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.

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

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

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

(b) If a person dies while in the custody of a peace officer
or if a prisoner dies while confined in a municipal or county jail
or in the Texas Department of Corrections, the director of the law
enforcement agency of which the officer is a member or of the
facility in which the prisoner was confined shall investigate the
death and file a written report 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.

SECTION 2. Chapter 39, Penal Code, is amended by adding
Section 39.022 to read as follows:
Sec. 39.022. FAILURE TO REPORT DEATH OF PRISONER. (a) A person commits an offense if the person is required to conduct an investigation and file a report by Article 49.08(b), Code of Criminal Procedure, 1965, and the person fails to investigate the death, fails to file the report as required, or fails to include in a filed report facts known or discovered in the investigation.

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

SECTION 3. The change in the law made by this Act applies only to a report required to be filed after the death of a prisoner who dies on or after the effective date of this Act.

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

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

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crowded condition of the calendars in both houses create an
emergency and an imperative public necessity that the
constitutional rule requiring bills to be read on three several
days in each house be suspended, and this rule is hereby suspended.
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
The Honorable Gib Lewis  
Speaker of the House of Representatives

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

(    ) 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 (    ) or (    ) Calendar.

This measure (    ) proposes new law.  
(    ) amends existing law.

House Sponsor of Senate Measure

The measure was reported from Committee by the following vote:

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<tr>
<th>AYE</th>
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<th>PNV</th>
<th>ABSENT</th>
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Total: 8 aye  
0 nay  
0 present, not voting  
1 absent

[Signature]
CHAIRMAN

[Signature]
COMMITTEE COORDINATOR
H.B. 1954
BY: MARTINEZ, WALTER
COMMITTEE ON LAW ENFORCEMENT

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

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
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

Chief Clerk
House of Representatives
By Martinez of Bexar

H.B. No. 1954

A BILL TO BE ENTITLED

AN ACT

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H.B. No. 1954

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

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

SECTION 3. The change in the law made by this Act applies only to a report required to be filed after the death of a prisoner who dies on or after the effective date of this Act.

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

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

H.B. No. 1954

A BILL TO BE ENTITLED

AN ACT

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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
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.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:
SECTION 1. Article 49.08, Code of Criminal Procedure, 1965, is amended to read as follows:
Art. 49.08. DEATH IN JAIL OR OTHER CUSTODY. (a) The sheriff and every keeper of any prison shall inform such justice of the death of any person confined therein.
        (b) If a person dies while in the custody of a peace officer or if a prisoner dies while confined in a municipal or county jail or in the Texas Department of Corrections, the director of the law enforcement agency of which the officer is a member or of the facility in which the prisoner was confined shall investigate the death and file a written report of the cause of death with the attorney general no later than the 20th day after the day on which the prisoner died. The director shall make a good faith effort to obtain all facts relevant to the death and include those facts in the report. The attorney general shall make the report, with the exception of any portion of the report that he determines is privileged, available to any interested person.
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SECTION 3. The change in the law made by this Act applies only to a report required to be filed after the death of a prisoner who dies on or after the effective date of this Act.
SECTION 4. This Act takes effect September 1, 1983.
SECTION 5. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Austin, Texas
May 19, 1983
Hon. William P. Hobby
President of the Senate
Sir:
We, your Committee on State Affairs to which was referred H.B. No. 1954, have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass and be printed.

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
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Committee on Law Enforcement
House of Representatives
Austin, Texas

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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
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: ,
was heard by the Committee on State Affairs on 5/18, 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
AN ACT

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

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H.B. No. 1954

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

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

SECTION 5. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.
H.B. No. 1954

President of the Senate

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

Speaker of the House

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
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 1 0 1983
1. Filed with the Chief Clerk.

MAR 2 9 1983
2. Read first time and Referred to Committee on Law Enforcement.

APR 2 3 1983
3. Reported favorably (as amended) and sent to Printer at 5:10 p.m.

APR 2 2 1983
4. Printed and distributed at 9:02 a.m.

APR 2 2 1983
5. Sent to Committee on Calendars at 9:23 a.m.

MAY 9 1983
6. Read second time (amended) passed to third reading (failed) by (Non-Record Vote)
   (Record Vote of ______ year, ______ nays, ______ present, not voting).

MAY 9 1983
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 ______ year, ______ nays, and ______ present, not voting).

MAY 9 1983
8. Constitutional Rule requiring bills to be read on three several days suspended (failed to suspend) by a four-fifths vote of ______ year, ______ nays, and ______ present, not voting.

MAY 1 0 1983
9. Read third time (amended); finally passed (failed) by (Non-Record Vote)
   (Record Vote of ______ year, ______ nays, ______ present, not voting).

MAY 1 0 1983
10. Caption ordered amended to conform to body of bill.

MAY 1 0 1983
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 ______ year, ______ nays, and ______ present, not voting).

MAY 1 0 1983
12. Ordered Engrossed at 10:29 a.m.

MAY 1 0 1983
13. Enrolled.

MAY 1 0 1983
14. Returned to Chief Clerk at 1:01 p.m.

MAY 1 0 1983
15. Sent to Senate.

Chief Clerk of the House

MAY 1 0 1983
16. Received from the House.

MAY 1 0 1983
17. Read, referred to Committee on STATE AFFAIRS.

MAY 1 0 1983
18. Reported favorably.

MAY 1 0 1983
19. Reported adversely, with favorable Committee Substitute; Committee Substitute read first time.

MAY 2 4 1983
20. Ordered not printed.

MAY 2 4 1983
21. Regular order of business suspended by (veto vote vote)
   (27 yeas, 4 nays.)
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.)

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

MAY 24 1983

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

MAY 24 1983

26. Read third time and passed by

(a viva voce vote.)

OTHER ACTION: OTHER ACTION:

Secretary of the Senate

5-24-83

27. Returned to the House.

MAY 24 1983

28. Received from the Senate (with amendments.)

MAY 24 1983

29. House (Conceded) (Refused to Concur) in Senate (Amendments) by a (Non-Record Vote) (Record Vote of _________ yeas, _________ nays, _________ present, not voting).

30. Conference Committee Ordered.

MAY 24 1983

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.