

I certify that the attached is a true and correct copy of HOB 1954-115, which was filed of record on MAR 10 1983 and referred to the committee on: Law Enforcement

1983 APR 19 AM 11:35  
HOUSE OF REPRESENTATIVES

*Betty Murray*  
Chief Clerk of the House

FILED MAR 10 1983

By Martinez of Bexar

H B. No. 1954

A BILL TO BE ENTITLED

1

AN ACT

2

relating to reporting requirements imposed on a person having custody of a prisoner who dies while in custody; providing a penalty.

3

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5

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6

SECTION 1. Article 49.08, Code of Criminal Procedure, 1965, is amended to read as follows:

7

8

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

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11

(b) If a person dies while in the custody of a peace officer or if a prisoner dies while confined in a municipal or county jail or in the Texas Department of Corrections, the director of the law enforcement agency of which the officer is a member or of the facility in which the prisoner was confined shall investigate the death and file a written report with the attorney general no later than the 10th day after the day on which the prisoner died. The director shall make a good faith effort to obtain all facts relevant to the death and include those facts in the report. The attorney general shall make the report, with the exception of any portion of the report that he determines is privileged, available to any interested person.

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SECTION 2. Chapter 39, Penal Code, is amended by adding Section 39.022 to read as follows:

1           Sec. 39.022. FAILURE TO REPORT DEATH OF PRISONER. (a) A  
2 person commits an offense if the person is required to conduct an  
3 investigation and file a report by Article 49.08(b), Code of  
4 Criminal Procedure, 1965, and the person fails to investigate the  
5 death, fails to file the report as required, or fails to include in  
6 a filed report facts known or discovered in the investigation.

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

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9 only to a report required to be filed after the death of a prisoner  
10 who dies on or after the effective date of this Act.

11           SECTION 4. This Act takes effect September 1, 1983.

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

1983 APR 22 AM 9:02  
HOUSE OF REPRESENTATIVES

# HOUSE COMMITTEE REPORT

1st Printing

By Martinez of Bexar

H.B. No. 1954

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COMMITTEE AMENDMENT NO. 1

Amend H.B. 1954 as follows:

Page 1, Section 1, Subsection (b), line 16 after "report"  
insert the words "of the cause of death" and line 17 change "10th"  
to "20th".

Hernandez

COMMITTEE REPORT

4/20/83  
(date)

The Honorable Gib Lewis  
Speaker of the House of Representatives

Sir:

We, your COMMITTEE ON LAW ENFORCEMENT, to whom was referred HB 1954 have had the same under consideration and beg to report back with the recommendation that it (measure)

- do pass, without amendment.
- do pass, with amendment(s).
- do pass and be not printed; a Complete Committee Substitute is recommended in lieu of the original measure.

A fiscal note was requested.  yes  no  
 An author's fiscal statement was requested.  yes  no  
 An actuarial analysis was requested.  yes  no

The Committee recommends that this measure be placed on the ~~(Local)~~ or ~~(Consent)~~ Calendar.

This measure  proposes new law.  
 amends existing law.

House Sponsor of Senate Measure \_\_\_\_\_

The measure was reported from Committee by the following vote:

	AYE	NAY	PNV	ABSENT
Keller, Ch.	X			
Hernandez, V.C.	X			
Rudd, C.B.O.	X			
Burnett	X			
Eckels	X			
Granoff	X			
Hightower	X			
Schoolcraft				X
Word	X			

Total  
8 aye  
0 nay  
0 present, not voting  
1 absent

Kay Keller  
 CHAIRMAN  
Reynolds  
 COMMITTEE COORDINATOR

1

BILL ANALYSIS

BACKGROUND:

Upon the occurrence of a prisoners death, the Texas Department of Corrections notifies the family, places the body in a funeral home and requests an autopsy. Depending on the circumstances surrounding the death, TDC will file an investigative report with the appropriate officials.

PURPOSE:

This bill proposes certain regulations in filing a report on a prisoner or persons death while in the custody of a municipal or county jail or in the custody of the Texas Department of Corrections.

SECTION BY SECTION ANALYSIS:

SECTION 1.

Amending Article 49.08, Code of Criminal Procedure, 1965, by amending the Article heading and adding subsection (b).

- The Article heading is amended to read: DEATH IN JAIL OR OTHER CUSTODY.
- (b) - The director of a law enforcement agency or the Texas Department of Corrections shall make a written report of any person or prisoner who dies in the custody of such institutions.
- The report must be filed within 10 days after the death of such persons and submitted to the Attorney General.
- Contents of such reports that is deemed confidential shall be privileged information; all other information will be made available to interested persons.

SECTION 2.

Amending Chapter 39, Texas Penal Code by adding Section 39.022.

- Sec. 39.022 - Failure to conduct appropriate investigations and report such incidences as described and required in Article 49.08(b) Code of Criminal Procedure, 1965, will result in a Class B misdemeanor.

SECTION 3.

- Such reports and investigations are required after the effective date of this Act.

SECTION 4.

- Effective Date of this Act is September 1, 1983.

SECTION 5.

- Emergency Clause.

RULEMAKING AUTHORITY:

It is the Committee's opinion that this bill does not delegate rulemaking authority to any state officer, agency or department.

H.B. 1954  
BY: MARTINEZ, WALTER  
Page 2

SUMMARY OF COMMITTEE ACTION:

Public notice was posted in accordance with the Rules of Procedure of the House of Representatives and a public hearing was held on April 20, 1983. The full committee voted to report H.B. 1954 to the House with one amendment and the recommendation that it do pass by a record vote of 8 ayes and 0 nays. H.B. 1954 was amended by adding cause of death to the report and increased reporting period from 10 days to 20 days.

Testimony was given by Mr. Charles Sullivan, Austin, Texas, in favor of passage.



**LEGISLATIVE BUDGET BOARD**

Austin, Texas

**FISCAL NOTE**

April 15, 1983

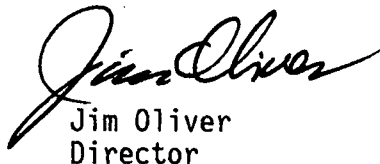
Honorable Ray Keller, Chair  
Committee on Law Enforcement  
House of Representatives  
Austin, Texas

In Re: House Bill No. 1954  
By: W. Martinez

Sir:

In response to your request for a Fiscal Note on House Bill No. 1954 (relating to reporting requirements imposed on a person having custody of a prisoner who dies while in custody) this office has determined the following:

No significant fiscal implication to the State or units of local government is anticipated.



Jim Oliver  
Director

Source: Department of Corrections; Office of the Attorney General;  
Comptroller of Public Accounts; LBB Staff: JO, JH, KH, DM

RECEIVED APR 18 1983

Committee Amendment No. 1

By Hernandez

Amend H.B. 1954 as follows:

Page 1, Section 1, Subsection (b), line 16 after "report"  
insert the words "of the cause of death" and line 17 change  
"10th" to "20th".

**ADOPTED**

MAY 9 1983

*Betty Murray*  
Chief Clerk  
House of Representatives

1983 MAY -9 PM 7: 59

HOUSE OF REPRESENTATIVES

ENGROSSED  
SECOND READING

By Martinez of Bexar

H.B. No. 1954

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14 enforcement agency of which the officer is a member or of the  
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1003 MAY 10 PM 1:01  
HOUSE  
ENGROSSMENT

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**LEGISLATIVE BUDGET BOARD**

Austin, Texas

**FISCAL NOTE**

April 15, 1983

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Committee on Law Enforcement  
House of Representatives  
Austin, Texas

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Director

Source: Department of Corrections; Office of the Attorney General;  
Comptroller of Public Accounts; LBB Staff: JO, JH, KH, DM

RECEIVED APR 18 1983

1 By: Martinez of Bexar (Senate Sponsor - Doggett) H.B. No. 1954  
2 (In the Senate - Received from the House May 10, 1983;  
3 May 11, 1983, read first time and referred to Committee on State  
4 Affairs; May 19, 1983, reported favorably; May 19, 1983, sent to  
5 printer.)

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47 \* \* \* \* \*

48 Austin, Texas  
49 May 19, 1983

50 Hon. William P. Hobby  
51 President of the Senate

52 Sir:

53 We, your Committee on State Affairs to which was referred H.B. No.  
54 1954, have had the same under consideration, and I am instructed to  
55 report it back to the Senate with the recommendation that it do  
56 pass and be printed.

57 Farabee, Chairman



H.B. 1954 by Martinez (Doggett)

Relating to reporting requirements imposed on a person having custody of a prisoner who dies while in custody; providing a penalty.

Background Information:

Upon the occurrence of a prisoner's death, the Texas Department of Corrections notifies the family, places the body in a funeral home and requests an autopsy. Depending on the circumstances surrounding the death, TDC will file an investigative report with the appropriate officials.

Problems that the Bill Addresses:

The death of a person who is in the custody of the State creates potential liability on the part of the State if the death was caused by the negligence of a state employee or official.

How This Bill Will Solve the Problem(s):

It will require that a timely investigation of the circumstances of the death of any person in the custody of law enforcement or corrections officials. The report will be submitted to a centralized authority, the Attorney General, who can review the report for potential liability and determine if there are problems that could be corrected to prevent future deaths.

Section by Section Analysis:

SECTION 1: Amending Article 49.08, Code of Criminal Procedure, 1965, by amending the Article heading and adding subsection (b).

- The Article heading is amended to read: DEATH IN JAIL OR OTHER CUSTODY.
- (b) - The director of a law enforcement agency or the Texas Department of Corrections shall make a written report of any person or prisoner who dies in the custody of such institutions.
- The report must be filed within 20 days after the death of such persons and submitted to the Attorney General.
- Contents of such reports that is deemed confidential shall be privileged information; all other information will be made available to interested persons.

SECTION 2: Amending Chapter 29, Texas Penal Code by adding Section 39.022.

Section 39.022 - Failure to conduct appropriate investigations and report such incidents as described and required in Article 49.08(b) Code of Criminal Procedure, 1965, will result in a Class B misdemeanor.

SECTION 3: Such reports and investigations are required after the effective date of this Act.

SECTION 4: Effective Date of this Act is September 1, 1983.

SECTION 5: Emergency Clause

**LEGISLATIVE BUDGET BOARD**

Austin, Texas

**FISCAL NOTE**

April 15, 1983

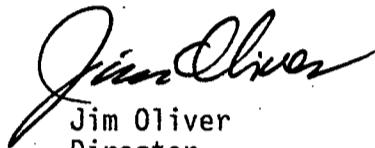
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Source: Department of Corrections; Office of the Attorney General;  
Comptroller of Public Accounts; LBB Staff: JO, JH, KH, DM

RECEIVED APR 18 1983

REQUEST FOR LOCAL & UNCONTESTED CALENDAR  
PLACEMENT

Hon. Roy Blake, Chairman  
Administration Committee

Sir:

Pursuant to S. R. 148, notice is hereby given that H.B. 1954, by: Doggett,  
was heard by the Committee on State Affairs on 5/16, 1983,  
and reported out with the recommendation that it be placed on the Local and Uncontested  
Calendar.

  
Chairman of the reporting committee

**IMPORTANT: THIS FORM MUST BE ATTACHED TO A PRINTED COPY OF THE BILL  
OR RESOLUTION, WHICH ALONG WITH 10 ADDITIONAL COPIES OF THE BILL OR  
RESOLUTION SHOULD BE DELIVERED TO THE OFFICE OF THE COMMITTEE ON  
ADMINISTRATION, ROOM 1008 SAM HOUSTON BUILDING. PLEASE CALL 5-1134  
IF YOU HAVE ANY QUESTIONS. DEADLINE FOR SUBMITTING BILLS FOR THE  
LOCAL CALENDAR IS 4:00 P.M. FRIDAYS.**

Attach white copy of this form to original bill; yellow copy to Reporting Committee; pink copy to Sponsor



ENROLLED

H.B. No. 1954

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---

President of the Senate

---

Speaker of the House

I certify that H.B. No. 1954 was passed by the House on May 10, 1983, by a non-record vote.

---

Chief Clerk of the House

I certify that H.B. No. 1954 was passed by the Senate on May 24, 1983, by a viva-voce vote.

---

Secretary of the Senate

APPROVED: \_\_\_\_\_  
Date

---

Governor

H. B. No. 1954-115

By Martin of Bexar

MAY 10 1983

A BILL TO BE ENTITLED  
AN ACT

relating to reporting requirements imposed on a person having custody of a prisoner who dies while in custody; providing a penalty.

MAR 10 1983

1. Filed with the Chief Clerk.

MAR 29 1983

2. Read first time and Referred to Committee on

Law Enforcement

4-20-83

3. Reported favorably (as amended) and sent to Printer at 5:10 pm APR 21 1983  
(~~as substituted~~)

APR 22 1983

4. Printed and distributed at 9:02 am

APR 22 1983

5. Sent to Committee on Calendars at 9:23 am

MAY 9 1983

6. Read second time (amended) passed to third reading (failed) by (Non-Record Vote)  
(Record Vote of \_\_\_\_\_ years, \_\_\_\_\_ nays, \_\_\_\_\_ present, not voting).

7. Motion to reconsider and table the vote by which H.B. \_\_\_\_\_ was ordered engrossed prevailed (failed) by a (Non-Record Vote) (Record Vote of \_\_\_\_\_ years, \_\_\_\_\_ nays, and \_\_\_\_\_ present, not voting).

8. Constitutional Rule requiring bills to be read on three several days suspended (failed to suspend) by a four-fifths vote of \_\_\_\_\_ years, \_\_\_\_\_ nays, and \_\_\_\_\_ present, not voting.

9. Read third time (amended); finally passed (failed) by (Non-Record Vote) (Record Vote of \_\_\_\_\_ years, \_\_\_\_\_ nays, \_\_\_\_\_ present, not voting).

10. Caption ordered amended to conform to body of bill.

11. Motion to reconsider and table the vote by which H. B. \_\_\_\_\_ was finally passed prevailed (failed) by a (Non-Record Vote) (Record Vote of \_\_\_\_\_ years, \_\_\_\_\_ nays, and \_\_\_\_\_ present, not voting).

MAY 10 1983

12. Ordered Engrossed at 10:29 am

MAY 10 1983

13. Engrossed.

MAY 10 1983

14. Returned to Chief Clerk at 1:01 pm

MAY 10 1983

15. Sent to Senate.

Berty Murray  
Chief Clerk of the House

MAY 10 1983

16. Received from the House

MAY 10 1983

17. Read, referred to Committee on STATE AFFAIRS

MAY 10 1983

18. Reported favorably

19. Reported adversely, with favorable Committee Substitute; Committee Substitute read first time.

20. Ordered not printed.

MAY 24 1983

21. Regular order of business suspended by (a viva voce vote.)  
(27 years, 4 nays.)

1983 MAY -9 PM 7: 59

HOUSE OF REPRESENTATIVES

                     22. To permit consideration, reading and passage, Senate and Constitutional Rules suspended by vote of                      yeas,                      nays.

MAY 24 1983

                     23. Read second time                      passed to third reading by: (a viva voce vote.)  
                     yeas,                      nays.)

                     24. Caption ordered amended to conform to body of bill.

MAY 24 1983

                     25. Senate and Constitutional 3-Day Rules suspended by vote of 26 yeas, 5 nays to place bill on third reading and final passage.

MAY 24 1983

                     26. Read third time and passed by (a viva voce vote.)  
                     yeas,                      nays.)

OTHER ACTION:

OTHER ACTION:

*Betty King*

Secretary of the Senate

5-24-83

                     27. Returned to the House.

MAY 24 1983

                     28. Received from the Senate <sup>(with amendments.)</sup>  
~~(as substituted)~~

                     29. House (Concurred) (Refused to Concur) in Senate <sup>(Amendments)</sup>  
<sup>(Substitute)</sup> by a (Non-Record Vote) (Record Vote of                      yeas,                      nays,                      present, not voting).

                     30. Conference Committee Ordered.

                     31. Conference Committee Report Adopted (Rejected) by a (Non-Record Vote) (Record Vote of                      yeas,                      nays, and                      present, not voting).

MAY 24 1983

                     32. Ordered Enrolled at 1:15 pm

HOUSE OF REPRESENTATIVES

10:10 PM 10 MAY 1983

HOUSE OF REPRESENTATIVES

10:09 AM 22 APR 1983

Handwritten notes and initials on the right margin, including "LE", "CS", and "S".