HOUSE RESEARCH ORGANIZATION • TEXAS HOUSE OF REPRESENTATIVES
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HOUSE RESEARCH ORGANIZATION

daily floor report

Friday, May 05, 2017
85th Legislature, Number 64
The House convenes at 10:30 a.m.
Part Two

Twenty-four bills set for second-reading consideration on today's daily calendar are analyzed or digested in Part Two of today's *Daily Floor Report*. They are listed on the following page.

Dwayne Bohac
Chairman
85(R) - 64

HOUSE RESEARCH ORGANIZATION

Daily Floor Report
Friday, May 05, 2017
85th Legislature, Number 64
Part 2

SUBJECT: Making certain victims' addresses confidential

COMMITTEE: Criminal Jurisprudence — committee substitute recommended

VOTE: 7 ayes — Moody, Hunter, Canales, Gervin-Hawkins, Hefner, Lang, Wilson

0 nays

WITNESSES: For — Marta Prada Pelaez, Family Violence Prevention Services, Inc.; G. G.; (*Registered, but did not testify*: Fiorella Giordano, Bethesda Church; Kathryn Freeman, Christian Life Commission; TJ Patterson, City of Fort Worth; Dorothy Dundas, House of Accord; Jim Grace, Houston Area Women's Center; Jesse Ozuna, City of Houston Mayor's Office; Tiana Sanford, Montgomery County District Attorney's Office; Judy Gautreaux, Mt. Pleasant Prayer Network; James Jones, San Antonio Police Department; Vincent Giardino, Tarrant County Criminal District Attorney's Office; Thomas Schlueter, Texas Aposrolic Prayer Network; Chris Kaiser, Texas Association Against Sexual Assault; Joshua Houston, Texas Impact; Mike Gomez, Texas Municipal Police Association; Aaron Setliff, the Texas Council on Family Violence; Justin Wood, Travis County District Attorney; Suzanne Vincent, Trinity Fellowship Church; Ruby Dodson, TxAPN; Trayce Bradford; Thomas Parkinson; John Seago)

Against — None

On — Kristen Huff, Texas Office of the Attorney General

BACKGROUND: Code of Criminal Procedure, art. 56.82(a) requires the attorney general to establish an address confidentiality program to assist a victim of family violence, human trafficking, sexual assault, aggravated sexual assault, prohibited sexual conduct, or stalking. Through the program, the attorney general ensures the confidentiality of a participant's residential, business, or school addresses and designates a substitute post office box address for a participant to use in place of the real address.

Some individuals say that this confidentiality program should be

expanded to include victims under certain protective orders and that other information on these victims also should be classified to reduce ongoing abuse or stalking.

DIGEST:

CSHB 2222 would authorize an individual to be eligible for the address confidentiality program if the applicant, or a member of the applicant's household, was protected under:

- a temporary restraining order;
- a temporary ex parte order related to family violence;
- a protective order related to sexual assault or abuse, stalking, human trafficking, or family violence; or
- a magistrate's order for emergency protection related to family violence.

An applicant also could be eligible if he or she had other documentation of family violence, sexual assault or abuse, or stalking.

The attorney general could disclose a participant's true residential, business, or school address to a requesting law enforcement agency only if it was for the purpose of conducting an investigation.

The bill also would classify an individual's residential address submitted in a voter registration application or in a tax appraisal record as confidential, if the applicant provided certain evidence that:

- the applicant or an applicable member of his or her household was a victim of family violence;
- the applicant or an applicable member of his or her household was a victim of sexual assault or abuse, stalking, or human trafficking; or
- the applicant was a participant in the address confidentiality 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.

NOTES:

A companion bill, SB 256 by V. Taylor, was reported favorably without amendment by the House Committee on Criminal Jurisprudence on April 28 and has been sent to Calendars.

SUBJECT: Requiring disclosure of gestational agreements in divorce proceedings

COMMITTEE: Juvenile Justice and Family Issues — committee substitute recommended

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

0 nays

WITNESSES: For — (*Registered, but did not testify*: Emily Horne, Texas Right to Life)

Against — (*Registered, but did not testify*: Cindy Asmuseen; Traycd Bradford; William Busby; Dana Hodges)

On — Steve Bresnen and Heather King, Texas Family Law Foundation

BACKGROUND: Family Code, ch. 160, subch. I governs gestational agreements, which involve a woman and the intended parents of a child entering an agreement in which the woman relinquishes all parental rights to a child conceived through assisted reproduction and the intended parents become the parents of the child. When the intended parents are a married couple filing for divorce, confusion can arise about the parent-child relationship among the intended parents, the gestational mother, and the child.

DIGEST: CSHB 1216 would require divorce petitions between married couples that had entered into a gestational agreement to disclose:

- the existence of a gestational agreement
- whether the gestational mother was pregnant or a child had been born under the agreement; and
- whether the agreement had been validated by a court.

The bill would allow an intended parent to file suit to establish parental rights, but only against or jointly with the other intended parent.

The bill would take effect September 1, 2017, and would apply only to

petitions for divorce filed on or after that date.

SUBJECT: Expanding DFPS prevention and early intervention services

COMMITTEE: Human Services — committee substitute recommended

VOTE: 8 ayes — Raymond, Frank, Klick, Miller, Minjarez, Rose, Swanson, Wu

0 nays

1 absent — Keough

WITNESSES: For — Peter Sakai, 225th District Court; Melanie Rubin, Dallas Early Education Alliance; Will Francis, National Association of Social Workers-Texas Chapter; Sarah Crockett, Texas CASA; Patricia Hogue, Texas Lawyers for Children; Madeline McClure, TexProtects; (*Registered, but did not testify*: Cynthia Humphrey, Association of Substance Abuse Programs; Kathryn Freeman, Christian Life Commission; Gyl Switzer, Mental Health America of Texas; Christine Yanas, Methodist Healthcare Ministries; Greg Hansch, National Alliance on Mental Illness (NAMI) Texas; Katherine Barillas, One Voice Texas; Diane Ewing, Texans Care for Children; Shannon Noble, Texas Counseling Association; Joshua Houston, Texas Impact; Clayton Travis, Texas Pediatric Society; Harrison Hiner, Texas State Employees Union; James Thurston, United Ways of Texas; Knox Kimberly, Upbring; Sacha Jacobson; Thomas Parkinson)

Against — Lee Spiller, Citizens Commission on Human Rights; Judy Powell and Johana Scot, Parent Guidance Center; Jeremy Newman, Texas Home School Coalition; (*Registered, but did not testify*: Jackie Schlegel, Texans for Vaccine Choice; Nicole Hudgens, Texas Values; Monica Ayres; Angel Cook)

On — Jim Black, Angel Eyes Over Texas; Sasha Rasco and Tiffany Roper, Department of Family and Protective Services; Kristi Taylor, Supreme Court Children's Commission; Ryan Larson; (*Registered, but did not testify*: Lisa Kanne, Kaysie Taccetta, and Ric Zimmerman, Department of Family and Protective Services; Evelyn Delgado, Texas Department of State Health Services)

DIGEST:

CSHB 1549 would require the Department of Family and Protective Services (DFPS) to establish web-based systems for case management and foster children's placement, collect, utilize, and report data, and increase DFPS prevention and early intervention services.

Placement of children. The bill would require DFPS, subject to the availability of funds, to use a web-based system to assist the department in making the most appropriate placement decisions for a child in foster care. The system would include certain elements such as suggested child placements and potential foster care providers near a child's home or school, among other considerations listed in the bill.

Foster care provider recruitment plan. Subject to the availability of funds, DFPS would collaborate with current foster and adoptive parents to develop and implement a plan to recruit foster care providers. The plan would:

- identify geographic areas where there was a need for foster care providers using risk stratification modeling or risk assessments of geographic areas with high occurrences of child abuse, neglect or child fatalities;
- use data analysis, social media, and partnerships with faith-based and volunteer organizations;
- identify the number of available foster care providers for children with high needs to expand the use of therapeutic or treatment foster care for children in those placements;
- provide programs to assist prospective and current foster and adoptive parents with training, respite care, and peer assistance;
- include strategies for increasing the number of kinship providers; and
- include strategies to ensure children in foster care do not have to transfer schools after entering foster care.

Family preservation services. Subject to the appropriation of funds, the bill would require DFPS to implement an evidence-based pilot program that provides frequent in-home visits to no more than 2,000 families who have a history of child abuse or neglect. The program would include

guidelines for the frequency of monthly contact by DFPS with the family, based on the child abuse and neglect risk factors in each case.

Data collection. The Department of State Health Services (DSHS) would have to include near fatality child abuse or neglect cases in the child fatality case database, for cases in which child abuse or neglect is determined to have been the cause of the near fatality.

Data tracking. The bill would require DFPS to produce a report regarding child fatality and near fatality cases resulting from child abuse or neglect. The report would contain:

- any prior contact DFPS had with the child's family and the manner in which the case was disposed;
- for any case investigated by DFPS involving the child or the child's family, certain information about caseworkers assigned to the case;
- for any case in which the DFPS investigation concluded there was reason to believe that abuse or neglect occurred, and the family was referred to family-based safety services, certain information about the safety plan provided to the family;
- the number of contacts DFPS made with children and families in family-based safety services cases; and
- the initial and attempted contacts DFPS made with child abuse and neglect victims.

Report. DFPS would be required to submit an annual report on the number of child abuse and neglect cases in residential child care facilities; families referred to family preservation services; children removed from homes due to child abuse and neglect investigations; children placed in substitute care; children placed outside the child's county or region; and children in DFPS conservatorship. The report also must include information on the recurrence of abuse or neglect and the workforce turnover for Child Protective Services (CPS) employees.

Prevention and early intervention services. The bill would require DFPS to include in its five-year strategic plan for prevention and early intervention services a growth strategy for increasing the number of

families receiving prevention and early intervention services each year.

The bill would require DFPS to improve the effectiveness and delivery of prevention and early intervention services by:

- identifying geographic areas that have the highest need for prevention and early intervention services, including high risk areas that lack available services; and
- developing strategies for community partners to improve the early recognition and reporting of child abuse and neglect and prevent child fatalities.

The bill would prohibit DFPS from using the collected data to identify a specific family or individual.

Subject to an appropriation of funds, the bill would require DFPS by August 31, 2019, to expand the capacity of home visiting services provided by the prevention and early intervention services division of DFPS by 20 percent in six counties identified as having the highest need for such services.

Designation of caseworkers. The bill would require DFPS to designate current tenured caseworkers to conduct investigations involving child fatalities. In geographic areas with demonstrated need, DFPS would designate employees to serve as investigators and responders for after-hours reports of child abuse or neglect.

Caseload management system. Subject to an appropriation of funds, DFPS would develop and implement a caseload management system for CPS caseworkers and managers that ensures equity in the workload distribution, based on the complexity of each case.

Prevention Advisory Board. The bill would establish the Prevention Advisory Board in DFPS to promote public awareness and make recommendations to the Health and Human Services Commission, DSHS, DFPS, the governor, and the Legislature regarding the prevention of child abuse and neglect.

Effective date. The bill would take effect September 1, 2017.

SUPPORTERS SAY:

CSHB 1549 would strengthen prevention and early intervention services, data collection and utilization, and family preservation and reunification among families with a history of child abuse or neglect. Families could opt in or out of the family preservation services pilot program. Establishing the program is necessary for protecting Texas' most vulnerable children.

OPPONENTS SAY:

CSHB 1549 could lead to unnecessary home visits of low-income families simply because a family's household income qualifies as a risk factor for child abuse and neglect.

NOTES:

According to the Legislative Budget Board, the bill would have a negative impact of about $113 million in general revenue related funds during fiscal 2018-19.

SUBJECT: Authorizing postpartum depression screening under Medicaid for mothers

COMMITTEE: Public Health — favorable, without amendment

VOTE: 10 ayes — Price, Sheffield, Arévalo, Burkett, Coleman, Cortez, Guerra, Klick, Oliverson, Zedler

0 nays

1 absent — Collier

WITNESSES: For —Donna Kreuzer, Pregnancy and Postpartum Health Alliance of Texas; Adriana Kohler, Texans Care for Children; Lisa Hollier, Texas Children's Hospital; Celia Neavel, Texas Pediatric Society, Texas Medical Association, Texas Association of Obstetrics and Gynecology, Texas Academy of Family Practice, March of Dimes; Louise Liebeskind; (*Registered, but did not testify*: Rebecca Teng, ACOG-TX, Texas Medical Association, TCMS; R. Moss Hampton, American Congress of Obstetricians & Gynecologists, District XI (Texas), Texas Medical Association, Texas Association of Obstetricians and Gynecologists, Texas Pediatric Society, Texas Academy of Family Physicians, MOD, Texas Care for Children; Cynthia Humphrey, Association of Substance Abuse Programs; Stacey Pogue, Center for Public Policy Priorities; Jason Sabo, Children at Risk, Young Invincibles; Matt Moore, Children's Health System of Texas; Stacy Wilson, Children's Hospital Association of Texas; Cheasty Anderson, Children's Defense Fund; Kathryn Freeman, Christian Life Commission; Chase Bearden, Coalition of Texans with Disabilities; Reginald Smith, Communities for Recovery; Reginald Smith, Community for Recovery; Wendy Wilson, Consortium of Certified Nurse-Midwives; Eric Woomer, Federation of Texas Psychiatry; Leah Gonzalez, Healthy Futures of Texas; Shannon Lucas, March of Dimes; Bill Kelly, City of Houston Mayor's Office; Rebecca Fowler, Mental Health America of Greater Houston; Annalee Gulley, Mental Health America of Greater Houston; Gyl Switzer, Mental Health America of Texas; Christine Yanas, Methodist Healthcare Ministries; Maggie Hennessy, NARAL Pro-Choice Texas; Greg Hansch, National Alliance on Mental Illness (NAMI) Texas; Eric Kunish, National Alliance on Mental Illness Austin Advocacy Chair;

Will Francis and Nakia Winfield, National Association of Social Workers-Texas Chapter; Elaine Cavazos, Pregnancy and Postpartum Health Alliance of Texas; Maureen Milligan, Teaching Hospitals of Texas; Marshall Kenderdine, Texas Academy of Family Physicians; Carl Dunn, Texas ACOG; G. Sealy Massingill, Texas Association of Obstetricians and Gynecologists; Kay Ghahremani, Texas Association of Community Health Plans; Kimberly Carter, Texas Association of Obstetrics and Gynecologists; Johnna Carlson, Texas Children's Hospital; Diana Fite, Texas College of Emergency Physicians; Lee Johnson, Texas Council of Community Centers; Jan Friese, Texas Counseling Association; Carrie Kroll, Texas Hospital Association; Joshua Houston, Texas Impact; Lane Aiena, George Santos, Zoe Tramel, Jerome Jeevarajan, Ruth Abrams, Steven Hays, Moez Mithani, Carolyn Parcells, Sanjana Puri, Jane Stafford, and Dani Steininger, Texas Medical Association; Andrew Cates, Texas Nurses Association; Daniel Vijjeswarapu, Texas Pediatric Society; Alice Bufkin, Texas Women's Healthcare Coalition;, TMA, ACOG; Parin Patel, Texas Medical Association, TAOG; Helen Dunnington, TMA/ACOG; Aidan Utzman, United Ways of Texas; Andrew Smith, University Health System; and 19 individuals)

Against — Monica Ayres, Citizens Commission on Human Rights; (*Registered, but did not testify*: Lee Spiller, Citizens Commission on Human Rights; and 16 individuals)

On — Lesley French, Health and Human Services Commission; Judy Powell, Parent Guidance Center; (*Registered, but did not testify*: Tamela Griffin, Health and Human Services Commission)

DIGEST:

HB 2466 would include postpartum depression screening as a covered service for an enrollee's mother under the Children's Health Insurance Program (CHIP) and children's Medicaid, regardless of whether the mother also was an enrollee in Medicaid. For CHIP, the screening would be a covered service when performed during a covered well-child or other office visit for the enrollee. For children's Medicaid, the screening would be covered when performed during a covered examination for the enrollee under the Texas Health Steps Comprehensive Care Program. For both programs, services would be covered if performed before the enrollee's first birthday.

The executive commissioner of the Health and Human Services Commission (HHSC) would adopt rules necessary to implement the bill's provisions. The bill would require the rules to be based on clinical and empirical evidence concerning maternal depression as well as information provided by relevant physicians and behavioral health organizations.

HHSC would seek, accept, and spend any federal funds that were available for the services authorized under the bill, including priority funding authorized by Section 317L-1 of the Public Health Service Act as added by the 21st Century Cures Act. If, before implementing any provision of the bill, a state agency determined that a waiver or authorization from a federal agency was necessary for implementing that provision, the agency affected by the provision would request the waiver or authorization and could delay implementing that provision until the waiver or authorization was granted.

The bill would take effect September 1, 2017.

SUPPORTERS SAY:

HB 2466 would improve health outcomes for mothers and babies while saving taxpayer dollars. By offering a screening for postpartum depression to mothers whose children had coverage under children's Medicaid or the Children's Health Insurance Program (CHIP), the bill would facilitate early diagnosis and treatment of postpartum depression. Untreated postpartum depression has negative consequences for both the mother and her baby. Mothers with untreated postpartum depression are more likely to visit the emergency room and have higher health care costs.

The bill would allow more mothers to have access to screening and treatment by allowing mothers to be screened for up to one year after delivery. The bill would not require screening. Currently, mothers who have pregnant women's Medicaid are covered only for 60 days after delivery and many mothers fail to receive any form of treatment for postpartum depression. Extending the time period for screening is important because postpartum depression can appear up to a year after birth and can appear around or after the time mothers lose coverage under pregnant women's Medicaid.

The bill would have no significant fiscal implication to the state, according to the fiscal note, and would allow women to receive screenings at a pediatrician's office during their child's well-child visit, which is a setting that reduces stigma and increases the rate of follow-up visits. A demonstration project showed that a high majority of women followed up with a pediatrician's referral to a mental health provider.

The bill maintains current confidentiality and informed consent requirements in statute for Medicaid and CHIP, including the services allowed to be provided by the bill. It would be redundant to add that language to this bill, as it is clearly stated in other parts of code. The Health and Human Services Commission would address the specifics of treatment provided under the bill when adopting its rules, which the bill requires to be based on clinical and empirical evidence and information provided by physicians and behavioral health organizations.

OPPONENTS SAY:

HB 2466 would not specifically state that the mother would give informed consent for the screening, that the results of the screening would remain confidential, and that a mother could receive non-mental health treatment related to postpartum depression under the bill.

NOTES:

A companion bill, SB 1257 by Huffman, was referred to the Senate Health and Human Services Committee on March 13.

SUBJECT: Adding OnRamps completion as a high school performance measure

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 — Craig Shapiro, Austin ISD; Pilar Westbrook, Del Valle ISD; Lisa Nucci, Leander ISD; (*Registered, but did not testify*:; Julie Cowan, AISD Board of Trustees; Mark Wiggins, Association of Texas Professional Educators; Drew Scheberle, Austin Chamber of Commerce; Amber Elenz, Austin ISD; Courtney Boswell, Texas Aspires; Molly Weiner, Texas Aspires Foundation; Miranda Goodsheller, Texas Association of Business; Ellen Arnold, Texas PTA; Michael Hinojosa, Texas Urban Council; Tami Keeling, Victoria ISD, TASB; Danielle King; Laura Yeager)

Against — None

On — Penny Schwinn and Shannon Housson, Texas Education Agency; Harrison Keller, The University of Texas at Austin; (*Registered, but did not testify*: Kara Belew, Texas Education Agency; Jennifer Saenz and Julie Schell, The University of Texas at Austin; Julie Schell)

BACKGROUND: Education Code, sec. 39.053(c)(4) lists factors for evaluating the performance of high school campuses and districts that include those campuses. Among the factors are those designed to measure college readiness.

Some observers have noted that research indicates students who take at least one dual enrollment course are more likely to graduate from college. OnRamps, a program coordinated by The University of Texas at Austin, has delivered online dual enrollment instruction to more than 13,000 Texas students since 2012. The program offers courses in 10 subjects to Texas students and their families at no cost. Interested parties note that

districts and campuses should be able to use students' successful completion of an OnRamps course as a measure of college readiness in the public school accountability system.

DIGEST:

HB 1174 would add to high school performance indicators under the public school accountability system the percentage of students who successfully completed an OnRamps dual enrollment course. The bill would apply beginning with the 2017-2018 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, 2017.

SUBJECT: Requiring notice of certain Americans with Disabilities Act claims

COMMITTEE: Judiciary and Civil Jurisprudence — committee substitute recommended

VOTE: 8 ayes — Smithee, Farrar, Gutierrez, Hernandez, Laubenberg, Murr, Rinaldi, Schofield

1 nay — Neave

WITNESSES: For —Matt Burgin and Sharif Prasla, Texas Food and Fuel Association; Nelson Roach, TTLA; Mark Homer; Mishell Kneeland; (*Registered, but did not testify*: Michael Chatron, AGC Texas Building Branch; Kinnan Golemon, Austin White Lime Company; Tiffany Young, Citizens Against Lawsuit Abuse, Texans Against Lawsuit Abuse; Melodie Durst, Credit Union Coalition of Texas; Daniel Womack, Dow Chemical; Meredyth Fowler, Independent Bankers Association of Texas; Dana Chiodo, International Council of Shopping Centers (ICSC); Bill Oswald, Koch Companies; Annie Spilman, National Federation of Independent Business/Texas; Mike Meroney, Safelite Autoglass and Huntsman Corporation; Lee Parsley, Texans for Lawsuit Reform; David Mintz, Texas Apartment Association; Ned Munoz, Texas Association of Builders; Cathy Dewitt, Texas Association of Business; Stephanie Simpson, Texas Association of Manufacturers; Robert Flores, Texas Association of Mexican American Chambers of Commerce; Lisa Kaufman and Carol Sims, Texas Civil Justice League; Paul Hardin and Shaukat Mahesania, Texas Food and Fuel Association; Jennifer Banda, Texas Hospital Association; Olivia Chriss, Texas Restaurant Association; Jim Sheer, Texas Retailers Association; Mike Hamilton)

Against — Dennis Borel, Coalition of Texans with Disabilities; Lia Davis, Disability Rights Texas; Kyle Piccola, the Arc of Texas; Mary MacKinnon; (*Registered, but did not testify*: James Harrington; Rebecca Johnston)

On — David Talbot, Office of the Attorney General

BACKGROUND: Human Resources Code, sec. 121.004 makes it a misdemeanor offense

punishable by a fine of up to $300 and 30 hours of community service for a person to violate the provisions listed in sec. 121.003, which prohibits discrimination against persons with disabilities. In addition to this penalty, any person violating one of these provisions has deprived a person with a disability of his or her civil liberties, and the deprived person may maintain a cause of action for damages, with a conclusive presumption of at least $300 in damages.

DIGEST:

CSHB 1463 would amend Human Resources Code, sec. 121.004 to require a notification process prior to a claim being filed for alleged failure to comply with applicable design, construction, technical, or similar standards, including website accessibility guidelines, required by law and designed to accommodate persons with disabilities.

At least 60 days before filing a claim for this type of violation, a person would have to provide a written notice to the alleged violator, the respondent. The written notice would have to state the name of the claimant and, in reasonable detail:

- each condition on the respondent's premises or website allegedly noncompliant with an applicable design, construction, technical, or similar standard on which the claim would be based; and
- each design, construction, technical, or similar standard allegedly violated.

The notice could not demand damages, request a settlement, or offer to make a settlement without a determination of whether the condition was excused by law or could be remedied.

A respondent could then correct the alleged violation or make a determination that the alleged violation had not occurred and that correction was not necessary. If the respondent corrected the violation, he or she would have to send notice to the claimant describing each correction and how that correction addressed the alleged violation. Respondents who determined no correction was necessary would have to send an explanation of the conclusion to the claimant.

If claimants decided to file an action based on this type of violation, they

would have to establish that the respondent had not corrected one or more of the alleged violations stated in the written notice. The respondent could then file a plea in abatement, and the court would have to abate the action for up to 60 days after a hearing on the plea if the court found that:

- the respondent initiated action to correct the alleged violation in the 60 days after receiving written notice from the claimant;
- the respondent could not complete the correction within that time; and
- the corrections would be completed by the end of the period of abatement.

If, during the period of abatement, the respondent provided notice of the correction or completed the corrections, the claimant could file a motion to dismiss the action without prejudice, or the respondent could file a motion for summary judgment.

This bill would take effect September 1, 2017.

SUPPORTERS SAY:

CSHB 1463 would reduce the negative impact on various entities in Texas that can be targeted for alleged minor violations of state law prohibiting discrimination against persons with disabilities. Lawsuits are threatened or filed in an attempt to force the entity to settle claims outside of court to avoid expending time and resources to defend itself. The bill would encourage those who were in violation of applicable design and construction standards to become compliant without the need for litigation.

OPPONENTS SAY:

CSHB 1463 would harm the Americans with Disabilities Act (ADA) claims filing process by adding more obstacles for people with disabilities before they could proceed with a legitimate claim against a person for a violation of law that deprived them of their civil rights. The added process would require a lawyer's level of knowledge to file a claim. Further, remedies already are in place for situations involving bad faith ADA claims.

NOTES:

A companion bill, SB 827 by Seliger, was referred to the Senate Committee on State Affairs on February 27.

SUBJECT: Using a death master list to verify unclaimed life insurance and annuities

COMMITTEE: Insurance — committee substitute recommended

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

0 nays

WITNESSES: For — Jennifer Cawley, Texas Association of Life and Health Insurers; (*Registered, but did not testify*: Deborah Polan, AIG; John Marlow, Chubb; Tim Von Kennel, NAIFA Texas; Jay Thompson, Talhi, Prudential, American National; Amanda Martin, Texas Association of Business; Lee Manross, Texas Association of Health Underwriters; Kandice Sanaie, UnitedHealthcare; Miles Mathews, Voya Financial Services)

Against — None

On — (*Registered, but did not testify*: Joe Matetich, Opic; Philip Reyna, Texas Department of Insurance)

BACKGROUND: The U.S. Social Security Administration's Death Master File is used by financial and credit firms as well as government agencies to match records and prevent identity fraud. It includes millions of records of deaths that have been reported to the Social Security Administration. Interested observers say insurers could use the Death Master File to search for and identify deceased persons and to connect their beneficiaries with unclaimed life insurance and annuity contract proceeds.

DIGEST: CSHB 1243 would require an insurance company to compare its in-force life insurance policies, annuity contracts, and retained asset accounts against a Death Master File at least semiannually to identify potential matches. The bill would define a "Death Master File" to mean the U.S. Social Security Administration's Death Master File or any other database or service that was at least as comprehensive for determining whether a person is dead. A "match" would mean a match of the Social Security

number or the name and date of birth of an insured or retained asset account holder resulting from a search of the Death Master File.

CSHB 1243 would specify how the insurer would conduct the comparison. The bill would specify what a comparison would include and would require an insurer to implement procedures for conducting comparisons to account for common nicknames, compound last names, transposition of the month and date of a date of birth, an incomplete Social Security number, and other issues. Group life or group annuity contract insurers would be required to confirm the possible death of an insured or retained asset account holder only if the insurer provided recordkeeping services for the group policy or group annuity contract.

Within 90 days of finding a match, an insurer would:

- complete and document a good faith effort to confirm the death of the insured or retained asset account holder;
- review the insurer's records to determine whether the deceased had bought or was covered under any of the insurer's other products; and
- determine whether proceeds were due.

If an insurer determined that proceeds could be due and a beneficiary or other authorized representative had not communicated with the insurer within 90 days after the date the insurer identified a Death Master File match, the bill would require an insurer to:

- make a good faith effort to locate and contact each beneficiary or other authorized representative of the policy, contract, or account; and
- provide the beneficiary or authorized representative with the appropriate claim forms, instructions, information to make a claim, and information about any need to provide a death certificate or proof of death.

If the insurer was unable to confirm the death of the insured or retained asset account holder, the insurer would consider the policy, contract, or

account to remain in force. The insurer could disclose minimum necessary personal information about the insured or account holder to a person the insurer reasonably believed to be able to assist the insurer in locating a person entitled to payment of claim proceeds.

The proceeds of a life insurance policy, annuity contract, or retained asset account, and any accrued contractual interest would first be payable to each designated beneficiary or owner as provided by the policy, contract, or account terms. If a Death Master File match was confirmed, the proceeds of the policy, contract, or account would be considered unclaimed proceeds on the third anniversary of the insurer completing and failing in a good faith effort to find the beneficiary or authorized representative and neither the beneficiary nor the authorized representative having submitted a claim for the proceeds. Unclaimed proceeds would be reported and delivered and would not include any statutory interest, according to relevant Texas law.

The bill would allow the commissioner of insurance to adopt rules to implement the bill's provisions and would allow the commissioner to issue certain orders related to limiting Death Master File comparisons, exempting an insurer from conducting the comparisons, and permitting an insurer to phase-in compliance with the bill.

The insurer or the insurer's service provider could not charge an insured, retained asset account holder, beneficiary, or authorized representatives any fees or costs associated with conducting or verifying a Death Master File comparison. Nothing in the bill would limit an insurer's right to request a death certificate as part of a claim validation process.

Certain provisions in the bill would apply only to an insurance policy or annuity contract delivered, issued for delivery, or renewed on or after January 1, 2018, or a retained asset account established in connection with the insurance policy or annuity contract. Before that date, applicable insurance policies and annuity contracts would be governed by the law as it existed immediately before the bill's effective date of September 1, 2017.

NOTES: A companion bill, SB 561 by Hancock, was approved by the Senate on

April 19 and referred to the House Insurance Committee on May 4.

SUBJECT: Considering the least restrictive environment for foster care placements

COMMITTEE: Human Services — committee substitute recommended

VOTE: 7 ayes — Raymond, Frank, Keough, Klick, Minjarez, Rose, Swanson

0 nays

2 absent — Miller, Wu

WITNESSES: For — Lynn Harms, Childrens Home of Lubbock; Don Forrester, Texas Baptist Children's Home; Michelle Maikoetter, Texas Coalition of Homes for Children; Eron Green, Texas Coalition of Homes for Children, South Texas Children's Home Ministries; Tim Brown, Texas Coalition of Homes for Children, Methodist Children's Home; Patrick Foster; (*Registered, but did not testify*: Mashelle Ancell, Elaine Fortune, and Kerry Fortune, Ben Richey Boys Ranch and Family Program; Todd Roberson, Children At Heart Ministries; Diane Brown and Kathy Steinocher, Children's Village and Family Service Agency Inc.; Douglas Young, Foster's Home for Children; Faith Priour and Jonah Priour, Hill Country Youth Ranch; Krystle Ramsay, Hill Country Youth Ranch, Texas Coalition of Children's Homes; Moe Dozier, Methodist Children's Home; Jay Hamilton, Miracle Farm; David Thompson, Presbyterian Children's Homes and Services; Randy Spencer, Presbyterian Children's Homes and Services, Karyn Purvis Institute of Child Development, Texas Coalition of Homes for Children; Mark Childs, South Texas Children's Home; Greg Huskey, STCH ministries; Jennifer Allmon, the Texas Catholic Conference of Bishops; Kent Birdsong; Roxana Ghaderi)

Against — Lee Spiller, Citizens Commission on Human Rights; Will Francis, National Association of Social Workers - Texas Chapter; Katherine Barillas, One Voice Texas; Judy Powell and Johana Scot, Parent Guidance Center; Kate Murphy, Texans Care for Children; Andrew Homer, Texas CASA; Kristen Bell, Texas Lawyers for Children; Dimple Patel, TexProtects; Tymothy Belseth

On — Elizabeth Kromrei, Department of Family and Protective Services;

Susan Murphree, Disability Rights Texas; Christine Gendron, Texas Network of Youth Services; Jean Shaw, Department of Family and Protective Services; Jan Brown; Mike Foster; Stephanie Hall; (*Registered, but did not testify*: Audrey Carmical, Department of Family and Protective Services)

BACKGROUND:

40 TAC, part 19, ch. 748, subch. B, §748.43 defines "cottage home" as a living arrangement for children who are not receiving treatment services in which:

- each group of children has separate living quarters;
- 12 or fewer children are in each group;
- primary caregivers live in the children's living quarters 24 hours per day for at least four days a week or 15 days a month; and
- other caregivers are used only to meet the child-to-caregiver ratio or to supplement care.

DIGEST:

CSHB 1542 would require the Department of Family and Protective Services (DFPS) to consider whether the placement of a child removed from his or her home would be in the child's best interest. DFPS would have to consider whether the placement:

- was the least restrictive setting;
- was the closest in geographic proximity to the child's home;
- was the most able to meet the child's identified needs; and
- satisfied any expressed interests of the child, when developmentally appropriate.

The bill would specify that placing a child in a foster home or general residential operation (GRO) operating as a cottage home would be considered the least restrictive setting if the child could not be placed with a relative or designated caregiver. The term "least restrictive setting" would mean a placement that was the most family-like setting.

The bill would take effect September 1, 2017.

SUPPORTERS

CSHB 1542 would help children caught in the foster care system with

SAY:

nowhere to go by qualifying a cottage home as the least restrictive setting for a child who could not be placed with a relative or designated caregiver. The state does not have the capacity to take care of the growing foster child population in traditional foster homes and needs more options like cottage homes.

Concerns that this bill would incorrectly define least restrictive settings for foster children are unfounded because federal law leaves the definition to the discretion of the Legislature.

Cottage homes are not the same as "congregate care" and have a unique family-like setting. While some cottage homes may produce poor outcomes for children, this is no different than other foster homes.

The bill would not create any expenses for the state because its language is permissive and would not require placing children in cottage homes. Relatively few foster care kids in Texas are located at general residential operations, which do not make up a significant cost. Furthermore, several faith-based homes choose not to take money from the state.

An expanded use of cottage homes could help open up beds in other homes and facilities, which ultimately would help the highest risk children find placement.

OPPONENTS SAY:

CSHB 1542 incorrectly would define the least restrictive environment for a child as a cottage home, which is congregate care and not a family-like environment. Federal law already has specifically defined least restrictive settings, and cottage homes should not be equated with foster homes.

Group care through these homes can lead to poor outcomes for kids, especially younger children, because of the constant cycle of parents in and out of the home.

Cottage homes also can be more expensive than traditional foster care. There also would be an increased reimbursement cost to the state for this group care.

The bill would not affect children with the greatest needs who were

spending nights in Child Protective Services offices because cottage homes accept only easy-to-place kids.

NOTES:

The Legislative Budget Board's fiscal note indicates that while the bill could be implemented through existing resources, it could result in loss of federal funding. Current federal law (Social Security Act, Title IV-E, sec. 675(5)(A)) defines the "least restrictive environment" for foster child placement, and if the Department of Family and Protective Services was found to be out of compliance, the state could lose up to $1.3 billion in Title IV-E and Temporary Assistance for Needy Families (TANF) funds.

A companion bill, SB 907 by Birdwell, was approved by the Senate on April 24.

SUBJECT: Eliminating one-punch, straight-party voting

COMMITTEE: Elections — favorable, without amendment

VOTE: 5 ayes — Laubenberg, R. Anderson, Fallon, Larson, Swanson

2 nays — Israel, Reynolds

WITNESSES: For —Jacquelyn Callanen, Bexar County; Herbert Gonzales Jr., Green Party of Bexar County; Katija Gruene, Green Party of Texas; Tom Glass, League of Independent Voters; Mark Miller, Libertarian Party and Texans for Electoral Competition; Robert Stovall, Republican Party of Bexar County; Jeff Blaylock, Texas Election Source; Erin Lunceford; Ryan Simpson; (*Registered, but did not testify*: Linda Curtis, League of Independent Voters of Texas; Carly Rose Jackson, Texans for Voter Choice; Michael Pacheco, Texas Farm Bureau; and seven individuals)

Against — Manny Garcia, Texas Democratic Party; Yannis Banks, Texas NAACP; (*Registered, but did not testify*: Goodwille Pierre, Office of Ann Harris Bennett, Harris County Tax Assessor-Collector & Voter Registrar; Crystal Perkins, Texas Democratic Party; John Richie, Texas Democratic County Chairs Association; Brad Parsons)

On — Ed Johnson, Harris County Clerk's Office; Alan Vera, Harris County Republican Party Ballot Security Committee; Bill Fairbrother, Texas Republican County Chairmen's Association; (*Registered, but did not testify*: Keith Ingram, Texas Secretary of State, Elections Division)

BACKGROUND: Election Code, sec. 1.005(20) defines a straight-party vote as a vote by a single mark, punch, or other action by the voter for all the nominees of one political party and no other candidates. Several sections of the Election Code provide for straight-party voting in Texas elections.

DIGEST: HB 25 would eliminate straight-party voting and repeal several sections of the Elections Code that reference straight-party voting.

This bill would take effect September 1, 2017.

SUPPORTERS SAY:

HB 25 would encourage voters to consider more carefully candidates running in elections by eliminating straight-party voting. While voters research candidates at the top of the ballot, they may not make as much effort to research down-ballot candidates, resulting in a system that poorly vets elected officials for offices that most directly affect the lives of constituents. In some cases, one-punch voting also causes voters to miss out on casting votes in nonpartisan races or propositions.

Texas is one of the few states that still allows one-punch, straight-party voting. Data from several states that have eliminated one-punch voting show that its elimination not only reduces ballot roll-off but increases voter turnout. For example, Texas and Georgia held statewide ballot propositions for transportation funding in 2014. In Texas, 17.3 percent of voters casting votes in the governor's race did not cast a vote for the proposition. Conversely, in Georgia only 2.6 percent of voters casting votes in the governor's race did not cast a vote for their proposition.

OPPONENTS SAY:

HB 25 would eliminate straight-party voting, which many Texas voters use. Party labels are an immediate set of boundaries that voters use to make their ballot decisions. If a voter wants to vote for all of the candidates of a single party, that voter should be allowed to do so easily. Eliminating the one-punch option does not eliminate straight-party voting, it just makes it more cumbersome. While some suggest that eliminating straight-party voting is necessary to encourage voters to make better-informed choices with regard to down-ballot candidates, there are better ways to solve that problem than removing the ability to use one-punch, straight-party voting.

The bill also could make Texas vulnerable to lawsuits. In 2016, Michigan enacted a bill that eliminated straight-party voting, which was blocked by a federal district court, with higher courts, up to the U.S. Supreme Court, declining to hear the state's case. The decision to block the law was based on evidence showing high correlations between the size of the African-American voting population within a district and the use of straight-party voting in that district. Those districts also historically have faced some of the longest wait times to vote in Michigan, which meant that eliminating straight-party voting would impact African-American voters to a greater degree.

OTHER OPPONENTS SAY:

While eliminating straight-party voting could be a good idea, it is important to consider the effect this would have on the state's larger cities and counties. Harris County consistently has one of the longest ballots in the country. Ending one-punch voting could extend the time it takes a voter to cast a ballot, which could lengthen the wait time for voters in line at each polling place.

NOTES:

A companion bill, SB 2175 by Hughes, was referred to the Senate State Affairs Committee on March 29.

SUBJECT: Requiring a corequisite model for developmental education

COMMITTEE: Higher Education — committee substitute recommended

VOTE: 9 ayes — Lozano, Raney, Alonzo, Alvarado, Button, Clardy, Howard, Morrison, Turner

0 nays

WITNESSES: For — Rebecca Goosen, Texas Association of Community College

Against — Anne Vance

On — Sarah Ancel, Complete College America; (*Registered, but did not testify*: Jerel Booker, Texas Higher Education Coordinating Board)

BACKGROUND: Education Code, sec. 51.3062 governs the Texas Success Initiative, which requires an institution of higher education to assess the academic skills of each entering undergraduate student to determine the student's readiness for freshman-level coursework. If the student fails to meet certain assessment standards, an institution of higher education is allowed to refer the student to remedial courses, known as developmental education, to address the student's deficiencies.

Under the corequisite model of developmental education, a student enrolls simultaneously in a developmental education course and in a freshman-level course of the same subject during the same semester, rather than completing a developmental course before the student is able to enroll in a credit-bearing course.

DIGEST: CSHB 2223 would require institutions of higher education to adopt a corequisite model for developmental education, with the ultimate goal of 75 percent of students enrolled in developmental education complying with the requirements of the bill. The requirements would not apply to adult basic education or basic academic skills education.

Advising. If a student failed to satisfactorily complete a freshman-level

course in the same subject area in which the student was referred to developmental coursework, the institution of higher education would be required to:

- review the plan developed for the student during college readiness advising and, if necessary, work with the student to revise the plan; and
- offer the student a range of competency-based education programs to assist the student in becoming ready to perform freshman-level academic coursework in the applicable subject.

Effectiveness measurement. Students who had completed a college preparatory course would be exempted from developmental education if they enrolled in a college-level course in the exempted content area during their first year of enrollment after qualifying for the exemption. The THECB would analyze data on the effectiveness of college preparatory courses as measured by the rate at which students receiving an exemption successfully completed the college-level course. THECB would be required to report on the effectiveness of college preparatory courses in November of each even-numbered year.

Funding. Developmental education credit hours eligible for formula funding would be reduced under the bill. For public colleges and universities, the number of eligible semester credit hours would be reduced from 18 to 9 per student, but the number of semester credit hours would remain at 18 if the developmental coursework is English for speakers of other languages. For public community colleges, the number of credits would be reduced from 27 to 18 per student, but the number of credit hours would remain at 27 if the developmental coursework is English for speakers of other languages.

Implementation timeline. Each institution of higher education would be required to ensure that a certain percentage of the institution's students who were enrolled in developmental coursework were in compliance with the bill's requirements, as follows:

- for the 2018-19 academic year, at least 25 percent;
- for the 2019-20 academic year, at least 50 percent; and

- for the 2020-21 academic year and moving forward, at least 75 percent.

CSHB 2223 would apply beginning with the 2018-2019 academic year. It 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 2223 would provide a needed overhaul to the developmental education system by requiring a corequisite model rather than the current system, which has been largely unsuccessful in helping students succeed in college. Students would be able to take credit-bearing courses at the same time they took developmental education courses, which has shown success in multiple states in improving student outcomes and saving tuition dollars. The bill would provide flexibility to institutions of higher education that wished to pursue other options for developmental education by capping the required percentage of students enrolled in corequisite-based developmental education at 75 percent, phased in over a three-year period.

OPPONENTS SAY:

The corequisite model for developmental education is a valuable tool, but it should be one of many approaches to prepare students for post-secondary success. Rather than requiring a one-size-fits-all approach outlined in this bill, there should be more flexibility for campuses that must educate a variety of students with different needs, backgrounds, and learning styles.

SUBJECT: Developing a tourism program to promote the state's musical heritage

COMMITTEE: Culture, Recreation and Tourism — committee substitute recommended

VOTE: 6 ayes — Frullo, Faircloth, Fallon, Gervin-Hawkins, Krause, Martinez

0 nays

1 absent — D. Bonnen

WITNESSES: For — Heidi Hovda, Corpus Christi Convention and Visitors Bureau; Stephen Williams, Museum of American Music History; Deborah Fleming, Texas Dance Hall Preservation; Jim O'Chery, Texas Music Library and Research Center; (*Registered, but did not testify*: Jon Weist, City of Irving; Ron Hinkle and Homero Lucero, Texas Travel Industry Association)

Against — None

On — Brendon Anthony, Texas Music Office; (*Registered, but did not testify*: Mark Wolfe, Texas Historical Commission)

DIGEST: CSHB 2079 would require the Texas Historical Commission to develop a Texas Music History Trail program to promote and preserve Texas music history. The program would be required to:

- designate locations or organizations that were historically significant to the state's musical heritage;
- adopt an icon, symbol, or other identifying device to represent the Texas Music History Trail in promoting tourism around the state and at designated locations or organizations; and
- to the extent funds were available, develop itineraries and maps to guide tourists to designated locations or organizations.

The Texas Historical Commission would be required to adopt eligibility requirements for designations and procedures to administer the program.

The bill would authorize the commission to enter into a memorandum of understanding with the Texas Commission on the Arts, the Texas Department of Transportation, or the Texas Economic Development and Tourism Office, including divisions within the Office of the Governor responsible for tourism and music, film, television, and multimedia. The commission also could solicit and accept gifts, grants, or other donations from any source to implement the program.

The bill would take effect September 1, 2017.

SUBJECT: Restricting political contributions by gubernatorial appointees

COMMITTEE: General Investigating and Ethics — committee substitute recommended

VOTE: 6 ayes — S. Davis, Moody, Capriglione, Nevárez, Shine, Turner

0 nays

1 absent — Price

WITNESSES: For — (*Registered, but did not testify*: Joanne Richards, Common Ground for Texans; Cyrus Reed, Lone Star Chapter Sierra Club; Carol Birch, Public Citizen Texas; Craig McDonald, Texans for Public Justice; Terri Hall, Texas TURF, Texans for Toll-free Highways; Lon Burnam; Don Dixon; Hamilton Richards;)

Against — None

DIGEST: CSHB 3305 would add language to Government Code, ch. 601 to make certain campaign donors ineligible for gubernatorial appointment and limit the amount of contributions an individual could make after being appointed to office.

An individual would be ineligible to serve as an officer appointed by the governor if during the year preceding the date of appointment he or she had made political contributions that in the aggregate exceeded $2,500 to the governor or a specific-purpose committee supporting the governor as a candidate or assisting the governor as an officeholder.

An individual serving as an officer appointed by the governor could not during any single year after appointment make political contributions that in the aggregate exceeded $2,500 to the governor for a specific-purpose committee supporting the governor as a candidate or assisting the governor as an officeholder. An appointee who violated the contribution limit would be liable to pay damages to Texas in triple the amount that exceeded the limit.

A political contribution made by the spouse or dependent child of an individual would be considered to be a contribution made by the individual. A political contribution from an organization made in the individual's name and with the individual's consent would be considered to be a contribution made by the individual.

Before taking office, an individual appointed by the governor would be required to sign an attestation that during the year preceding the appointment the person, his or her spouse or dependent child, or an organization acting in the appointee's name and with the appointee's consent had not made a contribution exceeding $2,500 to the governor or a specific-purpose committee supporting the governor as a candidate or assisting the governor as an officeholder.

The bill would take effect September 1, 2017.

SUPPORTERS SAY:

CSHB 3305 would put a stop to pay-to-play politics by prohibiting large donors to the governor from being nominated for appointments. The practice of governors appointing favored donors to serve on state boards and commissions has been a problem in Texas politics for many years. In making official appointments, elected officials like the governor should serve the interests of all the public, not just wealthy donors.

Individuals could still exercise their free speech rights and remain eligible for an appointment by making annual donations of up to $2,500.

OPPONENTS SAY:

CSHB 3305 would violate the free speech rights of individuals to support a gubernatorial candidate by making them ineligible for appointment to a state office by the governor if their donations exceeded $2,500 in a year.

SUBJECT: Changing the Texas Local Fire Fighters Retirement Act and TMRS

COMMITTEE: Pensions — committee substitute recommended

VOTE: 6 ayes — Flynn, Alonzo, Hefner, Huberty, Paul, J. Rodriguez

0 nays

1 absent — Anchia

WITNESSES: For — Robbie Corder, Olin Lane, and Tom Tvardzik, City of University Park; Randy Howell, University Park Fire Department; Joe Watkins, University Park Firefighters Association; (*Registered, but did not testify*: Dustin Lewis, University Park Fire Department)

Against — David Stacy, Midland FRRF, TLFFRA, TEXPERS; Kolby Beckham, TLFFRA Legislation Committee; (*Registered, but did not testify*: Narciso Cevallos, Big Spring Firemen's Relief & Retirement Fund; Brian Jones, Longview Firemen's Relief Retirement Fund; Alva Littlejohn, Lubbock Fire Pension; Leonard Dahlberg, McAllen Firefighters Pension; Javier Gutierrez, McAllen Firemen's Relief and Retirement Fund; Jill Jones and James Marts, Odessa Firefighters Relief and Retirement Fund; Thomas Parker, Secretary Longview Firemen's Relief & Retirement; Scott Hoelscher and Brett Stokes, Temple Firefighters Pension Fund; Daniel Meyer and Jake Herndon, Temple Firefighters Relief & Retirement Fund; Debra Jones, Texarkana Firemen's Relief Retirement Fund; Glenn Deshields, Texas State Association of Fire Fighters; Paul Brown, TEXPERS; Chanley Delk, TLFFRA Legislative Committee; Kevin Ivy)

On — David Gavia, Texas Municipal Retirement System; (*Registered, but did not testify*: Anu Anumeha and Kenneth Herbold, Pension Review Board)

BACKGROUND: Vernon's Texas Civil Statutes, art. 6243e outlines the Texas Local Fire Fighters Retirement Act (TLFFRA), which applies to a municipality that has a regularly organized fire department that does not consist exclusively

of volunteers, except:

- a municipality in which all fire department personnel participate in the Texas Municipal Retirement System (TMRS);
- a municipality whose fire department is governed by another state law providing for retirement benefits for fire department personnel; and
- a municipality that has a current program providing retirement benefits for fire department personnel that was established by charter or ordinance before September 1, 1989.

TLFFRA also applies to each municipality that has a fire department that:

- consists exclusively of volunteers;
- was organized before September 1, 1989, and remains a regularly organized department; and
- does not participate in the Texas Fire Fighters' Relief and Retirement Fund.

Government Code, ch. 851 governs the Texas Municipal Retirement System (TMRS).

DIGEST:

CSHB 3056 would authorize a municipality that met certain population and other requirements (city of University Park) to exclude future members from participating in the city's Firemen's Relief and Retirement Fund (FRRF).

The bill would allow a city council to adopt one or more ordinances to exclude from participation in the FRRF employees who were hired on or after the closure effective date. The closure effective date would be defined as the first day of the second month after the Texas Municipal Retirement System (TMRS) received certain retirement system plan documents. If a city council adopted this ordinance, the city council would be required to concurrently adopt an ordinance allowing the excluded employees to participate in TMRS.

By the 60th day after an ordinance was adopted, the city would submit the

ordinance to be voted on in an election by the participating members in the FRRF. If voting members approved an ordinance, the board of trustees of the FRRF would amend the FRRF to be consistent with the approved ordinance. The city would give election results and copies of relevant ordinances and amended retirement system documents to TMRS.

If a municipality failed to complete all actions authorized or required by the bill's TLFFRA provisions, the bill and related adopted ordinances would expire on October 1, 2018.

The bill would take effect September 1, 2017.

SUPPORTERS SAY:

CSHB 3056 would provide an alternate, sustainable option for future University Park firefighters. Any number of future employees that would be diverted to the Texas Municipal Retirement System would be relatively small.

Concerns about how this bill could affect other pension plans under the Texas Local Fire Fighters Retirement Act are unfounded because the bill is bracketed to apply only to the city of University Park.

OPPONENTS SAY:

Although the intention of CSHB 3056 is admirable, the bill lacks language to resolve any future financial issues that could affect the stability of University Park's Firemen's Relief and Retirement Fund (FRRF). Allowing University Park to divert future employees from its FRRF to the Texas Municipal Retirement System could increase the unfunded liabilities of the city's FRRF.

SUBJECT: Authorizing the formation of public benefit corporations in Texas

COMMITTEE: Economic and Small Business Development — committee substitute recommended

VOTE: 7 ayes — Button, Vo, Bailes, Hinojosa, Leach, Metcalf, Ortega

0 nays

2 absent — Deshotel, Villalba

WITNESSES: For — Brian Mikulencak, Blue Dot Advocates, Inc.; Ariane Chan; (*Registered, but did not testify*: Chris Masey, Coalition of Texans with Disabilities; Cathy DeWitt, Texas Association of Business; Drew Scherberle, The Greater Austin Chamber of Commerce; George Peek)

Against — None

On — Mike Powell, Texas Secretary of State; Mira Ganor

BACKGROUND: In order to operate as a public benefit corporation (PBC) in Texas, companies must be incorporated in another state. Observers note that the inability to incorporate in-state as a PBC puts Texas companies at a competitive disadvantage due to uncertainty, nonconformity in state laws governing corporations, and the added cost of duplicate filing and documentation across multiple states.

DIGEST: CSHB 3488 would allow a for-profit company to elect to be a public benefit corporation (PBC) either by writing or amending its certificate of formation to state that the company was electing to be a PBC. A company electing to be a PBC would have to specify one or more specific public benefits that the corporation would promote in its certificate of formation.

The bill would require a public benefit corporation's board of directors to manage the business in a manner that balanced the pecuniary interests of shareholders, the benefit or benefits specified in the company's certificate of formation, and the interests of those materially affected by the

corporation's conduct.

The bill would require a public benefit corporation to provide notice of its status as a PBC to most shareholders, unless its name contained the words "public benefit corporation" or an abbreviation.

The bill also would require stock certificates, notices for uncertificated ownership interests, and notices of shareholder meetings issued by a public benefit corporation to clearly disclose the corporation's status as a PBC.

The bill would require a PBC to provide shareholders at least biennially with a report on objectives established to promote public benefits, standards used to measure progress, and assessment of the PBC's success in accomplishing its public benefit objectives.

PBCs would need two-thirds shareholder approval to cancel their election to be a PBC or merge with another entity in a manner that would result in conversion of shares to equity in a non-PBC. For-profit corporations and other domestic entities would need two-thirds shareholder approval to convert into a PBC or merge with another entity in a way that would result in conversion of shares to equity in a PBC. Nonprofits could not merge with or convert into a PBC.

Certain shareholders would be entitled to dissent from a company's amendment concerning its election to be a public benefit corporation.

Directors of public benefit corporations would not owe any duty to a person based solely on their interest in the PBC's specified public benefit or in the material effects of the PBC's conduct.

The bill would take effect September 1, 2017.

SUBJECT: Prohibiting governmental subpoenas for religious sermons

COMMITTEE: State Affairs — favorable, without amendment

VOTE: 11 ayes — Cook, Giddings, Craddick, Geren, K. King, Kuempel, Meyer, Oliveira, Paddie, E. Rodriguez, Smithee

0 nays

1 absent — Guillen

1 present not voting — Farrar

WITNESSES: For — (*Registered, but did not testify*: Adam Cahn, Cahnman's Musings; Tom Mechler, Republican Party of Texas; Kathryn Freeman, Texas Baptists Christian Life Commission; Michael Geary, Texas Conservative Coalition; Joshua Houston, Texas Impact; Jennifer Allmon, The Texas Catholic Conference of Bishops; Don Dixon; Terri Hall; Jenna Hall; Beverly Nuckols)

Against — (*Registered, but did not testify*: Joanne Richards, Common Ground for Texans; Lon Burnam, Public Citizen; Carol Birch, Public Citizen Texas; Virginia Parks)

DIGEST: HB 3956 would prohibit a governmental unit, including the state, political subdivisions, and other entities described in Civil Practice and Remedies Code, sec. 101.001, from acting in a civil action or other civil or administrative proceeding to compel the production or disclosure of a written copy or audio or video recording of a sermon delivered by a religious leader during religious worship of a religious organization or to compel the religious leader to testify regarding the sermon.

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 3956 would protect the religious liberties and free speech of religious

leaders by protecting their sermons from being subpoenaed in connection with a lawsuit or administrative proceeding. The bill is narrowly tailored to protect religious leaders' First Amendment rights and to prevent government overreach and intimidation. It would apply only to a sermon and not to information such as a church's financial records that could be relevant to a tax status inquiry.

In 2014, the city of Houston subpoenaed sermons and speeches of five Houston pastors who opposed a city ordinance. Although the city eventually withdrew the subpoenas, the situation illustrated the need for a law to prevent future attempts by government to compel production of written and recorded sermons. The bill would protect religious organizations from future costly litigation.

OPPONENTS SAY:

HB 3956 could shield religious organizations from legitimate government inquiries about whether they were violating their tax-exempt status by engaging in political campaigns. Under the Internal Revenue Code, all sec. 501(c)(3) organizations are prohibited from directly or indirectly participating in, or intervening in, any political campaign on behalf of or in opposition to any candidate for elective public office.

NOTES:

A companion bill, SB 24 by Huffman, was approved by the Senate on March 8 and was reported favorably by the House State Affairs Committee on May 3.

SUBJECT: Designating foster parents as special education decision-makers

COMMITTEE: Public Education — committee substitute recommended

VOTE: 8 ayes — Huberty, Bernal, Bohac, Dutton, Gooden, K. King, Koop, VanDeaver

0 nays

3 absent — Allen, Deshotel, Meyer

WITNESSES: For — Sarah Crockett, Texas CASA; Janna Lilly, Texas Council of Administrators of Special Education; (*Registered, but did not testify*: Chris Masey, Coalition of Texans with disabilities; Rachel Gandy, Disability Rights Texas; Kristin Tassin, Fort Bend ISD; Will Francis, National Association of Social Workers - Texas Chapter; Casey McCreary, Texas Association of School Administrators; Dax Gonzalez, Texas Association of School Boards; Mark Terry, Texas Elementary Principals and Supervisors Association; Colby Nichols, Texas Rural Education Association; Texas Association of Community Schools; Dee Carney, Texas School Alliance; Portia Bosse, Texas State Teachers Association; Pamela McPeters, TexProtects (Texas Association for the Protection of Children); Aidan Utzman, United Ways of Texas; Linda Litzinger)

Against — (*Registered, but did not testify*: Nicole Hudgens, Texas Values Action)

On — Jamie Bernstein, Children's Commission; (*Registered, but did not testify*: Denise Brady, Department of Family and Protective Services; Kara Belew and Monica Martinez, Texas Education Agency)

BACKGROUND: The Individuals with Disabilities Education Act (IDEA) requires state and local education agencies to involve parents in decisions about their child's program of special education. Under Texas law, the foster parent is the preferred surrogate parent to make these decisions, but Education Code, sec. 29.015 sets a 60-day waiting period in state law before the foster parent may perform these duties. Interested observers say there is a

discrepancy between state and federal law and clarification is needed on how soon foster parents may be designated as the surrogate parent or the parent for the purpose of making special education decisions under IDEA for a child.

DIGEST:

CSHB 1556 would allow a foster parent to act as a parent of a child with a disability for the purpose of making special education decisions for a child. The bill would remove the current requirement that a foster child be placed with the foster parent for at least 60 days before the foster parent could act as the parent for the purpose of making special education decisions.

Under the bill, a foster parent could act as a parent of a child if they were appointed as the temporary or permanent managing conservator of the child, the rights and duties of the Department of Family and Protective Services (DFPS) to make decisions regarding special education for the child had not been limited by court order, and the foster parent agreed to participate in making special education decisions on the child's behalf and had completed a training program. DFPS would inform the school district within five days of the child enrolling in school if the child's foster parent was unwilling or unable to serve as a parent.

The foster parent would complete the training program within 90 days of beginning to act as the parent and before the next scheduled meeting of the child's admission, review, and dismissal committee. A foster parent would not need to retake a training program if the foster parent had completed a training program provided by DFPS, a school district, an education service center, or another federally funded entity that provided special education training.

The bill would allow a child with a disability to have a surrogate parent appointed for the child by the school district if the district was unable to identify and locate the child's parent and if the child's foster parent was unwilling or unable to serve as a parent. A surrogate parent would complete a training program and comply with other requirements in the bill, including a requirement to visit the child and the school where the child was enrolled, review the child's educational records, attend meetings, and consult with people involved in the child's education.

The bill would specify that the surrogate parent could not be a state employee, a school district employee, or an employee of another agency involved in the education or care of the child. He or she also could not have any interest that conflicted with the interest of the child. A child's guardian ad litem or a court-certified volunteer advocate could be appointed as a child's surrogate parent.

If a court, rather than a school district, appointed a surrogate parent and that person was not properly performing their duties as specified in the bill, the school district would be required to consult with DFPS and appoint another person to serve as the child's surrogate parent. The bill would specify how a court could appoint a child's surrogate parent.

In addition to other requirements if the court required training for the court-appointed surrogate parent, the training program would have to comply with the minimum standards for training established by rule by the Texas Education Agency.

The bill would take effect September 1, 2017.

NOTES:

A companion bill, SB 1881 by Menéndez, was reported favorably from the Senate Health and Human Services Committee on May 1.

SUBJECT: Allowing junior college district trustees to be elected by plurality vote

COMMITTEE: Higher Education — committee substitute recommended

VOTE: 9 ayes — Lozano, Raney, Alonzo, Alvarado, Button, Clardy, Howard, Morrison, Turner

WITNESSES: For — (*Registered, but did not testify*: Matt Oliver)

Against — None

BACKGROUND: Education Code, sec. 130.082(g) establishes that if no candidate receives a majority in an election for a junior college district's board of trustees, then the two candidates receiving the highest number of votes must face each other in a runoff election for the position.

Some suggest that these runoff elections can cost junior college districts and taxpayers hundreds of thousands of dollars in some cases and that an election determined by a plurality of the vote might be more appropriate.

DIGEST: CSHB 961 would allow a junior college district's board of trustees to provide by resolution that a candidate in a trustee election would have to gain a plurality of the vote. The resolution would have to be adopted no later than 180 days before the date of an election, and would remain in effect until the board adopted a subsequent resolution rescinding the adoption no later than 180 days before the date of the first election to which the rescission would apply.

The bill would take effect September, 1, 2017.

SUBJECT: Authorizing local victim-offender mediation programs for certain crimes

COMMITTEE: Criminal Jurisprudence — committee substitute recommended

VOTE: 7 ayes — Moody, Hunter, Canales, Gervin-Hawkins, Hefner, Lang, Wilson

0 nays

WITNESSES: For — Haley Stevens, Texas Criminal Justice Coalition; Michael Haugen, Texas Public Policy Foundation; (*Registered, but did not testify*: Katija Gruene, Green Party of Texas; Mark Mendez, Tarrant County; Lauren Rose, Texans Care for Children; Bee Moorhead, Texas Impact; Jennifer Allmon, The Texas Catholic Conference of Bishops; Lauren Johnson)

Against — D. Gene Valentini, Lubbock County

On — Kaci Singer, Texas Juvenile Justice Department; Marilyn Armour, University of Texas

DIGEST: CSHB 72 would give counties and cities authorization to establish, along with the local prosecutor, victim-offender mediation programs.

The programs would be for those who have been arrested for or charged with misdemeanor property offenses under Title 7 of the Penal Code and have no previous criminal convictions, except for fine-only traffic offenses. Cities and counties could allow referrals to the program of those who had not been formally charged with an offense and could approve additional requirements as recommended by the prosecutor.

Programs. The victim-offender mediation programs would have to require:

- designation of those eligible to participate by the standards in the bill and those developed locally;
- prosecutors to consent to the referral of participants;
- consent of the victim documented in a court record; and

- defendants to enter binding mediation agreements in which they took responsibility for their actions, which could include an apology, restitution, and community service.

If a defendant entered a pretrial victim-offender mediation program, courts could defer proceedings without entering a plea or adjudication of guilt. Courts could not require defendants to admit guilt or plead guilty or no contest to enter the program.

Programs could use resources from local pretrial services and probation departments to help courts or prosecutors monitor compliance with an agreement.

Cases would have to be returned to the regular criminal justice system if:

- the mediation did not result in an agreement;
- defendants failed to fulfill the terms of agreements by the specified date; or
- the mediator determined that the victim or defendant no longer wanted to participate or that the mediation would be ineffective.

If a defendant successfully completed a program, courts would be required to dismiss the case, if certain conditions were met. Courts would have to notify the prosecutor and hold a hearing and determine that a dismissal of the charge was in the best interest of justice. The determination could not be appealed.

If a defendant was not arrested for or convicted of a new offense, except for a fine-only traffic offense, within a year of successfully completing a mediation agreement, courts would have to order nondisclosure of the criminal records in the case.

All communications made in the program would be confidential and could not be introduced into evidence except in a court proceeding to determine the meaning of a mediation agreement.

Mediation agreements. CSHB 72 would set parameters on mediation agreements, including requiring ratification by the prosecutor, specifying services that programs could include, and limiting them to one year from

when they were ratified, unless an extension was agreed upon by the court and the prosecutor. Program mediators could be subject to certain training requirements.

Fees. The bill would allow the collection from defendants of participation fees of up to $500 and other fees to cover programs or testing. The fees would have to be based on defendants' ability to pay and used only for the program.

Defendants also would pay court costs of $15. Court clerks would have to deposit the funds in a victim-offender mediation program fund, and cities and counties could use the funds only to maintain their programs.

Juvenile programs. The Texas Juvenile Justice Board would have to establish guidelines by December 1, 2017, for victim-offender mediation programs for local juvenile probation departments. Victims would have a right to request victim-offender mediations. Participation by juveniles and victims would have to be voluntary and, if a case had been forwarded to a prosecutor, would require prosecutor approval. If a mediation agreement was not reached or not successfully completed, a case would proceed in the regular juvenile justice system. TJJD would be required to monitor the success of victim-offender mediation programs.

Juvenile courts could order sealing of a juvenile's records after completion of victim-offender mediation. If records were sealed, prosecutors and juvenile probation departments could maintain a separate record of some information about the case until the youth turned 17 years old.

Other provisions. The bill would allow for review of the programs by legislative committees as part of their interim duties and would allow cities and counties to request management, financial and other reviews.

The requirements of CSHB 72 would apply to defendants who entered a program established under the bill regardless of when an offense took place. Court costs under the bill would apply only to offenses committed on or after the bill's effective date of September 1, 2017.

SUPPORTERS

CSHB 72 would create a pretrial victim-offender mediation program

SAY: designed to provide a form of restorative justice focused on meeting the needs of victims while holding accountable first-time, low-level offenders who commit property offenses such as criminal mischief or graffiti. Victim-offender mediation can result in greater victim satisfaction with the criminal justice process and reduce recidivism, especially among young offenders. Mediation would provide a safe forum for dialogue between the victim and offender, and defendants can make amends to the victim through an apology, compensation, and community service. In addition, the programs are more cost effective than purely punitive measures, saving court resources, incarceration costs, and the expenses associated with the defendant committing additional offenses.

CSHB 72 would establish a framework for the agreements but would not require any county or city to establish them. A framework in the criminal statutes is needed to move these programs from the civil side into the criminal justice toolbox. The goal of the criminal justice system is to seek justice, and in some cases this might be done through a victim-offender mediation program. The courts and prosecutors would be involved from start to finish, making the programs another tool for the criminal justice system, not a substitute for it.

The framework in CSHB 72 would be broad enough to allow counties and cities to develop programs to fit their own circumstances and needs while ensuring that all programs met minimum standards. The bill would limit the programs to a one-time chance for low-level, first-time property crimes such as criminal mischief or graffiti to ensure they were used in appropriate cases.

OPPONENTS SAY: Mediation is a process used in civil litigation that generally is not well-suited as a substitute for the criminal justice system. While victim-offender mediation programs can have merit in some cases, they should operate in addition to, rather than instead of, the criminal justice process. When a crime is committed, the criminal justice system's primary duty is to seek justice for the broader interest of the community and the state, along with justice for individual victims. There are tools currently available in the criminal justice system to handle low-level, first-time offenders, including pre-trial diversion and deferred adjudication.

OTHER OPPONENTS SAY:

CSHB 72 is unnecessary because victim-offender mediation programs currently operate throughout the state under current civil and criminal laws. These programs can be flexible to meet the needs and circumstances of the communities where they operate, something that could be negatively impacted by the uniform framework the bill would establish.

NOTES:

A companion bill, SB 857, was referred to the Senate Criminal Justice Committee on February 27.

SUBJECT: Oversight and requirements applicable to certain state contracts

COMMITTEE: Appropriations — committee substitute recommended

VOTE: 17 ayes — Zerwas, Longoria, Ashby, Capriglione, S. Davis, Dean, Giddings, Gonzales, González, Howard, Koop, Phelan, Raney, Roberts, J. Rodriguez, Sheffield, Walle

0 nays

10 absent — G. Bonnen, Cosper, Dukes, Miller, Muñoz, Perez, Rose, Simmons, VanDeaver, Wu

WITNESSES: For — Terri Hall, Texas TURF and Texans for Toll-free Highways; (*Registered, but did not testify*: Don Dixon)

Against — None

On — (*Registered, but did not testify*: Amy Comeaux, Bobby Pounds, Jette Withers, and Robert Wood, Comptroller of Public Accounts; Gary Jesse, Ron Pigott, and Jami Synder, Health and Human Services Commission; David Griffith and Sylvia Kauffman, Health and Human Services Commission-Inspector General; Kyle McKay, Legislative Budget Board)

BACKGROUND: Government Code, sec. 441.1855 requires a state agency to retain each contract entered into and all contract solicitation documents, except in certain instances. The agency can destroy the contract and documents seven years after the contract was completed or expired or after any issues relating to the contract were resolved.

In determining the best value for the state, sec. 2155.074(c) requires an agency to receive approval from the comptroller before considering factors other than purchase price and meeting specifications when the agency procures through competitive bidding goods or services with a value exceeding $100,000.

Sec. 2262.051 requires the Texas Building and Procurement Commission to consult with the Department of Information Resources, the comptroller, and the state auditor to develop a contract management guide for use by state agencies. The guide must include certain information and model provisions and establish certain procedures required of state agencies.

Sec. 531.02414 states that the medical transportation program provides nonemergency transportation services to and from covered health care services to recipients under Medicaid and select others in need.

Concerns have been raised about state contract mishandling that has resulted in inefficiently spending taxpayer dollars.

DIGEST:

CSHB 18 would amend and create new provisions related to contract procurement, management, auditing, oversight, and evaluation.

Retention of contract-related documents. In addition to contract solicitation documents, the bill would require state agencies for each contract entered to retain documents related to contract planning, evaluation, monitoring, modification, and closeout, including certain items listed in the bill.

Agencies would be required to retain the documents only until the contract was completed or expired. If issues arose involving the contract, agencies still would have to retain the required documents for at least seven years after the issue was resolved.

Best value standard. The bill would require a state agency to receive approval from the comptroller in an open meeting before considering factors other than price and meeting specifications in relation to a procurement of goods and services with a value of more than $100 million. The agency would have to retain a copy of the meeting minutes with the final executed contract.

Contract managers for major contracts. A state agency would be required to assign a contract manager to oversee each major contract.

Contract outside tactical team. Using appropriated funds, a state agency

would be required to contract with a team of outside legal counsel or professional consultants to improve information resources contract management practices for contracts valued at $100 million or more. An agency generally would be required to comply with a recommendation made by the team.

In selecting a provider of professional consulting services, an agency could not award a contract for the services through competitive bidding. The selection and award would have to be based on demonstrated competence and qualifications and for a fair and reasonable price.

Report on performance. Before a purchase of services, each state agency would have to create a report evaluating the feasibility of the agency to perform the service that was the subject of the proposed purchase. The report would have to be included in the procurement analysis for the purchase.

Required contract provisions. An attorney representing a state agency would be required to assist with drafting a contract to include, at the minimum, items listed in the bill and other provisions recommended in the contract management guide.

Payment to vendor. A state agency could not make a payment to a vendor without a contract, invoice, or other documentation that clearly demonstrated the agency's obligation to make a payment. An agency could not pay an invoice from a vendor unless the invoice correctly correlated to a contract with the vendor or make a payment to the vendor more than once per month.

Before paying a vendor, a state agency would have to receive the approval and signature of two employees or, if assigned to the contract, the signature of the contract manager and one other employee. If a payment was made without the required signatures, the agency could revoke the payment at any time.

Overpayments by state agency. If a state agency made an overpayment to a vendor, the vendor would have to return the overpaid amount within 91 days after it was discovered; otherwise, the vendor would be subject to

a civil penalty equal to three times the amount of the overpayment. The state agency would be required to refer the matter to the attorney general for action. Any civil penalty recovered would be deposited in the state treasury.

Report on contract spending. The Legislative Budget Board would be required to submit by September 15 of each year a report detailing how much of each state agency's budget for the previous state fiscal year was spent on contracts.

Reporting of contract violation. A state employee or a member of the public could report to the comptroller a contracting violation, which the comptroller would be required to investigate. A state agency could not take adverse personnel action against an employee who reported a violation to the comptroller.

If an investigation into a violation that occurred before March 8, 2017, resulted in savings to the state, the comptroller could pay the employee or member of the public that reported the violation 30 percent of the savings.

Barring vendor from state contracts. The comptroller would be required, rather than permitted, to bar a vendor from participating in state purchasing and service contracts if more than two contracts with the vendor had been terminated based on unsatisfactory performance during the preceding three years.

Contract management guide. The comptroller, rather than the Texas Building and Procurement Commission, would be required to develop the contract management guide in consultation with state agencies that award major contracts, in addition to those already required in statute. Additional provisions aimed at developing and implementing improved procurement practices would be included in the guide, as listed in the bill.

The comptroller would be required to also consult vendors and other interested parties in developing rules, guides, manuals, and other criteria for statewide contract management.

State audit plan. In devising the state audit plan, the state auditor would

be required to consider the performance of audits of programs operated by health and human services agencies that had not recently received audit coverage and had expenditures of less than $100 million per year.

HHSC contract monitoring reports. The inspector general of the Health and Human Services Commission (HHSC) would be required to appoint oversight personnel to audit, review, and investigate high-risk contracts and procurement and contracting processes. The oversight personnel would submit a quarterly report to the inspector general, the attorney general, and the governor and post the report on HHSC's website.

Delivery of medical transportation program services. HHSC would be required to use the most cost-effective delivery model to provide the medical transportation program based on the price and quality of the services delivered through the model, in addition to any other requirements established by the bill and by applicable state and federal procurement laws.

The delivery model could be through managed transportation — a public transportation provider, local private provider, a transit district, or regional contracted broker — or a fee-for-service.

If the medical transportation program was provided through a managed model, HHSC would be required to procure providers with certain characteristics and through a competitive bidding process.

Assessment of medical transportation program. As part of a required quality review assessment of the medical transportation program, HHSC would be required to hire an independent vendor to conduct surveys of the satisfaction rates of those receiving the program's services and the unmet needs of those not receiving services.

Effective date and applicability. The bill would take effect September 1, 2017, and would apply only to a contract a state agency first advertised or otherwise took action on or to a payment made on or after that date.

The bill's provisions related to the medical transportation program would apply only to a contract entered into or renewed on or after the effective

date. If an agency determined that a waiver or authorization from a federal agency was necessary for implementation, the agency could delay implementation until the waiver or authorization was granted.

NOTES: According to the Legislative Budget Board, the bill would result in a negative impact of $1 million to general revenue related funds through fiscal 2018-19. Provisions in the bill relating to contract oversight could result in a positive, although indeterminate, fiscal impact.

SUBJECT: Homestead exemption for partially donated homes of disabled veterans

COMMITTEE: Ways and Means — favorable, without amendment

VOTE: 9 ayes — D. Bonnen, Y. Davis, Bohac, Darby, E. Johnson, Murr, Raymond, Shine, Stephenson

0 nays

2 absent — Murphy, Springer

WITNESSES: For — Kelly Raley, Helping A Hero; (*Registered, but did not testify*: Scott Norman, Texas Association of Builders; Julia Parenteau, Texas Association of Realtors; Thomas Parkinson)

Against — None

On — Mike Esparza, Comptroller of Public Accounts

BACKGROUND: Texas Constitution, Art. 8, sec. 1-b(l) allows the Legislature to provide a partial homestead exemption for a partially disabled veteran equal to the percentage of the disability, if and only if that homestead was donated at no cost to the disabled veteran. Tax Code, sec. 11.132 creates this exemption.

DIGEST: HB 150 would, contingent on voter approval of a constitutional amendment, entitle a partially disabled veteran with a homestead that was donated at some cost to the veteran to a partial homestead exemption, whereas current law only permits such an exemption to be taken if the homestead was donated at no cost.

This bill would allow such an exemption to be taken as long as the cost to the disabled veteran was no more than 50 percent of the home's market value.

HB 150 would take effect January 1, 2018, and would apply only to property taxes from a tax year that began on that date, but only if the

constitutional amendment authorizing the property tax exemption for partially donated homes of disabled veterans was approved by voters. If the amendment were not approved by voters, this bill would have no effect.

NOTES:

HB 150 is the enabling legislation for HJR 21 by Bell, which is set for second-reading consideration on the May 8 Constitutional Amendments Calendar.

A companion bill, SB 240 by Creighton, was referred to the Senate Veterans Affairs and Border Security Committee on January 30.

SUBJECT: Prohibiting certain findings of contempt

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

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

0 nays

WITNESSES: For — Heather King, Texas Family Law Foundation; (*Registered, but did not testify*: Emily Gerrick, Texas Fair Defense Project; Steve Bresnen, Texas Family Law Foundation; Gary Wardian)

Against — (*Registered, but did not testify*: Jim Baxa)

BACKGROUND: Family Code, sec. 157.001 allows a court to find an individual who has defaulted on child support obligations in contempt.

DIGEST: HB 161 would prohibit a court from finding a respondent in contempt for failing to pay child support if either the respondent or the respondent's attorney appeared at a hearing with evidence satisfactory to the court that:

- the unpaid child support accrued while the obligor was confined in a jail or prison for at least 90 days for a crime other than family violence or resulting from failure to comply with a child support order; and
- the obligor did not have sufficient resources to comply with the child support order during the period of confinement.

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

SUBJECT: Changing requirements on sales of property seized for delinquent taxes

COMMITTEE: Ways and Means — committee substitute recommended

VOTE: 10 ayes — D. Bonnen, Bohac, Darby, E. Johnson, Murphy, Murr, Raymond, Shine, Springer, Stephenson

0 nays

1 absent — Y. Davis

WITNESSES: For — Harvey Allen

Against — None

BACKGROUND: Tax Code, ch. 34 allows the sale of real property at an auction pursuant to foreclosure of a tax lien. Sec. 34.015 requires the officer conducting the sale to assign the deed to the person who was the successful bidder.

Observers note that Tax Code, ch. 34 does not speak to sales caused by tax liens on personal property, such as mobile homes, and has certain requirements relating to the bidding and conveyance process that require the ultimate owner to be physically present at the sale.

DIGEST: CSHB 3062 would amend Tax Code, sec. 34.015 to allow an officer conducting a tax sale to assign a deed of real property to the spouse of the successful bidder or to a business, religious, charitable, or civic organization whom the successful bidder represented.

The bill would broaden language in parts of ch. 34 to allow the sale, pursuant to a tax lien, of personal property, such as a manufactured home, subject to the same requirements that currently apply to real property sales. Sales of personal property could occur at a sale of real property.

The bill would take effect September 1, 2017, and would apply only to sales of property on or after that date.

SUBJECT: Requiring DNA samples after conviction for solicitation of prostitution

COMMITTEE: Corrections — favorable, without amendment

VOTE: 7 ayes — White, Allen, S. Davis, Romero, Sanford, Schaefer, Tinderholt

0 nays

WITNESSES: For — Jessica Anderson, Houston Police Department; (*Registered, but did not testify*: Gary Tittle, Dallas Police Department, Office of the Chief of Police; James Jones, San Antonio Police Department; Susan Horton, Texas Municipal League)

Against — None

On — Skylor Hearn, Department of Public Safety

BACKGROUND: The Department of Public Safety (DPS) maintains the state's computerized DNA database under Government Code, ch. 411. Its principal purpose is to help criminal justice agencies investigate and prosecute crimes. Law enforcement authorities are required to collect DNA from convicted felons, those charged with certain felonies, those required by the state to register as sex offenders, and repeat offenders who are arrested for specific crimes, and others. Samples must be collected from those convicted of indecent exposure, enticing a child, promotion of prostitution, and sale of material harmful to minors.

In 2015, the 84th Legislature amended the offense of prostitution to separate the offense into two parts, one for those would pay or pay for sex from someone, sometimes referred to as "Johns," and one for those who would receive or receive payments, sometimes referred to as "Janes." Penal Code, sec. 43.02(b) covers those who would pay or pay for sex, making it an offense, based on the payment of fee, to offer to engage, agree to engage, or engage in sex or to solicit another in a public place to engage in sex for hire. Offenses can range from class B misdemeanor (up to 180 days in jail and/or a maximum fine of $2,000) to second-degree felony (two to 20 years in prison and an optional fine of up to $10,000),

depending on whether an offense is a first or repeat offense and on the age of person solicited.

DIGEST:

HB 238 would require the taking of DNA samples for the state's database from those who are convicted under Penal Code, sec. 43.02(b) because they would pay or paid a fee for the solicitation of prostitution and were found to be knowingly offering to engage, agreeing to engage, or engaging in sex or soliciting another in a public place to engage in sex for hire.

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

NOTES:

A companion bill, SB 565 by Perry, was referred to the Senate Committee on Criminal Justice on February 8.

SUBJECT: Requiring licensure of animal export-import facilities in Texas

COMMITTEE: Agriculture and Livestock — favorable, without amendment

VOTE: 4 ayes — T. King, González, C. Anderson, Stucky

2 nays — Cyrier, Rinaldi

1 absent — Burrows

WITNESSES: For — None

Against — None

On — Dan Hunter, Texas Department of Agriculture

BACKGROUND: Agriculture Code, sec. 12.020 describes the administrative penalties that the Texas Department of Agriculture (TDA) may assess against a person for violating certain laws and rules. Each day a violation continues to occur may be considered a separate violation for purposes of penalty assessments.

DIGEST: HB 2484 would require a person to obtain a license to operate an export-import processing facility in Texas that was authorized by the federal government and had the capacity to receive and hold animals and animal products for transportation in international trade. The Texas Department of Agriculture (TDA) would have to adopt rules to implement, administer, and enforce these licensing requirements, including:

- requirements to obtain and renew a license;
- standards governing a license holder's operation of a facility necessary to protect the public's health, safety, and welfare and the safety of animals held by a facility;
- fees for licensing and renewal that cover the direct and indirect costs of administering these rules; and
- a schedule of sanctions for violations.

The bill would amend Agriculture Code, sec. 12.020 to allow TDA to impose fees not to exceed $5,000 for a violation of any law or rule created to implement these licenses.

The provisions added by the bill would not apply to an operator of a facility until 90 days after the effective date of TDA's rules for obtaining and renewing a license.

HB 2484 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 2484 would provide uniform standards and conditions for all animal export-import processing facilities. Currently, the Texas Department of Agriculture (TDA) operates three state-owned facilities. The U.S. Department of Agriculture has shied away from using some of the privately owned facilities in Texas in favor of facilities in New Mexico that appear to meet better standards. Requiring private facilities to meet the same standards as TDA facilities would help boost industry exports while ensuring that all animals were treated humanely.

OPPONENTS SAY:

HB 2428 would create another occupational license, establishing requirements and allowing the Texas Department of Agriculture to collect fees from licensing applications, which is unnecessary.

NOTES:

According to the fiscal note, the Texas Department of Agriculture (TDA) estimates that 10 facilities within the state would be subject to licensing and registration requirements under the provisions of the bill. TDA plans to inspect five facilities each fiscal year with an estimated cost of $750 per year. These costs would be offset by an equal amount of revenue from licensing fees each year.

A companion bill, SB 1675 by Lucio, is scheduled for a public hearing in the Senate Agriculture, Water, and Rural Affairs Committee on May 8.