

are such as to lead to suspicion that the death was caused by unlawful means.<sup>235</sup> If an MFI is suspected to be an infectious disease outbreak, DSHS and its public health partners will coordinate with and provide guidance on the communicable disease investigation to the medico-legal authority.<sup>236</sup> In the event that a justice of the peace who serves the precinct is not available to conduct an inquest, the inquest shall be conducted by the nearest available justice of the peace in the county. If no other justice of the peace serving the county is available, the County Judge shall initiate the inquest.<sup>237</sup>

Another function of the medico-legal authority is to conduct or order the performance of an autopsy.<sup>238</sup> An autopsy is a post-mortem examination of the body to determine the cause of death.<sup>239</sup> An autopsy is not required for every inquest,<sup>240</sup> but an autopsy shall be performed if (1) the medico-legal authority determines that an autopsy is necessary to confirm the cause of death; (2) the deceased was a child younger than six years old and the death was determined to be unexpected or the result of abuse or neglect; or (3) so ordered by the district attorney.<sup>241</sup> A medico-legal authority, however, may not order a person to perform an autopsy on the body of a person whose death was caused by Asiatic cholera, bubonic plague, typhus fever, smallpox, or by a communicable disease during a Public Health Disaster.<sup>242</sup>

A body or a body part that is subject to an inquest must be disposed according to the directions of the medico-legal authority.<sup>243</sup> The medico-legal authority, for example, may order a disinterment if a body or body part subject to an inquest was buried prior to an investigation.<sup>244</sup> Similarly, a body subject to an inquest may not be cremated unless the body is identified and the medico-legal authority has issued a signed certificate stating that an autopsy was performed on the body or that an autopsy was unnecessary.<sup>245</sup> A body generally cannot be cremated within 48 hours after the time of death as indicated on the death certificate but may proceed if the death certificate indicates that death was caused by Asiatic cholera, bubonic plague, typhus fever, smallpox, or if the medico-legal authority waives the requirement in writing.<sup>246</sup> During a Public Health Disaster, the DSHS Commissioner may designate other communicable diseases for which cremation within 48 hours of the time of death is authorized.<sup>247</sup>

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235 TEX. CODE CRIM. PROC. art. 49.04, 49.25 § 6.

236 TEX. DEP'T OF STATE HEALTH SERV., MASS FATALITY MANAGEMENT PLANNING TOOLKIT, 4 (Feb. 2015), <https://www.dshs.state.tx.us/commprep/planning/toolkits/2015-Mass-Fatality-Management-Planning-Toolkit.pdf>.

237 TEX. CODE CRIM. PROC. art. 49.07(c).

238 TEX. CODE CRIM. PROC. art. 49.10.

239 TEX. CODE CRIM. PROC. art. 49.01(1).

240 TEX. CODE CRIM. PROC. art. 49.10(c).

241 TEX. CODE CRIM. PROC. art. 49.10(e).

242 TEX. CODE CRIM. PROC. art. 49.10(d).

243 TEX. CODE CRIM. PROC. art. 49.09.

244 TEX. CODE CRIM. PROC. art. 49.09(a).

245 TEX. CODE CRIM. PROC. art. 49.09(b).

246 TEX. CODE CRIM. PROC. art. 49.25 § 10a.

247 *Id.*