

SUBJECT: Limiting circumstances requiring autopsies on children

COMMITTEE: Juvenile Justice and Family Issues — favorable, without amendment

VOTE: 6 ayes — Goodman, Staples, McReynolds, Naishtat, A. Reyna, Williams
0 nays
3 absent — J. Jones, McClendon, Smith

SENATE VOTE: On final passage, Local and Uncontested Calendar — 29-0

WITNESSES: For — John Williams and Patricia Ott, Justice of the Peace and Constable Association of Texas, Inc.
Against — None

BACKGROUND : Family Code Chapter 264 requires deaths of children younger than six years old to be reported to the county medical examiner or justice of the peace, who then must hold an inquest, under rules set up in the Code of Criminal Procedure, to determine if the death was unexpected. Unexpected deaths must be reported to law enforcement authorities. Justices of the peace are required to order autopsies in these circumstances.

DIGEST: SB 502 would require justices of the peace to order autopsies on children younger than six years old only if the death was determined to be unexpected under Family Code Chapter 264 guidelines.

Medical examiners and justices of the peace would not be required to hold an inquest on the death of a child under six years old if the death was expected and due to a congenital or neoplastic disease. Deaths caused by infectious diseases would be considered expected if: (1) the disease was not acquired as a result of a trauma or poisoning; (2) the infectious organism was identified using standard medical procedures; and (3) the death was not reportable to the Texas Health Department under Health and Safety Code regulations requiring reports of communicable diseases.

SB 502 would take effect September 1, 1997.

**SUPPORTERS
SAY:**

SB 502 would address the needs of the the state to keep accurate statistics on the unexplained deaths of children under six years old while eliminating an unnecessary burden on counties to perform autopsies on all children, even when a death was expected.

In 1995, as part of an effort to gather statistics about child mortality, the Legislature required autopsies upon the deaths of all children under six years old. However, the legislation went too far by requiring justices of the peace to order autopsies on children, even if the death was expected. This has resulted in an unnecessary burden on justices of the peace and unnecessary costs to counties to pay for autopsies when the death is expected, the cause is known, and there are no suspicious circumstances. For example, children who die from cancer may die at home, triggering the autopsy requirement. Since most counties do not have medical examiners, they must pay someone else to perform the autopsies, which can cost about \$1,000 each.

SB 502 would meet the needs of the state to gather statistics on unexplained child deaths by continuing to require inquests and autopsies on any unexpected or unexplained death of a child under six years old. Death certificates would still have to be submitted on other deaths so that accurate, complete statistics could be kept.

SB 502 would outline when inquests would not be required, for example, if the child died of a congenital problem present since birth or a neoplastic disease such as cancer. Infectious diseases would be considered expected only under the narrow circumstances outlined in the bill.

Other safeguards would remain in place to ensure that any death could be investigated. Justices of the peace would retain the ability to hold inquests and order autopsies any time they were unsatisfied with the cause of death written on a death certificate, and a doctor could ask for an investigation, even if a death was expected. In addition, law enforcement authorities are usually aware of any death and could trigger the investigatory process.

**OPPONENTS
SAY:**

The state should continue to require justices of the peace to order autopsies on all deaths of children under six years old to ensure that the state has complete and accurate information about these deaths. The state needs these statistics so that it can design programs and policies to reduce child deaths

and to protect the health of children. SB 502 would be a step backward from the state's efforts to examine child deaths in Texas. Children under six years old are the state's most vulnerable population, and their deaths should be carefully monitored.

While some deaths of children may appear to be routine and expected, without an autopsy the cause of death is not certain. In addition, even if the cause of death is known, an autopsy can reveal important information about the events leading to the death. While some deaths appear to be expected, an autopsy could reveal a different story, such as death by abuse or due to an obscure disease.

While the state would be able to continue to gather information from death certificates, these are often incomplete, sketchy or misleading. In addition, sometimes death certificate information is purposely vague to protect a family from stigma that might be attached to the cause of death or is inaccurate because a doctor may not be familiar with the history of the patient. Justices of the peace — who would make the determination about whether a child's death was unexpected — are not required to have any medical training and might not be able to evaluate death certificate information or recognize when an autopsy was necessary. In addition, they might err on the side of ruling a death as expected, since they would have to order an autopsy if the death was ruled unexpected.

The situations in which an inquest would not be required under SB 502 are too broad and could result in the state not receiving adequate information. For example, a death could be considered expected if it was due to an infection. However, without an inquest and subsequent autopsy, there would be no information on how the child acquired the infection or why the child died from it. Children subject to neglect are more vulnerable and may succumb to an infection that a properly nourished child would easily shake off. Without an autopsy, the evidence of neglect could be buried forever.