HOUSE RESEARCH ORGANIZATION • TEXAS HOUSE OF REPRESENTATIVES
P.O. Box 2910, Austin, Texas 78768-2910
(512) 463-0752 • http://www.hro.house.state.tx.us

Steering Committee:
Bill Callegari, Chairman
Alma Allen, Vice Chairman

Rafael Anchia		Donna Howard		Eddie Lucio III
Drew Darby	Joe Farias	Susan King	Tryon Lewis	Diane Patrick
Joe Deshotel	Harvey Hilderbran	George Lavender	J.M. Lozano	Joe Pickett

HOUSE RESEARCH ORGANIZATION

daily floor report

Tuesday, May 21, 2013
83rd Legislature, Number 78
The House convenes at 10 a.m.
Part Two

Sixty bills are on the daily calendar for second-reading consideration today. The bills on the General State Calendar analyzed or digested in Part Two of today's *Daily Floor Report* are listed on the following page.

Today is the last day for the House to consider Senate bills and joint resolutions, other than local and consent, on second reading on a daily or supplemental calendar.

Bill Callegari
Chairman
83(R) – 78

HOUSE RESEARCH ORGANIZATION

Daily Floor Report
Tuesday, May 21, 2013
83rd Legislature, Number 78
Part Two

SUBJECT: Allocating certain grants from the fund for veterans' assistance

COMMITTEE: Defense and Veterans' Affairs — favorable, without amendment

VOTE: 8 ayes — Menéndez, R. Sheffield, Collier, Farias, Frank, R. Miller, Moody, Zedler

1 nay — Schaefer

SENATE VOTE: On final passage, April 4 — 30-0

WITNESSES: (On House companion bill, HB 781:)
For — (*Registered, but did not testify:* James Cunningham, Texas Coalition of Veterans Organizations and Military Officers Association of America; Carlos Higgins, Austin Military Officers Association; Phillip Lindner, National Guard Association of Texas; Morgan Little, Texas Coalition of Veterans Organizations; Joe Lovelace, Texas Council of Community Centers; John Miterko, Texas Coalition of Veterans Organizations)

Against — None

On — Robert Norris, Legislative Budget Board; Thomas Palladino, Texas Veterans Commission; (*Registered, but did not testify:* Kathy Wood, Texas Veterans Commission)

BACKGROUND: The Fund for Veterans Assistance is a grants program founded in 2009 and administered by the Texas Veterans Commission that reimburses entities that offer direct services to veterans and their families. Such services include financial assistance, counseling, housing, legal aid, and employment assistance. The fund has awarded $23.8 million in state funds through grants to 74 nonprofits and local governments.

The Legislative Budget Board in its "Government Effectiveness and Efficiency Report" submitted to the 83rd Legislature recommended a statutory change that would require the Texas Veterans Commission to perform a needs assessment that would direct the allocation of grants from the Fund for Veterans Assistance. The needs assessment would be

conducted every two years and incorporated into the fund's grant award decision-making process.

DIGEST:

SB 664 would require the Texas Veterans Commission to conduct an assessment every two years by May 1 beginning in 2014 that would identify the specific high-priority needs of veterans and the services available through the Fund for Veterans Assistance to address those needs. The commission would determine the grant categories that matched the high-priority needs and identify the gaps between veterans' needs and services.

The results and determinations of the assessment would inform the priorities and process of awarding grants.

The bill would take effect September 1, 2013.

SUPPORTERS SAY:

SB 664 would illuminate any gaps between the services provided to the state's veterans and the unmet needs that could be addressed by the Fund for Veterans Assistance.

The fund awards reimbursement grants to nonprofits and local governments that aid veterans with financial assistance, housing, legal assistance, and other services. The current process for awarding grants is thoroughly vetted, and the services that receive funding are well researched by an effective network of commission employees and veterans' advocates.

The bill would help the fund gather more information so that it more efficiently could direct resources to veteran's high-priority needs. This information also would help determine the priority for addressing the most critical challenges facing veterans. Similar assessments in Virginia and New York helped veterans' organizations in those states improve the effectiveness of their funds. SB 664 would do the same for Texas and ensure that veterans got the most out of grant funding.

OPPONENTS SAY:

SB 664 is unnecessary because the Fund for Veterans Assistance, which is administered by the Texas Veterans Commission, already has an effective network of employees and advocates from which it can draw the best advice about how to award grants.

SUBJECT: Preference given by public entities to Texas agricultural products

COMMITTEE: Agriculture and Livestock — favorable, without amendment

VOTE: 4 ayes — T. King, M. González, Kacal, Kleinschmidt

3 nays — Anderson, Springer, White

SENATE VOTE: On final passage, April 4 — 31-0, on Local and Uncontested Calendar

WITNESSES: *(On House companion bill, HB 2528:)*
For — John Patrick, Texas AFL-CIO; (*Registered, but did not testify:* Susan Beckwith, Texas Organic Farmers and Gardeners Assoc. (TOFGA); Norman Garza Jr., Texas Farm Bureau; Courtney Hoffman, Texas Food Bank Network; Joshua Houston, Texas Impact; Katie Malaspina, Texans Care for Children; Judith McGeary, Farm and Ranch Freedom Alliance; Anne Olson, Texas Baptist Christian Life Commission; Suzanne Santos, Sustainable Food Center; Patrick Fitzsimons; Roxanna Smock)

Against — None

On — Ron Pigott, Comptroller of Public Accounts, TPASS Division

BACKGROUND: Under current law, school districts and state agencies that purchase agricultural products are required to give preference to those produced or grown in this state if the quality and cost is equal to products grown outside of the state.

DIGEST: SB 1107 would add Local Government Code, sec. 271.909 to require local governmental entities, not including school districts, that made purchases of agricultural products to give first preference to agricultural products produced or grown in this state if the quality and cost were equal to products produced or grown outside of the state.

The bill also would amend the Education Code, Government Code, and Local Government code to permit the comptroller and all state agencies, local governmental entities, and school districts to give first preference to agricultural products produced, processed, or grown in this state if the cost

did not exceed 107 percent of the cost of agricultural products produced or grown outside of this state and the quality was equal.

This bill would take effect September 1, 2013.

SUPPORTERS SAY:

SB 1107 would support Texas agriculture while assuring value to taxpayers. Under current law, state agencies and school districts are required to give preference to agricultural products grown in this state if the cost and quality are equal. This provision does not currently apply to local governments. SB 1107 would align the statutory requirements for state agencies, school districts, and local governments by adding local governments to the list of public entities that were required to prefer Texas agricultural products if the cost and quality of the Texas and out-of-state bids or proposals were substantially equal.

State and local contracting agencies cannot prefer Texas agricultural products unless everything in the bid or proposal is equal. SB 1107 would allow state agencies, school districts and all local governments to pay up to 7 percent more for agricultural products grown in Texas. The economic benefits resulting from purchasing locally may outweigh any additional upfront cost. Allowing governmental entities to spend up to 7 percent more on Texas grown food than the lowest bidder would help create the demand necessary to stabilize agricultural producers and keep Texans' tax dollars in Texas.

While the bill would not stop Texas vendors from increasing prices, if they priced themselves too high, public entities would select their competitors. Because bids are typically confidential, Texas vendors would not know what other vendors were bidding and would not have a firm basis for raising prices. This bill also would not mandate higher spending. If the Texas agricultural product was not of equal cost or quality, then governmental entities would still be able to accept the out-of-state product bid.

OPPONENTS SAY:

SB 1107 could result in Texas vendors increasing their prices. While higher spending for a Texas product would be permissive, the state should make the fiscally responsible choice by taking the lowest possible bid.

SUBJECT: Nondisclosure for probationers whose convictions were set aside

COMMITTEE: Criminal Jurisprudence — favorable, without amendment

VOTE: 5 ayes — Herrero, Burnam, Canales, Leach, Schaefer

3 nays — Carter, Moody, Toth

1 absent — Hughes

SENATE VOTE: On final passage, May 8 — 30 - 0, on Local and Uncontested Calendar

WITNESSES: For — Marc Levin, Texas Public Policy Foundation Center for Effective Justice; Jorge Renaud, Texas Criminal Justice Coalition; (*Registered, but did not testify*: Yannis Banks, Texas NAACP; Craig Pardue, Dallas County; Kandice Sanaie, Texas Association of Business)

Against — (*Registered, but did not testify:* Donnis Baggett, Texas Press Association; Michael Schneider, Texas Association of Broadcasters)

On — (*Registered, but did not testify:* Shannon Edmonds, Texas District and County Attorneys Association)

BACKGROUND: Deferred adjudication is a form of probation under which a judge postpones the determination of guilt while the defendant serves probation. It can result in the defendant being discharged and dismissed upon successful completion of that probation.

Under Government Code, sec. 411.081(d), persons receiving a discharge and dismissal from deferred adjudication who also meet certain conditions may ask the court for an order of nondisclosure of their criminal records. These conditions include not being convicted of or placed on deferred adjudication for certain offenses while on deferred adjudication and not having previous convictions for certain violent, sex, or family violence offenses.

If a court issues an order of nondisclosure, criminal justice agencies are prohibited from disclosing to the public criminal history records subject to

the order. This makes criminal history records unavailable to the public but allows criminal justice agencies access to them and allows access by certain other listed entities listed in sec.411.081 (i).

Under Code of Criminal Procedure, sec. 42.12, sec. 20(a), certain persons placed on community supervision (probation) who complete at least one-third of their probation terms, or two years, whichever is less, can have their probation term reduced or terminated. If the probationer is discharged, the judge can set aside the verdict or allow the probationer to withdraw a plea and must dismiss the case. The person is then released from the penalties from the offense except that the conviction or guilty plea will be made known to a judge if the person is convicted of another offense or in the course of licensing for certain human service agencies.

DIGEST:

SB 1172 would expand those who could ask a court for an order of nondisclosure to include persons placed on community supervision who had their probation terms reduced or terminated by a judge after serving at least one-third of the terms and their convictions set aside. This would apply only to those who would not be barred from asking for an order of nondisclosure if they had been placed on deferred adjudication for certain offenses.

After notice to the prosecutor and a hearing on whether the nondisclosure was in the best interest of justice and whether the person met the criteria to ask for nondisclosure, courts would be required to issue an order.

The order would prohibit criminal justice agencies from disclosing to the public the criminal history record related to the offense for which the person was put on probation. Criminal justice agencies could disclose information subject to the order only to other criminal justice agencies for criminal justice purposes, to agencies that currently can receive information when deferred adjudications are sealed under a nondisclosure order and to the person subject to the order.

Persons could petition the court for an order of nondisclosure after the conviction was set aside, if the offense was a misdemeanor. If the conviction were a felony, the petition could be made five years after a conviction was set aside. The current fee of $28 would apply.

The bill would take effect September 1, 2013, and would apply to persons whose convictions were set aside on or after that date, regardless of when the offense occurred.

SUPPORTERS SAY:

SB 1172 is needed to give probationers who have their verdicts set aside the same options for handling their criminal records as are currently given to other similar offenders.

Currently, the records of probationers whose terms are reduced or terminated and then set aside are not eligible to be sealed after an order of nondisclosure. These records also are not eligible for pardons followed by an expunction because when a conviction is set aside, there is no conviction to pardon. This leaves these offenders no options for asking to have their records closed to the public. When criminal records are publicly available people can have difficulties with access to housing, jobs, school, and more.

Although the option of setting aside a verdict after probation is not used often, these offenders should have a way to ask for nondisclosure since other criminal defendants have ways to accomplish this. Those receiving deferred adjudication can receive an order of nondisclosure. In addition, if a pardon is granted for deferred adjudication these records can be expunged. Persons who are convicted can receive a pardon, making records eligible to be expunged.

SB 1172 would remedy this by allowing this narrow group of deserving probationers to ask courts to have their record sealed under the same process and guidelines used for those given deferred adjudication. Offenders convicted of or with previous convictions for certain offenses would not be eligible. They would have had to have been successful on probation and had a judge reduce or terminate their probation and set aside their sentence. For felony offenses, they would have had to wait another five years. Asking for nondisclosures would not guarantee it would happen; courts would make the final decision.

The state has deemed that restricting public access to criminal records is appropriate in some circumstances, and SB 1172 would be consistent those circumstances. Courts would have deemed the person worthy of probation, which was then terminated, and the conviction set aside. This is analogous to offenders who are given deferred adjudication and then have their cases dismissed. These offenders would have paid their debt and

demonstrated that they were not a threat and deserve a chance to ask for nondisclosure.

Criminal justice agencies would continue to access to these records and could use them if the person again ran afoul of the law.

OPPONENTS SAY:

The state should not expand those who can have their records sealed through orders of nondisclosure. Disclosure was designed for a limited, narrow group of offenders who receive deferred adjudication under which they were not convicted. SB 1172 would inappropriately expand nondisclosure to a class of offenders who have been convicted.

The state should maintain the access to criminal court records that current law provides. As eligibility for requests for orders of nondisclosure is expanded and more records are sealed this access is restricted. Access can be important for the public, employers, landlords, the press, and others. Public records help hold offenders accountable and ensure public safety.

SUBJECT: Requiring that agencies adopt contract approval guidelines, other changes

COMMITTEE: Government Efficiency and Reform — committee substitute recommended

VOTE: 5 ayes — Harper-Brown, Perry, Capriglione, Stephenson, Scott Turner

0 nays

2 absent — Taylor, Vo

SENATE VOTE: On final passage, April 24 — 30-0

WITNESSES: For — None

Against — None

On — Wayne Wilson, Health and Human Services Commission; (*Registered, but did not testify*: Martin Zelinsky, Department of Information Resources)

BACKGROUND: Government Code, ch. 2261 sets forth provisions for certain contracts for goods or services made by a state agency, such as those contracts not administered by the comptroller. Government Code, sec. 2262.101 creates the contract advisory team, which assists agencies in improving the management of contracts.

DIGEST: The bill would require state agencies to adopt guidelines for the contract approval process, maintain a central contract repository, and clarify the training process for their contracting employees.

Required contract provisions. Under Government Code, ch. 2261, the definition of contract would include an agreement or other written expression of the terms of an agreement. These other written expressions could include an amendment, modification, or renewal of the agreement by a state agency. Contracts or renewals valued at $1 million or more would be considered major contracts. The definition of a contract manager would be an employee of a state agency who had significant contract

management duties.

The bill would specify the required provisions for state agency contracts. The required provisions would include dispute resolution and provisions related to legal liability, as well as a provision dealing with independent contractors. A required provision would be considered to be a part of a state agency's contract for goods and services regardless of whether the provision actually appeared in the contract or the contract contained a provision contrary to the required provision.

Internal contract approval process. SB 1680 would require each agency to establish formal guidelines for each stage of the contracting process, which would include who could approve a contract for the agency. An agency would have to adopt a monetary threshold above which contracting decisions would require the approval of the agency's executive director. Amendments to state agency contracts valued at $1 million or more would require written authorization from the agency's executive director. A state agency could not negotiate a major contract with only one employee engaged in the negotiation.

Contract extensions or amendments would be subject to the same approval process as the original contract. Extensions or amendments, which changed the monetary value of a major contract by at least 35 percent or one million dollars, would have to be submitted to the contract advisory team and the agency's executive director for review prior to being executed.

Central contract repository. The bill would require each agency to maintain a repository with all of the agency's contracts. This would include keeping accurate records on significant contract delays or changes and written explanations regarding cost overruns.

Employee training process. SB 1680 contains provisions related to the training of state agency employees that engage in contracting. A state agency would have to require its contract managers to complete a training program administered by the comptroller. An agency could develop contract manager training to supplement the training received from the comptroller.

Members of the governing board of a state agency would have to complete an abbreviated training course for contract managers.

Other provisions. The bill would expand certain contract management responsibilities of state agencies. Also, state agencies would have to review the performance of contractors. State agency contracts would have to allow for the state auditor to conduct certain audits. Existing requirements for contract reporting and procurement of professional services would also apply to contracts under this chapter.

The bill would take effect on November 1, 2013, and would apply only to contracts in which a state agency first advertised or solicited a bid on or after that date.

SUPPORTERS SAY:

SB 1680 would amend certain definitions, require the adoption of guidelines for the contract approval process, call on state agencies to maintain a central contract repository, and clarify the employee training process. With these additions, the bill would provide greater uniformity in the contracting process. In developing this bill, extensive feedback has been received from interested parties and state agencies.

The bill recognizes the importance of skillfully managing all three stages of the contracting process: solicitation, negotiation, and management. SB 1680 would help mitigate risks, contain costs and ensure the state received the highest quality deliverables. Current law provides for contract oversight by creating the contract advisory team, yet there are relatively few details about certain aspects of the contracting process. SB 1680 would go a long way to improving this.

Central contract repository. The maintaining of contracts in a central repository at each agency would aid the state auditor and the Sunset Advisory Commission in auditing or reviewing an agency. Additionally, this would result in a uniform way of doing business statewide, a method that has proven to be the most effective. Agencies already in compliance with this provision would not have to make changes.

Employee training. The bill's provisions related to the training of state agency employees that engage in contracting would provide needed clarity and improve the quality of state contracts.

OPPONENTS SAY:

Internal contract approval process. During the life of a contract, a number of state agency contracts undergo significant changes. The bill's requirement to submit major contracts undergoing changes in value of at

least 35 percent or $1 million to the contract advisory team for review would result in some additional costs to the state. An additional employee would have to be hired to support the contract advisory team's increased requirements.

Central contract repository. The bill's requirement for each agency to maintain a repository with all of its contracts is unnecessary. Any state agency involved in major contracting should already be maintaining a central repository with all of its contracts.

NOTES:

The committee substitute differs from the Senate bill by:

- lowering the threshold for contracts defined as major contracts;
- altering the provisions that would be required in state agency contracts;
- adding a provision related to contract monitoring.

SB 1681, a related bill which would require the contract advisory team to review contracts with a value of $10 million or more, passed the Senate by 30-0 and was reported favorably as substituted by the House Government Efficiency & Reform Committee on May 16.

SUBJECT: Establishing a mediation procedure for an expedited foreclosure

COMMITTEE: Business and Industry — committee substitute recommended

VOTE: 6 ayes — Bohac, Orr, E. Rodriguez, Villalba, Walle, Workman

0 nays

1 absent — Oliveira

SENATE VOTE: On final passage, April 24 — 29-1 (Hancock)

WITNESSES: For — Martin Hoffman (*Registered, but did not testify:* Tom Forbes, Texas Attorney-Mediators Coalition)

Against — None

On — John Fleming, Texas Mortgage Bankers Association

BACKGROUND: Texas Rules of Civil Procedure, rule 106, outlines a method of service in which a citation is delivered to the defendant in person with the date of the delivery attached and a copy of the petition. The citation may also be mailed by registered or certified mail with a return receipt requested. If these methods of service are unsuccessful, the court may authorize leaving a true copy of the citation with an attached petition to any person older than age 16 at the specified location or in any other manner the court determines reasonably effective.

Texas Rules of Civil Procedure, rule 736, sets out the procedure for an expedited order allowing the foreclosure of a lien. Rule 736.3 describes how citations should be issued; rule 736.5 outlines how the respondent files a response; and, rule 736.7 describes the appropriate default when the respondent fails to file a response.

DIGEST: CSSB 1202 would set out the rules for mediation in an expedited foreclosure case, allowing for a citation for expedited foreclosure to be served according to Texas Rules of Civil Procedure, rule 106 or rule 736.

Hearing before mediation. After a filing of a response under Texas Rules of Civil Procedure, rule 736.5, the court would at its discretion have a hearing to determine whether to order mediation and could not order mediation without a hearing. The petitioner or respondent would be able to request a hearing on mediation or on whether the application was defective. This hearing would not take place before the deadline for the respondent to file a response. The hearing could take place by telephone if the court sent notice and instructions to the concerned parties at least 10 days before the hearing was scheduled to take place.

The court would consider any objections to the referral of the case to mediation at this hearing. It would be able to order the case to mediation, but would be required to do so according to deadlines in rule 736.

Mediation process. If the two concerned parties could not agree on appointing a mediator, the court could appoint one, in which case all parties would receive the name of the chosen mediator at the mediation hearing. The mediator's fee would be divided equally between the parties, which also could agree to waive mediation.

Nonresponse. If a respondent did not file a response to a citation before the deadline under rule 736, or if a respondent did not attend a mediation hearing after receiving notice, the court would not order a mediation and would grant or deny the petitioner's motion under rule 736.7.

If the respondent attended the mediation hearing and mediation was ordered, the mediation would take place no later than 29 days after the initial filing of a motion for a default order.

The Supreme Court could not amend or adopt rules in conflict with the bill.

The bill would take effect September 1, 2013.

SUPPORTERS SAY:

CSSB 1202 would provide judges with a process to follow for a timely expedited foreclosure mediation. This form of dispute resolution would be particularly appropriate for homeowners who had the ability to save their homes but had difficulties communicating with the mortgage companies. While judges already may order mediation proceedings, the Texas Rules of Civil Procedure do not address holding a hearing before the mediation proceedings. This bill would give judges a template to initiate these

proceedings in a manner that ensured a fair, speedy process, while protecting the homeowner.

The bill would ensure that judges could use their discretion in sending cases to mediation, an expensive process that should be carefully weighed and not imposed on all expedited foreclosure cases.

The bill would adopt into statute a number of common practices already used in rule 106 to serve a respondent with a citation for expedited foreclosure, which is a higher standard of due process. This would safeguard the respondent by ensuring the court did not act before the respondent had a reasonable opportunity for notification, and also would give the court direction not to grant a hearing if the respondent did not respond.

Hearings and mediation are costly, and the bill would address this by allowing for parties to participate via telephone in hearings and to waive mediation, and requiring them to split the costs.

CSSB 1202 would ensure the hearings and mediation were conducted in a timely manner, by establishing in law a number of deadlines from rule 736 to be observed before further action could be taken, including a deadline for responding to a citation and a deadline for when the mediation would have to be conducted. Because the bill would apply to expedited foreclosure proceedings, the inclusion of these deadlines would be appropriate.

OPPONENTS SAY:

By opening up a path to mediation, the bill would raise the costs of home foreclosure by adding an extra step. These costs would have to be absorbed not only by the foreclosing entity but also by the homeowner.

OTHER OPPONENTS SAY:

While the intention of the bill to provide for mediation is laudable, the bill should not include so many tight deadlines for the parties to meet in completing the hearing and the mediation. The bill would not allow enough time to accomplish the objectives of the mediation.

SUBJECT: Extending the period of time a race track may hold a temporary license

COMMITTEE: Licensing and Administrative Procedures — favorable, without amendment

VOTE: 8 ayes — Smith, Kuempel, Geren, Gooden, Guillen, Gutierrez, Price, S. Thompson

0 nays

1 absent — Miles

SENATE VOTE: On final passage, April 17 — 19-12 (Birdwell, Campbell, Deuell, Estes, Hancock, Hegar, Huffman, Nelson, Patrick, Paxton, Schwertner, Taylor)

WITNESSES: For — Mary Ruyle, Texas Thoroughbred Association; (*Registered, but did not testify:* Tommy Azopardi, Texans for Economic Development; Bryan Brown, Pinnacle Entertainment and KTAGS Downs Holding Co.; Nick James, Texas Greyhound Association; Corey Johnsen, Saddle Brook Jockey Club; Rob Werstler, Texas Quarter Horse Association)

Against — Rob Kohler, Christian Life Commission - Texas Baptists

On — (*Registered, but did not testify:* Chuck Trout, Texas Racing Commission)

BACKGROUND: Vernon's Texas Civil Statutes (VTCS), art. 179e, sec. 6.15 allows associations that have been granted a temporary license by the Texas Racing Commission to conduct racing at a location in the same county for either two years after the issuance of the temporary license or on the completion of a permanent location, whichever occurs first. After a temporary license expires, no entity that has been granted the temporary license may get an extension of a temporary or a new temporary license.

DIGEST: SB 1340 would increase the amount of time in which racing could be conducted on a temporary license from two to six years.

The bill also would allow the Texas Racing Commission to grant an

extension of up to four years to conduct racing at a location in the same county for any associations currently holding unexpired temporary licenses.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2013.

NOTES:

The LBB estimates a positive impact to general revenue related funds of $78,000 in fiscal 2014, $234,000 in fiscal 2015, and $312,000 for the three fiscal years thereafter. This revenue would be generated from the addition of four race tracks anticipated to come on line in the next two years. One percent of the revenue from wagering at these tracks would be deposited into general revenue, with an additional 1.18 percent deposited to the Texas Racing Account No. 597.

SUBJECT: Determination of self-defense under certain circumstances

COMMITTEE: Criminal Jurisprudence — favorable, without amendment

VOTE: 8 ayes — Herrero, Carter, Burnam, Canales, Leach, Moody, Schaefer, Toth

0 nays

1 absent — Hughes

SENATE VOTE: On final passage, May 6 — 31-0

WITNESSES: For — (*Registered, but did not testify:* Steven Tays, Bexar County Criminal District Attorney's Office)

Against — Jorge Landivar; (*Registered, but did not testify:* Taylor Beckmeyer; Teresa Beckmeyer; Heather Fazio, Texans for Accountable Government; Lauren Landivar)

On — Shannon Edmonds, Texas District and County Attorneys Association

BACKGROUND: Texas Penal Code, sec. 9.31, regulates determination of self-defense. A person is justified in using force against another person if they reasonably believe the force is immediately necessary for protection against another person's use or attempted use of unlawful force.

The use of force for self-defense is not justified under the following circumstances:

- in response to verbal provocation alone;
- to resist arrest or search under certain circumstances;
- if the actor consented to the exact force used or attempted by the other person;
- if the actor provoked the other person;
- if the actor sought an explanation from or discussion with the other person concerning the actor's differences with the other person

while unlawfully carrying a weapon or possessing or transporting a prohibited weapon.

Penal Code, sec. 46.04 governs unlawful possession of a firearm. Under this section, a felon commits an offense if he or she possess a firearm:

- in any location within five years of being released from confinement or supervision, whichever date is later.
- at any location other than the premises of his or her residence after that period.

A person convicted of an assault offense involving a family or household member that was punishable as a class A misdemeanor (up to one year in jail and/or a maximum fine of $4,000) commits an offense if he or she possesses a firearm within five years of being released from confinement or supervision. A person who was subject to a protective order, other than a peace officer, commits an offense if he or she possesses a firearm after receiving notice of the order and before expiration of the order.

The offense of possessing a firearm is not considered a felony under sec. 46.04 if, at the time of the offense, the state did not designate the offense as a felony and the offense did not contain all the elements of a felony offense under law.

DIGEST:

Under SB 1416, the use of force for self-defense would not be justified if the actor sought an explanation from or discussion with the other person concerning the actor's differences with the other person while the actor possessed a firearm in violation of Penal Code, sec. 46.04, prohibiting:

- a person from possessing a firearm within five years of his or her release from confinement or supervision for a felony conviction, or outside the premises or his or her residence after that period;
- a person, other than a peace officer, from possessing a firearm while subject to a protective order; or
- a person convicted for a class A misdemeanor assault involving a family or household member from possessing a firearm within five years of his or her release from confinement or supervision.

This bill would take effect September 1, 2013.

SUPPORTERS SAY:

SB 1416 would prevent felons from claiming self-defense if they armed themselves with a firearm to pick a fight with someone. A person who had been convicted of a felony still would be able to claim self-defense while possessing a firearm on the premises of his or her residence, under existing law, if the person was not seeking an explanation from or a discussion with another person.

Current law already prohibits one person from picking a fight with another while unlawfully carrying, possessing, or transporting a weapon. The bill would fix the loophole that allows a felon to claim self-defense while carrying a firearm to pick a fight.

OPPONENTS SAY:

SB 1416 would remove the right of someone convicted of a felony from exercising self-defense by possessing a firearm when needed. While the bill is well intentioned, many people become felons because they committed a non-violent crime, such as illegal downloading on the Internet. These individuals still need the right to defend themselves when necessary.

SUBJECT: Economic development incentives for firearms manufacturers

COMMITTEE: Economic and Small Business Development — committee substitute recommended

VOTE: 6 ayes — J. Davis, Vo, Bell, Isaac, Murphy, Workman

2 nays — Perez, E. Rodriguez

1 absent — Y. Davis

SENATE VOTE: On final passage, April 10 — 24-7 (Birdwell, Ellis, Garcia, Rodriguez, Uresti, Watson, West)

WITNESSES: No public hearing

BACKGROUND: Under Government Code, ch. 481, subch. B, the Texas Economic Development and Tourism Office within the Office of the Governor is assigned certain duties related to promoting the state as a premier business location and tourist destination.

Sec. 481.078 outlines provisions for the Texas Enterprise Fund. The fund provides grants for economic, infrastructure, and community development, job training programs, and business incentives. The governor administers the fund on behalf of the state and must have the approval of the lieutenant governor and the House speaker before awarding grants.

DIGEST: CSSB 1467 would amend Government Code, ch. 481, subch. B to require the Texas Economic Development and Tourism Office to facilitate the location or expansion into the state of manufacturers of firearms or related firearm products. This requirement of the Economic Development and Tourism Office would be accomplished by identifying manufacturers interested in expanding or relocating to this state and issuing requests for proposals for the location or expansion into this state of manufacturers.

The office would promptly review proposals received under this section and identify economic development incentives available under state law for which the proposal might be eligible. If a proposal was eligible for

funding under the Texas Enterprise Fund, the governor could negotiate any grant agreements on behalf of the state. If a proposal was eligible for other economic development incentives under state law, the Economic Development and Tourism Office would negotiate the issuance of those incentives on behalf of the state.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2013.

SUBJECT: Requiring TJJD to collect data on minors placed in disciplinary seclusion

COMMITTEE: Corrections — committee substitute recommended

VOTE: 5 ayes — Parker, White, Allen, Rose, J.D. Sheffield

0 nays — None

2 absent — Riddle, Toth

SENATE VOTE: On final passage, May 1 — 30-1 (Williams)

WITNESSES: No public hearing.

DIGEST: SB 1517 would require the Texas Juvenile Justice Department (TJJD or department) to collect data from juvenile facilities annually regarding incidents of disciplinary seclusion, which would mean separation of a resident from the other residents for more than 90 minutes.

The department would have to record and make publicly available:

- the number of placements in disciplinary seclusion lasting at least 90 minutes but less than 24 hours;
- the number of placements in disciplinary seclusion lasting at least 24 hours but less than 48 hours; and
- the number of placements in disciplinary seclusion lasting 48 hours or longer.

The bill would apply to a facility that served juveniles under juvenile court jurisdiction and was operated as a pre-adjudication secure detention facility, short-term detention facility, or post-adjudication secure correctional facility.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2013.

SUBJECT: Criteria for summons for certain parole violators, process after summons

COMMITTEE: Criminal Jurisprudence — favorable, without amendment

VOTE: 6 ayes — Herrero, Carter, Burnam, Canales, Leach, Moody

1 nay — Schaefer

1 absent — Hughes

1 present, not voting — Toth

SENATE VOTE: On final passage, May 1 — 31-0

WITNESSES: For — (*Registered, but did not testify:* Laura Nicholes, Texas Association of Counties; Craig Pardue, Dallas County)

Against — None

BACKGROUND: Under Government Code, sec. 508.251, the parole division of the Texas Department of Criminal Justice (TDCJ) may issue an arrest warrant for a parolee who is accused of a technical violation of parole or of committing a new offense. These warrants sometimes are called "blue warrants" due to the color of paper on which they are printed. Parolees arrested under a blue warrant are held in county jails pending a hearing to determine if their parole will be revoked.

TDCJ may issue a summons, rather than an arrest warrant, for certain parole violators to appear at a parole revocation hearing. The parolees who are issued a summons cannot be on intensive or superintensive supervision, absconders, or determined by TDCJ to be a threat to public safety.

Under Government Code, sec. 508.281, TDCJ is required to issue a summons to certain parole violators to appear at a parole revocation hearing. Summons must be issued to persons:

- charged only with committing administrative violations of their

parole that were alleged to have occurred at least three years after they had been released on parole;
- not serving sentences that required them to register with the state's sex offender registry; or
- not on intensive or superintensive supervision, not absconders, and not determined by TDCJ to be a threat to public safety.

Technical parole violations, also called administrative parole violations, include violating a curfew or not participating in treatment programs.

Under sec. 508.281, if a revocation hearing is to be held, sheriffs must provide a place for the hearing. Upon conclusion of the hearing, an arrest warrant can be issued requiring the parolee to be held in the county jail pending a decision by a parole panel.

DIGEST:

SB 1522 would revise the conditions under which TDCJ was required to issue summons for parolees to appear at a revocation hearing. The bill would remove the stipulation that the summons could be issued only for those whose administrative violations occurred after three years on parole. TDCJ would be required to issue a summons for any offender with administrative violations who was not precluded from a summons by other criteria.

The bill would prohibit summons for anyone serving a sentence for, or who previously had been convicted of:
- any offense under Penal Code, ch. 29 on robbery;
- any felony offense under Title 5 of the Penal Code, which are offenses against persons; or
- any family violence offense.

Summons would continue as under current law to be prohibited for those serving sentences that required them to register with the state's sex offender registry, those on intensive or superintensive supervision, absconders, and those determined by TDCJ to be a threat to public safety.

Sheriffs would have to give consent for hearings in response to a summons to be held in a county jail. If a hearing officer determined that a parolee had violated a condition of parole, the officer would have to notify the parole board. A warrant for the parolee could be issued only after a final determination by the parole board about whether the parolee had violated a condition of parole.

The bill would take effect September 1, 2013, and would apply to a releasee for whom a summons was issued or a hearing held on or after that date.

SUBJECT: Creating a task force to examine CPS hiring and management practices

COMMITTEE: Human Services — committee substitute recommended

VOTE: 7 ayes — Raymond, Klick, Naishtat, Rose, Sanford, Scott Turner, Zerwas

1 nays — Fallon

1 absent — N. Gonzalez

SENATE VOTE: On final passage, April 25 — 28-0

WITNESSES: For — Madeline McClure, The Texas Association for the Protection of Children; (*Registered, but did not testify:* Katherine Barillas, One Voice Texas; Irene Clements, Texas Foster Family Association; Sarah Crockett, Texas Association for Infant Mental Health; Lauren Donder, Children's Advocacy Centers of Texas; Susan Milam, National Association of Social Workers - Texas Chapter; Josette Saxton, Texans Care for Children; Andrea Sparks, Texas CASA)

Against — None

On — (*Registered, but did not testify:* Terri Ware, Department of Family and Protective Services)

BACKGROUND: The Child Protective Services (CPS) division under the Department of Family and Protective Services (DFPS) provides statewide protective, family support, and family preservation services to address child abuse and neglect. CPS provides three broad categories, or stages, of services: investigations, family based safety services, and conservatorship services.

The Senate Committee on Health and Human Services' interim report to the 83rd Legislature recommended that CPS should identify best practices of units, individual case workers, and supervisors that could increase caseworker retention and casework quality and find ways to implement these best practices system-wide. The interim report also recommended performance-based incentives as a tool to reduce turnover and improve outcomes for children.

According to the interim report, CPS caseworker turnover statewide was 26.1 percent for 2012. Turnover is higher in certain regions of the state, such as Midland/Odessa, where it was 29.3 percent in 2012.

DIGEST:

CSSB 1758 would create the Task Force to Examine Hiring and Management Practices to Improve Hiring and Retention of Child Protective Services Caseworkers and Improve Child Welfare.

Duties and functioning. The task force would:

- examine DFPS' hiring and management practices that reduce turnover and improve outcomes for children, including performance-based compensation and recognition, increasing the percentage of experienced hiring specialists, improving caseworker screening, fitting caseworker assignments to employee skills, involving unit supervisors in the hiring and academy training process, implementing a statewide mentorship program, and developing a process for assigning caseworkers by geographic region;
- develop policy recommendations;
- design a comprehensive, performance-based compensation and recognition system to increase caseworker retention and reduce turnover; and
- submit a report to the governor, the lieutenant governor, the Texas House speaker, and the appropriate Senate and House committees by September 1, 2014, including a description of the task force's activities, any policy recommendations, and any proposals for legislation or other matters the task force considered appropriate.

DFPS would be required to seek the task force's assistance when proposing to adopt or amend a rule as a result of a task force recommendation. The Health and Human Services Commission (HHSC) would provide reasonably necessary administrative and technical support for task force activities.

Task force composition. The chairs of the Senate Health and Human Services Committee and the House Human Services Committee would jointly appoint uncompensated members to the task force as soon as practicable after the effective date of the bill, to include:

- one member from DFPS administration;
- one former CPS caseworker;

- one current CPS caseworker;
- one current CPS supervisor;
- one current CPS program director;
- two chief executive officers of corporations that use performance-based compensation;
- one consultant for a nonprofit organization that specializes in human resources, recruitment and retention;
- two human resources directors for for-profit organizations familiar with performance-based compensation and employee recruitment and retention;
- one member from a statewide child protective services advocacy organization;
- one member from the HHSC human resources department, appointed by the HHSC executive commissioner, to serve as presiding officer of the task force;
- any other person both chairs jointly determined to be appropriate.

The presiding officer would decide when the task force would meet. The persons appointing a member to the task force could designate a member as nonvoting. A vacancy on the task force would be filled in the same manner as the original appointment.

Expiration. The task force would be abolished and the enabling legislation would expire on September 1, 2015.

Effective date. This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2013.

NOTES:

CSSB 1758 differs from the original by allowing the persons appointing a member of the task force to designate the member as nonvoting. The bill has no significant fiscal implication.

SUBJECT: Improper sexual activity, violating civil rights of persons in custody

COMMITTEE: Corrections — favorable, without amendment

VOTE: 5 ayes — Parker, White, Riddle, Rose, J.D.Sheffield

0 nays

2 absent — Allen, Toth

SENATE VOTE: On final passage, May 2 — 31-0, on Local and Uncontested Calendar

WITNESSES: No public hearing

BACKGROUND: Penal Code, sec. 39.04 makes it a crime for certain officials and others involved with correctional facilities to deny a person in custody a right, privilege, or immunity, knowing that it is illegal to do so or to engage in sex with someone in custody. This applies to officials or employees of correctional facilities, volunteers and anyone working at correctional facilities, and peace officers.

In this section, the definition of correctional facilities references Penal Code, sec. 1.07(a)(14), which defines correctional facilities as places designed by law enforcement to confine persons arrested for, charged with, or convicted of criminal offenses, including city and county jails and facilities operated by or for the Texas Department of Criminal Justice. The section also has its own definition of correctional facility that includes secure correctional and detention facilities defined in the Family Code, sec. 51.02 under juvenile justice provisions.

DIGEST: SB 1772 would include officials, volunteers, employees, and others working at juvenile facilities in the Penal Code, sec. 39.04 definition of the crime of violating the civil rights of someone in custody and improper sexual activity with a person in custody.

Instead of referencing a Family Code definition of certain juvenile facilities, the bill would add a definition to the offense in the Penal Code. Juvenile facilities would be defined as facilities for the detention or

placement of juveniles who are under the jurisdiction of the court and that are operated by the Texas Juvenile Justice Department, a juvenile board, or a another governmental unit or by a private vendor under contract with one of these entities.

The bill would take effect September 1, 2013.

SUBJECT: Public information for legislative purposes

COMMITTEE: Government Efficiency and Reform — favorable, without amendment

VOTE: 7 ayes — Harper-Brown, Perry, Capriglione, Stephenson, Taylor, Scott Turner, Vo

0 nays

SENATE VOTE: On final passage, April 25 — 28-0

WITNESSES: For — Diana Fuentes, Freedom of Information Foundation of Texas; (*Registered, but did not testify*: Don Adams; Donnis Baggett, Texas Press Association; Michael Schneider, Texas Association of Broadcasters)

Against — None

On —Amanda Crawford, Office of the Attorney General

BACKGROUND: The Public Information Act (Government Code, ch. 552) ensures public access to records and other material maintained by governmental bodies, including local governments. The act provides exceptions for certain types of records, such as trade secrets. Sec. 552.008 states that the act does not grant authority to withhold information from individual members, agencies, or committees of the legislature to use for legislative purposes.

DIGEST: SB 1882 would amend Government Code, sec. 552.008 to add the requirement for a governmental body to promptly produce information for legislative purposes. The producing of this information would have to be done within a reasonable time, without delay. If the governmental body was unable to produce the public information within 10 business days, the bill would require the governmental body to certify that fact in writing and set a date within a reasonable time when the information would be made available for inspection or duplication.

The bill also would require that a governmental body respond to a legislative public information request by providing the information as it became available. The governmental body would be prohibited from

delaying in producing any available information on the grounds that all of the information subject to the request was not yet available for release.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2013.

SUBJECT: Separation of children from adult offenders held in the same building

COMMITTEE: Corrections — favorable, without amendment

VOTE: 6 ayes — Parker, White, Allen, Rose, J.D. Sheffield, Toth

0 nays

1 absent — Riddle

SENATE VOTE: On final passage, April 25 — 30-0, on Local & Uncontested Calendar

WITNESSES: No public hearing

BACKGROUND: Family Code, sec. 51.12(f) requires that children detained in a building that contains a jail, lockup, or other place of secure confinement be separated by sight and sounds from adults confined in the same building.

Family Code, sec. 51.12(g) requires that a child detained in a building that contains a jail or lockup may not have any contact with part-time or full-time security staff, including management, or direct-care staff who have contact with adults detained in the same building.

DIGEST: SB 1839 would repeal sec. 51.12(g). It would require that staff directly supervise a child during all times incidental contact was possible between a child and an adult in a facility governed by sec. 51.12(f).

The bill would require that a person under 17 years of age who was ordered to be detained in a juvenile detention facility be considered a child for purposes of sec. 51.12.

The bill would take effect September 1, 2013, and would apply to a child detained on or after that date.

SUBJECT: Recusal of a statutory probate judge or judges hearing probate matters

COMMITTEE: Judiciary and Civil Jurisprudence — favorable, without amendment

VOTE: 7 ayes — Lewis, Farrar, Farney, Gooden, K. King, Raymond, S. Thompson

0 nays

2 absent — Hernandez Luna, Hunter

SENATE VOTE: On final passage, April 24 — 30-0

WITNESSES: (*On House companion bill, HB 3669*)
For — Pat Ferchill; Guy Herman, Probate Court of Travis County; Lin Morrisett

Against — Michael Easton; Susan C. Norman

BACKGROUND: According to the Office of Court Administration, statutory probate courts are a type of county court at law with jurisdiction over probate, guardianship, and mental health matters. They are led by the presiding statutory probate court judge.

Among other duties, presiding judges of administrative judicial districts rule on most issues surrounding the recusal and disqualification of statutory probate court judges.

DIGEST: SB 1471 would conform the recusal statutes of statutory probate judges and other judges who hear probate matters to the newly amended Texas Rules of Civil Procedure, 18A and 18B, which govern the recusal of other judges in civil matters.

Assignment powers of the presiding judge of the statutory probate courts. The bill would vest the presiding judge of the statutory probate courts with the power to hear or rule on a referred motion of recusal or disqualification or assign a judge to hear and rule on a referred motion of recusal or disqualification. The presiding judge of the statutory probate

courts also would be allowed to assign a presiding judge of the administrative judicial region to hear and rule on a referred motion of recusal or disqualification with the consent of the presiding judge of the administrative judicial region. The presiding judge would not be allowed to assign a judge of a statutory probate court in the same county served by the judge who was the subject of the motion or recusal or disqualification.

If the presiding judge of the statutory probate courts were the subject of an order of recusal or disqualification, the chief justice of the Supreme Court would assign a regional presiding judge, a statutory probate judge, or a former or retired judge of a statutory probate court to hear the case.

Self-recusal. If a judge recused himself or herself and the judge served a statutory probate court located in a county with only one statutory probate court, the judge would ask the presiding statutory probate judge to assign a replacement. If the recusing judge served a county with more than one statutory probate court, the judge would ask the clerk of the statutory probate courts to randomly assign a replacement from the other statutory probate court judges.

County judge recusal. SB 1471 would allow visiting judges to be assigned for probate, guardianship, and mental health matters when a county judge was recused.

Conforming amendments. The bill would remove several references in the code to presiding judges of administrative judicial regions. The bill would transfer much of their decision-making power regarding recusals and disqualifications of probate judges to the presiding statutory probate court judge.

Effective date. The bill would take effect on September 1, 2013. The changes in recusal and disqualification law would apply only to a motion for recusal or disqualification made on or after the effective date.

SUPPORTERS SAY:

SB 1471 would more closely conform the recusal and disqualifications of statutory probate judges to standard recusal rules for civil judges found in the Texas Rules for Civil Procedure, 18A and 18B. These rules reflect current best practices for impartiality and efficiency.

The bill also would largely remove presiding judges of judicial administrative regions from the probate judge recusal and disqualification

process. The bill would do this because there have been too many costly delays in waiting for the overworked administrative judges to decide recusal matters and make replacement appointments. The bill would increase judicial efficiency by directing the presiding judge of the statutory probate courts to largely decide these recusal matters.

SB 1471 would not result in abuse of recusal statutes by statutory probate court judges. The Supreme Court of Texas, the Commission on Judicial Conduct, and other oversight bodies and officials would continue to monitor judges to prevent such abuse.

OPPONENTS SAY:

There are too few statutory probate court judges in Texas to allow them to police themselves for recusals and disqualifications. The current recusal system is largely determined by the presiding judges of administrative judicial districts. These judges are removed enough from the small and insular world of probate to ensure proper and even-handed hearings of recusal motions.

SUBJECT: Requiring a hospital take action after some potentially preventable events

COMMITTEE: Public Health — favorable, without amendment

VOTE: 9 ayes — Kolkhorst, Naishtat, Collier, Cortez, S. Davis, Guerra, S. King, J.D. Sheffield, Zedler

0 nays

2 absent — Coleman, Laubenberg

SENATE VOTE: On final passage, May 2 — 31-0, on Local and Uncontested Calendar

WITNESSES: *(On House companion, HB 3534)*
For — Lee Spiller, Citizens Committee on Human Rights; Antony Thomas; (*Registered, but did not testify:* Troy Alexander and Dan Finch, Texas Medical Association; Amanda Fredriksen, AARP; Katharine Ligon, Center for Public Policy Priorities; Gyl Switzer, Mental Health America of Texas)

On — (*Registered, but did not testify:* Derek Jakovich, Texas Department of State Health Services)

BACKGROUND: Health and Safety Code, ch. 98 requires reporting of certain health care associated infections and preventable adverse events, such as complications and hospital readmissions.

DIGEST: SB 1535 would require a hospital to take certain actions after a violation. If the Department of State Health Services found that a hospital committed a violation that caused a potentially preventable adverse event, a hospital would be required to develop and implement a plan to address the deficiencies that could have caused the event.

The department could require the plan to include:

- staff training and education;
- supervision requirements for certain staff;
- increased staffing requirements;

- increased reporting to the department; and
- a review and amendment of hospital policies relating to patient safety.

The department would have to carefully and frequently monitor the hospital's adherence to the plan and enforce compliance. The bill would apply to potentially preventable adverse events that occur on or after the effective date. The bill would take effect September 1, 2013.

SUBJECT: Including mental health concerns in coordinated school health efforts

COMMITTEE: Public Education — favorable, without amendment

VOTE: 11 ayes — Aycock, Allen, J. Davis, Deshotel, Dutton, Farney, Huberty, K. King, Ratliff, J. Rodriguez, Villarreal

0 nays

SENATE VOTE: On final passage, April 11 — 31-0, on Local and Uncontested Calendar

WITNESSES: For — Josette Saxton, Texans Care for Children; Andrea Usanga, Mental Health America of Greater Houston; (*Registered, but did not testify*: Roy Allen; Jamaica Chapple; Melissa Davis, National Association of Social Workers - Texas Chapter; Monty Exter, Association of Texas Professional Educators; Jan Friese, Texas Counseling Association; Erin Hall; Greg Hansch, National Alliance on Mental Illness - Texas; Dwight Harris, Texas AFT; Marilyn Hartman, National Alliance on Mental Illness - Austin Affiliate; Patricia V Hayes, Stand for Children Texas; Darla Holmberg-Abel; Katharine Ligon, Center for Public Policy Priorities; Janna Lilly, Texas Council of Administrators of Special Education; Pamela Love-White; LaShondra Manning; Diana Martinez, TexProtects, The Texas Association for the Protection of Children; Sandra Martinez, Methodist Healthcare Ministries of South Texas; Cyndi Matthews; Jeff Miller, Disability Rights Texas; Reuben Ndomahina; Courtney Nicholson; Shannon Noble, Texas Counseling Association; Laura Ortiz; Dawn Shuman; Rona Statman, The ARC of Texas; Gyl Switzer, Mental Health America of Texas; Vanessa Tanguma; Cathy Weaver; Kenitres Wiley)

Against — Lelia Culpepper; Lauren DeWitt and Lee Spiller, Citizens Commission on Human Rights Texas; Anna Poulin; Judy Powell, Parent Guidance Center; Juli Wood; (*Registered, but did not testify*: Candace Fischer; Jeff Fischer; MerryLynn Gerstenschlager, Texas Eagle Forum; Catherine Norman; Christy Peterson; Deborah Scouras; Michael Sullivan; Michelle Watts)

BACKGROUND: Education Code, sec. 28.004 requires the board of trustees of each school district to establish a local school health advisory council (SHAC) to assist

the district in ensuring that local community values are reflected in the district's health education curriculum. The board shall appoint at least five members to the SHAC, a majority of whom are parents of students enrolled in the district and not district employees. The board may appoint other SHAC members from 10 specified groups of people listed in the section.

DIGEST:

SB 1352 would add preventing mental health concerns to the types of curriculum each local SHAC was required to recommend. Each SHAC would have to review the adopted health education curriculum for accuracy and content related to mental health and consider including recognition of mental illness symptoms, mental health stigmas, substance abuse, and stress management in the curriculum. Each SHAC would be required to make recommendations on professional development for mental health issues and the integration of social and emotional learning into the academic curriculum.

The bill would add local community mental health providers and local substance abuse services providers to the list of groups of people that could be appointed to the SHAC by the board of trustees. It would also add mental health concerns to a list of illnesses that coordinated programs, made available by the Texas Education Agency, were designed to prevent.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2013.

SUPPORTERS SAY:

SB 1352 would improve child health and academic outcomes by including mental health in coordinated school health programs available to school districts. Mental illnesses can hinder a student's academic development, leading to school problems, disciplinary placements, and, in extreme cases, suicide. Including curriculum on mental health and requiring local SHACs to make recommendations for mental health would help prevent mental illnesses in students and foster a healthier and more productive learning environment. This bill would not allow schools to diagnose or treat mental illness or take away parental control. It would maintain local control by allowing each school district to decide whether to employ recommended programs. SB 1352 would help school districts prevent mental illnesses and improve academic outcomes because a healthy child is better able to learn.

OPPONENTS SAY:

SB 1352 would create a conflict of interest by allowing mental health and substance abuse providers to be appointed to local SHACs. These providers would have financial incentive to encourage diagnosis of mental illnesses and this could lead to marketing of mental illness remedies in schools. Additionally, professional development regarding mental health would commit time and resources to issues outside the scope of the school’s core academic functions. It is not the government's role or responsibility to identify and intervene with personal matters that should be left to the family and its physician.

SUBJECT: Amending the Texas B-On-time student loan program

COMMITTEE: Higher Education — favorable, without amendment

VOTE: 7 ayes — Branch, Patrick, Alonzo, Clardy, Darby, Murphy, Raney

0 nays

2 absent — Howard, Martinez

SENATE VOTE: On final passage, April, 25 — 30-0, on Local and Uncontested Calendar

WITNESSES: For — Leslie Helcamp, Center for Public Policy Priorities; (*Registered, but did not testify:* Melody Chatelle, United Ways of Texas; George Torres)

Against — None

On — Dan Weaver, Texas Higher Education Coordinating Board

BACKGROUND: The B-On-time program provides zero-interest, forgivable loans to college students. A college student must be enrolled full time to be eligible, among other requirements. The loans are forgiven if a student maintains at least a B grade point average and graduates within a certain number of years. The program is funded with tuition set-asides from each student at every institution of higher education. More than 10,200 students received a B-On-time loan in fiscal 2011.

DIGEST: SB 27 would remove community colleges from the list of higher education institutions whose students were eligible for B-On-time loans. The bill would require B-On-time students to be enrolled in a baccalaureate degree program.

Under the bill, the value of a B-On-time student loan for a semester or term would be no more than the average statewide tuition and required fees that a resident student enrolled full time in a baccalaureate degree program would be charged for that semester or term at general academic teaching institutions.

SB 27 would change the funding allocation of B-On-time loans from a system based on the number of B-On-time students enrolled at an institution to a limit based on the amount of that institution's contribution to the B-On-time loan fund. Private or independent institutions would receive B-On-time allocations only from the general revenue appropriations made for that academic year. The Texas Higher Education Coordinating Board would make rules to administer these changes.

The bill would take effect September 1, 2013. The bill only would apply to B-On-times loans awarded for the 2014-15 academic year forward.

SUPPORTERS SAY:

SB 27 would make modifications to the B-On-time loan program that would ensure its long-term viability and would promote greater participation in the program. The bill would encourage and incentivize institutions to utilize the B-On-time program by earmarking each institution's B-On-time tuition set aside for that institution's use.

SB 27 would remove community colleges from the program. The B-On-time program requires students to be full time and the largely non-traditional student population attending public two-year institutions often cannot meet this requirement.

The bill also would address the concern expressed by some institutions that they lose money on tuition set asides because their B-On-time students are too few to use up that institution's total set aside. Those funds are then used by B-On-time students at other institutions.

Many college students would benefit from financial counseling when taking out loans and preparing to pay them off. In recognition, the author plans to offer an amendment to require the coordinating board and eligible institutions to educate students on eligibility for, conditions for forgiveness of, and preventing loan-default on B-On-time loans. Those institutions with a B-On-time default rate greater than the statewide average and those institutions with a B-On-time forgiveness rate of less than 50 percent would be required to provide this training to all loan recipients.

OPPONENTS SAY:

By removing community colleges from B-On-time eligibility, SB 27 would cause them to lose millions in potential grant funds for their students. The bill should include a mechanism to make them whole, such

as additional funding for Texas Equal Opportunity Grants, which are designed specifically for community college students.

SUBJECT: Requiring a cremation waiting period waiver policy

COMMITTEE: Public Health — favorable, without amendment

VOTE: 7 ayes — Kolkhorst, Naishtat, Cortez, S. Davis, Guerra, J.D. Sheffield, Zedler

2 nays — Collier, S. King

2 absent — Coleman, Laubenberg

SENATE VOTE: On final passage, March 13 — 31-0, on the Local and Uncontested Calendar

WITNESSES: For — (*Registered, but did not testify:* Jim Bates, Funeral Consumers Alliance of Texas; Bill Haley, Texas Funeral Directors Association)

Against — None

On — Kevin Heyburn, Texas Funeral Service Commission

BACKGROUND: Health and Safety Code, sec. 716.004 prohibits a crematory from cremating human remains within 48 hours of the time of death unless the waiting period is waived in writing by a justice of the peace or medical examiner in the county in which the death occurred, or by a court order.

DIGEST: SB 68 would require that the county medical examiner or, in a county without one, the justice of the peace, develop and maintain a written policy for requesting a written waiver of the 48-hour waiting period before cremation. The county medical examiner or justice of the peace would consider how a person could make a request, the availability to make a request on weekends or holidays, and other issues relevant to processing a request as quickly as possible.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2013.

SUBJECT: Annual reporting of water use by electric generating facilities.

COMMITTEE: State Affairs — committee substitute recommended

VOTE: 9 ayes — Cook, Giddings, Craddick, Farrar, Frullo, Geren, Harless, Huberty, Sylvester Turner

0 nays

4 absent — Hilderbran, Menéndez, Oliveira, Smithee

SENATE VOTE: On final passage, April 18 — 30-0

WITNESSES: For — John W. Fainter Jr., Association of Electric Companies of Texas, Inc.; (*Registered but did not testify*: Gary Gibbs, American Electric Power Company; Chloe Lieberknecht, The Nature Conservancy; Luke Metzger, Environment Texas; Cyrus Reed, Lone Star Chapter, Sierra Club; Faye Rozmaryn, League of Women Voters-Texas; Russel Smith, Texas Renewable Energy Industries Association; Tom "Smitty" Smith, Public Citizen; David Weinberg, Texas League of Conservation Voters)

Against — None

On — (*Registered, but did not testify*: Carolyn Brittin, Texas Water Development Board; Ron Ellis, Texas Commission on Environmental Quality)

BACKGROUND: The Texas Water Development Board (TWDB) gathers water use data from power generators as part of its annual water use survey authorized under Water Code, sec. 16.012(m). According to the TWDB, steam-electric power generators report using 448,681 acre-feet of water in 2010, which comprises 44,360 acre-feet of groundwater and 404,321 acre-feet of surface water.

DIGEST: CSSB 199 would add Water Code, sec. 16.405 to require that electric generating facilities report to the Texas Commission on Environmental Quality (TCEQ) and TWDB on or before May 15 of each year an evaluation of their water needs. The bill would require the report to

contain an evaluation of water needs, the water source, consumptive water use, nonconsumptive water use, and information about water reuse.

The reporting requirement would expire on September 1, 2018.

The bill would take effect September 1, 2013.

NOTES:

The committee substitute would require the report be provided to TWDB in addition to TCEQ.

SUBJECT: Authorizing grants and loan forgiveness for medical education and care

COMMITTEE: Higher Education — committee substitute recommended

VOTE: 7 ayes — Branch, Patrick, Alonzo, Clardy, Howard, Martinez, Murphy

0 nays

2 absent — Darby, Raney

SENATE VOTE: On final passage, April 17 — 31-0

WITNESSES: No public hearing

DIGEST: SB 143 would establish graduate medical education (GME) planning grants, grants to fill unfilled first-year residency slots, grants to expand the number of GME slots or to provide for the establishment of new GME programs with first-year residency positions, and to award programs that increase the number of primary care physicians in Texas.

The bill also would allow physicians who serve a certain number of Medicaid patients or Texas Women's Health Program consumers for one or more years to be eligible for a program that provides for student loan forgiveness.

GME grants. SB 143 would direct the Higher Education Coordinating Board to adopt rules and allocate appropriated funds to administer grant programs.

Planning grants. SB 143 would direct the board to award one-time planning grants to Texas institutions that had never had a GME program and were eligible for Medicare funding of GME. The coordinating board would award the grants on a competitive basis and consistent with any conditions provided by legislative appropriation. An entity awarded a planning grant that established new first-year residency slots would be eligible for additional funds for each such position established.

Grants for unfilled residency positions. The coordinating board would

award grants to GME programs to enable them to fill accredited but unfilled first-year residency positions. The board would determine the number of grants awarded and the amount of each grant consistent with any conditions provided by legislative appropriation. These grants would be awarded for two consecutive state fiscal years.

Grants for program expansion or creation of a new program. The coordinating board would award grants to enable existing GME programs to increase the number of first-year residency positions or to provide for the creation of new GME programs with first-year residency positions. The coordinating board would determine the number of grants awarded and the amount of each grant consistent with any conditions provided by legislative appropriation. A grant application would include a plan for receiving accreditation for the increased number of positions or for the new program. These grants would be awarded for three consecutive state fiscal years.

Priority grants. The bill would give a priority for grant applications if the coordinating board determines that the number of first-year residency positions proposed by eligible grant applicants exceeds the number of positions authorized by appropriation. The coordinating board would be allowed to give priority for up to 50 percent of the funding for first-year residency positions that would be in primary care or other critical shortage areas in Texas. The coordinating board would not be allowed to reduce grant amounts awarded per resident position, but may proportionately reduce the number of positions funded for each program.

If the coordinating board determined that the entire appropriation for unfilled and expansion grants would not be used, the board would be allowed to transfer and use those funds for planning grants.

Grants for additional years of residency. If the coordinating board determined that, based on applications received, funds remained from those appropriated for planning, unfilled, and expansion grants, the coordinating board would award grants from these excess funds to support graduate medical residents who had completed at least three years of residency and whose program was in a field with a below average number of physicians.

Primary care innovation grant program. Under SB 143, the coordinating board would establish a grant program to award incentive

payments to medical schools that administer innovative programs designed to increase the number of primary care physicians in Texas.

The coordinating board would be allowed to seek and accept gifts, grants, and donations for the program. The board would adopt necessary rules to implement the program.

Physician's Education Loan Repayment Assistance Program. In addition to grants, the bill would allow a physician who completes one or more years of practice providing health care services to a designated number of Medicaid patients or consumers in the Texas Women's Health Program to participate in the Physician's Education Loan Repayment Assistance Program. The coordinating board, in consultation with the Health and Human Services Commission, would establish criteria for the program.

The bill would allow the Health and Human Services Commission to seek and accept federal matching funds for the loan repayment assistance program.

Effective date. This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2013.

NOTES: According to the fiscal note, the bill would cost the state $57.9 million in general-revenue related funds during fiscal 2014-15 and would be expected to cost $95.6 million in fiscal 2018.

SUBJECT: Termination of franchises to provide cable service in municipalities.

COMMITTEE: State Affairs — favorable, without amendment

VOTE: 7 ayes — Cook, Farrar, Frullo, Geren, Hilderbran, Huberty, Smithee

2 nays — Craddick, Harless

2 absent — Menéndez, Oliveira

2 present not voting — Giddings, Turner

SENATE VOTE: On final passage, March 13 — 31-0, on Local and Uncontested Calendar

WITNESSES: For — (*Registered, but did not testify*: Jeff Burdett, Texas Cable Association)

Against — None

BACKGROUND: Under certain circumstances, Utilities Code, ch. 66 prevents cable and video service providers from switching from a municipal franchise agreement to a statewide franchise agreement. Cable and video providers claimed in *Time Warner vs. Hudson* that such a restriction was unconstitutional. Time Warner, et al. prevailed and all appeals were exhausted. In the final order, the court ruled that certain provisions of the Utilities Code, ch. 66 were invalid.

DIGEST: SB 327 would amend the Utilities Code, ch. 66 to conform to the court order.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2013.

SUBJECT: Releasing a recording of an informal settlement proceeding to a physician

COMMITTEE: Public Health — favorable, without amendment

VOTE: 9 ayes — Kolkhorst, Naishtat, Collier, Cortez, S. Davis, Guerra, S. King, J.D. Sheffield, Zedler

0 nays

2 absent — Coleman, Laubenberg

SENATE VOTE: On final passage, March 26 — 31-0

WITNESSES: For — (*Registered, but did not testify:* Dan Finch, Texas Medical Association; Marisa Finley, Scott and White Healthcare)

Against — None

On — Mari Robinson, Texas Medical Board

BACKGROUND: In 2011, the 82nd Legislature enacted HB 680 by Schwertner, which altered the complaints process of the Texas Medical Board under Occupations Code, sec. 164.003. HB 680 required the Texas Medical Board to make a recording of the informal settlement conference proceeding of a physician under review for a complaint. The bill allowed the board to charge the physician a fee to cover the cost of recording the proceeding. The Texas Medical Board currently contracts with a company to record and transcribe the proceeding.

DIGEST: SB 380 would allow the Texas Medical Board to release the recording of an informal settlement conference proceeding to the physician under review if the physician requested it.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2013.

SUBJECT: Requiring parental notification on the presence of school nurses

COMMITTEE: Public Education — favorable, without amendment

VOTE: 11 ayes — Aycock, Allen, J. Davis, Deshotel, Dutton, Farney, Huberty, K. King, Ratliff, J. Rodriguez, Villarreal

0 nays

SENATE VOTE: On final passage, April 23 — 31-0

WITNESSES: No public hearing

DIGEST: A public school, including an open-enrollment charter school, that did not have a full-time nurse or an equivalent assigned for more than 30 consecutive instructional days in the same school year would provide written notice of the absence of a nurse to the parent or guardian of each enrolled student. Two or more nurses assigned to the same school whose combined presence covered all regular instructional hours on campus would be considered the equivalent of a full-time nurse.

The principal of the school would provide notice within the first 30 days after the first instructional day that the school did not have an assigned full-time nurse. The school would make a good-faith effort to present this notice in bilingual form for the benefit of parents or guardians whose primary language was not English, and would retain a copy of the notice.

This notice requirement would be satisfied by posting the notice on the school's website, which would have to be accessible within three links of the home page.

A school district in a county with a population fewer than 100,000 would not be required to provide this notice to parents.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2013, and would apply beginning with the 2013-2014 school year.

SUBJECT: Penalty for theft of an official ballot or carrier envelope for an election

COMMITTEE: Criminal Jurisprudence — favorable, without amendment

VOTE: 7 ayes — Herrero, Carter, Hughes, Leach, Moody, Schaefer, Toth

2 nays — Burnam, Canales

SENATE VOTE: On final passage, May 3 — 29-1 (Rodríguez)

WITNESSES: (*On House companion bill, HB 1564:)*
For — (*Registered, but did not testify:* Roger Borgelt; Annie Mahoney, Texas Conservative Coalition; Weston Martinez; Steven Tays, Bexar County Criminal District Attorney's Office)

Against — (*Registered, but did not testify:* Chris Howe)

DIGEST: SB 554 would enhance the penalty for theft of an official ballot or official carrier envelope for an election from a state jail felony (180 days to two years in a state jail and an optional fine of up to $10,000) to a third-degree felony (two to 10 years in prison and an optional fine of up to $10,000).

The bill would take effect September 1, 2013, and would apply only to an offense committed on or after that date.

SUBJECT: Studying caseloads of lawyers appointed for indigent criminal defendants

COMMITTEE: Criminal Jurisprudence — favorable, without amendment

VOTE: 6 ayes — Herrero, Carter, Canales, Leach, Moody, Toth

1 nays — Schaefer

1 absent — Hughes

1 present, not voting — Burnam

SENATE VOTE: On final passage, April 25 — 27-1 (Hancock)

WITNESSES: For — Andrea Marsh, Texas Fair Defense Project; Ana Yanez Correa, Texas Criminal Justice Coalition; (*Registered, but did not testify:* Yannis Banks, Texas NAACP; Rebecca Bernhardt, Texas Defender Service; Matt Simpson, ACLU of Texas)

Against — None

On — Allen Place, Texas Criminal Defense Lawyers Association; (*Registered, but did not testify:* Wesley Shackelford, Texas Indigent Defense Commission)

BACKGROUND: Code of Criminal Procedure (CCP), art. 26.04, requires judges to adopt and publish countywide procedures for appointing attorneys to represent indigent defendants arrested for, charged with, or appealing felonies and misdemeanors punishable by confinement. Under Government Code, sec. 79.036, counties are required biennially to submit to the Texas Indigent Defense Commission (TIDS) information about their system to provide attorneys to indigent defendants.

DIGEST: SB 592 would require attorneys appointed under CCP, art. 26.04 to represent indigent defendants to submit, in an annual report to the county, information describing their caseload for the preceding fiscal year, including cases taken on retainer.

Counties would have to submit annually to the Texas Indigent Defense Commission information about the caseloads of attorneys appointed to represent indigent clients in the preceding fiscal year.

The bill would add to the list of items that had to be submitted annually to the TIDC. Counties would have to submit information about :

- plans or protocols submitted to a commissioners court about a public defender's office;
- plans or protocols submitted to a commissioners court about a managed assign counsel program;
- contracts for indigent defense services related to contract defender programs; and
- revisions to this information .

The TIDC would have to conduct and publish a study to determine guidelines for establishing a maximum total caseload for defense attorneys that allowed attorneys to give each indigent defendant the time and effort to ensure effective representation. The study would have to be based on policies, performance guidelines, and best practices.

The bill would take effect September 1, 2014, and would apply to criminal proceedings that commenced on or after that date.

SUBJECT: Permitting DSHS to treat certain nonresident tuberculosis patients

COMMITTEE: Public Health — favorable, without amendment

VOTE: 10 ayes — Kolkhorst, Naishtat, Collier, Cortez, S. Davis, Guerra, S. King, Laubenberg, J.D. Sheffield, Zedler

0 nays

1 absent — Coleman

SENATE VOTE: On final passage, May 7 — 29-0

WITNESSES: For — (*Registered, but did not testify:* Miryam Bujanda, Methodist Healthcare Ministries; Dan Finch, Texas Medical Association)

Against — None

On — Charles Wallace, Department of State Health Services

DIGEST: SB 807 would allow the commissioner of the Department of State Health Services (DSHS) to admit a person with tuberculosis to the Texas Center for Infectious Disease or the Rio Grande State Center if the person was in the custody of U.S. Immigration and Customs Enforcement or another federal agency and was either awaiting completion of deportation or political asylum proceedings or had been released from custody pending completion of those proceedings.

The bill would require DSHS to attempt to recover the costs associated with the patient's treatment from the appropriate federal agency.

SB 807 would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2013.

SUBJECT: Relating to adverse possession of real property as a legal defense

COMMITTEE: Business and Industry — favorable, without amendment

VOTE: 6 ayes — Bohac, Orr, E. Rodriguez, Villalba, Walle, Workman

0 nays

1 absent — Oliveira

SENATE VOTE: On final passage, May 2 — 31-0, on Local and Uncontested Calendar

WITNESSES: No public hearing

BACKGROUND: Penal Code, sec. 30.02 defines burglary as entering a building not then open to the public or remaining concealed in a residence or building, without the consent of the owner and with the intent to commit a felony, theft, or assault, or entering a building and committing or attempting to commit a felony, theft, or assault.

Under Civil Practice and Remedies Code, ch. 16 adverse possession consists of the actual and visible appropriation of real property that is conducted in a manner inconsistent with another person having any claim to the property. Sec. 16.030 states that when a civil claim for the recovery of real property is barred under this chapter, the person peaceably holding the property in adverse possession has full title to that property, unless the property was for public use.

DIGEST: SB 947 would amend Penal Code, sec. 30.02 to provide that an actor attempting to take ownership of real property through adverse possession or claiming adverse possession would not be able to assert this action as a defense to the prosecution for burglary. This restriction on the defense against prosecution for burglary would not apply if the actor had full title to the property, subject to Civil Practice and Remedies Code, sec. 16.030.

The bill would take effect on September 1, 2013. The bill would only apply to an offense committed on or after the bill's effective date.

SUBJECT: Monitoring performance under contracts for student assessments

COMMITTEE: Public Education — favorable, without amendment

VOTE: 11 ayes — Aycock, Allen, J. Davis, Deshotel, Dutton, Farney, Huberty, K. King, Ratliff, J. Rodriguez, Villarreal

0 nays

SENATE VOTE: On final passage, April 30 — 31-0

WITNESSES: For — (*Registered but did not testify*: Monty Exter, Association of Texas Professional Educators; Dwight Harris, Texas AFT; Casey McCreary, Texas Association of School Administrators)

Against — None

On — (*Registered but did not testify*: David Anderson and Gloria Zyskowski, Texas Education Agency)

BACKGROUND: Education Code, sec. 39.023 requires the Texas Education Agency (TEA) to adopt or develop appropriate criterion-referenced assessment instruments designed to assess essential knowledge and skills in reading, writing, mathematics, social studies, and science.

DIGEST: SB 1308 would direct TEA to develop an auditing and performance monitoring methodology for contracts with outside vendors for services to develop or administer criterion-referenced assessment instruments required by state statute. The auditing and performance methodology would be used to verify compliance with contractual obligations.

The TEA would be required to ensure that all new and renewed contracts included a provision noting that the TEA or an agency designee could conduct periodic contract reviews to monitor vendor performance without advanced notice.

The TEA would adopt rules to administer the performance monitoring process.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2013.

SUBJECT: Alternative assessments for students in special education programs

COMMITTEE: Public Education — favorable, without amendment

VOTE: 11 ayes — Aycock, Allen, J. Davis, Deshotel, Dutton, Farney, Huberty, K. King, Ratliff, J. Rodriguez, Villarreal

0 nays

SENATE VOTE: On final passage, April 23 — 31-0

WITNESSES: For — Lindsay Gustafson, Texas Classroom Teachers Association; Heather Merritt (*Registered, but did not testify*: Chris Borreca, Thompson and Horton LLP; Harley Eckhart, Texas Elementary Principals and Supervisors Association; Monty Exter, Association of Texas Professional Educators; Dwight Harris, Texas AFT; Janna Lilly, Texas Council of Administrators of Special Education; Casey McCreary, Texas Association of School Administrators; Jeff Miller, Disability Rights Texas; Bob Popinski, Texas School Alliance; Julie Shields, Texas Association of School Boards; Rona Statman, The Arc of Texas)

Against — None

On — (*Registered but did not testify*: David Anderson, Gloria Zyskowski, Texas Education Agency)

BACKGROUND: Education Code, sec. 39.023(b) requires the Texas Education Agency (TEA) to develop appropriate criterion-referenced alternative assessment instruments to be administered to students in a special education program that would provide an appropriate measure of student achievement, as determined by the student's admission, review, and dismissal committee.

DIGEST: SB 1309 would require the TEA to redevelop special education assessment instruments for significantly cognitively disabled students in a manner consistent with federal law.

The assessment instrument could not require a teacher to prepare tasks or materials for a student who would be administered such an assessment.

The redeveloped assessments would have to be administered no later than the 2014-2015 school year.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2013.

NOTES:

The Legislative Budget Board estimates that SB 1309 would cost $1.1 million in general revenue to redevelop the alternative assessment in fiscal 2014.

SUBJECT: Access to records and information regarding a child placed for adoption

COMMITTEE: Judiciary and Civil Jurisprudence — favorable, without amendment

VOTE: 7 ayes — Lewis, Farrar, Farney, Gooden, K. King, Raymond, S. Thompson

0 nays

2 absent — Hernandez Luna, Hunter

SENATE VOTE: On final passage, April 25 — 30-0, on the Local and Uncontested Calendar

WITNESSES: For — David Gross; (*Registered, but did not testify*: Katie Malaspina, Texans Care for Children; Diana Martinez, TexProtects - The Texas Association for the Protection of Children)

Against — None

On — (*Registered, but did not testify*: Johnnie Beth Page, Department of Family and Protective Services)

BACKGROUND: Family Code, sec. 162.006 requires the Texas Department of Family and Protective Services (DFPS), a licensed child-placing agency, or other person placing a child for adoption to inform prospective parents of their right to examine the child's records, which are edited to protect confidential information, including the identity of the biological parents.

DIGEST: SB 1402 would amend Family Code, sec. 162.006 to require that the child's records include any information related to an investigation of abuse in which the child was an alleged or confirmed victim of sexual abuse in a foster home or other residential child-care facility. If the adoption agency or person placing the child for adoption did not have the required information, DFPS would provide the information to the prospective parents.

The bill would take effect September 1, 2013.

SUBJECT: Increasing the service retirement annuity of certain retired judges

COMMITTEE: Pensions — favorable, without amendment

VOTE: 5 ayes — Callegari, Alonzo, Frullo, P. King, Stephenson

0 nays

1 absent — Gutierrez

1 present, not voting — Branch

SENATE VOTE: On final passage, May 2 — 30-1 (Schwertner)

WITNESSES: (*On companion bill, HB 3525*)
For — None

Against — None

On — Justice Nathan Hecht; William (Shack) Nail, Employees Retirement System

DIGEST: SB 1436 would increase the maximum service retirement annuity of judges from 90 percent of applicable salary to 100 of applicable salary in the Judicial Retirement System of Texas Plan One.

The bill would take effect September 1, 2013. The changes to Plan One would apply only to a member who retired on or after the effective date.

SUPPORTERS SAY: SB 1436 would encourage knowledgeable and experienced judges to remain on the bench. Unlike many other state employees, judges often are lured away from the public sector to private practice by the vastly superior salaries they can command there. As such, it would be appropriate to incentivize their further service on the bench through an increase in retirement benefits. By improving judicial retention rates, SB 1436 would improve the administration of justice across Texas.

According to the fiscal note, the bill would not have a significant fiscal

impact on the state.

OPPONENTS SAY:

It would be inappropriate to increase the retirement annuity benefits of judges at a time when the Legislature is not considering similar actions for other retired state employees.

SUBJECT: Evidence technician training program, disposition of certain evidence

COMMITTEE: Criminal Jurisprudence — favorable, without amendment

VOTE: 6 ayes — Herrero, Burnam, Canales, Leach, Moody, Toth

1 nays — Schaefer

2 absent — Carter, Hughes

SENATE VOTE: On final passage, May 3 — 30-0

WITNESSES: For — John Vasquez, Texas Association of Property and Evidence Inventory Technicians; (*Registered, but did not testify*: Yannis Banks, Texas NAACP; Paul Szendrey, Texas Association of Property Evidence and Inventory Technicians)

Against — None

On — Shannon Edmonds, Texas District and County Attorneys Association; Pat Johnson, Texas Department of Public Safety

BACKGROUND: Code of Criminal Procedure, art. 2.21 governs requirements for exhibits in a criminal case that consist of firearms or contraband. Court reporters are required to release these items to law enforcement agencies, and these law enforcement agencies are authorized to release them only to persons authorized by the court or to dispose of them. Firearms and contraband are not considered "eligible exhibits" for certain disposition purposes.

Code of Criminal Procedure, art. 38.43 defines biological evidence as:

- the contents of a sexual assault examination kit; or
- any item that contained blood, semen, hair, saliva, skin tissue, fingernail scrapings, bone, bodily fluids, or any other identifiable biological material that was collected as part of an investigation of an alleged felony offense or conduct constituting a felony offense that might reasonably be used in identifying the offender or excluding a person from the group of persons who could be the

offender.

DIGEST:

Biological evidence. SB 1439 would subject "biological evidence" that was an exhibit in a criminal case as defined in the Code of Criminal Procedure to the same requirements for firearms and contraband under Code of Criminal Procedure, art. 2.21.

Disposition of evidence. SB 1439 would provide for disposition of physical evidence, including blood, seized in connection with the investigation of a misdemeanor offense. The bill would require a law enforcement agency in possession of such evidence to file a motion requesting the authority to dispose of the evidence with the court in which the offense was prosecuted or any magistrate, no later than 30 days after the date on which a conviction became final in that case.

Evidence technician training. The bill would create requirements for training of evidence technicians.

"Evidence technician" would mean a person employed by or serving a law enforcement agency who received, preserved, stored, disposed of, and accounted for property or evidence that came into the agency's possession. The term would include a property control officer, property attendant, or property specialist.

The Texas Department of Public Safety (DPS) and the Texas A&M Engineering Extension Service would be required to jointly establish minimum requirements for evidence technician training programs. An evidence technician training program would need to consist of at least eight hours of training. DPS would be required to adopt rules for accrediting an evidence technician training program that met these minimum requirements.

The state or a political subdivision of the state would not be able to appoint or employ a person to act as an evidence technician unless the person had completed an accredited evidence technician training program, except that a person who had not completed such a program could act as an evidence technician on a temporary or probationary basis or in an emergency. DPS would be required to issue a written acknowledgement of satisfactory completion of an accredited evidence technician training program to a person who submitted evidence of satisfactory completion.

A person appointed or employed on a temporary or probationary basis could not continue to serve as an evidence technician after the first anniversary of the date they were appointed or employed unless they had completed an accredited evidence technician training program or the agency appointing or employing them had received permission from DPS for the person to continue to serve on a temporary or probationary basis without completing the program.

The training requirements would take effect January 1, 2014. A person serving as an evidence technician on August 31, 2013 could continue to serve without completing an accredited evidence technician training program.

The bill, except as otherwise provided, would take effect September 1, 2013.

SUBJECT: Obstruction or retaliation offense for posting public servants' information

COMMITTEE: Criminal Jurisprudence — favorable, without amendment

VOTE: 6 ayes — Herrero, Carter, Canales, Leach, Moody, Toth

1 nay — Schaefer

1 absent — Hughes

1 present not voting — Burnam

SENATE VOTE: On final passage, April 30 — 31-0

WITNESSES: For — (*Registered, but did not testify:* Donald Baker, Austin Police Department; Kenda Cullpepper, Rockwall County District Attorney's Office; Chris Jones and Charley Wilkison, Combined Law Enforcement Associations of Texas; James Parnell, Dallas Police Association; Ballard C. Shapleigh, 34th District Attorney; Gary Tittle, Dallas Police Department)

Against — Chris Cobler, Freedom of Information Foundation of Texas; Chris Howe; (*Registered, but did not testify:* Heather Fazio, Texans for Accountable Government; Jorge Landivar; Lauren Landivar)

DIGEST: SB 1798 would amend the offense of obstruction or retaliation to make it an offense for a person to post on a publicly accessible website the residence address or telephone number of an individual the actor knew was a public servant or member of a public servant's family or household. This action would need to be taken with the intent to cause harm or threat of harm to the individual or a member of the individual's family or household, and in retaliation for or on account of the service or status of the individual as a public servant.

It would be prima facie evidence of the intent to cause harm or a threat of harm under the bill if the actor received a written demand from the individual to not disclose the address or telephone number for reasons of safety and either:

- failed to remove the address or telephone number from the publicly accessible website within 48 hours of receiving the demand; or
- reposted the address or telephone number on the same or a different publicly accessible website, or made the information publicly available through another medium, within four years of receiving the demand, regardless of whether the individual was no longer a public servant.

The offense would be a third-degree felony (two to 10 years in prison and an optional fine of up to $10,000) except that it would be a second-degree felony (two to 20 years in prison and an optional fine of up to $10,000) if the actor's conduct resulted in the bodily injury of a public servant or a member of a public servant's family or household.

The bill would take effect September 1, 2013, and would apply only to offenses committed on or after that date.

SUBJECT: Community development matching grant program for rural communities

COMMITTEE: Agriculture and Livestock — favorable, without amendment

VOTE: 7 ayes — T. King, Anderson, M. González, Kacal, Kleinschmidt, Springer, White

0 nays

SENATE VOTE: On final passage, May 15 — 20-10 (Birdwell, Campbell, Fraser, Hancock, Huffman, Nelson, Nichols, Patrick, Paxton, Taylor)

WITNESSES: No public hearing.

DIGEST: SB 1554 would require the Texas Department of Agriculture (TDA) to create a community development matching grant program to foster community and economic development in rural and small communities. The program would be subject to the availability of federal and state funds.

TDA, by rule, would set criteria for matching grant requirements and participation under the program.

TDA would award matching grants under the program to assist in the financing of:

- community development projects, including basic infrastructure projects such as water or wastewater facilities and planning, street improvements, and drainage;
- capacity-building projects relating to local public facility and housing planning activities;
- renewable energy projects to help participating rural communities reduce energy costs for water and wastewater treatment facilities;
- restoration projects for water or wastewater infrastructure based on urgent need, if the infrastructure posed an imminent threat to life or health;
- economic development projects to create or retain permanent employment opportunities;

- economic development projects to support economic and management development activities at the county level;
- environmental projects that provided assistance to small communities for solving water or wastewater problems using self-help methods; and
- other community development projects as determined by TDA with the assistance of the Texas Rural Health and Economic Development Advisory Council.

A small or rural municipality or county under the federal community development block grant non-entitlement program that was in good standing with TDA and with the U.S. Department of Housing and Urban Development would be eligible for a matching grant.

Eligible municipalities or counties could submit a single-jurisdiction application or a multi-jurisdiction application for a matching grant for a community development project. An application would have to include a description of the project proposal.

In awarding a matching grant under the program, TDA would give preference to multi-jurisdiction applications if the application showed that the proposed community development project would mutually benefit the residents of the communities applying for the funds. A multi-jurisdiction application solely for administrative convenience could not be accepted.

A municipality or county that submitted a multi-jurisdiction application could not submit a single-jurisdiction application for a matching grant for the same project for which the multi-jurisdiction application was submitted.

If a matching grant was awarded, one of the municipalities or counties participating under a multi-jurisdiction application would be primarily accountable for financial compliance and performance requirements. All municipalities and counties applying under a multi-jurisdiction application would have to meet application threshold requirements.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2013.

NOTES: According to the Legislative Budget Board, TDA would administer a

matching grant program of $2.6 million per fiscal year from the general revenue fund. The average grant awarded through the program would be $250,000 and the program would fund no more than 10 grants per fiscal year.

TDA would require administrative costs, including one full-time-equivalent employee, of $73,696 in fiscal year 2014 and $69,331 each subsequent year. Administrative costs would consist of annual salary and benefits costs of $68,841 per year and other operating expenses of $490 per year. Additional first year start-up costs are estimated at $4,365.