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HOUSE RESEARCH ORGANIZATION

daily floor report

Wednesday, May 15, 2019
86th Legislature, Number 66
The House convenes at 10 a.m.
Part Two

The bills analyzed or digested in Part Two of today's *Daily Floor Report* are listed on the following page.

All HRO bill analyses are available online through TLIS, TLO, CapCentral, and the HRO website.

Dwayne Bohac
Chairman
86(R) - 66

HOUSE RESEARCH ORGANIZATION

Daily Floor Report

Wednesday, May 15, 2019

86th Legislature, Number 66

Part 2

SUBJECT: Changing regulations for certain child and youth residential facilities

COMMITTEE: Human Services — favorable, without amendment

VOTE: 7 ayes — Frank, Hinojosa, Deshotel, Klick, Meza, Miller, Noble

0 nays

2 absent — Clardy, Rose

SENATE VOTE: On final passage, April 16 — 31-0

WITNESSES: *On House companion bill, HB 1698:*
For — (*Registered, but did not testify*: Johana Scot, Parent Guidance Center; Leela Rice, Texas Council of Community Centers; Jennifer Lucy, TexProtects)

Against — Candice Matthews, Children of Diversity Foster Adoption Agency; Gregory Woodruff, Sheltering Harbour Residential Treatment Center

On — Rich Dubroc, Prairie Harbor; Katie Olse, Texas Alliance of Child and Family Services; Christine Gendron, Texas Network of Youth Services; (*Registered, but did not testify*: Kristene Blackstone, Department of Family and Protective Services; Jean Shaw, Health and Human Services Commission; Kate Murphy, Texans Care for Children; Knox Kimberly, Upbring)

BACKGROUND: Human Resources Code sec. 42.002(4) defines "general residential operation" as a childcare facility that provides care for seven or more children for 24 hours a day, including facilities known as residential treatment centers and emergency shelters.

Sec. 42.071(c) allows the Department of Family and Protective Services to schedule a facility or family home for evaluation or probation rather than suspend or revoke the license or registration if that facility or family home is in repeated noncompliance with standards that do not endanger

the health and safety of children.

DIGEST:

SB 781 would establish regulations for child safety, runaway prevention, quality contracting, and strategic and operational planning for general residential operations.

Child safety and runaway prevention. The Department of Family and Protective Services (DFPS) commissioner would have to establish a strategy to develop trauma-informed protocols for reducing the number of incidents in which a child in DFPS conservatorship ran away from a residential treatment center and to balance measures to protect child safety with federal and state requirements related to normalcy and decision making.

Quality contracting. DFPS would have to monitor and coordinate with general residential operations providing treatment services to children or young adults with emotional disorders to maintain and improve the quality of residential childcare services purchased by DFPS.

DPFS would have to consider any relevant information to assess the ability of a contractor or potential contractor to provide quality residential childcare services, including:

- the strength of the contractor's operational plan;
- the regulatory history of the contractor; and
- the history of the contractor on satisfying the relevant performance measures.

Strategic plan. DFPS would have to develop a strategic plan regarding the placement of children in settings eligible for federal financial participation under the requirements of the federal Family First Prevention Services Act. The strategic plan would have to:

- assess any available evidence regarding the impact of accreditation on qualitative performance of accredited providers;
- assess a potential structure and any funding requirements necessary to incentivize providers to become accredited;

- study any available evidence regarding the qualitative outcomes in qualified residential treatment providers;
- assess the fiscal implications to the state of developing settings that met the federal definition of qualified residential treatment providers and associated requirements; and
- make any appropriate recommendations related to implementation of the requirements for qualified residential treatment providers.

DFPS would have to submit the strategic plan to relevant legislative committees specified in the bill by September 1, 2020.

Regulation of certain general residential operations. SB 781 would create regulatory requirements for general residential operations that provided care for seven or more children or young adults and treatment for children and young adults with emotional disorders. In addition to current statutory licensing requirements, applicants for general residential operation licenses would have to submit a proposed operational plan to the Health and Human Services Commission (HHSC).

Operational plan. The executive commissioner of HHSC would have to adopt rules for the information that would have to be included in the operational plan, HHSC's review of the operational plan, and how HHSC would determine whether the plan was complete and could be approved.

The operational plan would have to include a community engagement plan to develop and, if necessary, improve relations between the general residential operation and the community in which the operation was located. The community engagement plan would have to include:

- a summary of any discussions the operation had with local law enforcement and local health, therapeutic, and recreational resources available to support children; and
- a summary of the opportunities the children at the operation would have for social interaction in the community.

The operational plan also would have to include an educational plan describing how the applicant would provide for the educational needs of

the children at the general residential operation that:

- identified whether the proposed operation would provide for the public or private education of school-age children at the operation;
- identified whether the proposed operation would provide for the education of school-age children through a local school, off-site charter school, or on-site charter school;
- included any discussions, plans, and agreements with the local school district, private school, or local charter school that would be providing education to the school-age children at the operation; and
- if the children were to be enrolled in a public school, included either a statement from the local independent school district on the impact of the proposed childcare services on the district or an explanation of the reasons the operation was unable to obtain such a statement and a discussion of other alternative educational services that the operation could offer.

The operational plan also would have to include a trauma-informed plan to address unauthorized absences of children from the general residential operation and the qualifications, background, and history of each individual who was proposed to be involved in management and educational leadership if the operation would be using an on-site charter school.

A person applying for a license to operate a general residential operation would have to state in the application if the proposed operation would provide services to children who were victims of human trafficking but would not be required to include this information in the operational plan.

HHSC would have to approve the proposed general residential operation's operational plan before holding a hearing, if applicable, or granting a license.

In evaluating an application for a license to operate a general residential operation, HHSC could consider:

- evidence gathered through the application review process;

- all parts of the operational plan;
- evidence of community support for or opposition to the proposed general residential operation, including any public comment the executive commissioner received relating to the licensing of the proposed operation; and
- the impact statement from the school district likely to be affected by the proposed general residential operation, including information relating to any financial impact on the district that could result from an increase in enrollment.

HHSC could deny license applications if it was determined that:

- the community had insufficient resources to support children proposed to be served by the applicant;
- granting the license would significantly impact the local school district and would adversely affect the children proposed to be served by the applicant; or
- granting the license would have a significant adverse impact on the community and would limit opportunities for social interaction for the children proposed to be served by the applicant.

Human trafficking victims. If an applicant for a license to operate a general residential operation would provide services to victims of human trafficking, any information related to the provision of services for victims of human trafficking would be confidential and HHSC could not disclose that information.

If a hearing was required for an application, the applicant would not have to disclose any information related to the provision of services for victims of human trafficking.

The bill would establish that the requirement to waive certain notice and hearing requirements imposed on applicants who submitted an application to provide trafficking victim services at a general residential operation would not apply to applicants that provided services to children or young adults with emotional disorders.

Education. HHSC would have to collaborate with the Texas Education Agency to determine best practices for educational services in a general residential operation, including the most effective educational plans and best practices for implementing them.

DFPS would have to make information and training related to trauma-informed practices available on its website to assist school districts with training district employees by increasing staff awareness of trauma-informed care.

License renewal. On request of the commissioners court of a county where a general residential operation was located, HHSC would have to hold a public hearing to obtain comments regarding the renewal of the operation's license.

HHSC would have to adopt procedures that provided the public with a reasonable opportunity to appear before HHSC to speak on any issue related to renewal of the license, including procedures relating to the conduct of the hearing, the order of the witnesses, and the conduct of participants.

Voluntarily closed facilities. DFPS would be prohibited from issuing a license to a person who, in lieu of disciplinary action, voluntarily closed a facility or family home or relinquished a license, listing, registration, or certification if it was within five years of the facility's or family home's closure or relinquishing of license, listing, registration, or certification.

Enforcement and compliance. The bill would expand the circumstances that HHSC would have to consider when determining the appropriate disciplinary action to take against a person who violated laws governing certain childcare facilities to include whether the violation involved the abuse or neglect of a child or resulted in the death or near fatal injury of a child and any repetition or pattern of violations.

The bill would eliminate an option for an applicable facility or family home found to be repeatedly noncompliant with standards that did not endanger the health and safety of children to have an evaluation rather than be placed on probation or have the applicable license or registration

revoked.

Implementation. The executive commissioner of HHSC would have to adopt necessary rules to implement the bill as soon as practicable after the effective date. DFPS would have to implement the provisions of the bill only if the Legislature appropriated money specifically for those purposes.

The bill would take effect September 1, 2019, and would apply only to license applications, contracts, or disciplinary actions submitted, entered into, or initiated on or after that date.

SUPPORTERS SAY:

SB 781 would require higher standards for residential childcare for children with emotional disorders that would ensure the safety of the children served in those facilities as well as the communities that they are based in, improve the quality of education in facilities, and strengthen the requirements necessary for opening and operating a new facility.

Over the past five years, more than 40 residential care facilities have voluntarily surrendered their licenses to avoid penalties due to noncompliance with state regulations, demonstrating the need for improved regulation of and support for facilities. Additionally, recent incidents involving runaways from residential care facilities have raised concerns regarding the quality of care in facilities and the dangers that badly run facilities can impose on the communities in which they are located. By establishing child safety and runaway prevention procedures, the bill would help decrease the risk of dangerous situations for both children and communities.

Requiring that the Health and Human Services Commission collaborate with the Texas Education Agency on creating and implementing best practices for education in residential treatment centers would ensure that children living in facilities received the best possible education and that the capacity and resources of local school districts were taken into account when placement decisions were made.

The strategic plan outlined in the bill would ensure that state agencies were fully prepared for the implementation of the federal Family First Prevention Services Act, signed into law in 2018, which would require

providers to meet certain additional standards of care. As HHSC has already filed a waiver to delay implementation of the federal law for two years due to a lack of readiness, the bill would create a process by which the agency could build the capacity and processes necessary to comply by the coming deadline.

OPPONENTS SAY:

SB 781 should include provisions that would require residential treatment centers to become fully compliant with the Family First Prevention Services Act sooner than 2021. The strategic plan as outlined in the bill could delay prevention for a program that has already been adopted at the federal level and has been proven to be the best way to care for children with emotional disorders.

SUBJECT: Requiring approval before annexation of certain districts under an SPA

COMMITTEE: Land and Resource Management — favorable, without amendment

VOTE: 6 ayes — Craddick, Muñoz, C. Bell, Leman, Minjarez, Thierry

0 nays

3 absent — Biedermann, Canales, Stickland

SENATE VOTE: On final passage, May 2 — 25-6 (Johnson, Rodríguez, Watson, West, Whitmire, Zaffirini)

WITNESSES: *On House companion bill, HB 3821:*
For — Joan Allen and Jim Bateman, Shady Hollow Homeowners Association; Bill Aleshire; James Biggs; (*Registered, but did not testify:* Jeremy Fuchs, Texas and Southwestern Cattle Raisers Association; and eight individuals)

Against — Virginia Collier, City of Austin; (*Registered, but did not testify:* Bill Kelly, City of Houston Mayor's Office)

On — Roger Borgelt, Shady Hollow Annexation Vote for Everyone

BACKGROUND: Local Government Code ch. 43 governs municipal annexation and divides counties and municipalities into two categories, Tier 1 and Tier 2, for the purpose of annexation authority.

Sec. 43.0751 allows the governing bodies of a municipality and a conservation and reclamation district to enter into a strategic partnership agreement. Such an agreement may allow for mutually acceptable terms, including a full-purpose annexation of the district or annexation of any commercial property in a district for full purposes by the municipality.

Ch. 43, subchs. C-3, C-4, and C-5 require Tier 2 municipalities to gain approval from the majority of voters or owners of a majority of land in an area, by request, petition, or election, to annex certain areas under specific

circumstances. These subchapters do not apply to the annexation of an area under a strategic partnership agreement, and a municipality is required to follow established procedures under the agreement for full-purpose annexation.

DIGEST:

SB 1468 would prohibit a municipality authorized or required to annex a district for full purposes under a strategic partnership agreement from annexing the district without also annexing all of the unincorporated area it served that was located in the municipality's extraterritorial jurisdiction. Before annexation, the municipality also would have to receive approval as required by certain annexation provisions for Tier 2 municipalities.

The bill would apply only to a municipality that:

- operated a municipally owned water utility; and
- was a party to a strategic partnership agreement with a municipal utility district under which the municipality contemplated annexing 400 or more water or wastewater connections that were not located in the district.

SB 1468 would not apply to a county with a population of more than 1.7 million.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2019.

SUPPORTERS SAY:

SB 1468 would address an inconsistency in annexation practices by certain cities of special districts. With the enactment of SB 6 by Campbell in 2017, some communities under strategic partnership agreements (SPAs) were split into those who have the right to vote for annexation and those who do not, based on whether the portion was inside or outside a special district. The bill simply would ensure that communities have the opportunity to stay together and keep their cohesive, contiguous, and logical boundaries by requiring a municipality annexing a utility district under specific conditions to comply with annexation provisions under Local Government Code ch. 43, subchs. C-3, C-4, or C-5. This requirement would ensure that all residents who rely on the district for

their utility services retained their right to vote for or against annexation.

SB 1468 would be limited in scope and apply only to SPAs between a city and a municipal utility district that initially contemplated annexing out-of-district customers and in which 400 or more water and wastewater connections were involved. It would not apply to a county with a population of more than 1.7 million.

OPPONENTS SAY:

SB 1468 could set a bad precedent and retroactively nullify contractual agreements. In full compliance with statutory requirements, municipal utility districts (MUDs) enter into SPAs with cities to provide mutual benefits that include specific expectations regarding annexation. The establishment, authorization, and implementation of a SPA is the result of an open and inclusive process. SPAs contain provisions that outline the obligations and transitions to occur in the final years of a MUD’s operation, and terms of these agreements are made under the assumption of full-purpose annexation. Applying certain provisions requiring approval before annexation could affect the original intent of the SPA.

The retroactive nullification that would be allowed by this bill also could result in un-recouped investments made by city taxpayers. Under the assumption of annexation as laid out in a SPA, city taxpayers may pay for certain services and improvements to the district's area.

SUBJECT: Modifying the eligibility requirements for certain occupational licenses

COMMITTEE: Corrections — favorable, without amendment

VOTE: 8 ayes — White, Allen, Bowers, Dean, Morales, Neave, Sherman, Stephenson

0 nays

1 absent — Bailes

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

WITNESSES: *On House companion bill, HB 2233:*
For — (*Registered, but did not testify:* Michael Barba, Texas Catholic Conference of Bishops; Pamela Brubaker, Austin Justice Coalition; Sue Gabriel, Texas Advocates for Justice; Emily Gerrick, Texas Fair Defense Project; Haley Holik, Texas Public Policy Foundation; Mia Hutchens, Texas Association of Business; Lauren Johnson, ACLU of Texas; Charlie Malouff, Texas Inmate Families Association; Mia McCord, Texas Conservative Coalition; Kathleen Mitchell, Just Liberty; Arif Panju, Institute for Justice; Carrie Simmons, Opportunity Solutions Project; Douglas Smith, Texas Criminal Justice Coalition; Jason Vaughn, Texas Young Republicans; Carl F. Hunter; Laurie Pherigo; Sandra Wolff)

Against — None

On — (*Registered, but did not testify:* Brad Bowman, Brian Francis, and Cristina Kaiser, Texas Department of Licensing and Regulation)

BACKGROUND: Occupations Code sec. 202.253 governs the grounds on which the Texas Commission of Licensing and Regulation (TCLR) or the Texas Department of Licensing and Regulation (TDLR) may refuse to admit an individual to an examination for a podiatry license or refuse to issue a license to practice podiatry to an individual, one of which includes being convicted of a felony, a crime that involves moral turpitude, or an offense that involves amputating a foot.

Sec. 203.404 governs the grounds on which TCLR or the executive director of TDLR can discipline a licensed midwife, refuse to renew a midwife's license, or refuse to issue a license to an applicant, one of which includes being convicted of an offense involving moral turpitude.

Sec. 1305.152 governs the eligibility requirements for electrician licenses, one of which includes applicants demonstrating their honesty, trustworthiness, and integrity.

Sec. 1802.052 governs the eligibility requirements for auctioneers' licenses, one of which includes not being convicted of a felony during the five years preceding the license application date.

Sec. 802.107 requires TDLR to deny a license to or refuse to renew the license of an individual, or a controlling individual, who has pleaded guilty to, been convicted of, or received deferred adjudication for animal cruelty in Texas or any other jurisdiction in the five years before the individual's initial or renewal application. TDLR also must revoke a license that has already been issued if a breeder, or a controlling individual, pleads guilty to, is convicted of, or receives deferred adjudication for animal cruelty or neglect.

Some have suggested that Texas should revise its eligibility requirements for certain occupational licenses since the state leads the nation in the number of restrictions placed on individuals with felony convictions who work in licensed occupations.

DIGEST:

SB 1531 would modify the eligibility requirements for certain occupational licenses.

The bill would remove the ability of the Texas Commission of Licensing and Regulation (TCLR) and the Texas Department of Licensing and Regulation (TDLR) to refuse to admit an individual to an examination for a podiatry license or refuse to issue a license to practice podiatry to an individual on the grounds that the individual was convicted of a felony or a crime that involved moral turpitude.

SB 1531 would remove the ability of TCLR and the executive director of TDLR to discipline licensed midwives, refuse to renew midwives' licenses, or refuse to issue licenses to such individuals on the grounds that the individuals were convicted of misdemeanors involving moral turpitude or felonies.

The bill would remove the requirement that applicants for electrician licenses demonstrate their honesty, trustworthiness, and integrity and the requirement that applicants for auctioneers' licenses had not been convicted of felonies in the five years before they submitted their applications.

SB 1531 would specify that breeders' licenses would be revoked by operation of law if breeders, or controlling individuals of the breeders, pleaded guilty or no contest to, were convicted of, or received deferred adjudication for animal cruelty or neglect in Texas or any jurisdiction. Before licenses were revoked, TDLR would need to issue notices of revocation to licensed breeders stating that they or their representatives could, within 20 days of receiving the notice, submit proof to TDLR that they did not plead guilty or no contest to, were not convicted or, or did not receive deferred adjudication for animal cruelty or neglect.

The bill also would require TDLR to deny licenses to or refuse to renew licenses of individuals or controlling individuals who pleaded no contest to animal cruelty or neglect in Texas or any jurisdiction in the five years before individuals' initial or renewal applications.

The bill would take effect September 1, 2019, and would apply only to disciplinary actions taken against midwives, animal cruelty or neglect offenses committed, and applications for electrician and auctioneers' licenses submitted on or after that date.

SUBJECT: Authorizing HHSC to obtain certain criminal history record information

COMMITTEE: Public Health — favorable, without amendment

VOTE: 10 ayes — S. Thompson, Wray, Allison, Frank, Guerra, Lucio, Ortega, Price, Sheffield, Zedler

0 nays

1 absent — Coleman

SENATE VOTE: On final passage, April 16 — 31-0

WITNESSES: *On House companion bill, HB 3699:*
For — None

Against — None

On — (*Registered, but did not testify:* Rachelle Daniel and Maureen Franz, Health and Human Services Commission)

BACKGROUND: Government Code ch. 411, subch. F entitles multiple agencies, including the Department of Family and Protective Services and the Department of State Health Services, to obtain from the Department of Public Safety certain criminal history record information regarding certain license applicants and holders and employees, contractors, and volunteers of various entities.

Observers suggest the need to clarify the Health and Human Services Commission's authority to conduct background checks of certain staff, licensees, and employees and volunteers of certain entities.

DIGEST: SB 2200 would make changes to statutes in Government Code ch. 411, subch. F to authorize the Health and Human Services Commission (HHSC) and the Texas Workforce Commission to obtain certain criminal history record information from the Department of Public Safety. The bill also would codify terminology relating to individuals with intellectual and

developmental disabilities.

The bill would specify circumstances in which the Department of Family and Protective Services or HHSC could release certain criminal history record information. Such information could be released to adults if an alleged perpetrator of abuse, neglect, or exploitation was the subject of the information and the department or commission determined that the release of the information would be necessary to ensure the alleged victim's or adult's safety.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2019.

SUBJECT: Clarifying release times for county jail inmates

COMMITTEE: County Affairs — favorable, without amendment

VOTE: 8 ayes — Coleman, Bohac, Anderson, Biedermann, Cole, Dominguez, Huberty, Rosenthal

0 nays

1 absent — Stickland

SENATE VOTE: On final passage, May 3 — 31-0, on Local and Uncontested Calendar

WITNESSES: *On House companion bill, HB 3270:*
For — None

Against — None

On — Brandon Wood, Texas Commission on Jail Standards

BACKGROUND: Code of Criminal Procedure art. 43.13 establishes that a defendant convicted of a misdemeanor and sentenced to a term of confinement of more than 30 days discharges the defendant's sentence at any time between the hours of 6 a.m. and 7 p.m. on the day of discharge.

DIGEST: SB 1700 would expand the application of requirements related to the time of discharge of a defendant convicted of a misdemeanor to apply to all such defendants regardless of the term of confinement.

The bill would change the time of discharge to any time beginning at 6 a.m. and ending at 5 p.m. on the day of discharge, rather than any time between the hours of 6 a.m. and 7 p.m., and would require a sheriff or other county administrator to release the defendant between these times on the day the defendant's sentence was discharged.

A sheriff or other county administrator could credit a defendant with not more than 18 hours of time served and release a defendant at any time

beginning at 6 a.m. and ending at 5 p.m. on the day preceding the day on which the sentence was discharged.

A sheriff or other county official could release a defendant from county jail after 5 p.m. and before 6 a.m. if the defendant:

- agreed to or requested a release during this time period;
- was subject to an arrest warrant issued by another county and was being released for purposes of executing that arrest warrant;
- was being transferred to the custody of another state, a unit of the federal government, or a facility operated by or under contract with the Texas Department of Criminal Justice; or
- was being admitted to an inpatient mental health facility or a state supported living center for court-ordered mental health or intellectual disability services.

The Texas Commission on Jail Standards would be authorized to monitor compliance with the provisions of this bill.

The bill would take effect on September 1, 2019.

SUBJECT: Transferring regulation of motor fuel programs from TDA to TDLR

COMMITTEE: International Relations and Economic Development — committee substitute recommended

VOTE: 8 ayes — Anchia, Frullo, Blanco, Larson, Metcalf, Perez, Raney, Romero

1 nay — Cain

SENATE VOTE: On final passage, April 11 — 27-4 (Fallon, Hughes, Paxton, Perry)

WITNESSES: *On House companion bill, HB 1695:*
For — Lance Davis, Kwik Chek; Paul Hardin, Texas Food and Fuel Association; (*Registered, but did not testify*: Jim Sheer, Texas Retailers Association)

Against — Sid Miller, Texas Department of Agriculture; Michael Skrobarcek, Guadalupe County Precinct 3 Constable; Sidney Miller; (*Registered, but did not testify*: Robert Turner, Earth Moving Contractors Association of Texas, Independent Cattlemen's Association of Texas, Texas Forestry Association, Texas Poultry Federation, Texas Sheep and Goat Raisers Association; Joe Morris, Texas Poultry Federation, Texas Sheep and Goat Raisers Association, Texas Forestry Association; Todd Smith, Texas Conservative Tea Party Coalition; Fred Funderburgh; Stan Kitzman; Donald A. Loucks; Chris Parachini)

On — Jessica Escobar, Texas Department of Agriculture; Brian Francis, Texas Department of Licensing and Regulation; (*Registered, but did not testify*: Carla James, Texas Department of Licensing and Regulation)

BACKGROUND: Agriculture Code ch. 13 and ch. 17 regulate motor fuel metering devices and motor fuel quality, respectively, and give the Texas Department of Agriculture the authority to administer and enforce these regulations.

DIGEST: SB 2119 would transfer the regulatory responsibility for motor fuel metering and motor fuel quality from the Texas Department of Agriculture (TDA) to the Texas Department of Licensing and Regulation

(TDLR), and would eliminate certain regulatory provisions pertaining to distributors, jobbers, suppliers, and wholesalers of gasoline.

Transfer. The bill would require TDA and TDLR to adopt a transition plan that provided for the orderly transfer of the powers, duties, functions, programs, and activities specified under the bill. The transfer would have to be completed no later than September 1, 2020. TDA would be required to provide TDLR with access to systems, facilities, and information necessary to accept a program or activity transferred under the bill.

All TDA rules, fees, policies, procedures, decisions, and forms related to the transferred programs or activities that were in effect on the transfer's effective date would remain in effect until changed by TDLR or the Texas Commission of Licensing and Regulation, as appropriate.

All full-time equivalent positions at TDA that directly or indirectly concerned the administration or enforcement of the transferred regulatory programs would become positions at TDLR on the date the applicable program was transferred. TDLR would be required to post the positions for hiring. When filling these positions, TDLR would have to give consideration to, but would not be required to hire, applicants who had been TDA employees involved in the transferred programs immediately before the date of the transfer.

TDLR could establish and lead a stakeholder workgroup to provide input, advice, and recommendations to TDA and TDLR on the orderly transfer of powers, duties, functions, programs, and activities under the bill. TDLR would establish the size, composition, and scope of the workgroup.

Memorandum of understanding. The bill would require TDLR and the state metrology laboratory to enter a memorandum of understanding to implement provisions of the bill. The memorandum would have to provide TDLR personnel and certain other licensed individuals with the same access to the laboratory provided to TDA personnel. The state metrology laboratory also would be required to purchase additional sets of standards as necessary for use by TDLR inspectors or other personnel.

Repealers. SB 2119 would remove certain provisions on documentation

requirements relating to the sale or delivery of motor fuel and notice of motor fuel tax rates.

Rules. The bill would allow the Texas Commission of Licensing and Regulation to adopt rules consistent with the bill for the regulation of the sale of motor fuels, and allow the commission by rule to impose fees for the testing, inspection, or performance of other services provided as necessary for the administration of the bill's provisions.

Licenses and penalties. SB 2119 would create a license under the Occupations Code for motor fuel metering device service technicians and motor fuel metering device service companies. These licenses would be distinct from licenses for weights and measure technicians governed under the Agriculture Code. The licenses would be subject to application and background information check requirements, terms and renewal requirements, and applicable enforcement measures as specified in the bill.

The bill also would reduce from $10,000 to $2,500 the maximum civil penalty for a fuel seller who violated regulations related to motor fuel quality.

Applicability. To the extent that the bill conflicted with Agriculture Code ch. 13 with regard to motor fuel metering devices, SB 2119 would control.

The bill would take effect September 1, 2020, except as otherwise provided in the bill. Certain transitional provisions of the bill would take effect September 1, 2019.

SUPPORTERS SAY:

SB 2119 would transfer regulatory programs for motor fuel metering and quality from the Texas Department of Agriculture (TDA) to the Texas Department of Licensing and Regulation (TDLR), a state agency better placed to provide appropriate oversight.

The regulatory programs related to motor fuel metering and quality were originally put under TDA in the 1930s because the broad geography of the state required an implementing agency that already worked in rural areas. At that time, consumers had limited fueling options and difficulty

reporting negative experiences. This has changed, as today there is an abundance of fueling options and consumers can submit complaints about gas stations instantaneously. Additionally, modern dispensing and monitoring systems have made it less likely that consumers will be deprived of the full amount of fuel they have purchased at the pump.

In spite of these advancements and widespread industry compliance, TDA has raised penalties on gas stations and collected more fees than were necessary to run its enforcement programs. These circumstances make it inappropriate for TDA to continue to regulate motor fuel metering and motor fuel quality.

SB 2119 would provide for a cost-effective transition of the regulatory programs to TDLR, with no significant fiscal implication to the state, according to the fiscal note. Because TDA no longer performs any field testing at gas stations but instead uses third-party inspectors, TDLR should be able to take over the programs without difficulty. TDLR has experience running third-party inspector programs, such as for elevator and boiler inspectors, as well as procedures in place for inspections, consumer complaints, enforcement, and prosecutions.

OPPONENTS SAY:

SB 2119 would result in weaker consumer protections that could leave consumers more vulnerable to being cheated at the gas pump. The Texas Department of Agriculture (TDA) already has in place a robust and cost-effective inspections program that effectively regulates the motor fuel industry. The agency also inspects barcode scanners, produce, and other goods sold at gas stations, which means it would be more efficient to leave the fuel regulatory programs with TDA.

Transferring the regulatory programs to TDLR also would be costly because TDLR would need to procure new equipment and hire its own staff. TDA inspectors are cross-trained to carry out different kinds of inspections and could not easily be transferred to TDLR.

SUBJECT: Expanding nondisclosure orders for certain human trafficking victims

COMMITTEE: Criminal Jurisprudence — favorable, without amendment

VOTE: 8 ayes — Collier, Zedler, K. Bell, J. González, Hunter, P. King, Moody, Pacheco

0 nays

1 absent — Murr

SENATE VOTE: On final passage, April 17 — 31-0, on Local and Uncontested Calendar

WITNESSES: *On House companion bill, HB 1216:*
For — Shea Place, Texas Criminal Defense Lawyers Association; Marc Levin, Texas Public Policy Foundation; (*Registered, but did not testify*: Nick Hudson, American Civil Liberties Union of Texas; Christel Erickson Collins, Austin Justice Coalition; Pete Gallego, Bexar County Criminal District Attorney's Office; Jason Sabo, Children at Risk; Gus Reyes, Christian Life Commission, Texas Baptists; Chris Jones, CLEAT; Ann Hettinger, Concerned Women for America; Traci Berry, Goodwill Central Texas; Chris Harris, Just Liberty; John Clark, Operation Texas Shield; James Dickey, Republican Party of Texas; Jimmy Rodriguez, San Antonio Police Officers Association; Chris Kaiser, Texas Association Against Sexual Assault; Lori Henning, Texas Association of Goodwills; Allison Franklin, Texas Criminal Justice Coalition; Lonzo Kerr, Texas NAACP; Kyle Ward, Texas PTA; Alexis Tatum, Travis County Commissioners Court; Idona Griffith)

Against — None

BACKGROUND: Government Code sec. 411.0728 establishes a procedure for certain victims of human trafficking to request an order of nondisclosure for their criminal history records. The requests are authorized for persons placed on probation after conviction for certain offenses that the requestor can show were committed solely as a victim of human trafficking. The requestor also must not have received a previous nondisclosure order under sec.

411.0728. The orders are available for those convicted of certain marijuana, theft, prostitution, and promotion of prostitution offenses.

DIGEST:

SB 1801 would revise statutes governing orders of nondisclosure for certain victims of human trafficking. The bill would expand provisions that currently apply only to defendants who were placed on community supervision (probation) and instead apply them to all defendants who were convicted or placed on deferred adjudication. It also would expand the orders to include victims of compelled prostitution.

The bill would eliminate authorization for those convicted of the promotion of prostitution by soliciting an individual to engage in sex with another person to receive an order of nondisclosure through provisions that relate specifically to victims of human trafficking.

The bill also would revise requirements for an order of nondisclosure to be granted. If requested, defendants first would have to assist in the investigation or prosecution of human trafficking, continuous human trafficking, or compelling prostitution. An exception would be made for defendants who did not provide assistance due to their age or a physical or mental disability that was a result of being a victim of an offense.

SB 1801 would modify which standard conditions for receiving an order of nondisclosure were required of victims of trafficking or compelling prostitution. The bill would eliminate the current condition that orders are granted only if while on probation and during any waiting period, the person was not convicted of or placed on deferred adjudication community supervision for any offense other than a traffic offense that is punishable by fine only. Current provisions prohibiting orders of nondisclosure for certain offenses would remain.

The bill also would allow requests for nondisclosure orders for more than one offense. The bill would allow multiple requests to be consolidated and filed in one court, and petitions would have to be filed at least one year after the victim completed a sentence or had the charges dismissed. Prosecutors would have to be notified of a petition for an order of nondisclosure and given a chance to respond.

SB 1801 would establish the conditions that had to be met for a court to issue an order of nondisclosure for victims of human trafficking, including that the requestor committed the offense solely as a victim of human trafficking, continuous human trafficking, or compelling prostitution and that the nondisclosure be in the best interest of justice.

The bill would include notification about the potential for an order of nondisclosure among statutory crime victims' rights and among the duties for court programs operated for commercially sexually exploited persons.

The bill would take effect September 1, 2019.

SUPPORTERS SAY:

SB 1801 would broaden and simplify the process by which victims of trafficking could obtain orders of nondisclosure. The bill would implement one of the recommendations of the Texas Human Trafficking Prevention Task Force, which has been working since 2009 to fight human trafficking. Texas has made strides in attacking this form of modern-day slavery and supporting its victims, and the bill would continue this progress.

Those who would fall under the bill's provisions have committed low-level crimes solely due to being a victim of human trafficking or of compelled prostitution, and they deserve to be able to ask a court to close their criminal records even if they did not receive probation. The bill would expand the orders to include victims of compelled prostitution because that offense is similar to human trafficking. Allowing these victims to ask a court to keep their criminal records closed would help them put their lives back together without the collateral consequences that can accompany a criminal record. The bill would ensure that it was used only in appropriate cases by requiring that an order be in the best interest of justice and requiring that prosecutors be notified and able to respond to a request.

The bill would streamline the nondisclosure request process by allowing requests relating to multiple records to be consolidated into one. This would benefit victims by allowing them to navigate the courts only once and would aid in conserving judicial resources.

The bill includes appropriate exceptions to the requirement that victims work with law enforcement authorities. Individual circumstances of victims would be considered because cooperation would not be required of those who did not provide assistance due to age or physical or mental disability resulting from being a victim of an offense.

OPPONENTS SAY:

The ability to request orders of nondisclosure should not be conditioned on a victim working with law enforcement authorities. In some cases, victims deserving of an order of nondisclosure may be afraid of harm from their traffickers, even if the trafficker is behind bars, and not feel safe working with the authorities.

SUBJECT: Creating a regional associate judge program to assist in guardianship cases

COMMITTEE: Judiciary and Civil Jurisprudence — favorable, without amendment

VOTE: 6 ayes — Leach, Y. Davis, Krause, Meyer, Neave, White

0 nays

3 absent — Farrar, Julie Johnson, Smith

SENATE VOTE: On final passage, April 23 — 29-2 (Perry, Schwertner)

WITNESSES: *On House companion bill, HB 2803:*
For — (*Registered, but not did not testify*: Guy Herman, Probate Court of Travis County; Kelsey Bernstein, Texas Association of Counties; Terry Hammond, Texas Guardianship Association; Craig Hopper; Lauren Hunt)

Against — None

On — (*Registered, but did not testify*: David Slayton, Office of Court Administration, Texas Judicial Council)

DIGEST: SB 536 would create a program for presiding judges of administrative judicial regions to appoint associate judges to assist county courts and statutory county courts other than statutory probate courts in those regions with guardianship proceedings or proceedings for protective services for elderly persons and persons with disabilities.

Appointment. The presiding judge of each administrative judicial region would be required to confer with the judges of the region's county courts and statutory county courts with jurisdiction over guardianship or protective services proceedings to determine whether there was a need for the appointment of a full-time or part-time associate judge to assist the courts in conducting those proceedings.

If an associate judge was needed, the presiding judge would have to appoint a judge from a list of applicants kept by the Office of Court

Administration (OCA) who met certain qualifications specified in the bill. This list would be provided to each judge of a court from which proceedings would be referred before the appointment was made, and each of those judges and the presiding judge of the statutory probate courts could recommend any of the listed applicants for appointment.

An appointed associate judge would serve the courts in the administrative judicial regions that were specified by the presiding judge. Two or more presiding judges of administrative judicial regions jointly could appoint associate judges to serve specified courts in the presiding judges' regions.

Additional rules. Associate judges appointed under this bill would be subject to the rules pertaining to statutory probate court associate judges, except to the extent that the provisions of this bill conflicted with those rules. They would have the judicial immunity of district judges, and all existing immunity granted to an associate judge would continue in full force.

Associate judges would be prohibited from engaging in the private practice of law.

Referred proceedings. Guardianship or protective services proceedings would be referred to an associate judge either by a general order issued by the judge of each court that the associate judge was appointed to serve or a general order issued by the presiding judge or judges of the administrative judicial region or regions who appointed the associate judge.

An associate judge could render and sign any pretrial order and recommend to the referring court any order after a trial on the merits. The proposed order or judgment of an associate judge would become the order or judgment of the referring court unless the right to a de novo hearing before the referring court was not waived and a request for such a hearing was timely filed.

An associate judge also would be allowed to refer a complex guardianship proceeding back to the referring court for final disposition after recommending temporary orders for the protections of a ward.

Term. The term of an associate justice would be four years. However, the presiding judge of the administrative judicial region or any successor presiding judge could terminate the associate judge's appointment at any time.

Salary. An associate judge would be entitled to a salary that was 90 percent of the salary paid to a district judge as set by the general appropriations act. The associate judge's salary would be paid from money available from the state and federal governments and/or county money available for payment of officers' salaries, subject to approval of the commissioners courts in the counties in which the associate judge served.

Host county. The presiding judge of the administrative judicial region would determine the host county of the appointed associate judge. If an associate judge was appointed to serve in more than one administrative judicial region, the presiding judges by majority vote would determine the associate judge's host county. The designation of a host county would be subject to the approval of the commissioners court of that county.

The host county would be required to provide adequate courtroom, quarters, and personnel for the associate judge. An associate judge would not have to reside in the host county unless otherwise required.

Personnel. The presiding judge or judges of the administrative judicial region or regions would be allowed to appoint necessary personnel to assist the associate judge. The salaries of the personnel would be paid from money available from the state and federal governments and/or county money available for payment of officers' salaries, subject to the approval of the commissioners courts of the counties in which the associate judge served.

Reappointment. Before reappointing an associate judge, each judge of a court from which proceedings would be referred would have to be notified of the presiding judge's intent to reappoint the associate judge. Each of those judges and the presiding judge of the statutory probate courts could submit a recommendation on whether associate judge should be reappointed.

Visiting associate judges. SB 536 would not limit the authority of presiding judges of administrative judicial regions to assign judges eligible for assignment to assist in processing guardianship proceedings or protective services proceedings in a reasonable time.

If an associate judge was temporarily unable to perform the judge's official duties or if a vacancy occurred in the position, the presiding judge or judges could appoint a visiting associate judge to perform the duties of the associate judge temporarily. A person would not be eligible for appointment as a visiting associate judge unless the person had served as an associate judge appointed pursuant to this bill, a district judge, a statutory county court judge, or a statutory probate judge for at least two years.

A visiting associate judge would be subject to the same requirements as an associate judge, would be entitled to compensation in an amount to be determined by the presiding judges, and would not be considered a state employee for any purpose. The prohibition against a state agency entering into employment contracts with former or retired employees of the agency would not apply to the appointment of a visiting associate judge.

Supervision, training, and evaluation. OCA would be required to assist the presiding judges of the administrative judicial regions in:

- monitoring associate judges' compliance with job performance standards, uniform practices adopted by the presiding judge, and federal and state laws and policies;
- addressing the training needs and resource requirements of associate judges;
- conducting annual performance evaluations for associate judges and other personnel; and
- receiving, investigating, and resolving complaints about particular associate judges or the associate judge program.

OCA would have to develop procedures and written evaluation forms to be used by the presiding judges in conducting the annual performance evaluations above. Each judge of a court that referred proceedings to an

associate judge could submit to the appropriate presiding judges or OCA information on the associate judge's performance during the preceding year.

OCA also would be required to develop caseload standards for associate judges to ensure adequate staffing.

The presiding judges of the administrative judicial regions and OCA, in cooperation with other agencies, would be required to take action necessary to maximize the amount of federal money available to fund the use of associate judges. OCA could contract for available county, state, and federal money from any available source and employ personnel necessary to implement and administer the associate judge program. Such personnel would be state employees for all purposes. Likewise, the presiding judges of the administrative judicial regions, state agencies, and counties could contract for money available from any source to reimburse costs and salaries associated with associate judges and certain personnel and also could use available state money and public or private grants.

The bill would take effect September 1, 2019.

SUPPORTERS SAY:

SB 536 would provide under-resourced counties with assistance and oversight in handling guardianship and protective services proceedings by creating a system of regional specialized guardianship courts.

Most counties in this state lack statutory probate courts. In these counties, guardianship and protective services proceedings are handled by judges who often are occupied with resource-intensive civil and criminal cases and may not be able to afford to hire staff dedicated to overseeing such proceedings. It has been estimated that 18,000 guardianship cases are located in counties that lack the resources to monitor guardianships effectively and efficiently.

SB 536 would remedy this problem by giving judicial administrative regions the option of providing courts with associate judges and adequate staff to assist in conducting guardianship and protective services proceedings. The associate judge program would be modeled on the child protection court program, which has proven successful in promoting better

outcomes than courts handling child protection cases as part of a regular docket. SB 536 would enable the courts of this state to provide sufficient oversight to guardianship and protective services proceedings, improving protections for the most vulnerable Texans.

OPPONENTS SAY:

SB 536 could allow associate judges to interfere improperly with how local judges handled guardianship cases.

SUBJECT: Revising regulation of state banks, state trust companies, and third parties

COMMITTEE: Pensions, Investments and Financial Services — committee substitute recommended

VOTE: 11 ayes — Murphy, Vo, Capriglione, Flynn, Gervin-Hawkins, Gutierrez, Lambert, Leach, Longoria, Stephenson, Wu

0 nays

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

WITNESSES: *On House companion bill, HB 2173:*
For — Stephen Scurlock, Independent Bankers Association of Texas; (*Registered, but did not testify:* Tim Morstad, AARP; Celeste Embrey, Texas Bankers Association)

Against — Eric Ellman, Consumer Data Industry Association; Chris Lemens, National Association of Professional Background Screeners

On — Charles Cooper, Texas Department of Banking; (*Registered, but did not testify:* Everette Jobe, Texas Department of Banking)

BACKGROUND: Finance Code sec. 31.105 requires the banking commissioner to examine each state bank annually or as often as considered necessary to safeguard the interests of depositors, creditors, and shareholders and efficiently enforce law. The commissioner may subpoena witnesses and compel the production of documents. Under sec. 31.107, the commissioner may examine a third-party service provider contracting with a bank or affiliate to the same extent as a state bank. The commissioner may collect a fee from an examined third-party provider to cover the cost of the examination.

Sec. 181.104 requires the banking commissioner to examine each state trust company annually or as considered necessary. The commissioner may subpoena witnesses and require and compel the production of documents. Under sec. 181.106, the commissioner may examine, to the

same extent as a state trust company, a third-party service provider contracting with a state trust company or affiliate. The commissioner may collect a fee from an examined third-party provider to cover the cost of the examination.

Secs. 35.203 and 185.202 allow the banking commissioner to issue a subpoena to compel the attendance and testimony of a witness or the production of certain documents relating to an investigation of unauthorized activity or unauthorized trust activity, respectively.

DIGEST:

CSSB 1823 would expand the definition of "third-party service provider" to include a person who regularly engaged in the practice of assembling, evaluating, or maintaining public record and credit account information for the purpose of furnishing to third parties reports indicating a person's creditworthiness, credit standing, or credit capacity.

A third-party service provider that refused to submit to examination or pay an examination fee to the banking commissioner would be subject to an enforcement action. The commissioner could notify all state banks of the refusal and warn that continued use of the service provider could constitute an unsafe and unsound banking or fiduciary practice.

CSSB 1823 would remove the $500 minimum on administrative penalties imposed on a state bank, state trust company, or other person by the banking commissioner for certain violations.

Except to the extent that disclosure was necessary to locate records or obtain legal representation, a subpoena issued by the banking commissioner regarding an examination of a state bank or trust company or an investigation of unauthorized activity or trust activity could provide that a person was prohibited from disclosing or describing:

- that the subpoena was issued;
- any records requested by the subpoena;
- whether records had been furnished in response to the subpoena; or
- an examination under oath, including the questions asked, testimony given, or transcript produced.

A subpoena issued by the banking commissioner could prohibit the disclosure of information only if the commissioner found and the subpoena stated that the subpoena, examination, or records related to an ongoing investigation and the disclosure could significantly impede or jeopardize the investigation.

The bill would specify that a transaction subject to statutory regulation regarding a company intending to acquire a Texas bank or bank holding company was exempt from certain acquisition of control laws if:

- the acquiring company owned and controlled a state bank; or
- the post-transaction controlling person had received approval as a controlling person or was identified as the controlling person in a merger or other application filed with the banking commissioner.

The bill would amend the definition of "trust business" to remove criteria that such an entity possess or control any assets, including cash, of individual retirement accounts.

The bill would take effect September 1, 2019.

SUPPORTERS SAY:

CSSB 1823 would improve the regulatory and administrative relationships between the Texas Department of Banking and state banks, trusts, and third-party service providers contracting with those entities. The bill also would expand the definition of a third-party service provider to include entities that engaged in consumer credit evaluation on behalf of a state bank or trust. This would mean businesses that handled personal information on a daily basis would fall under the explicit regulatory authority of the Department of Banking, enabling the department to better protect consumer information. This is especially important given a significant data breach by a credit reporting agency in 2017 that exposed the sensitive information of many Texans.

The bill also would strengthen the banking commissioner's bank examination powers by limiting circumstances in which a subpoena or information related to a subpoena could be disclosed. The department also would gain an enforcement mechanism if a third-party provider refused to submit to an examination or pay an examination fee.

Concerns that state regulation of credit reporting agencies would be unnecessary are unfounded. A dual federal-state regulatory exists under the current banking system for both state banks and third-party service providers. The bill would put credit reporting agencies on the same plane as other businesses operating in the finance industry.

OPPONENTS SAY:

CSSB 1823 would expand the definition of a third-party service provider to include credit reporting agencies, which unnecessarily would place consumer credit reporting agencies under Department of Banking regulation. These agencies already are under federal regulation and frequently visited by federal Consumer Financial Protection Bureau examiners, and they do not need to be regulated at the state level.

SUBJECT: Revising regulations for children's advocacy centers

COMMITTEE: Human Services — favorable, without amendment

VOTE: 7 ayes — Frank, Hinojosa, Deshotel, Klick, Meza, Miller, Noble

0 nays

2 absent — Clardy, Rose

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

WITNESSES: For — Christina Green, Children's Advocacy Centers of Texas, Inc.; (*Registered, but did not testify*: Christine Yanas, Methodist Healthcare Ministries of South Texas, Inc.; Will Francis, National Association of Social Workers - Texas Chapter; Kate Murphy, Texans Care for Children; Sarah Crockett, Texas CASA; Darren Whitehurst, Texas Medical Association; Lauren Rose, Texas Network of Youth Services; Kevin Stewart, Texas Psychological Association; Jennifer Lucy, TexProtects; Nataly Sauceda, United Ways of Texas; Knox Kimberly, Upbring)

Against — Johana Scot, Parent Guidance Center; Julia Hatcher

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

BACKGROUND: Family Code ch. 264, subch. E governs children's advocacy centers, multidisciplinary teams, and their related duties.

On the execution of a memorandum of understanding, a children's advocacy center may be established to serve a county or two or more contiguous counties. These centers assess victims of child abuse and their families to determine their need for services related to the investigation of child abuse and provide those services. Centers also must provide a facility at which a multidisciplinary team can meet to facilitate the efficient and appropriate disposition of child abuse cases through the civil and criminal justice systems.

DIGEST:

SB 821 would amend a children's advocacy center's duties and a multidisciplinary team's membership and response. The bill would require a center to adopt a multidisciplinary team working protocol and enter into a memorandum of understanding regarding participation in the multidisciplinary team response.

Duties. The bill would require a children's advocacy center to:

- receive, review, and track Department of Family and Protective Services (DFPS) reports related to the suspected abuse or neglect of a child or the death of a child from abuse or neglect;
- coordinate participating agencies' activities related to abuse and neglect investigations and the delivery of services to alleged abuse and neglect victims and their families;
- facilitate assessment of alleged abuse or neglect victims and their families to determine their need for services and provide those needed services; and
- comply with adopted standards.

These duties would not relieve DFPS or a law enforcement agency of its responsibility to investigate a report of abuse or neglect as required by other law.

A center also would have to provide:

- facilitation of a multidisciplinary team response to abuse or neglect allegations;
- a formal process that required the multidisciplinary team to discuss and share information regarding investigations, case status, and services needed by children and families;
- a system to monitor case progress and track outcomes;
- a child-focused setting that was comfortable, private, and safe for diverse populations;
- culturally competent services for children and families throughout the duration of a case;
- victim support and advocacy services for children and families;
- forensic interviews that were conducted in a neutral, fact-finding

manner and coordinated to avoid duplicative interviewing;
- access to specialized medical evaluations and treatment services for victims of alleged abuse or neglect;
- evidence-based, trauma-focused mental health services for children and non-offending members of the child's family; and
- opportunities for community involvement through a volunteer program supporting the center.

Multidisciplinary team. A center's multidisciplinary team would have to include employees of the participating agencies that entered into a memorandum of understanding with the center. SB 821 would allow a representative of any other entity to participate in the multidisciplinary team response if the entity met certain criteria.

A multidisciplinary team would be actively involved in the team's response, coordinating the actions of participating agencies involved in the investigation and prosecution of cases and the delivery of services to alleged abuse or neglect victims and the victims' families.

Under circumstances specified in the bill, DFPS would be required to refer a case to a center when conducting an investigation of reports of abuse or neglect made by certain professionals. The center would have to initiate a response by the center's multidisciplinary team.

Memorandum of understanding. A children's advocacy center would be required to enter into a memorandum of understanding regarding participation in the multidisciplinary team response. The center and each of the following agencies would have to execute the memorandum:

- the Department of Family and Protective Services;
- each county and municipal law enforcement agency with jurisdiction to investigate child abuse and neglect in the center's service area; and
- each county or district attorney with jurisdiction to prosecute child abuse and neglect cases in the center's service area.

An executed memorandum of understanding would include each

participating agency's agreement to cooperate in:

- minimizing the revictimization of alleged abuse and neglect victims and nonoffending family members through the investigation, assessment, intervention, and prosecution processes; and
- maintaining a cooperative team approach to facilitate successful outcomes in the criminal justice and child protection systems through shared fact-finding and collaborative case development.

The bill would require memoranda of understanding to be re-executed at least every three years, on a significant change to the memorandum, or on a change of a participating agency's signatory.

Working protocol. The bill would require a children's advocacy center to adopt a multidisciplinary team working protocol, which would have to include:

- the center's mission statement;
- each participating agency's role on the multidisciplinary team and the agency's commitment to the center;
- specific criteria for the referral of cases for a multidisciplinary team response and specific criteria for the referral and provision of each service provided by the center; and
- provisions for addressing conflicts within the multidisciplinary team and for maintaining the confidentiality of shared information.

The protocol also would have to contain processes and general procedures for the availability outside scheduled business hours of a multidisciplinary team response and the provision of needed services as well as certain services as specified in the bill.

A working protocol would have to be executed by the participating agencies required to enter into the memorandum of understanding. Working protocols would have to be re-executed at least every three years, on a significant change to the working protocol, or on a change of a participating agency's signatory.

Statewide organization. The bill would require the Health and Human Services Commission (HHSC) to contract with one statewide organization that was exempt from federal income taxation and composed of individuals who had expertise in operating children's advocacy center programs. The organization would have to develop and adopt standards for centers and provide training, technical assistance, evaluation services, and funds administration to support contractual requirements for center programs.

The statewide organization would contract with eligible centers to establish, maintain, and enhance services provided by the centers. A public entity that operated as a children's advocacy center before November 1, 1995, or a nonprofit entity would be eligible for a contract with the statewide organization if the entity:

- had a signed memorandum of understanding;
- had a signed working protocol;
- had a governing board;
- had a multidisciplinary team and regularly convened the team;
- employed an executive director who was accountable to the entity's board of directors and who was not the exclusive salaried employee of any governmental agency; and
- fulfilled the required duties of a children's advocacy center.

Other provisions. SB 821 would limit the establishment of children's advocacy centers to only those counties or contiguous counties in which a center had not been established.

The bill would require requests for confidential information provided to a children's advocacy center to be submitted to the agency that shared or provided the information.

The bill would repeal a provision requiring the commissioner of DFPS by rule to adopt standards for eligible local centers if DFPS entered into a contract with a statewide organization.

The bill would take effect September 1, 2019.

SUPPORTERS SAY:

SB 821 would update the Family Code to more clearly align statute with current practices, standards, services, and operations of children's advocacy centers. By clarifying statutory provisions, the bill would ensure child victims of alleged abuse and neglect had access to needed services. The bill also would hold such centers accountable by requiring them to comply with the statewide organization's adopted standards.

OPPONENTS SAY:

SB 821 should strengthen the accountability and transparency of children's advocacy centers by requiring each center to post a public notice specifying the services the center provides to children and their families.

SUBJECT: Considering certain students as students at risk of dropping out of school

COMMITTEE: Public Education — favorable, without amendment

VOTE: 11 ayes — Huberty, Bernal, Allen, Allison, Ashby, K. Bell, M. González, K. King, Meyer, Talarico, VanDeaver

0 nays

2 absent — Dutton, Sanford

SENATE VOTE: On final passage, April 29 — 30-1 (Nichols)

WITNESSES: *On House companion bill, HB 1746:*
For — Angela Thomas, PACE Youth Programs; Reginald Smith, Texas Criminal Justice Coalition; Levatta Levels; (*Registered but did not testify:* Nicholas Hudson, ACLU of Texas; Jim Pitts, CAN Academies; Turner Ashlea, Houston ISD; Jane McFarland, League of Women Voters of Texas; Will Francis; National Association of Social Workers-Texas Chapter; Mia Hutchens, Texas Association of Business; Barry Haenisch, Texas Association of Community Schools; Ellen Stone, Texas Appleseed; Casey McCreary, Texas Association of School Administrators; Tracy Ginsburg, Texas Association of School Business Officials; Josette Saxton, Texans Care for Children; Linda Litzinger, Texas Parent to Parent; Kyle Ward, Texas PTA; Dee Carney, Texas School Alliance; Lisa Dawn-Fisher, Texas State Teachers Association; Kyle Piccola, The Arc of Texas; Shirley Bonton)

Against — None

On — (*Registered, but did not testify*: Eric Marin and Monica Martinez, Texas Education Agency)

BACKGROUND: Education Code sec. 29.081 requires school districts to provide accelerated instruction to students enrolled in the district who are at risk of dropping out of school.

Concerns have been raised that more needs to be done to ensure that students who come in contact with the criminal justice system do not drop out of school.

DIGEST:

SB 1746 would include students who had been incarcerated or had a parent or guardian who had been incarcerated in a penal institution during the student's lifetime in the list of students considered at risk of dropping out of school.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2019.

SUBJECT: Changing rules for ship traffic in Houston ship channel

COMMITTEE: Transportation — favorable, without amendment

VOTE: 12 ayes — Canales, Landgraf, Bernal, Y. Davis, Goldman, Hefner, Krause, Leman, Ortega, Raney, Thierry, E. Thompson

0 nays

1 absent — Martinez

SENATE VOTE: On final passage, April 24 — 29-2 (Miles, Whitmire)

WITNESSES: *On House companion bill, HB 4445:*
For — Vince DiCosimo, Coalition for a Fair and Open Port; Helen Currie, ConocoPhillips; Dedrick Terveen, EOG Resources; Joe Bob Perkins, Targa Resources; (*Registered, but did not testify*: Lindsey Miller, Anadarko Petroleum; Matthew Thompson, Apache Corp; Daniel Womack, Dow; Delbert Fore, Enterprise Products; Caleb Troxclair, EOG Resources, Parsley Energy; Dave Conover, Kinder Morgan, Inc.; Amy Maxwell, Magellan Midstream Partners; Hugo Gutierrez, Marathon Oil Company; Christina Wisdom, Occidental Petroleum; Michael Lozano, Permian Basin Petroleum Association; Thure Cannon, Texas Pipeline Association; and eight individuals)

Against — Steve Sanders, International Longshoreman's Association-Local 24; Eloy Cortez, International Longshoreman's Association; Richard Campo and Roger Guenther, Port of Houston Authority; (*Registered, but did not testify*: Silverio Portillo, Aubrey Williams, Robert Embrey and Casey Horton, International Longshoreman's Association-Local 28; Brian Walker, International Longshoreman's Association-Local 24; Sharita Wade and Jacqueline Hill Murphy, International Longshoreman's Association-Local 1351; George Kelemen, Texas Retailers Association; Dan Shelley, West Gulf Maritime Association; and 17 individuals)

On — (*Registered, but did not testify*: Mark Mitchem, Houston Pilots;

Robert Shearon, Texas State Pilots Association)

BACKGROUND: Special District Local Laws Code ch. 5007 establishes the Port of Houston Authority of Harris County, Texas. The authority is empowered to regulate the pilotage of ships in the Houston Ship Channel and to build and maintain port facilities with all associated infrastructure.

Transportation Code sec. 66.011 establishes that the board of pilot commissioners for the ports of Harris County is composed of the port commissioners of the Port of Houston Authority.

DIGEST: SB 2223 would change certain statutes governing the Port of Houston Authority of Harris County relating to commissioner training, navigational rulemaking, traffic, and ship length.

Navigational guidelines. The bill would allow the board of the Port of Houston Authority of Harris County to adopt rules pertaining to ship movement and navigation safety guidelines, provided they were recommended by 80 percent of pilots authorized to operate under the jurisdiction of the board of pilot commissioners of Harris County.

One-way traffic. The bill would require the board to adopt navigation guidelines for the transit of vehicles under its jurisdiction regarding one-way traffic, defined in the bill as a limitation on any part of the area where Galveston Bay reaches the Houston Ship Channel, including the channel immediately north of Morgan's Point, where the meeting, turnaround, and overtaking of any ships was prohibited. Those rules could not authorize:

- more than one vessel per week for which one-way traffic had been imposed to call on a port authority terminal at Bayport or Barbours Cut;
- more than one vessel for which one-way traffic had been imposed to call on or depart from a port authority terminal at Bayport or Barbours Cut on the same day; or
- the passage of a vessel calling on a port authority terminal at Bayport or Barbours Cut that was not capable of turning around within the turning basin that serves the port authority terminal on which the vessel called.

The rules would not apply to one-way traffic governed by an authorization issued by the U.S. Coast Guard, a dredging vessel, or a vessel operated by military personnel or to one-way traffic that occurred between Morgan's Point and the Houston Turning Basin.

The executive director of the port authority could take any action necessary to carry out the above provisions. The provisions would expire August 31, 2021.

Efficient pilot service and maximum vessel length. The bill would specify that the duties of the board included minimizing interference with a two-way route, defined in the bill as a directional route within defined limits inside which two-way traffic was established, and which was intended to improve safety in waters where navigation was difficult.

The maximum overall length of a vessel that could be piloted in the board's jurisdiction would be set at 1,100 feet. The board could authorize a vessel of greater length if doing so would allow for efficient two-way traffic and routes. Before adopting such an authorization, the board would be required to hold at least two public hearings. These provisions would not apply to the adoption of rules governing vessel traffic between Morgan's Point and the Houston Turning Basin.

Training. The bill would repeal the requirement that port commissioners receive training regarding the duties of the commission as the board of pilot commissioners for Harris County ports.

The bill would take effect September 1, 2019. Provisions of the bill relating to training and two-way traffic would take effect September 1, 2021.

SUPPORTERS SAY:

SB 2223 would address traffic issues due to exceptionally large ships that require one-way traffic to safely navigate the Houston Ship Channel. The channel historically has accommodated two-way traffic without significant interruption, but recent developments in the shipping industry have resulted in increasingly larger vessels seeking access to the Port of Houston's container terminals. These vessels cannot access the port under

two-way traffic conditions, which reduces the channel to one-way traffic and causes significant delays for other vessels. The bill would alleviate these issues by limiting the size of vessels that could operate in the Port of Houston Authority's jurisdiction and providing for navigation guidelines to ensure safe and efficient transit.

The ultimate impact of the bill on the Port of Houston would be small. The port's container terminals are thriving, and smaller container vessels make up a much bigger percentage of the port's volume of goods than the larger traffic that is causing blockages in the channel.

The port authority already has adopted a resolution limiting ship size and addressing one-way traffic; this bill would simply codify that resolution. The Legislature has precedent in setting statutory rules for traffic in the Houston Ship Channel. Ship channel traffic management has historically been left to the states to regulate. As there are existing state rules, new rules would not present a jurisdictional question. Furthermore, the bill's one-way traffic restrictions would expire on August 1, 2021, allowing the port authority time to develop rules that could facilitate two-way traffic even for larger ships.

OPPONENTS SAY:

SB 2223 would be detrimental to the Port of Houston and the Texas economy by creating needless limits on large ship traffic. Should this bill pass, large container ships would call at other ports. The port authority is capable of managing traffic in such a way that both large container ships and smaller vessels can use it. While one-way traffic is inconvenient, it is a regular occurrence for reasons other than ship size, such as during inclement weather or during emergencies.

The Legislature should not be involved in traffic issues in the Houston Ship Channel. The port authority's resolution already addresses these issues, and since the ship channel is under federal jurisdiction, the bill could present a conflict between state and federal law.

SUBJECT: Separating the pilots board from the Port of Houston commission

COMMITTEE: Transportation — favorable, without amendment

VOTE: 12 ayes — Canales, Landgraf, Bernal, Y. Davis, Goldman, Hefner, Krause, Leman, Ortega, Raney, Thierry, E. Thompson

0 nays

1 absent — Martinez

SENATE VOTE: On final passage, April 23 — 29-2 (Miles, Whitmire)

WITNESSES: *On House companion bill, HB 4436:*
For — Vince DiCosimo, Coalition for a Fair and Open Port; Helen Currie, ConocoPhillips; Dedrick Terveen, EOG Resources, Inc.; Joe Bob Perkins, Targa Resources; (*Registered, but did not testify*: Lindsey Miller, Anadarko Petroleum; Matthew Thompson, Apache Corp; Daniel Womack, Dow; Delbert Fore, Enterprise Products; Caleb Troxclair, EOG Resources; Dave Conover, Kinder Morgan, Inc.; Amy Maxwell, Magellan Midstream Partners; Hugo Gutierrez, Marathon Oil Company; Christina Wisdom, Occidental Petroleum; Michael Lozano, Permian Basin Petroleum Association; Thure Cannon, Texas Pipeline Association; and eight individuals)

Against — Richard Campo, Port of Houston Authority; (*Registered, but did not testify*: Gabriel Garza, International Longshoreman's Association-Local 24; Aubrey Williams, International Longshoreman's Association-Local 28; Eloy Cortez, Williams De Jesus, Jacob Eddin, Lawrence Foster, John Herrea, Carrolyn Lee, Carole Lewis, Buddy Preston, Brian Walker and Roy Word, International Longshoremen's Association; Dan Shelley, West Gulf Maritime Association; and 17 individuals)

On — (*Registered, but did not testify*: Mark Mitchem, Houston Pilots; Robert Shearon, Texas State Pilots Association)

BACKGROUND: Special District Local Laws Code ch. 5007 establishes the Port of Houston

Authority of Harris County, Texas. The authority is empowered to regulate the pilotage of ships in the Houston Ship Channel and to build and maintain port facilities with all associated infrastructure.

Transportation Code sec. 66.011 establishes that the board of pilot commissioners for the ports of Harris County is composed of the port commissioners of the Port of Houston Authority.

DIGEST:

SB 1915 would establish the board of pilot commissioners for the ports of Harris County as a separate board from the port commissioners of the Port of Houston Authority of Harris County.

The pilot board would have exclusive jurisdiction over the regulation of pilots who provided pilot services. The board could not adopt a rule involving ship movement strategies, including navigation safety guidelines, unless the rule was recommended by 80 percent of the pilots authorized to operate under the board's jurisdiction.

The board would consist of nine members, the appointments and term lengths of which are specified in the bill.

The bill also would remove a requirement for members of the board of the Port of Houston Authority of Harris County to receive training regarding the duties of the commission as the board of pilot commissioners.

The bill would take effect September 1, 2019.

SUPPORTERS SAY:

SB 1915 would help better focus the Port of Houston Authority on its mission of stewarding the Houston Ship Channel and resolve a potential conflict of interest by creating a separate Board of Pilot Commissioners for Harris County Ports.

Under current law, the same seven members of the port commission serve as the board of pilot commissioners, which is responsible for licensing and regulating Houston Ship Channel pilots. Although the port authority is a governmental entity, the port operates several money-generating container terminals in the channel in connection with its role as a facilitator of commerce, leading to a potential conflict of interest when regulating

pilotage in the channel. SB 1915 would split these entities to ensure the pilot board was a neutral rulemaking body and would ensure a broad consensus for any new rule regarding navigation of the channel by requiring 80 percent of licensed pilots to recommend the rule before it is adopted.

OPPONENTS SAY:

SB 1915 would separate two boards whose activities are deeply interrelated and have functioned well since being combined in 1923. This bill would recreate the bureaucratic inefficiencies that led the boards to be combined originally.