relating to the identification of missing children and missing persons is often overlooked because it is in the Human Resources Code. Law enforcement agencies, judges, medical examiners, physicians, dentists, and others involved in identifying missing children and missing persons would be better served if this chapter was transferred to the Code of Criminal Procedure, which is much more accessible. In addition, the statute regarding missing children and persons fails to address several important issues, including the abduction of children in violation of a court order governing custody. Some law enforcement officers mistakenly believe that a warrant must be issued first on the abductor before a missing child report can be made. This misconception prevents or delays the child from being entered into the state clearinghouse on missing children. Failure of physicians to file death certificates after performing postmortem examinations on unidentified bodies constitutes another problem in the law. Death certificates contain important information such as cause of death and the location of the body that can be crucial in the effort to identify missing persons.

H.B. 2899 transfers the statute regarding missing children and persons from the Human Resources Code to the Code of Criminal Procedure. This bill also expands the definition of a missing child and requires a death certificate to be filed with the missing persons clearinghouse when an autopsy is performed on an unidentified body.

PURPOSE

As proposed, C.S.H.B. 2899 provides for the development of information to identify missing children or persons.

RULEMAKING AUTHORITY

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

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 79, Human Resources Code, by transferring to Title 1, Code of Criminal Procedure, and redesignating as Chapter 62, as follows:

CHAPTER 62. MISSING CHILDREN AND MISSING PERSONS

Art. 62.001. DEFINITIONS. Redefines "missing child" to include a child whose whereabouts are unknown to the child's legal custodian, the circumstances of whose absence indicate that the child was taken or retained in violation of the express terms of a court order or judgment governing custody of the child. Redesignated from existing Section 79.001.

Art. 62.002. MISSING CHILDREN AND MISSING PERSONS INFORMATION CLEARINGHOUSE. Redesignated from existing Section 79.002.

Art. 62.003. FUNCTION OF CLEARINGHOUSE. Makes conforming changes. Redesignated from existing Section 79.003.

Art. 62.004. REPORT FORMS. Redesignated from existing Section 79.004.

Art. 62.005. DISTRIBUTION OF INFORMATION. Makes conforming changes. Redesignated from existing Section 79.005.

Art. 62.006. RELEASE OF DENTAL RECORDS. Redesignated from existing Section 79.006.

Art. 62.007. RELEASE OF MEDICAL RECORDS. Redesignated from existing Section 79.0065.

Art. 62.008. MISSING CHILDREN PROGRAM. Makes a conforming change. Redesignated from existing Section 79.007.

Art. 62.009. LAW ENFORCEMENT REQUIREMENTS. Requires a law enforcement agency, not later than the 10th working day after the date the death is reported to the agency, to enter all available identifying features of the unidentified body into the clearinghouse and the national crime information center file. Deletes existing text requiring the law enforcement agency to immediately enter the information. Redesignated from existing Section 79.008.

Art. 62.010. ATTORNEY GENERAL TO REQUIRE COMPLIANCE. Redesignated from existing Section 79.009.

Art. 62.011. MISSING CHILDREN INVESTIGATIONS. Redesignated from existing Section 79.010.

Art. 62.012. REPORT OF INQUIRY. Makes a conforming change. Redesignated from existing Section 79.011.

Art. 62.013. INFORMATION TO CLEARINGHOUSE. Redesignated from existing Section 79.012.

Art. 62.014. CROSS-CHECKING AND MATCHING. Redesignated from existing Section 79.013.

Art. 62.015. AVAILABILITY OF INFORMATION THROUGH OTHER AGENCIES. Redesignated from existing Section 79.014.

Art. 62.016. DONATIONS. Redesignated from existing Section 79.015.

Art. 62.017. CONFIDENTIALITY OF CERTAIN RECORDS. Redesignated from existing Section 79.016.

Art. 62.018. DEATH CERTIFICATES. Requires a physician who performs a postmortem examination on the body of an unidentified person to complete and file a death certificate in accordance with Chapter 193, Health and Safety Code. Requires the physician to note on the certificate the name of the law enforcement agency that submitted the body for examination and to send a copy of the certificate to the clearinghouse not later than a certain date.

SECTION 2. Effective date: September 1, 1997.

SECTION 3. Emergency clause.