HOUSE RESEARCH ORGANIZATION • TEXAS HOUSE OF REPRESENTATIVES
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HOUSE RESEARCH ORGANIZATION

daily floor report

Wednesday, April 12, 2017
85th Legislature, Number 49
The House convenes at 10 a.m.

Thirteen bills appear on the daily calendar for second reading consideration today. They are listed on the following page.

The following House committees were scheduled to hold public hearings: Agriculture and Livestock in Room E1.010 at 8 a.m.; Corrections in Room E2.028 at 8 a.m.; Transportation in Room E2.014 at 8 a.m.; Ways and Means in Room E2.012 at 8 a.m.; Higher Education in Room E2.030 at 10:30 a.m. or on adjournment; Defense and Veterans' Affairs in Room E1.026 at 10:30 a.m. or on adjournment; Juvenile Justice and Family Issues in Room E2.016 at 10:30 a.m. or on adjournment; Natural Resources in Room E2.010 at 10:30 a.m. or on adjournment; Select Committee on Texas Ports, Innovation and Infrastructure in Room E1.014 at 10:30 a.m. or on adjournment; State Affairs in Room JHR 140 at 10:30 a.m. or on adjournment; and Land and Resource Management in Room E2.026 at 2 p.m. or on adjournment.

Dwayne Bohac
Chairman
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Daily Floor Report
Wednesday, April 12, 2017
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SUBJECT: Requiring named driver policies to also be operator's policies

COMMITTEE: Insurance — favorable, without amendment

VOTE: 9 ayes — Phillips, Muñoz, R. Anderson, Gooden, Oliverson, Paul, Sanford, Turner, Vo

0 nays

WITNESSES: *(at March 14 hearing)*
For — Ware Wendell, Texas Watch; Robert Beck; (*Registered, but did not testify*: Price Ashley, Coalition for Affordable Responsible Insuring; Jeff Martin and Mario Martinez, Texas Independent Auto Dealers Association; Allen Anding; Martin Garcia; Thomas Parkinson)

Against — Ross Bennett, ACCC Insurance Company; Lee Loftis, Independent Insurance Agents of Texas; Paul Martin, National Association of Mutual Insurance Companies; Joe Woods, Property Casualty Insurers Association of America (*Registered, but did not testify*: Shannon Meroney, Alinsco Insurance Group; Joe Garcia, Old American County Mutual Insurance)

On — Marianne Baker, Texas Department of Insurance (*Registered, but did not testify*: Joe Matetich, OPIC; Mandy Messey, Texas Department of Insurance)

(at March 21 hearing)
For — (*Registered, but did not testify*: Jeff Martin, Texas Independent Auto Dealers Association)

Against — Paul Martin; National Association of Mutual Insurance Companies; (*Registered, but did not testify*: Thomas Ratliff, American Insurance Association; Anne Oryan, Auto Club Co. Mutual and Interinsurance Exchange of the Auto Club; John Marlow, Chubb)

On — (*Registered, but did not testify*: Marianne Baker and Rachel Cloyd, Texas Department of Insurance; Joe Matetich, OPIC)

BACKGROUND:

Insurance Code, sec. 1952.0545 defines a named driver policy as "an automobile insurance policy that does not provide coverage for an individual residing in a named insured's household specifically unless the individual is named on the policy. The term includes an automobile insurance policy that has been endorsed to provide coverage only for drivers specifically named on the policy." It also requires an agent or insurer to make a warning disclosure, orally and in writing, to the applicant or insured of a named driver policy that the policy does not provide coverage for individuals residing in the insured's household not named in the policy.

Transportation Code, sec. 601.081 requires the Texas Department of Insurance's standard proof of motor vehicle liability insurance form to disclose a warning that a named driver policy does not provide coverage for individuals residing in the insured's household that are not named on the policy.

DIGEST:

HB 915 would prohibit Texas automobile insurers from delivering, issuing for delivery, or renewing a named driver policy that was not also an operator's policy, defined by the bill as a policy that covers the named insured when operating a car the insured does not own. The bill's provisions would apply to any insurer writing automobile insurance in Texas, including a county mutual insurance company.

The bill would redefine "named driver policy" as one that provides any type of coverage for those named on the policy but does not provide coverage for every individual residing in the named insured's household. The bill would define a "household" to include persons living together in the same home, mobile home, duplex, apartment unit, condominium unit, or any dwelling unit in a multi-unit residential structure, regardless of whether they are related to each other.

Under the bill, an insurer could exclude a specified driver from a named driver policy if a provision or endorsement of the policy named each excluded driver, did not exclude a class of drivers, and the named insured accepted the exclusion in writing.

The bill would remove the requirement that an agent or insurer make a

disclosure, orally and in writing, that the named driver policy does not provide coverage for individuals residing in the insured's household not named in the policy. It also would eliminate the same warning from the Texas Department of Insurance's standard proof of liability insurance form.

The bill would take effect September 1, 2017, and would apply only to an insurance policy delivered, issued for delivery, or renewed on or after January 1, 2018.

SUPPORTERS SAY:

HB 915 would protect Texas drivers and families from having to pay for accidents caused by a driver who was not insured under a named driver policy. The bill was proposed in honor of Walter Sullivan, who was on his way to golf when he was fatally hit by a man who was not insured to operate the car he was driving, though the owner of the car had a named driver policy. Under current Texas law, named driver policies are not adequately insuring their customers, leaving other drivers in Texas vulnerable to having to pay for damages in the case of an accident.

According to the Texas Department of Insurance, named driver policies have twice the percentage of cases closed without payment as other automobile policies. The coverage under these policies is confusing. Named driver policies have permissive non-household use but no permissive household use. This means that the insured can give someone outside his or her household permission to drive the insured's car and that person will be covered, but not anyone within the household, including family.

Companies who currently sell these policies would not lose the ability to sell insurance under HB 915. The bill merely would require these companies to sell a transparent, understandable product instead of one providing inadequate insurance that does not protect Texans.

Under current law, a driver may appear to have proof of insurance for a car, but it may not be worth anything in the case of an accident. This bill would ensure that drivers had adequate automobile insurance by requiring named driver insurance also to cover the operator of the car. The gaps in coverage under current named driver policies mean that they are worthless

in the case of an accident caused by someone driving the car who was not either the named driver or someone outside the named driver's household who had permission.

The bill would allow specific exclusions to the named driver policies to keep the price of these policies low while clarifying to the insured who would be excluded. Insurance companies or the insured individual still could exclude anyone in the insured's household who might raise the cost of the insurance premium. The existing disclosure given to named driver policy applicants or those insured under the policy is inadequate and fails to protect Texans from uninsured drivers, as demonstrated by the high rates of unpaid claims for these policies.

The Texas Department of Insurance has a legislative mandate to regulate the insurance market in Texas while protecting the people and businesses served by insurance. This bill would not affect the department’s role.

OPPONENTS SAY:

By requiring named driver policies also to be operator's policies, HB 915 could raise the cost of automobile insurance by making insurance companies take on the risk of anyone in the insured's household driving the insured's car.

Under current law, named driver policies allow permissive non-household use because individuals outside the household are less likely to use the insured's car or have access to the keys. Consumers who buy these policies cannot afford more expensive automobile insurance, and by increasing costs this bill could encourage more drivers simply to go without insurance.

The Legislature allows flexibility in the insurance market to keep prices down and requires named driver policies to disclose to the applicant or insured that these policies do not provide coverage for individuals residing in the insured's household who are not named on the policy. This disclosure is sufficient to inform the insured about who is covered when driving the insured's car. Disregarding this disclosure shows a lack of responsibility on the part of the insured.

This bill inappropriately would increase regulation of the insurance

market when regulating insurance offered by private insurers is not the proper role of government.

NOTES: A companion bill, SB 923 by Perry, was referred to the Senate Committee on Business and Commerce on February 28.

SUBJECT: Creating a grant program to support community mental health services

COMMITTEE: Public Health — favorable, without amendment

VOTE: 7 ayes — Price, Sheffield, Burkett, Cortez, Guerra, Oliverson, Zedler

0 nays

4 absent — Arévalo, Coleman, Collier, Klick

WITNESSES: For — Andy Keller, Meadows Mental Health Policy Institute; Lee Johnson, Texas Council of Community Centers; Kimber Falkinburg; (*Registered, but did not testify*: Cynthia Humphrey, Association of Substance Abuse Programs; Dennis Borel, Coalition of Texans with Disabilities; Reginald Smith, Communities for Recovery; Eric Woomer, Federation of Texas Psychiatry; Latosha Taylor, Grassroots Leadership; Mindy Ellmer, Haven for Hope; Bill Gravell, Bobby Gutierrez, Carlos Lopez, and Jama Pantel, Justices of the Peace and Constables Association of Texas; Barbara Frandsen, League of Women Voters of Texas; Bill Kelly, Mayor's Office, City of Houston; Gyl Switzer, Mental Health America of Texas; Christine Yanas, Methodist Healthcare Ministries; Greg Hansch, National Alliance on Mental Illness (NAMI) Texas; Will Francis, National Association of Social Workers - Texas Chapter; Micah Harmon, Sheriffs' Association of Texas; Mark Mendez, Tarrant County; Josette Saxton, Texans Care for Children; Tim Schauer, Texas Association of Community Health Plans; Laura Nicholes, Texas Association of Counties; Michael Barba, Texas Catholic Conference of Bishops; Donald Lee, Texas Conference of Urban Counties; Sara Gonzalez, Texas Hospital Association; Michelle Romero, Texas Medical Association; James Thurston, United Ways of Texas; Chris Frandsen; Thomas Parkinson; Andrea Schiele)

Against — None

On — (*Registered, but did not testify*: Sonja Gaines, Health and Human Services Commission)

DIGEST:

HB 13 would require the Health and Human Services Commission (HHSC), subject to appropriations, to establish a matching grant program to support community mental health programs. HHSC would enter into an agreement with a qualified nonprofit or other private entity to serve as the administrator of the matching grant program.

Role of HHSC. HHSC would select grant recipients based on applications or proposals by nonprofit and governmental entities using criteria developed by the executive commissioner. The criteria would have to evaluate and score project effectiveness and cost, address the possibility of making multiple awards, and include other factors the executive commissioner deemed pertinent.

The bill would require HHSC to notify the local mental health authority (LMHA) that encompassed a community mental health program of the proposed mental health services that would be funded by a grant before awarding it. The LMHA could submit written input to HHSC on whether the proposed services would weaken or strengthen mental health services available in the community. HHSC and the administrator would have to consider the LMHA's input before awarding a grant.

The HHSC executive commissioner would adopt rules to implement the bill's provisions.

Role of administrator. The nonprofit or other entity serving as the grant program administrator would assist HHSC with its responsibilities. The administrator could advise HHSC on the development and management of the program, the criteria for local community collaboration and the services eligible for grants, responsibilities of grant recipients, reporting requirements, and other aspects of the program.

The administrator would ensure that each grant recipient obtained or secured contributions to match awarded grant money as determined by county populations. Before HHSC awarded a grant under the matching grant program, the administrator would have to receive HHSC's approval of the eligibility requirements for grant recipients, the types of services eligible for grants, and the reporting requirements.

Disbursement of funds. A grant awarded under the program and the matching amounts could be used only to support community programs that provided mental health care services and treatment to individuals and that coordinated those services with other transition support services. The match secured by the recipient could include cash or in-kind contributions from any person but could not include state or federal funds.

HB 13 would require a community that received a grant under the program to leverage local funds in an amount equal to:

- 100 percent of the grant amount if the community mental health program was in a county with a population of less than 125,000;
- 115 percent of the grant amount if the program was in a county with a population between 125,000 and 250,000;
- 125 percent of the grant amount if the program was in a county with a population between 250,000 and 500,000;
- 150 percent of the grant amount if the program was in a county with a population between 500,000 and 1 million; and
- 167 percent of the grant amount if the program was in a county with a population of more than 1 million.

From money appropriated to establish the grant program, HHSC would reserve 25 percent to be awarded as grants to a community mental health program in a county with a population of no more than 250,000 and 5 percent for a program in a county with a population of no more than 125,000.

Money appropriated to or obtained by HHSC for the matching grant program would be disbursed directly to grant recipients by the commission. Money or other consideration obtained by the administrator would be disbursed directly to grant recipients by the administrator, private contributors, or local governments, as authorized by the executive commissioner.

Report. The HHSC executive commissioner would have to submit a report evaluating the success of the matching grant program to the governor, lieutenant governor, and members of the Legislature by

December 1 each year.

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, 2017.

SUPPORTERS SAY:

HB 13 would create a statutory framework to encourage local communities to address complex mental health needs across the state. Establishing a grant program would position them to focus on outcomes and collaborate on behalf of individuals requiring cross-system collaboration. Local stakeholders, such as intensive services providers, child protective services, juvenile justice agencies, schools, foster care providers, and nonprofits could combine resources and work on early intervention. Requiring local participation to help solve the unmet mental health needs of Texans would promote greater mental health care ingenuity, address local needs, and improve sustainability of the community mental health programs. At the same time, the state has a role to play through this type of program because behavioral health challenges affect Texans in schools, work places, and the criminal justice system.

Some reports estimate that local governments spend more than $2 billion annually on mental health needs. Matching state funds with local monies based on a county's size would ensure behavioral health challenges were addressed in a more cost-effective way.

OPPONENTS SAY:

HB 13 would not be proper management of taxpayer money because community program development is not a legitimate role of state government.

NOTES:

According to the Legislative Budget Board (LBB) fiscal note, HB 13 would have a negative impact of $20 million in general revenue related funds in fiscal 2018-19 and would cost $10 million each year thereafter. The grant program would be limited to funds specifically appropriated to establish it and could cost more or less than $10 million each fiscal year depending on the level of appropriations provided, according to LBB.

SUBJECT: Prohibiting certain temporary orders in suits affecting children

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

VOTE: 7 ayes — Dutton, Dale, Biedermann, Cain, Moody, Schofield, Thierry

0 nays

WITNESSES: For — William Morris, Texas Family Law Foundation; (*Registered, but did not testify*: Amy Bresnen and Steve Bresnen, Texas Family Law Foundation)

Against — None

On — (*Registered, but did not testify*: Sacha Jacobson)

BACKGROUND: Family Code, sec. 156.001 provides that a court with continuing, exclusive jurisdiction may modify an order that provides for the conservatorship, support, or possession of and access to a child. Section 156.006 prohibits temporary modifications that change which person has the right to designate the primary residence of a child under the final order unless the temporary order is in the best interest of the child and certain other conditions are met.

DIGEST: HB 1495 would extend the prohibition on temporary modifications regarding the primary residence of a child to include:

- creating a designation of the person who has the exclusive right to decide a child's primary residence; or
- creating, changing, or eliminating a geographic area within which a conservator must maintain a child's primary residence.

The bill would take effect September 1, 2017, and apply only to a suit pending on or after that date.

SUPPORTERS SAY: HB 1495 would clarify that a child's living arrangements should not be disrupted lightly by prohibiting certain temporary modifications that could affect where a child may live. Current law prohibits only temporary orders

that change a parental designation, and it does not explicitly address changing a geographic restriction. It is possible that parents may agree to a geographic restriction in an initial, final order without designating which parent has the exclusive right to determine the child's primary residence. This bill would help ensure that a child's living situation was not unnecessarily disrupted.

OPPONENTS SAY:

No apparent opposition.

NOTES:

A companion bill, SB 1235 by Rodríguez, was referred to the Senate State Affairs committee on March 13.

SUBJECT: Adjusting Texas Armed Services Scholarship eligibility and recipients

COMMITTEE: Defense and Veterans' Affairs — committee substitute recommended

VOTE: 7 ayes — Gutierrez, Blanco, Arévalo, Cain, Flynn, Lambert, Wilson

0 nays

WITNESSES: For — None

Against — None

On — (*Registered, but did not testify*: Charles Puls, Texas Higher Education Coordinating Board)

BACKGROUND: Education Code, ch. 61, subch. FF establishes the Texas Armed Services Scholarship Program to provide scholarships to undergraduate students who meet certain requirements, such as participating in Reserve Officers' Training Corps (ROTC) programs and committing to military service after graduation. Each state representative and state senator may appoint one student per year, while the governor and lieutenant governor each may appoint two.

To continue receiving the scholarship, the student must maintain satisfactory academic progress as determined by his or her college or university. The scholarship recipient also must abide by the terms of an agreement with the Texas Higher Education Coordinating Board, which specifies other requirements, such as completing four years of ROTC training, graduating within six years, and committing to military service.

DIGEST: CSHB 66 would allow the governor or the lieutenant governor or a state senator or representative to appoint another student to receive a Texas Armed Services Scholarship award if the Texas Higher Education Coordinating Board determined that the initial appointee had become ineligible or no longer met the scholarship requirements. Beginning with the academic year following that determination, the new appointee could receive any available scholarship funds designated for the original

appointee.

The bill also would require the coordinating board, rather than the scholarship recipient's college or university, to define satisfactory academic progress that a student must maintain to remain eligible.

The bill would take effect September 1, 2017.

SUPPORTERS SAY:

CSHB 66 would help ensure that valuable scholarships were put to good use by allowing elected officials to appoint a second Texas Armed Services Scholarship recipient if the official's first appointee became ineligible. Current law results in lost scholarship opportunities because there is no provision for a state official to appoint another deserving student for a scholarship award in place of a student who lost eligibility or no longer meets the requirements.

While the bill might increase participation rates and thus lead to less money per scholarship recipient, giving smaller awards to as many deserving students as possible each year would be a more optimal use of these valuable funds.

Requiring the coordinating board to define satisfactory academic progress would provide a more uniform standard for colleges and universities to use. As the administrator of the scholarship program, the board already has rulemaking authority over the program, including aspects other than satisfactory academic progress. If necessary, the coordinating board could adopt rules to ensure that students did not lose eligibility permanently due to minor violations, such as not participating in ROTC for a semester while studying abroad.

OPPONENTS SAY:

CSHB 66 could diminish the amount of scholarship money available for each recipient. The amount of each scholarship is the lesser of $15,000 or the amount available from appropriated funds, and the current process for determining annual funding assumes a certain level of non-participation. By increasing participation, the bill could reduce the annual scholarship award per student.

In addition, it might be difficult to determine when a violation should

result in a student's complete loss of eligibility. For example, while currently a student might become ineligible in a particular semester but regain eligibility in a future semester — such as while taking a study abroad course that precludes ROTC participation — it is not clear under the bill whether a student in these circumstances still would be eligible upon returning. The bill's September 1 effective date might not provide sufficient time for the Higher Education Coordinating Board to amend or adopt necessary rules.

NOTES:

A companion bill, SB 49 by Zaffirini, was passed by the Senate on March 6.

CSHB 66 differs from the bill as filed by:

- specifying that remaining scholarship funds would be awarded beginning with the academic year following the academic year the initial scholarship recipient became ineligible; and
- requiring the coordinating board, rather than the scholarship recipient's college or university, to determine whether the scholarship recipient was maintaining satisfactory academic progress.

SUBJECT: Creating offenses for certain cybercrimes

COMMITTEE: Government Transparency and Operation — committee substitute recommended

VOTE: 7 ayes — Elkins, Capriglione, Gonzales, Lucio, Shaheen, Tinderholt, Uresti

0 nays

WITNESSES: For — (*Registered, but did not testify*: Meredyth Fowler, Independent Bankers Association of Texas; Mark Mendez, Tarrant County; Vincent Giardino, Tarrant County Criminal District Attorney's Office; Caroline Joiner, TechNet; Justin Yancy, Texas Business Leadership Council; Michael Goldman, Texas Conservative Coalition; Thomas Parkinson)

Against — None

On — W. Scott McCollough, Data Foundry, Inc.; (*Registered, but did not testify*: Sacha Jacobson)

BACKGROUND: Penal Code, ch. 33 governs computer crimes, including gaining access to a computer or computer system for various reasons without the consent of the owner. Penalties range from a class C misdemeanor (maximum fine of $500) to a first-degree felony (life in prison or a sentence of five to 99 years and an optional fine of up to $10,000).

DIGEST: CSHB 9 would create new offenses under Penal Code, ch. 33 for electronic access interference, electronic data tampering, and unlawful decryption.

Electronic access interference. CSHB 9 would make it a crime for a person to intentionally interrupt or suspend access to a computer system or network without the effective consent of the owner, unless the person was a network provider acting for a legitimate purpose. An offense would be a third-degree felony (two to 10 years in prison and an optional fine of up to $10,000).

It would be a defense to prosecution that the person acted with intent to lawfully seize, search, or access a computer, system, or network for legitimate law enforcement purposes.

It would be an affirmative defense to prosecution that the actor was working for a communications common carrier or electric utility and the act was committed in the course of employment and was necessary to render service or to protect the rights or property of the carrier or utility.

Electronic data tampering. The bill would make it a crime for a person to knowingly and without the owner's consent:

- alter data as it transmitted between two computers in a computer network or system; or
- introduce malware or ransomware, as defined in the bill, onto a computer or computer network or system without a legitimate business reason.

An offense would be a class A misdemeanor (up to one year in jail and/or a maximum fine of $4,000) unless the person acted with the intent to defraud or harm another or to alter, appropriate, damage, or delete property, in which case the offense would be:

- a state-jail felony (180 days to two years in a state jail and an optional fine of up to $10,000) if the aggregate amount involved was at least $2,500 but less than $30,000;
- a third-degree felony (two to 10 years in prison and an optional fine of up to $10,000) if the aggregate amount involved was at least $30,000 but less than $150,000;
- a second-degree felony (two to 20 years in prison and an optional fine of up to $10,000) if the aggregate amount involved was at least $150,000 but less than $300,000 or any amount less than $300,000 and the computer, network, or system was owned by the government or a critical infrastructure facility; or
- a first-degree felony (life in prison or a sentence of five to 99 years and an optional fine of up to $10,000) if the aggregate amount

involved was $300,000 or more.

In certain cases, conduct could be considered as one offense and the value of the benefits obtained or losses incurred could be aggregated in determining the grade of the offense. The aggregate amount would include the value of money, service, or property appropriated or any expenditure required by the victim to determine whether data or property was affected or to restore, recover, or replace any data affected.

The bill would provide an exception to the offense of altering data as it transmitted between two computers if the act was committed in the course of employment for certain service providers and was consistent with accepted industry technical specifications. This exception would apply to those working for an internet service provider, a computer service provider, an information service provider, an interactive computer service, an electronic communications service, or a cable or video service provider.

For the crime of altering data, it would be an affirmative defense to prosecution that the actor was working for a communications common carrier or electric utility and the act was committed in the course of employment and was necessary to render service or to protect the rights or property of the carrier or utility.

Unlawful decryption. The bill would make it a crime to decrypt encrypted private information without the owner's consent. An offense would be a class A misdemeanor unless the person acted with the intent to defraud or harm another or to alter, appropriate, damage, or delete property, in which case the offense would be:

- a state-jail felony if the aggregate amount involved was less than $30,000;
- a third-degree felony if the aggregate amount involved was at least $30,000 but less than $150,000;
- a second-degree felony if the aggregate amount involved was at least $150,000 but less than $300,000 or any amount less than $300,000 and the computer, network, or system was owned by the government or a critical infrastructure facility; or

- a first-degree felony if the aggregate amount involved was $300,000 or more.

It would be a defense to prosecution that a person under contract with the owner was providing services related to security, including assessing or maintaining the security of the information or of a computer, network, or system.

The bill would take effect September 1, 2017, and would apply only to an offense committed on or after that date.

SUPPORTERS SAY:

CSHB 9 would mitigate concerns that current law does not address many cybercrimes by updating state law to criminalize certain cyber activities and reflect current technologies. Under the bill, it would be an offense to interfere with access to a computer system, tamper with electronic data, or unlawfully decrypt encrypted private information.

Current law covers cybercrimes that are carried out through direct access, such as computer trespass, but many cybercrimes are perpetrated by criminals who use malware, ransomware, or other means to get a person to unknowingly facilitate the criminal activity on that person's own device. These activities can harm citizens, businesses, and governments, but they may not constitute currently defined computer crimes. By focusing on the activities and not the technology, this bill would create a more lasting approach to address all types of cybercrime.

While there may be concerns that actors could be deterred from performing security research, the bill would create a defense to prosecution for those who decrypt encrypted private information to provide security services pursuant to a contract with the owner.

OPPONENTS SAY:

CSHB 9 would make intentionally interrupting or suspending access to a computer network or system without the owner's consent a third-degree felony in every case, but not all denial of service attacks have the same scope and therefore should not be treated equally. For example, some attacks may target the network of a governmental entity or critical infrastructure while others affect smaller networks. Access may be

interrupted or suspended for an hour or for days. It would be better to start the offense at a misdemeanor or other lesser penalty and allow it to be increased based on the impact to the targeted computer network or system.

Criminalizing the decryption of encrypted data could result in unintended consequences for security research. Governmental entities and companies may employ hackers to test vulnerabilities in their systems to prevent bad actors from infiltrating, but much security research is independent. This bill potentially could criminalize efforts by university researchers or other actors to discover vulnerabilities in systems, creating a deterrent effect. It is important to incentivize people to not only discover vulnerabilities in systems but also to inform entities about the vulnerabilities.

NOTES:

CSHB 9 differs from the bill as filed in several ways, including by:

- creating the offense of unlawful decryption;
- excluding a network provider acting for a legitimate network operation or protection purpose from the offense of electronic access interference;
- specifying that a person committed the offense of electronic data tampering if the person did so knowingly;
- creating an exception to the offense of altering data for employees of certain providers who were acting necessarily in the course of employment; and
- adding and expanding certain definitions.

A companion bill, SB 1020 by V. Taylor, was referred to the Senate Committee on Criminal Justice on March 6.

SUBJECT: Creating a database for employers to qualify veterans' skills, experience

COMMITTEE: Defense and Veterans' Affairs — committee substitute recommended

VOTE: 5 ayes — Gutierrez, Arévalo, Cain, Flynn, Lambert

0 nays

2 absent — Blanco, Wilson

WITNESSES: For — Jim Brennan, Texas Coalition of Veterans Organizations; (*Registered, but did not testify*: Mackenna Wehmeyer, Career Colleges and Schools of Texas; Lashondra Jones, Catholic Charities; Donna Warndof, Harris County Human Resources and Risk Management; Joseph Green, Travis County Commissioners Court; Olivia Bush, Women Veteran Services, Catholic Charities; Romaine Barnett, Women Veteran Services, CCGH)

Against — None

On — Doyle Fuchs, Texas Workforce Commission; (*Registered, but did not testify*: Tim Shatto, Texas Veterans Commission; Bob Gear Jr., Texas Workforce Commission)

DIGEST: CSHB 827 would require the Texas Workforce Commission to develop and maintain or make available an online searchable database that prospective employers could use to qualify a veteran's military service experience and employment qualifications related to specific skills. The database would convert a veteran's military service experience into the approximate equivalent civilian employment experience and skills. The commission could adopt rules to implement the database and would have to develop and maintain it or make it available as soon as practicable after the bill took effect.

The database could not collect, retrieve, store, or use any identifying information of a veteran.

The 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, 2017.

SUPPORTERS SAY:

CSHB 827 would help veterans secure employment by providing prospective employers with a tool to translate a veteran's relative military experience and employment qualifications into qualifications companies are seeking in a prospective employee. This is critical because the unemployment rate among post-9/11 veterans consistently has been higher than the national unemployment rate, largely due to problems associated with employers lacking the necessary information to understand the military-to-civilian skills translation.

The Texas Coordinating Council for Veterans Services estimates that some 22,000 service members stationed in Texas will be transitioning into civilian life during the next two years, about 30 percent of whom will seek work in Texas. CSHB 827 would complement a number of state initiatives created to increase opportunities for these veterans.

The Texas Workforce Commission (TWC) could use existing resources to implement the bill. It could employ digital infrastructure already in use to process the military-to-civilian skills translation for veterans searching for jobs. By directing the TWC either to develop and maintain or to make available the database to employers, the bill would ensure that the commission was not duplicating or increasing the scope of its existing efforts. TWC also would not be duplicating existing federal efforts, which are tailored for veterans seeking employment and not for employers.

OPPONENTS SAY:

Although well intentioned, CSHB 827 would duplicate efforts already undertaken by the federal government and non-profit organizations to help veterans transition back into civilian employment. These efforts are best focused at the federal level so as not to increase the scope of state government unnecessarily.

NOTES:

CSHB 827 differs from the bill as filed by requiring the Texas Workforce Commission to develop and maintain or make available the database, rather than directing it only to develop and maintain the database.

SUBJECT: Requiring study of lethal pesticides for feral hog control

COMMITTEE: Public Health — committee substitute recommended

VOTE: 9 ayes — Price, Sheffield, Arévalo, Burkett, Collier, Cortez, Guerra, Oliverson, Zedler

0 nays

2 absent — Coleman, Klick

WITNESSES: For — Eydin Hansen, Don't Poison Texas; David Yeates, Texas Wildlife Association; Kevin Gaines, Wildlife Revealed; J.D. Glasscock; Chuck Herring; Bruce Hunnicutt; Darryl McDonald; John Pieratt; (*Registered, but did not testify*: Jesse Ozuna, City of Houston Mayor's Office; Jay Propes, Don't Poison Texas; Luke Metzger, Environment Texas; Cyrus Reed, Lone Star Chapter Sierra Club; Rita Beving, Public Citizen; Katy Johnson, Texas Chapter of the Wildlife Society; Patrick Tarlton, Texas Deer Association; Ruby Dover and Scott Dover, Texas Hog Hunters Association; Laura Donahue, Texas Humane Legislation Network; Joshua Houston, Texas Impact; Troy Alexander, Texas Medical Association; Elizabeth Choate, Texas Veterinary Medical Association (TVMA); Katie Jarl, The Humane Society of the United States; Chloe Lieberknecht, The Nature Conservancy; Lisa Danley; William Herring; Becky Hunnicutt; Jonna Johnson; Alex Meed)

Against — Kody Bessent, Plains Cotton Growers, Inc.; Jeff Nunley, South Texas Cotton and Grain Association; Tracy Tomascik, Texas Farm Bureau; Billy Stewart; (*Registered, but did not testify*: Patrick Wade, Texas Grain Sorghum Association; Vann Stewart, Texas Independent Ginners Association; Elizabeth Doyel, Texas League of Conservation Voters; Kathleen Field)

On — Tim Kleinschmidt and Philip Wright, Texas Department of Agriculture; (*Registered, but did not testify*: Michael Bodenchuk, Texas A&M AgriLife Extension Services Wildlife Services Unit; Jessica Escobar and Dale Scott, Texas Department of Agriculture)

DIGEST:

CSHB 3451 would prohibit the Texas Department of Agriculture from registering, approving for use, or allowing the use of a lethal pesticide, including warfarin, for feral hog control unless a study conducted by a state agency or institution of higher education recommended the pesticide be registered for that use.

A state agency or institution of higher education could perform a scientific study of potential feral hog control measures in Texas. The study would be required to:

- include controlled field trials;
- examine the potential use of warfarin or other lethal pesticides for feral hog control;
- assess negative impacts to wildlife, agricultural interests, and property owners of the control measures included in the study; and
- assess the environmental consequences of the control measures included in the study.

The state agency or institution of higher education performing the study would be required to hold public hearings to obtain input from the public and stakeholders and would be subject to the Public Information Act in connection with the study. Findings, recommendations, and results of these studies would be published in the *Texas Register*.

CSHB 3451 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, 2017.

SUPPORTERS SAY:

CSHB 3451 would prevent the approval or use of lethal pesticides, including warfarin, in controlling the Texas feral hog population until a state study recommended it. The issue must be addressed urgently because a warfarin-based product, Kaput, was registered in early 2017 by the U.S. Environmental Protection Agency (EPA) and Texas Department of Agriculture (TDA) for use in Texas without the availability of public studies or time for public comment. The bill would not ban warfarin or other lethal pesticides from ever being used in Texas. It simply would require an independent, peer-reviewed study on the possible effects on the public, livestock, and other wildlife. The Legislative Budget Board

estimates that this study could be completed within existing resources at a state agency or university.

Allowing warfarin poisoning for hog population control could damage the hog hunting and trapping industry, which reduces the hog population and stimulates the Texas economy through the domestic sale and export of meat for human consumption and as a source of protein in dog food. People would not want to consume meat potentially contaminated by warfarin. The pesticide's use unintentionally could lead to an increase in the feral hog population by discouraging hunters and trappers from taking the animals. The blue dye contained in the pesticide as a safety precaution would not solve the problem because studies indicate that the color can take up to 24 hours to appear and the animal must be cut open to see that the fatty tissues have turned blue.

No other state uses warfarin for feral hog control, and the only country that has done so is Australia. Warfarin poisoning is inhumane, and Australia ceased using it because it caused suffering to hogs and other wildlife. Warfarin causes an animal to bleed out slowly over time, internally and externally. Veterinarians see these symptoms in animals that have consumed rat poison and often are not able to save them. Better methods are available for reducing the hog population in Texas, including hunting, trapping, fencing, and potentially employing another poison, sodium nitrite, which currently is being tested and would kill the hogs faster and more humanely.

While some say compliance with the label's use restrictions would minimize the direct and indirect impact of warfarin on non-target animals, this would not stop them from consuming warfarin bait. Many non-target animals can open feeders on their own and could consume bait spilled by the hogs. Labels on warfarin-based pesticides indicate it may be toxic to fish, birds, and other wildlife. Dogs and other predators and scavengers might be poisoned if they fed on an animal that had eaten the pesticide. Water used to wash equipment related to the product cannot be combined with other fresh water due to contamination concerns. After a hog dies from eating the bait, the carcass must be buried well below ground to prevent other animals from eating it. Digging deep holes is nearly impossible in some parts of Texas, and the likelihood of finding every

poisoned hog would be remote. Hogs travel great distances in a short time, and warfarin can take up to 30 days to kill a hog. If they died on someone else's property, the applicator might have to trespass to retrieve the carcass or the neighbor who found it would have to dispose of it properly. A hog in a water source also could contaminate it through the poisons it excreted.

The potential consequences of using warfarin have not yet been established, which is why the state should not allow its widespread use until it has been properly studied.

OPPONENTS SAY:

CSHB 3451 inappropriately would delay the approval and use of a valuable tool in the struggle to control the feral hog population in Texas. In January, the EPA registered the warfarin-based pesticide Kaput for general use, meaning it can be bought and sold by anyone. The EPA holds pesticides to high standards and tests them stringently. It is not the state's role to pick and choose which EPA-approved pesticides used within their label restrictions should be held for additional testing. This bill would set a negative precedent for any future pesticide approvals in Texas and could create potential problems for pesticides already registered here.

In February, TDA took emergency action to register Kaput as a state-limited pesticide, meaning it can be sold only by licensed dealers to licensed pesticide applicators and can be used only by or under the direct supervision of a licensed applicator. The agency imposed these increased licensing requirements to ensure proper usage and compliance with all product use requirements by qualified individuals while TDA conducts its formal rulemaking process for the pesticide.

Although the hunting and trapping industry brings valuable economic activity to Texas, feral hogs cause more than $50 million in damage to Texas property and crops annually. Allowing the use of warfarin-based pesticides would add a much-needed tool to help control the population of more than 2 million feral hogs throughout the state because current methods are not adequate to control the population. Additionally, the pesticide uses a safety precaution that turns the fatty tissues of the hog blue to ensure that a hog killed in this manner would not be eaten or sold.

Warfarin-based pesticides are not new; they have been used in rat poison for decades at much higher doses and without the safety precaution of blue dye. While Australia did use a warfarin-based pesticide in an attempt to control their feral hog population, the level of warfarin in that product was about 26 times greater than the level in Kaput.

These pesticides are not meant to be used everywhere, and a landowner would have to decide if the feral hog situation reached a level serious enough to justify using warfarin. If that decision was made, as with all pesticides, warfarin would have to be used in strict accordance with all label requirements. When used properly, the chance of harm to non-target species through direct consumption or secondary consumption is eliminated unless that animal consumes an enormous amount.

OTHER OPPONENTS SAY:

The fiscal note may not adequately reflect how much the study and approval of pesticides for hog control would cost. Other estimates place the cost of performing a multi-year study, including hiring staff, leasing facilities, and paying for other supplies, in the millions of dollars.

NOTES:

The Legislative Budget Board's fiscal note estimates that the duties and responsibilities associated with implementing the provisions of this bill could be accomplished within the existing resources of state agencies or institutions of higher education.

CSHB 3451 differs from the bill as filed in that it would require any study to include an assessment of the negative impact to wildlife, rather than the economic consequences to hunters and hunting and sporting industries. It also would require the state agency or institution of higher education conducting the study to hold public hearings, rather than making the agency or institution subject to the Open Meetings Act in connection with the study.

A companion bill, SB 1454 by Watson, was referred to the Senate Committee on Agriculture, Water, and Rural Affairs on March 20.

SUBJECT: Designating a state botanical garden and arboretum

COMMITTEE: Culture, Recreation and Tourism — committee substitute recommended

VOTE: 7 ayes — Frullo, Faircloth, D. Bonnen, Fallon, Gervin-Hawkins, Krause, Martinez

0 nays

WITNESSES: For — (*Registered, but did not testify*: Deece Eckstein, Travis County Commissioners Court; Chloe Lieberknecht, The Nature Conservancy)

Against — None

On — (*Registered, but did not testify*: Patrick Newman, University of Texas at Austin Lady Bird Johnson Wildflower Center)

DIGEST: CSHB 394 would designate the Lady Bird Johnson Wildflower Center at the University of Texas at Austin as the state botanical garden and arboretum.

The bill would take effect September 1, 2017.

SUPPORTERS SAY: CSHB 394 appropriately would designate the Lady Bird Johnson Wildflower Center as the state botanical garden and arboretum because the center is state's the largest botanical garden and arboretum, with a unique mission to preserve the native plants, trees, and wildflowers of Texas.

The bill would honor the contributions of former first lady Lady Bird Johnson to the state of Texas and highlight her founding of the Wildflower Center, a non-profit organization whose association with the University of Texas at Austin has led to nationally recognized academic and applied research that has been a valuable resource for national parks and state agencies.

CSHB 394 would promote other gardens in the state through the center's

ongoing partnerships with state agencies and involvement in projects at locations throughout Texas, including with the George W. Bush Presidential Center and the Mission Reach Ecosystem Restoration and Recreation Project in San Antonio. These partnerships and projects inspire the conservation of native plants for future generations and promote the state's floristic and ecological heritage.

The bill also would enhance the center's statewide conservation, education, and outreach endeavors. These include efforts to prevent the extinction of native wild plants through the Millennium Seed Bank Partnership, which has preserved more than 6 million Texas seeds to date, and through conservation work that already has helped to preserve plant species throughout thousands of acres across the state.

OPPONENTS SAY:

No apparent opposition.

NOTES:

CSHB 394 differs from the bill as filed by adding "at the University of Texas at Austin" to the formal name of the Lady Bird Johnson Wildflower Center.

A companion bill, SB 287 by Watson, was referred to the Senate Committee on Administration on January 30.

SUBJECT: DPS consideration of all applicants in driver record monitoring program

COMMITTEE: Homeland Security and Public Safety — favorable, without amendment

VOTE: 8 ayes — P. King, Nevárez, Burns, Hinojosa, Holland, J. Johnson, Metcalf, Wray

1 nay — Schaefer

WITNESSES: For — David Foy, RELX (*Registered, but did not testify*: Kevin Cooper, RELX, Inc; Les Findeisen, Texas Trucking Association)

Against — None

On — Skylor Hearn, Texas Department of Public Safety

BACKGROUND: Transportation Code, sec. 521.062 authorizes the Department of Public Safety (DPS) to establish a driver record monitoring pilot program. Under the program, DPS may enter into contracts with entities to monitor drivers' records. DPS may provide certain information from individual driver's license records to employers, insurers, or other specified entities that are eligible to receive information under the Motor Vehicle Records Disclosure Act in Transportation Code, ch. 730. Under the contracts, DPS must monitor and report on changes in the status of licenses or traffic offense convictions.

DIGEST: HB 1699 would prohibit DPS from limiting the number of qualified entities participating in the driver record monitoring pilot program. DPS would be required to enter into a contract with any qualified entity to provide driver record monitoring services. To qualify, an entity would have to submit an application, as well as meet requirements in current law to be an employer, insurer, or other listed entity that is eligible to receive the information under Transportation Code, ch. 730. DPS would be required to accept applications from contractors until the end of the pilot program.

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, 2017.

SUPPORTERS SAY:

By removing the limit on the number of contractors who could participate in the driver record monitoring pilot program, HB 1699 would ensure that the state was not picking winners and losers in the marketplace. The pilot program, authorized in 2009, currently is limited by DPS rule to three vendors. This restriction leaves out other qualified vendors who would like to participate in the program and could provide services to Texas employers, insurers, or others. Participation in the program should be encouraged, not limited, because it can enhance road safety by giving employers and others timely information about an individual's driving record, including the status of a license or a moving violation.

With the pilot program set to begin in early summer, it should be open to all vendors who meet the state's eligibility requirements. The criteria and rules are fully developed so opening it to all qualified vendors would not result in any implementation difficulties. All vendors would have to comply with the program's authorizing statute, DPS rules, and Transportation Code, ch. 730 restrictions on who can access driver records and how the information can be used. DPS plans to evaluate the pilot program after six months and could make any necessary changes to the fee or the program's operations or rules at that time.

According to the fiscal note, the bill would have no significant fiscal impact to the state, and DPS could absorb any costs associated with its implementation.

OPPONENTS SAY:

Opening the driver record monitoring pilot program to an unlimited number of vendors could make it difficult to monitor the program's initial phases. DPS designed a limited rollout for the pilot program using three vendors: a small-, medium-, and large-volume company. The statute requires the agency to set a fee to recover its program costs, and the soft rollout was designed to help the agency gauge the proper fee. DPS estimates that it will need to charge between 6 cents and 20 cents per record monitored and has set the fee for the pilot program at 11 cents.

Limiting the program's pilot phase to a small number of vendors would

help to ensure the program had adequate parameters for which entities could get information and about which drivers. It also would allow for vetting of the program's control measures over the use and disclosure of what could be sensitive or personal information and help avoid unforeseen problems arising before the program moves beyond the initial stage.

SUBJECT: Allowing certain officials to submit financial ethics statements by mail

COMMITTEE: General Investigating and Ethics — favorable, without amendment

VOTE: 7 ayes — S. Davis, Moody, Capriglione, Nevárez, Price, Shine, Turner

0 nays

WITNESSES: For — Dave Jones, Clean Elections Texas; (*Registered, but did not testify*: Joanne Richards, Common Ground for Texans; Lon Burnam, Dan Eckam)

Against — None

BACKGROUND: Government Code, sec. 572.021 requires state officers, which includes state officials appointed by the governor, to submit a verified personal financial statement to the Texas Ethics Commission.

HB 3683 by Geren, as enacted by the 84th Legislature in 2015, under sec. 572.0291, requires this statement to be submitted electronically, in accordance with rules set by the commission.

DIGEST: HB 791 would allow an official appointed by the governor before December 31, 2016, to file with the Texas Ethics Commission a required financial statement by certified mail if the individual did not have access to the internet at home or did not own a computer.

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, 2017.

SUPPORTERS SAY: HB 791 would allow certain individuals in public service without access to the internet or a computer to be grandfathered in to the electronic filing requirement for financial statements to the Texas Ethics Commission. The enactment of HB 3683 by Geren in 2015 meant that appointees currently serving are now required to submit financial statements electronically that previously they could have submitted by certified mail. This bill would allow those individuals to file financial statements in a convenient way

that would not be overly burdensome.

OPPONENTS SAY:

No apparent opposition.

SUBJECT: Changing requirements for certain purchasers of surplus lines insurance

COMMITTEE: Insurance — favorable, without amendment

VOTE: 9 ayes — Phillips, Muñoz, R. Anderson, Gooden, Oliverson, Paul, Sanford, Turner, Vo

0 nays

WITNESSES: For — Lee Loftis, Independent Insurance Agents of Texas; Garrett Sprowls, Texas Surplus Lines Association; (*Registered, but did not testify*: Thomas Ratliff, American Insurance Association; Annie Spilman, National Federation of Independent Business/Texas; Sandy Hoy, Texas Apartment Association; Amanda Martin, Texas Association of Business; Stephanie Simpson, Texas Association of Manufacturers; Michael White, Texas Construction Association; Kenneth Besserman, Texas Restaurant Association; Bonnie Bruce, Texas Society of Anesthesiologists; Keith Strama, Texas Surplus Lines Association; Lucas Meyers, the Travelers Companies, Inc. and Subsidiaries)

Against — None

On — (*Registered, but did not testify*: Jay Thompson, AFACT; Norma Essary, Surplus Lines Stamping Office of Texas (SLTX); Jamie Walker, Texas Department of Insurance)

BACKGROUND: Insurance Code, sec. 981.051 allows insurance agents unauthorized to sell insurance policies in Texas to issue surplus lines insurance if they are authorized by their home state or country to engage in the business of insurance. Under sec. 981.004, to provide surplus lines insurance, insurance agents must first perform a diligent search effort to determine that a policy in the full amount of required insurance cannot be obtained from an insurer authorized to sell policies in Texas.

Sec. 981.004(c) provides an exemption to the diligent search requirement for agents of certain large or municipal purchasers of commercial insurance. To be exempt, commercial purchasers must meet certain

requirements, which include retaining a qualified risk manager and having paid aggregate commercial property and casualty insurance of more than $100,000 in the last year.

Exempt agents must disclose to the purchaser that comparable insurance may be available in the admitted market and that other policies may provide greater protection. Upon receipt of this notice, the purchaser must issue a written request for placement with an eligible surplus lines insurer.

DIGEST:

HB 1559 would exempt agents of industrial insured purchasers from the diligent search requirement needed to issue surplus lines insurance.

Purchasers of commercial insurance would qualify as industrial insureds if, at the time of policy placement, they:

- retained a qualified risk manager;
- had paid aggregate nationwide commercial property and casualty insurance of more than $25,000 in the last year; and
- had at least 25 full-time employees.

In order to issue a policy to an industrial insured without performing a diligent search, an issuer would be required to hold at least an "A-" financial strength rating from the A.M. Best Company and meet the same disclosure requirements as exempt issuers selling to commercial insureds provided under current law.

The bill would take effect on September 1, 2017, and would apply only to a policy written or renewed on or after January 1, 2018.

SUPPORTERS SAY:

HB 1559 would allow knowledgeable purchasers to more freely access the surplus lines insurance market, increasing competition and consumer choice in selecting between commercial insurers by expanding the options immediately accessible. This would allow certain industrial purchasers to select a specialized policy to meet the needs of their commercial operation.

The bill would allow the agents of industrial insured purchasers to more efficiently do their jobs. Exempting them from the diligent search

requirement frees their time and resources to better compare policies on behalf of the purchaser.

The bill also would reduce confusion about which policies industrial insureds could lawfully purchase. Currently, agents of industrial insureds must first demonstrate that the full amount of "required" insurance cannot be obtained from the state-regulated market in order to purchase insurance from the surplus lines market. The bill would exempt industrial insureds from this ambiguous requirement that unnecessarily deters competition between the state-regulated and surplus lines markets.

HB 1559 would not expose purchasers or issuers to increased risk because purchasers and agents would be required to engage in a thorough risk assessment. Several provisions of the bill ensure that placement in the surplus lines market could occur only after a sophisticated cost-benefit analysis, including the qualified risk manager requirement, disclosure and notice requirements, and financial strength rating requirement. Additionally, since guaranty fund protection covers risk only up to $300,000 for policies in the state-regulated market, the difference in liability between policies in the two markets is limited.

OPPONENTS SAY:

HB 1559 could expose commercial insurance purchasers to undue risk by expanding access to the surplus lines market. Surplus lines insurance is not protected by guaranty funds or subject to solvency from the Texas Department of Insurance (TDI) if the insurer goes bankrupt. Surplus lines insurers are not authorized by TDI, and increasing engagement with them could damage both purchasers and the market.

NOTES:

A companion bill, SB 562 by Hancock, was reported favorably from the Senate Business and Commerce Committee on April 5 and recommended for the local and uncontested calendar.

SUBJECT: Creating a Streptococcus pneumoniae state plan and prevention program

COMMITTEE: Public Health — favorable, without amendment

VOTE: 7 ayes — Price, Sheffield, Burkett, Cortez, Guerra, Oliverson, Zedler

0 nays

4 absent — Arévalo, Coleman, Collier, Klick

WITNESSES: For — Marilyn Doyle, Texas Medical Association (*Registered, but did not testify*: Bill Kelly, City of Houston Mayor's Office; Christine Yanas, Methodist Healthcare Ministries)

Against — None

On — (*Registered, but did not testify*: Janna Zumbrun, Department of State Health Services)

BACKGROUND: Streptococcus pneumoniae (pneumococcus) is a bacteria that can cause both invasive diseases such as meningitis and non-invasive diseases such as pneumonia.

DIGEST: HB 970 would require the Department of State Health Services (DSHS) to develop a state plan and an education and prevention program for diseases caused by Streptococcus pneumonia. The bill also would allow DSHS to conduct a study on the current and future impact of Streptococcus pneumonia on the state.

State plan. The bill would require DSHS to develop a state plan for prevention and treatment of diseases caused by Streptococcus pneumoniae. DSHS would be required to use existing resources and programs to the extent possible and would review and modify the plan at least once every five years and may update it biennially.

The state plan would include strategies for prevention and treatment of diseases caused by Streptococcus pneumoniae in specific demographic

groups that are disproportionately affected, including the elderly, children under two years old, those living in long-term care facilities, those with a chronic heart or lung disease, smokers, and individuals with asplenia.

DSHS would seek the advice of the following groups in developing the plan:

- the public, including those who have been infected with Streptococcus pneumoniae;
- each state agency that provides Streptococcus pneumoniae services or has duties related to diseases caused by the bacteria, including the Health and Human Services Commission and its departments, the Employees Retirement System and the Teacher Retirement System;
- any advisory body that addresses issues related to diseases caused by the bacteria;
- public advocates concerned with Streptococcus pneumoniae-related issues;
- service providers to individuals who have a disease caused by Streptococcus pneumoniae; and
- a statewide professional association of physicians.

Education and prevention program. The bill would require the Department of State Health Services to develop a program to heighten awareness and enhance knowledge and understanding of Streptococcus pneumoniae. As part of the program, DSHS would:

- conduct health education, public awareness, and community outreach activities to promote public awareness and knowledge about Streptococcus pneumoniae risk factors, the value of early detection, availability of screening services, and available treatment options for diseases caused by the bacteria; and
- post on the DSHS website the available prevention, treatment, and detection options for diseases caused by Streptococcus pneumoniae, including information on risk factors, methods of transmission, and the value of early detection.

Study. The bill would allow DSHS, using existing resources, to include as part of the education and prevention program a study to estimate the current and future impact in Texas of diseases caused by streptococcus pneumoniae.

HB 970 would take effect September 1, 2017.

SUPPORTERS SAY:

HB 970 would help prevent deaths and illnesses related to Streptococcus pneumoniae by developing a state plan and a program for preventing and treating these diseases. The program would include health education, public awareness, and community outreach. Streptococcus pneumoniae is a bacteria associated with many deaths in Texas. Anyone can contract Streptococcus pneumoniae, but it can be deadly for young children and people over the age of 65, as well as those with weak immune systems. Common illnesses caused by Streptococcus pneumoniae include pneumonia, meningitis, ear infections, sinus infections, and bacteremia.

The bill would require the Department of State Health Services to use existing resources to develop this state plan and program so no appropriation would be necessary to establish this important public health program.

OPPONENTS SAY:

No apparent opposition.

SUBJECT: Excluding certain students in residential facilities from dropout rates

COMMITTEE: Public Education — favorable, without amendment

VOTE: 11 ayes — Huberty, Bernal, Allen, Bohac, Deshotel, Dutton, Gooden, K. King, Koop, Meyer, VanDeaver

0 nays

WITNESSES: For — Earl Jarrett, Brazos ISD; Terry Myers, Crockett ISD; (*Registered, but did not testify*: Mark Wiggins, Association of Texas Professional Educators; Addie Gomez, Texans for Quality Public Charter Schools; Ted Melina Raab, Texas AFT (American Federation of Teachers); Barry Haenisch, Texas Association of Community Schools; Casey McCreary, Texas Association of School Administrators; Grover Campbell and Vernagene Mott, Texas Association of School Boards; Veronica Garcia, Texas Charter Schools Association; Janna Lilly, Texas Council of Administrators of Special Education; Mark Terry, Texas Elementary Principals and Supervisors Association; Ellen Arnold, Texas PTA; Colby Nichols, Texas Rural Education Association; Dee Carney, Texas School Alliance; Portia Bosse, Texas State Teachers Association; Tami Keeling, Victoria ISD and TASB)

Against — None

On — Shannon Housson, Texas Education Agency; (*Registered, but did not testify*: Kara Belew, Texas Education Agency)

BACKGROUND: Students living in certain residential facilities often are served by the local school districts during their time there. Education Code, sec. 39.054(f) establishes that a student who leaves a residential treatment center after receiving treatment for fewer than 85 days and who fails to enroll in school may not be considered to have dropped out from the district or campus serving the treatment center unless that district or campus is where the student is regularly assigned.

DIGEST: HB 1731 would exclude from a school district's dropout rate certain

additional students who receive educational services from the district while living in a residential treatment center located within the district and who fail to enroll in school after leaving the treatment center. The bill would apply to all students who were not regularly assigned to the district in which the treatment center was located, regardless of how many days they had been receiving treatment at the center.

HB 1731 would place residential facilities serving students in special education programs in the same category as residential treatment centers for the purpose of computing dropout rates among students who left and did not enroll elsewhere.

The bill would take effect September 1, 2017.

SUPPORTERS SAY:

HB 1731 would address the computation of dropout rates by school districts that provide educational services to students living temporarily in a residential facility in their districts. At times, these students may leave a facility and fail to enroll in school elsewhere, resulting in their potential inclusion as a dropout from the district that had been serving them while they were living at the facility. Some residential facilities are located in smaller school districts, and the inclusion of even a few additional dropouts can have a disproportionate impact on that district's academic performance report. Students who are not regularly assigned to the district where the residential facility is located should not be considered to have dropped out from the district regardless of how long they received educational services there, and the bill could help clarify this practice.

OPPONENTS SAY:

No apparent opposition.