HOUSE RESEARCH ORGANIZATION • TEXAS HOUSE OF REPRESENTATIVES
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HOUSE RESEARCH ORGANIZATION

daily floor report

Thursday, April 15, 2021
87th Legislature, Number 35
The House convenes at 10 a.m.

One bill is on the Major State Calendar and 20 bills are on the General State Calendar for second reading consideration today. The bills analyzed or digested in today's *Daily Floor Report* are listed on the following page.

The following House committees were scheduled to meet today: Appropriations; Elections; Agriculture and Livestock; Higher Education; Culture, Recreation and Tourism; Licensing and Administrative Procedures; Natural Resources; Juvenile Justice and Family Issues; Corrections; County Affairs; and Homeland Security and Public Safety.

Alma Allen
Chairman
87(R) - 35

HOUSE RESEARCH ORGANIZATION

Daily Floor Report
Thursday, April 15, 2021
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SUBJECT: Allowing permitless carry of a firearm for persons 21 years and older

COMMITTEE: Homeland Security and Public Safety — committee substitute recommended

VOTE: 6 ayes — White, Harless, Hefner, Patterson, Schaefer, Tinderholt

3 nays — Bowers, Goodwin, E. Morales

WITNESSES: For — Rachel Malone, Gun Owners of America; Jason Bennett, Huckleberry Arms LLC; Tara Mica, National Rifle Association; Rick Briscoe, Open Carry Texas; Andi Turner, Texas State Rifle Association; and 18 individuals; (*Registered, but did not testify*: John Edeen, Doctors for Responsible Gun Ownership; Angela Smith, Fredericksburg Tea Party; Tamara Colbert, Paul Hodson, and Wesley Whisenhunt, Grassroots Gold; Thomas Anderson, Felisha Bull, and Destiny Hallman, Gun Owners of America; Tara Mica, National Rifle Association; Jeff LeBlanc, Republican Liberty Caucus of Texas; Ruth York, Tea Party Patriots of Eastland County; Tom Glass, Texas Constitutional Enforcement; Melissa Weakley and David Weakley, Texas Liberty Defenders; William Nance, Texas State Rifle Association; Jason Vaughn, Texas Young Republicans; Brandon Burkhart and Wayne Howell, This Is Texas Freedom Force; Shelia Franklin and Fran Rhodes, True Texas Project; Manfred Wendt, Young Conservatives of Texas; Jack Anderson, Mia Gradick, Megan Harris, Patrick Harris, Kaden Mattingly, Catherine Nolde, and Dayton Wright, Young Conservatives of Texas-Baylor Chapter; Jordan Clements, Young Conservatives of Texas-UT Chapter; Jake Neidert, Young Conservatives of Texas-State Board; and 97 individuals)

Against — (*Registered, but did not testify*: Stephanie Arthur, Everytown for Gun Safety and Moms Demand Action; Leesa Ross, Lock Arms for Life; Joe Burnes, LPTexas SLEC rep sd24; Molly Bursey, Rebecca Defelice, Mandy Gauld, Elizabeth Hanks, Miste Hower, Laura Legett, and Leslie Morrison, Moms Demand Action for Gun Sense in America; Jon Brandt, Frances Schenkkan, Gyl Switzer, and Louis Wichers, Texas Gun Sense; Aimee Mobley Turney, The League of Women Voters of Texas; and 16 individuals)

On — (*Registered, but did not testify*: John Lott, Crime Prevention Research Center; Chris McNutt, Texas Gun Rights; Eric Brakey, Young Americans for Liberty)

BACKGROUND:

Penal Code sec. 30.05 establishes an offense for criminal trespassing if a person enters or remains on someone else's property without consent and the person had notice that entry was forbidden or received notice to leave but failed to do so. The penalty for the offense generally is a class B misdemeanor (up to 180 days in jail and/or a maximum fine of $2,000).

Under Penal Code secs. 30.06 and 30.07, a handgun license holder may not carry a concealed handgun or openly carry a handgun on another's property without consent if the license holder receives oral or written notice that entry on the property by a license holder is forbidden. The offenses generally are class C misdemeanors punishable by a fine not to exceed $200, except that they are class A misdemeanors (up to one year in jail and/or a maximum fine of $4,000) if the license holder failed to leave after being asked to do so.

Under sec. 46.02, it is a crime for a person to intentionally, knowingly, or recklessly carry a handgun on or about the person if not on the person's own premises or inside of or directly en route to the person's motor vehicle or watercraft. It also is a crime for a person to have a handgun in plain view in a motor vehicle or watercraft, unless the person is licensed to carry a handgun and carried it in a shoulder or belt holster. An offense under this section is a class A misdemeanor.

Sec. 46.03 makes it a third-degree felony (two to 10 years in prison and an optional fine of up to $10,000) for a person to possess a weapon on certain prohibited premises. Sec. 46.035 creates offenses for carrying a handgun by a license holder on certain premises under certain conditions, including in plain view in a public place. An offense under this section is a class A misdemeanor, except if it occurred at certain locations, including a business deriving income from alcohol sales, it is a third-degree felony.

DIGEST:

CSHB 1927 would create the Firearm Carry Act of 2021 and would make certain changes to the Penal Code relating to offenses concerning the possession of a firearm or other weapon on certain premises.

The bill would make it legal for a person who was at least 21 years old to carry a handgun while not on the person's own premises or premises the person controlled or while not inside of or directly en route to a motor vehicle or watercraft that was owned or controlled by the person.

A person would commit an offense if the person carried the handgun and intentionally displayed it in plain view of another person in a public place, except if the handgun was partially or wholly visible and carried in a holster. The bill would remove a requirement a person carry specifically in a shoulder or belt holster.

The bill would repeal the offense of unlawful carrying of a handgun by a license holder under Penal Code sec. 46.035 and expand the places where weapons are prohibited under Penal Code sec. 46.03. Under the bill, a person would commit an offense if the person possessed a firearm, location-restricted knife, club, or other prohibited weapon:

- on the premises of businesses that had an alcohol beverage permit or license and derived at least 51 percent of its income from the sale of alcoholic beverages;
- on the premises where an amateur or professional sporting event was taking place, except under certain circumstances;
- on the premises of a correctional facility;
- on the premises of a civil commitment facility;
- on the premises of a state hospital or nursing home or on the premises of a mental hospital, unless authorized; or
- in an amusement park.

A person no longer would commit an offense if the person went on the premises of a church, synagogue, or other established place of religious worship with a location-restricted knife.

The bill would remove the requirement that a license holder's handgun be concealed for the defense to prosecution of the offense for unlawfully carrying a prohibited weapon in or into a secured area of an airport.

CSHB 1927 would repeal provisions making it an offense for a handgun license holder to:

- carry a handgun in the room where an open meeting of a governmental entity was held;
- carry a handgun while intoxicated; and
- violate state law governing handgun licenses while in the course or scope of employment as a security officer.

The punishment enhancement for the offense of unlawful carrying of weapons under Penal Code sec. 46.02 if it was committed on any premises licensed or issued a permit for the sale of alcoholic beverages would be removed.

Under the bill, the offense of possessing a weapon on a prohibited premises would not apply to a person unless the person received oral communication from the property owner or another person with apparent authority that carrying a weapon on the property was prohibited and the person subsequently failed to depart.

The offense of criminal trespass under Penal Code sec. 30.05 would be a class C misdemeanor punishable by a fine not to exceed $200 if the person entered the property, land, or building with a firearm or other weapon and the sole basis on which entry was forbidden was that entry with a firearm or other weapon was forbidden. The offense would be a class A misdemeanor (up to one year in jail and/or a maximum fine of $4,000) if it was shown that after entering the property, land, or building, the person received oral communication that such entry was forbidden and subsequently failed to leave. It would be a defense to prosecution if after receiving the oral communication, the person promptly departed.

The bill would make it a crime for a member of a criminal street gang to intentionally, knowingly, or recklessly carry on or about the member's person a handgun in any motor vehicle or watercraft, rather than only a

motor vehicle or watercraft owned or controlled by the member. This offense would not apply under certain circumstances as specified in the bill.

A peace officer could disarm a person at any time the officer believed it was necessary for the protection of the person, officer, or another individual. The officer would have to return the weapon to the person before discharging the person from the scene if the officer determined that the person was not a threat and the person had not committed a violation that resulted in arrest.

A peace officer could temporarily disarm a person when the person entered a nonpublic, secure portion of a law enforcement facility, if the law enforcement agency provided a weapons locker where the officer could secure the weapon. The officer would have to return the weapon immediately after the person left that portion of the facility.

The bill would repeal provisions in the Alcoholic Beverage Code related to certain holders of alcoholic beverage permits or licenses, including:

- a requirement that establishments that hold permits or licenses display in a prominent place on their premises a sign giving notice that it is unlawful for a person to carry a weapon on the premises unless it is a handgun the person is licensed to carry;
- a requirement that the Texas Alcohol and Beverage Commission cancel an original or renewal permit or an original or renewal dealer's on-premises or off-premises license if it is found that the permittee or licensee knowingly allowed a person to possess a firearm in a building on the licensed premises, except if the person is a peace officer, a security officer under certain circumstances, or licensed to carry.

The bill would take effect September 1, 2021, and would apply only to an offense committed on or after that date.

SUPPORTERS SAY:

CSHB 1927 would protect the Second Amendment rights of law-abiding Texans and reduce barriers to the exercise of the right to bear arms and the right to defend oneself, one's family, and one's property by allowing those

over 21 years old to lawfully carry a handgun without first having to obtain a license to carry.

The bill would not weaken the state's gun laws or dismantle Texas' license to carry, as it would not increase places guns would be allowed but rather would retain current gun-free zones. In addition, persons who are currently prohibited from possessing firearms under state and federal law would not gain the right to possess or carry a firearm under the bill.

Permitless carry. CSHB 1927 would ensure all Texans were afforded an equal opportunity to protect themselves, regardless of financial status and resources. The time and resources required to obtain a license to carry act as a barrier to some wanting to exercise their Second Amendment rights. Although the cost of a license has been reduced, it still takes time and money to attend the course and complete the application process.

The bill would not eliminate license to carry but would retain the handgun license in statute as an option for Texans, especially for travel and reciprocity with other states. Many law abiding gun owners recognize the benefits of instruction and voluntarily would continue to seek out training and handgun licenses. In some states that have enacted similar laws, they saw an increase both in people applying for handgun licenses and in people seeking firearms proficiency training.

Mistake provision. The bill would protect lawful gun owners by providing them a chance to leave a gun-free zone when notified that the possession of a handgun on the premises was prohibited before triggering a criminal offense. In instances where a person forgot he or she was carrying a handgun and entered premises where it was prohibited, a person should not be penalized and face a potential criminal record for genuinely making a mistake. The bill would provide the gun owner an opportunity to leave but would retain the criminal offense in the event the person refused to depart. While some have argued that the bill instead should provide for a defense to prosecution, that would result in the person unnecessarily having to spend resources and time in the criminal justice system.

Signage. The bill would not create a burden for business and property owners who wish to prohibit the carrying of a handgun on their premises under the bill. As the bill simply would treat handguns in a manner similar to the manner that rifles and long guns are currently treated under state law, the notification provisions under the criminal trespass law would be sufficient to communicate that entry by a person carrying a handgun without permit was prohibited. For example, an effective sign could be as simple as a picture of a gun with a prohibition symbol over it.

CRITICS SAY:

CSHB 1927 would remove safeguards currently in place under Texas law to ensure safe, responsible, and informed gun ownership.

Permitless carry. CSHB 1927 would erode Texas' effective license to carry system and increase the number of untrained individuals carrying guns in public. Through the license to carry process, existing law ensures responsible gun owners go through a background check, safety training, and proficiency tests before carrying a handgun in public. Permitless carry would eliminate these safeguards, allowing unvetted people to carry in public, which also could make it easy for people with dangerous histories to carry handguns in public places. This would make the job of law enforcement more difficult and more dangerous.

To legally drive a car, one has to pass a driving test and obtain a driver's license and so, too, should anyone who wanted to carry a handgun in public be required to first pass a basic proficiency test and obtain a license.

Mistake provision. By requiring that the owner of a property or their agent personally provide oral notice that carrying a weapon was prohibited and further requiring that the person refuse to leave before any criminal liability was applied, the bill could result in more guns being carried in gun-free zones, including schools, bars, and polling places, as it would not be a crime until the person was asked to leave. This provision inappropriately would move the responsibility from the gun owner to the property or business owner, which could result in uncomfortable situations and possibly dangerous confrontations.

The bill also would not ensure that the person carrying a gun in violation left the premises immediately. Under the bill, the person would have to subsequently leave the premises to not commit an offense, but "subsequent" is too vague and conveys the person would not have to depart right away but could depart any time after notification to avoid committing a crime.

Signage. By expanding the ability for certain persons to carry without a license in public, the bill would impose burdens on businesses and other entities that wish to prohibit firearms on their premises. Under current law, a business that wants to prohibit handguns on their property is required to post two signs: one prohibiting concealed carry and one prohibiting open carry. However, these signs only apply to license holders. Under the bill, business owners would incur costs to create and obtain a third sign to prohibit permitless carry.

In addition, the bill does not specify what type of signage would be required to prohibit permitless carry on the property, which could lead to confusion for both property owners and gun owners.

OTHER CRITICS SAY:

CSHB 1927 would not go far enough to support the Second Amendment rights of Texans and instead should join many other states and eliminate any permit requirements to legally carry a handgun in public.

SUBJECT: Prohibiting use of emergency powers to regulate firearms, gun stores

COMMITTEE: State Affairs — favorable, without amendment

VOTE: 10 ayes — Paddie, Harless, Hunter, P. King, Lucio, Metcalf, Raymond, Shaheen, Slawson, Smithee

3 nays — Hernandez, Deshotel, Howard

WITNESSES: For — Felisha Bull, Gun Owners of America; Tara Mica, National Rifle Association; Darren Lasorte, National Shooting Sports Foundation; Rick Briscoe, Open Carry Texas; Andi Turner and Darryl Valdes, Texas State Rifle Association; John Bolgiano; Kyle Guarco; Kenneth Lindbloom; James Lofton; Gary Zimmerman; (*Registered, but did not testify*: Angela Smith, Fredericksburg Tea Party; Manfred Wendt, Young Conservatives of Texas; Jordan Clements, Young Conservatives of Texas-UT; and 31 individuals)

Against — (*Registered, but did not testify*: Bill Kelly, Mayor's Office, City of Houston; Gyl Switzer, Texas Gun Sense; and 12 individuals)

On — (*Registered, but did not testify*: Thomas Parkinson)

BACKGROUND: Government Code ch. 418, the Texas Disaster Act of 1975, governs powers and responsibilities of the governor, state agencies, and local governments in the event of a disaster. Subch. B outlines the emergency powers and duties of the governor, including declaring a state of disaster if a disaster has occurred or one is imminent. The governor also may suspend certain laws and rules, control the movements of persons, and restrict the sale and transportation of certain materials, including firearms.

Under sec. 433.001, on application of the chief executive officer or government body of a county or city during an emergency, the governor may proclaim a state of emergency and designate the area involved. Statute provides that an emergency exists in certain situations, including during a natural or man-made disaster. After a state of emergency is proclaimed, sec. 433.002 allows the governor to issue directives

calculated to control effectively and terminate the emergency and protect life and property.

DIGEST:

HB 1500 would specify that the Texas Disaster Act would not authorize any person to prohibit or restrict the business or operations of a firearms or ammunition manufacturer, distributor, wholesaler, supplier, or retailer or a sport shooting range in connection with a disaster.

The bill would remove the governor's authority during a declared disaster to suspend or limit the sale, dispensing, or transportation of firearms and prohibit the governor from restricting the sale and transportation of explosives or combustibles that were components of firearm ammunition.

Under the bill, the governor could no longer control the sale, transportation, and use of weapons and ammunition through a directive issued during a state of emergency under Government Code ch. 433. The directives also could not:

- control the storage, use, and transportation of explosives or flammable materials that were components of firearm ammunition; or
- prohibit or restrict the business or operations of a firearms or ammunition manufacturer, distributor, wholesaler, supplier, or retailer or a sport shooting range.

The bill would remove a city's authority to regulate the use of firearms, air guns, or knives in the case of an insurrection, riot, or natural disaster if the city found the regulations necessary to protect public health and safety.

The bill would take effect September 1, 2021.

SUPPORTERS SAY:

HB 1500 would protect the right of lawful gun owners and firearms retailers and promote the safety of families, property, and businesses, which is especially critical during disaster situations. By prohibiting emergency powers from being used to prevent or impede the sale of firearms, ammunition, and related components, the bill would ensure

Texans could defend themselves, their families, and their properties when most vulnerable.

Last year, several local orders issued in response to the ongoing COVID-19 pandemic that allowed only essential businesses to remain open did not designate firearms manufacturers or retailers or shooting ranges as essential. However, according to a March 2020 attorney general opinion, cities and counties may not use emergency declarations to regulate the sale of firearms due to state firearms preemption statute.

The bill simply would codify the attorney general opinion to completely protect firearms businesses from overregulation by ensuring that in any future disaster or emergency, such businesses were classified as essential. By prohibiting any level of government from using emergency powers to regulate firearms, ammunition, and related businesses, the bill would support the constitutional rights of lawful gun owners by ensuring access to items they have a right to own and possess.

CRITICS SAY:

HB 1500 would override local control by eliminating a city's authority to regulate the use of firearms and other weapons during an insurrection, riot, or natural disaster. Local leaders should have the discretion to take actions necessary to protect the public health and safety of their citizens during times of tension and anxiety.

SUBJECT: Prohibiting income discrimination by certain public facility users

COMMITTEE: Urban Affairs — committee substitute recommended

VOTE: 8 ayes — Cortez, Holland, Bernal, Campos, Jarvis Johnson, Minjarez, Morales Shaw, Slaton

1 nay — Gates

WITNESSES: For — Christina Rosales, Texas Housers; (*Registered, but did not testify*: Thamara Narvaez, Harris County Commissioners Court)

Against — Elena Sanders, Kittle Property Group; Debra Guerrero, The NRP Group; (*Registered, but did not testify*: Jesse Soliz)

On — (*Registered, but did not testify*: Marni Holloway, TDHCA)

BACKGROUND: Local Government Code sec. 303.042(f) exempts private entities that are granted a leasehold or other possessory interest in a public facility from ad valorem taxation of that facility.

DIGEST: CSHB 1931 would prohibit public facility users, defined as private entities that have a leasehold or other possessory interest in a public facility corporation, from refusing to rent a residential unit in a multifamily housing development to an individual or family on the basis of participation in the federal housing choice voucher program. Public facility users also would be prohibited from requiring such voucher participants to have a monthly income of more than 250 percent of the share of total monthly rent to be paid by the participant.

The tax exemptions provided by Local Government Code sec. 303.042(f) would apply only to a leasehold or other possessory interest if the relevant public facility user met the requirements of this bill. These requirements would apply only to public facilities under Local Government Code sec. 303.042(f) and would not restrict the authority of a corporation to lease a public facility to a private entity under other terms.

The bill would take effect September 1, 2021, and would apply only to a leasehold or other possessory interest granted on or after that date.

SUPPORTERS SAY:

CSHB 1931 would help ensure that private entities exempted from state taxes provided a public benefit by prohibiting developers of public facility corporations (PFCs) from discriminating against potential residents who participate in a housing voucher program. Current law does not require that public facility housing developments under Local Government Code sec. 303.042(f) accept residents with housing vouchers, and many PFC developments set minimum monthly income thresholds that are impossible for voucher holders to meet. Such discrimination makes it difficult for voucher participants to find housing in high opportunity neighborhoods with access to strong schools, transit, and jobs.

Many PFC developments are sponsored by housing authorities, and it is unacceptable that private entities that do not serve the mission of providing affordable housing should receive substantial benefits that cost the state millions annually in lost property taxes. CSHB 1931 would not create any new government housing program, category, or tax benefit, but would actually restrict and reduce corporate welfare. By explicitly prohibiting these public facility users from refusing to rent on the basis of housing vouchers and limiting minimum income standards, the bill would be a significant step toward ensuring that the public's existing investment in PFCs accomplishes a public purpose.

CRITICS SAY:

CSHB 1931 would create unnecessary qualifications for beneficial tax treatment that apply to some developments to the exclusion of others, and would incentivize more such government intervention in the future. It would be better to do away with these types of tax preferences and allow development to operate in a free market that is not manipulated through the tax code.

NOTES:

According to the Legislative Budget Board, the bill would have no significant fiscal impact on the state, but could create an indeterminate revenue gain for the state through the school funding formula by limiting the amount of property that would qualify for future property tax exemptions.

SUBJECT: Authorizing tax credits for qualified low-income housing developments

COMMITTEE: Ways and Means — favorable, without amendment

VOTE: 11 ayes — Meyer, Thierry, Button, Cole, Guerra, Martinez Fischer, Murphy, Noble, Rodriguez, Sanford, Shine

0 nays

WITNESSES: For — Alex Johnson, InState Partners; (*Registered, but did not testify*: Michael Lozano, Permian Basin Petroleum Association; David Mintz, Texas Apartment Association; J.D. Hale, Texas Association of Builders; Julia Parenteau, Texas Realtors; Leticia Van de Putte, The Texas Affiliation of Affordable Housing Providers)

Against — None

On — (*Registered, but did not testify*: Tom Currah, Comptroller of Public Accounts; Colin Nickells, Texas Department of Housing and Community Affairs)

DIGEST: HB 3907 would authorize franchise and insurance tax credits for taxable entities that owned an interest in qualified low-income housing developments.

A qualified development would be a low-income housing project in the state that the Texas Department of Housing and Community Affairs (TDHCA) determined was eligible for a federal tax credit and that:

- was the subject of a recorded restrictive covenant requiring the development to be maintained and operated as a qualified development; and
- for 15 years after the beginning of the credit period or for a period required by TDHCA, was in compliance with all accessibility and adaptability requirements for a federal tax credit and Title 8 of the Civil Rights Act of 1968.

Franchise tax credit. HB 3907 would entitle a taxable entity to a low-income housing credit against the franchise tax if the entity owned a direct or indirect interest in a qualified development.

In a year during a credit period, an entity could apply for an allocation certificate (a statement certifying that a development qualified for a credit) in connection with a development in which the entity owned an interest. TDHCA would have to issue a certificate if the development was qualified then determine the total amount of credits awarded and indicate the amount on the allocation certificate.

The amount of credits awarded would have to be the minimum amount necessary for the financial feasibility of the qualified development after considering any federal tax credit. The amount could not exceed the total federal tax credit awarded to an owner over the 10-year federal credit period.

The bill would require TDHCA to award the credits in a manner consistent with the criteria it established.

The total amount of credits awarded in a year in connection with all qualified developments financed through tax exempt bonds could not exceed the sum of:

- 50 percent of the state housing credit ceiling;
- any unallocated credits for the preceding year; and
- any credit recaptured or otherwise returned to TDHCA.

The same limitation would apply to the total amount of credits awarded in a year in connection with all qualified developments not financed through tax exempt bonds.

The owners of a qualified development who intended to claim a credit could by agreement determine the portion that each owner was entitled to claim. If the owners did not agree, TDHCA would have to determine the portions based on each owner's ownership interest in the development.

Insurance tax credit. HB 3907 would make an entity eligible for a low-income housing credit against their state insurance tax liability if the entity owned a direct or indirect interest in a qualified development.

An entity would have to apply for the credit on or with their tax report and submit with the application a copy of the allocation certificate issued in connection with the qualified development. The entity would have to use a form adopted by the comptroller to apply for the credit.

The provisions below would apply to the insurance tax credit as well as the franchise tax credit.

Length of credit. The bill would require a taxable entity entitled to a credit to claim it in equal installments each year during the credit period.

The total credit claimed for a report, including any carry forward or backward, could not exceed the amount of franchise tax or insurance tax, whichever was applicable, due for the report after any applicable credits.

Carry forward or backward. If a taxable entity was eligible for a credit that exceeded the limitations under the bill, the taxable entity could carry the unused credit back for up to three tax years or forward for up to 10 consecutive reports. A credit carryforward from a previous report would be considered used before the current year installment.

A credit that was not used could not be refunded.

Recapture. The bill would require the comptroller to recapture the amount of a credit claimed on a report if, on the last day of a tax year, the amount of the qualified basis of the qualified development was less than the amount of the qualified basis as of the last day of the prior tax year.

The comptroller would have to determine the amount required to be recaptured using a formula provided by the Internal Revenue Code as of January 1, 2021.

A report would have to include any portion of credit required to be recaptured, the identity of the taxable entity subject to recapture, and the amount of any credit previously allocated to that entity.

Allocation. If a taxable entity receiving a credit was a partnership, limited liability company, S corporation, or similar pass-through entity, the entity could allocate the credit to its partners, shareholders, members, or other constituent taxable entities in any manner agreed by those entities.

The bill would require a taxable entity that made such an allocation to certify to the comptroller the amount of credit allocated to each constituent taxable entity or notify the comptroller that it had delegated the duty of certification to a constituent taxable entity. Each constituent taxable entity would be entitled to claim the allocated amount, subject to restrictions.

An allocation would not be a transfer for purposes of state law.

A taxable entity that allocated a portion of the credit, and each entity that was allocated a portion, would have to file with the taxable entity's report a copy of the allocation certificate.

Rules, compliance. TDHCA and the comptroller, in consultation with each other, would have to adopt rules and procedures to implement, administer, and enforce the provisions of this bill.

TDHCA and the comptroller would have to monitor compliance with the provisions of this bill in the same manner as the department monitors compliance with the federal tax credit program.

Report. By December 31 of each year, TDHCA would have to deliver a report to the Legislature that:

- specified the number of qualified developments for which allocation certificates were issued and the total number of units supported by the developments;
- described each qualified development for which an allocation certificate was issued, including the location, household type,

demographic information of residents, income levels served, and the authorized rents or set-asides for the development;

- included housing market and demographic information to demonstrate how the qualified developments were addressing the need for affordable housing in their communities; and
- analyzed any remaining disparities in the affordability of housing within those communities.

TDHCA would have to make the report available to the public.

Dates. TDHCA could begin issuing allocation certificates in an open cycle beginning on January 1, 2022.

An entity could not carry back a credit to a tax year the report for which was originally due before January 1, 2023.

The bill would take effect January 1, 2022, and apply only to a tax report originally due on or after that date.

SUPPORTERS SAY:

HB 3907 would incentivize investment in affordable housing projects across the state to address increasing housing costs. Texas has one of the highest median rental rates in the country, making it hard for residents, especially those most vulnerable, to find attainable housing. As the state grows, so does the cost of living, further impacting low-income residents. The COVID-19 pandemic also has exacerbated the issue for this socioeconomic group.

The bill would address this problem by allowing franchise or insurance tax credits to be allocated for housing developments approved by the Texas Department of Housing and Community Affairs (TDHCA). These credits would increase private sector interest and investment in affordable housing, providing a free market solution with appropriate state and federal oversight.

HB 3907 would supplement the federal low-income housing tax credit program by creating state franchise and insurance tax credits for qualified developers. The requirements under the bill would align with requirements for the federal tax credit. Other states that have implemented

similar programs to award state tax credits have successfully drawn down additional federal dollars and incentivized new construction, acquisition, and rehabilitation for affordable housing projects.

CRITICS SAY:

HB 3907 would give preferential treatment to certain low-income housing developers by allowing them to qualify for franchise and insurance tax credits. By creating these special exemptions, the bill unfairly would raise the burden on the rest of the tax base. The Legislature should maintain low taxes on a broad base of taxpayers to ensure that Texans were not overly burdened.

NOTES:

According to the Legislative Budget Board, the bill would have a negative impact of $9.7 million in general revenue related funds in fiscal 2022-23. The bill also would cost the Property Tax Relief Fund $6.3 million for the biennium, which would have to be made up with an equal amount of general revenue to fund the Foundation School Program. Annual reductions in tax revenue would continue to grow as credit awardees cumulated, and by 2032 the estimated total state revenue reductions would exceed $188 million.

SUBJECT: Requiring certain grant recipients be reimbursed for excess costs

COMMITTEE: Transportation — favorable, without amendment

VOTE: 13 ayes — Canales, E. Thompson, Ashby, Bucy, Davis, Harris, Landgraf, Lozano, Martinez, Ortega, Perez, Rogers, Smithee

0 nays

WITNESSES: For — (*Registered, but did not testify*: Monty Wynn, Texas Municipal League)

Against — Terri Hall, Texas TURF, Texans for Toll-free Highways

On — (*Registered, but did not testify*: James Bass, Texas Department of Transportation)

DIGEST: HB 2673 would require the Texas Department of Transportation (TxDOT) to reimburse the recipient of a grant awarded by TxDOT for construction of a transportation project for costs incurred by the recipient that exceeded the amount of the grant, if the project was managed by TxDOT. The bill would apply only to a grant for a transportation project in a county with a population of less than 25,000 or a municipality with a population of less than 15,000.

The bill would take effect September 1, 2021, and would apply only to a grant awarded on or after the effective date.

SUPPORTERS SAY: HB 2673 would prevent small cities and counties in Texas from receiving unexpected bills for local transportation construction projects managed by TxDOT and whose costs exceeded the amount of the grants awarded by TxDOT for those projects. Currently, when a construction project exceeds the amount of the grant, the city or county must pay for any cost overruns. This practice places an unfair and heavy financial burden on small cities and counties for costs that are beyond their control.

A review to determine whether TxDOT or the locality was responsible for going over budget and engaging in arbitration to decide who would pay would cost small cities and counties even more money, especially if those localities did not prevail in arbitration. HB 2673 would ensure that local governments were not financially penalized if a project TxDOT managed exceeded the funds granted for construction.

By eliminating the possibility that a city or county would be liable for excess costs under these circumstances, the bill would create an incentive for small cities to seek state funding and partner with the state on major transportation projects. Moreover, TxDOT would be motivated to stay within budget on grant-based transportation construction projects.

CRITICS SAY:

HB 2673 would guarantee that some grant recipients be reimbursed for cost overruns regardless of which party was at fault. This no-fault provision could create a disincentive for grant recipients to submit accurate budgets in their proposals and could lead to waste or abuse. An alternative and fairer approach to the problem would be to perform a review of the reasons for the cost overrun and to require TxDOT and the locality to engage in arbitration to determine who would be financially responsible for excess costs.

Because grants administered by TxDOT for transportation construction projects often are determined and limited by state and local funding formulas, the department's ability to reimburse grant recipients for excess costs is limited. HB 2673 could lead TxDOT to hold back some of the grant funds for certain programs in order to provide a funding reserve for potential reimbursement to local governments that would be required by the bill. TxDOT also could choose not to manage a construction project to avoid the reimbursement requirement, depriving small cities and counties of resources and expertise.

NOTES:

According to the Legislative Budget Board, because the number of applicable grant-funded projects that would incur excess costs and the amount of excess costs that would be reimbursable to local governments by TxDOT is unknown, the potential cost to the state could not be determined.

SUBJECT: Prohibiting hospitals from restricting patient visitation in certain disasters

COMMITTEE: Public Health — committee substitute recommended

VOTE: 10 ayes — Klick, Guerra, Allison, Campos, Coleman, Collier, Jetton, Oliverson, Price, Smith

1 nay — Zwiener

WITNESSES: For — Sheila Hemphill, Texas Right To Know; (*Registered, but did not testify*: Jennifer Allmon, The Texas Catholic Conference of Bishops)

Against — None

On — Lee Spiller, Citizens Commission on Human Rights; Cesar Lopez, Texas Hospital Association; Troy Alexander, Texas Medical Association; (*Registered, but did not testify*: Kristi Jordan, HHSC)

DIGEST: CSHB 2211 would prohibit a hospital from restricting in-person visitation during a qualifying period of disaster unless federal law or a federal agency required the hospital to prohibit in-person visitation during that period.

"Qualifying period of disaster" would be defined as the period of time the area in which a hospital was located was declared a disaster area by a qualifying official disaster order. "Qualifying official disaster order" would mean an order, proclamation, or other instrument issued by the governor, another official of the state, or the governing body or an official of a political subdivision declaring a disaster due to an infectious disease.

During a qualifying period of disaster, the bill would allow a hospital to:

- restrict the number of visitors a patient could receive to not fewer than one;
- require a visitor to complete a health screening before entering the hospital and to wear personal protective equipment at all times while visiting a patient; and

- deny entry to or remove from the premises a visitor who failed or refused to meet the health screening or specified personal protective equipment requirements.

A health screening administered by a hospital would have to at a minimum comply with hospital policy and, if applicable, guidance or directives issued by the Health and Human Services Commission, the Centers for Medicare and Medicaid Services, or another agency with regulatory authority over the hospital.

The bill could not be construed as requiring a hospital to:

- provide a specific type of personal protective equipment to a visitor; or
- allow in-person visitation with a patient if an attending physician determined that in-person visitation with that patient could lead to the transmission of an infectious agent that posed a serious community health risk.

A determination made by an attending physician would be valid for a maximum of five days after the determination was made unless it was renewed. If a visitor was denied in-person visitation with a patient because an attending physician determined a visit posed a serious community health risk, the hospital would have to provide a daily written or oral update to the visitor on the patient's condition if the visitor:

- was authorized by the patient to receive relevant health information about the patient;
- had authority to receive the patient's health information under an advance directive or medical power of attorney; or
- was otherwise the patient's surrogate decision-maker on the patient's health care needs under hospital policy or other applicable law.

The hospital also would have to notify the person who received the daily update of the estimated date and time at which the patient would be discharged.

Neither a hospital nor a physician providing health care services on the hospital's premises would be subject to civil or criminal liability or an administrative penalty if a visitor:

- contracted an infectious disease while on the premises during a qualifying period of disaster; or
- in connection with a visit to the hospital, spread an infectious disease to any other individual, except where intentional misconduct or gross negligence by the hospital or the physician was shown.

A physician who in good faith took, or failed to take, an action under the bill would not be subject to civil or criminal liability or disciplinary action for the physician's action or failure to act.

In the event of a conflict between the bill's provisions and any provision of a qualifying official disaster order, the bill would prevail.

The bill would take effect September 1, 2021.

SUPPORTERS SAY:

CSHB 2211 would ensure that hospital patients were allowed at least one visitor during a declared public health disaster. The bill also would provide hospitals sufficient authority to deny a visitor entry if the person did not abide by health screening or protective personal equipment requirements or if an attending physician was concerned about the spread of an infectious disease.

During the COVID-19 pandemic, visitation restrictions were incredibly difficult for patients and their families as well as hospital staff. Many patients lacked connection and physical touch from loved ones for several months, resulting in some patients dying alone. By permitting in-person visitation during a public health disaster, CSHB 2211 would help maintain important connections between patients and families, which could improve patients' physical and mental health and lead to better health outcomes.

The bill also would specify that a federal law or agency could require hospitals to prohibit in-person visitation during a qualifying period of disaster, which could remove the possibility of hospitals being forced into adopting certain protocols set by the bill.

CRITICS SAY:

CSHB 2211 could force hospitals to adopt protocols that may not be appropriate during future public health disasters. During the COVID-19 pandemic, there were several unknown factors to consider as hospitals worked to ensure the safety of patients and staff. The bill should provide more flexibility to hospitals so that they can effectively respond to future disasters involving the spread of an infectious disease.

OTHER CRITICS SAY:

CSHB 2211 should apply the in-person visitation requirements to psychiatric hospitals in Texas. Like other hospital patients, patients with serious mental health needs deserve to have at least one visitor during a public health disaster.

SUBJECT: Requiring workplace violence prevention plans in health care facilities

COMMITTEE: Public Health — committee substitute recommended

VOTE: 10 ayes — Klick, Guerra, Allison, Campos, Coleman, Collier, Jetton, Oliverson, Price, Smith

0 nays

1 absent — Zwiener

WITNESSES: For — Cameron Duncan, Texas Hospital Association; Serena Bumpus, Texas Nurses Association; (*Registered, but did not testify*: Meghan Weller, HCA Healthcare; Don McBeath, Texas Organization of Rural and Community Hospitals; Connie Gray; Noel Johnson; Marci Purcell; Dawn Scott)

Against — None

DIGEST: CSHB 326 would require certain health care facilities to adopt a workplace violence prevention policy and plan to protect health care providers and employees from violent behavior and threats of violent behavior occurring at the facility. The bill would require facilities to adopt a plan through a new or existing committee and would establish procedures for responding to an incident of workplace violence.

Applicability. The bill would apply to certain health care facilities, including:

- a licensed home and community support services agency certified under Health and Safety Code ch. 142 to provide home health services and that employed at least two registered nurses (RNs);
- a certified health care provider that could provide services through the home and community-based services or Texas home living waiver program and that employed at least two RNs;

- a hospital licensed under ch. 241 and a hospital maintained or operated by a state agency that was exempt from that chapter's licensure;
- a nursing facility licensed under ch. 242 that employed at least two RNs;
- an ambulatory surgical center licensed under ch. 243;
- a freestanding emergency medical care facility as defined by sec. 254.001; and
- a mental hospital licensed under ch. 577.

Committee. Each facility would have to establish a workplace violence prevention committee or authorize an existing facility committee to develop a workplace violence prevention plan. A committee would have to include at least one RN who provided direct care to patients of the facility and, if practicable, one employee who provided security services for the facility.

A health care system that owned or operated more than one facility could establish a single committee for all of the system's facilities if the committee developed a violence prevention plan for implementation at each facility in the system and if violence prevention data for each facility remained distinctly identifiable.

Workplace violence prevention plan. A workplace violence prevention plan adopted by a facility would have to adopt a definition of "workplace violence" that included:

- an act or threat of physical force against a health care provider or employee that resulted in, or was likely to result in, physical injury or psychological trauma; and
- an incident involving the use of a firearm or other dangerous weapon, regardless of whether a provider or employee was injured by the weapon.

The plan also would have to:

- require the facility to provide at least annually workplace violence prevention training or education that could be included with other required training or education;
- prescribe a system for responding to and investigating violent incidents or potentially violent incidents at the facility;
- require health care providers and employees to report incidents of workplace violence through the facility's existing occurrence reporting systems; and
- require the facility to adjust patient care assignments, as practicable, to prevent a provider or employee from treating or providing services to a patient who had intentionally physically abused or threatened the provider or employee, among other requirements.

The bill would require each facility to make available on request a copy of the plan to each health care provider or employee of the facility.

Workplace violence prevention policy. Facilities would be required to adopt a written workplace violence prevention policy, and this policy would have to require the facility to provide significant consideration of the violence prevention plan recommended by the facility's committee. The policy also would have to require the facility to evaluate any existing facility violence prevention plan. In addition, the policy would have to:

- encourage health care providers and employees to provide confidential information on workplace violence to the committee;
- include a process to protect from retaliation providers or employees who provided information to the committee; and
- comply with Health and Human Services Commission rules regarding workplace violence.

Response to workplace violence. Following an incident of workplace violence, a facility would have to, at a minimum, offer immediate post-incident services, including any necessary acute medical treatment for each health care provider or employee who was directly involved in the incident.

The bill would prohibit a facility from discouraging a provider or employee from exercising the right to contact or file a report with law enforcement regarding the incident. A person could not discipline, including by suspension or termination of employment, discriminate against, or retaliate against another person who in good faith reported an incident or advised a provider or employee of their right to report an incident.

Enforcement. The bill would allow an appropriate licensing agency to take disciplinary action against a person who violated the bill's provisions as if the person violated an applicable licensing law.

Other provisions. By September 1, 2022, a health care facility would have to adopt a policy and implement a plan for workplace violence prevention.

The bill would take effect September 1, 2021.

SUPPORTERS SAY:

CSHB 326 would establish better protections for health care workers who experience workplace violence by requiring certain health care facilities to adopt workplace violence prevention policies and plans. Concerns have been raised that different facilities have varying levels of protection, causing disparities. The bill would rectify those disparities by establishing a base level of protection across multiple health care facilities.

CSHB 326 also would address workplace violence by requiring annual training and prohibiting retaliation for those reporting an incident in good faith. Workplace violence against employees can lead to long-term trauma, resulting in some employees leaving the health care profession entirely, which can exacerbate existing provider shortages.

Currently, many health care employees face workplace violence on a daily basis, especially nurses who frequently interact with patients, and often have little recourse for safely reporting those incidents. Reports indicate that some nurses have experienced instances of physical abuse and nearly all have experienced verbal abuse. Nurses often do not report incidents of being verbally abused or physically assaulted because they think those incidents are an expected part of their job. The bill would more effectively

address reporting workplace violence by requiring plans to include a system for responding to and investigating violent incidents.

CRITICS SAY:

CSHB 326 would unnecessarily interfere in the workplace violence prevention plans and policies of private health care facilities. These entities should be allowed to determine the best way to address workplace violence for their employees without state intervention.

SUBJECT: Making certain election fraud offenses second-degree felonies

COMMITTEE: Elections — committee substitute recommended

VOTE: 5 ayes — Cain, Clardy, Jetton, Schofield, Swanson

4 nays — J. González, Beckley, Bucy, Fierro

WITNESSES: For — Alan Vera, Harris County Republican Party Ballot Security Committee; Robert Green, Travis County Republican Party Election Integrity Committee; and eight individuals; (*Registered, but did not testify*: Heather Hawthorne, County and District Clerks Association of Texas; Marcia Strickler, WilcoWeTheePeople; Angela Smith, Fredericksburg Tea Party; Tom Nobis, Republican Party of Texas; Don Garner, Texas Faith and Freedom Coalition; and nine individuals)

Against — Susana Carranza, League of Women Voters of Texas; (*Registered, but did not testify*: Matt Simpson, ACLU of Texas; Joanne Richards, Common Ground for Texans; Harrison Hiner, Communications Workers of America; Richard Evans, Emgage Action; Lon Burnam, Public Citizen; Rene Perez, Tarrant County Libertarian Party; James Slattery, Texas Civil Rights Project; Carisa Lopez, Texas Freedom Network; Georgia Keysor)

On — (*Registered, but did not testify*: Jonathan White, Office of the Attorney General; Christina Adkins, Texas Secretary of State)

DIGEST: CSHB 574 would make it a second-degree felony (two to 20 years in prison and an optional fine of up to $10,000) for a person to knowingly or intentionally make any effort to count invalid votes, fail to count valid votes, alter a report to include invalid votes, or alter a report to exclude valid votes.

The bill also would increase from a class A misdemeanor (up to one year in jail and/or a maximum fine of $4,000) to a second-degree felony the offenses of knowingly or intentionally making any effort to:

- influence the independent exercise of the vote of another in the presence of the ballot or during the voting process;
- cause a voter to become registered, a ballot to be obtained, or a vote to be cast under false pretenses; and
- cause any intentionally misleading statement, representation, or information to be provided to an election official or on an application for ballot by mail, carrier envelope, or any other official election-related form or document.

The bill would take effect September 1, 2021.

SUPPORTERS SAY:

CSHB 547 would protect the integrity of elections in Texas by making it a second-degree felony to knowingly or intentionally make an effort to count invalid votes, exclude valid votes, or fraudulently alter an elections report. The bill would make statute consistent by elevating some current election-related offenses from misdemeanors to felonies and would appropriately punish individuals who committed election fraud.

While it is already a criminal offense in Texas for an individual to commit certain types of voter fraud, the bill would specify that purposefully counting invalid votes, excluding valid votes, or altering election reports would incur a criminal penalty. This would give prosecutors more tools to enforce the law and help the state ensure election integrity.

The bill would not punish an election worker who mistakenly counted or excluded a ballot because knowledge or intention to commit fraud would have to be present for the statute to apply. However, it is appropriate and necessary for the state to deter individuals who would seek to knowingly and intentionally commit fraud in this manner from working as election officials by increasing the penalty for such offenses.

CRITICS SAY:

CSHB 547 could create a chilling effect among individuals seeking to be election workers by threatening serious criminal penalties over genuine disagreements on the validity of evaluated ballots. Under the broad language of the bill, an individual could be prosecuted for merely attempting to count a ballot the person viewed as valid or exclude a ballot the person viewed as invalid. It also may be possible to prosecute the new election offenses created in the bill under existing laws.

SUBJECT: Allowing nursing facilities to pursue certain misappropriated funds

COMMITTEE: Judiciary and Civil Jurisprudence — favorable, without amendment

VOTE: 7 ayes — Leach, Julie Johnson, Krause, Middleton, Moody, Schofield, Smith

2 nays — Davis, Dutton

WITNESSES: For — Alyse Meyer, LeadingAge Texas; (*Registered, but did not testify*: Leticia Caballero, HMG Healthcare, LLC; Deseray Matteson, Texas Health Care Association; Guy Herman, Travis County Probate Court; Tom Nobis; Thomas Parkinson)

Against — None

DIGEST: HB 1593 would allow a nursing facility to file an action against a resident's responsible payor for an amount owed by the resident under certain circumstances.

A facility could sue a responsible payor, defined as a person who had legal access to a resident's income or resources available to pay for nursing facility care and who had signed an admission agreement or other contract with the facility in which the person agreed to provide payment for the resident's facility care from the resident's resources, if:

- before admission of the resident, the facility obtained financial information from the resident or responsible payor showing the amount of financial resources that the resident had available to pay for nursing facility care; and
- after the resident began to reside at the facility, the responsible payor misappropriated the resident's resources to a degree that the resident was unable to afford to pay for the resident's care.

A nursing facility also could file an action for injunctive relief against a resident's responsible payor who misappropriated the resident's resources

to the degree that the resident could not pay for care. A court could grant any appropriate injunctive relief to prevent or abate the conduct.

The prevailing party in an action filed under the bill could recover attorney's fees, but a nursing home facility could not recover a total amount, including damages and attorney's fees, that exceeded the amount the responsible payor had misappropriated from the resident.

The bill would take effect September 1, 2021, and would apply only to a cause of action that accrued on or after that date.

SUPPORTERS SAY:

HB 1593 would help prevent financial abuse of nursing home residents and protect nursing homes from financial shortfalls associated with such abuse by allowing nursing homes to pursue debts and injunctive relief against a responsible third party who improperly diverted a resident's funds that were needed to pay for their care. Many nursing home residents' funds are handled by responsible third parties, often a resident's children or family members, because the residents lack the cognitive ability to manage their own financial affairs. This arrangement can expose nursing home residents to financial abuse and exploitation by the responsible third parties, who sometimes improperly divert or steal the residents' funds.

Under federal law nursing homes may not require responsible third parties to commit their own funds to pay for a resident's care but may request that a responsible party agree to provide payment from the resident's income or resources. However, Texas laws on legal standing and contractual privity render these agreements unenforceable, resulting in a loophole that effectively allows responsible third parties to misappropriate residents' funds. It is difficult for nursing homes to hold these third parties accountable, and without payment for a resident's care, a nursing home is left to either provide charity care to the resident, discharge the resident, or bring a legal action against the resident for unpaid fees. HB 1593 would address these limited choices, which result in unfair outcomes for both the facility and the resident, by allowing facilities to pursue debts against a third party who improperly diverted funds and to seek injunctive relief in limited circumstances.

The limitations in the bill's provisions ensure that a responsible payor will not be held unfairly financially liable when the resident they are assisting is unable to pay for care at a facility. The bill only allows a nursing facility to recover a resident's funds that were misappropriated by a responsible payor, and the responsible payor's personal funds could not be accessed for unpaid nursing home bills. Further, the provisions of the bill would only apply to instances in which a resident had the financial resources to pay for care, a third party contractually committed those funds to the resident's care, and the third party then misappropriated the resident's funds, breaching the contract with the nursing facility. These limitations would ensure that a responsible payor was not subject to unwarranted legal actions solely because a resident was unable to pay the bill.

CRITICS SAY:

HB 1593 could subject responsible third parties to unfair legal action by allowing nursing facilities to sue responsible third parties for the debts of a resident. If a nursing facility resident ran out of money for care and a responsible payor had contracted with the nursing home to provide facility payment from the resident's income or resources, the responsible payor could be subject to litigation for misappropriation of the funds even if that person was uninvolved in how the resident's money was spent.

SUBJECT: Expanding allowance to sell certain seized property by online auction

COMMITTEE: Ways and Means — favorable, without amendment

VOTE: 10 ayes — Meyer, Thierry, Button, Cole, Guerra, Martinez Fischer, Murphy, Noble, Sanford, Shine

0 nays

1 absent — Rodriguez

WITNESSES: For — Christopher Young, Linebarger Goggan Blair & Sampson, LLP; (*Registered, but did not testify*: Melissa Shannon, Bexar County Commissioners Court; Adam Haynes, Conference of Urban Counties; Charles Reed, Dallas County Commissioners Court; Ender Reed, Harris County Commissioners Court; Clint Magee, Linebarger Goggan Blair & Sampson, LLP; Daniel Gonzalez and Julia Parenteau, Texas Realtors)

Against — None

BACKGROUND: Tax Code sec. 33.25 requires a peace officer who seized personal property under a tax warrant to deliver a written notice stating the time and place of the sale of the property. The posting of the notice and the sale of the property must be conducted:

- in a county with a population under three million and by the peace officer; or
- in a county with a population of three million or more and by the peace officer or collector, as specified in the warrant, or under an agreement with a licensed auctioneer.

An agreement with a licensed auctioneer may provide for online bidding and sale.

DIGEST: HB 533 would remove the requirement that the posting of notice and sale of property seized under a tax warrant be conducted by a peace officer in a county with a population under three million. The posting and sale in any

county would be conducted by the peace officer or collector, as specified in the warrant, or under an agreement with a licensed auctioneer.

The bill would take effect September 1, 2021, and apply only to a property tax sale of personal property seized under a tax warrant issued on or after that date.

SUPPORTERS SAY:

HB 533 would extend to all counties, regardless of population, the benefits provided by selling seized property through an online auction. The Legislature previously chose to extend this allowance for the seizure of real property, which has benefited the entire state. Removing the bracket for online auction sales of seized personal property would provide these same benefits and promote consistency for all sales.

CRITICS SAY:

No concerns identified.

SUBJECT: Allowing a TxDOT district engineer to temporarily lower speed limits

COMMITTEE: Transportation — committee substitute recommended

VOTE: 13 ayes — Canales, E. Thompson, Ashby, Bucy, Davis, Harris, Landgraf, Lozano, Martinez, Ortega, Perez, Rogers, Smithee

0 nays

WITNESSES: For — (*Registered, but did not testify*: Jamaal Smith, City of Houston; Jay Crossley, Farm & City; Mackenna Wehmeyer, TAG Houston; Lance Hamm)

Against — Terri Hall, Texas TURF and Texans for Toll-free Highways

On — (*Registered, but did not testify*: James Bass, Texas Department of Transportation)

DIGEST: CSHB 3282 would authorize a district engineer of the Texas Department of Transportation (TxDOT) to temporarily lower a prima facie speed limit for a highway or part of a highway if the engineer determined the speed limit was unreasonable or unsafe because of highway maintenance activities at the site. A district engineer would be authorized to temporarily lower a prima facie speed limit under the provisions of the bill without approval from the Texas Transportation Commission.

A temporary speed limit established under the bill would be a prima facie prudent and reasonable speed limit enforceable in the same manner as other prima facie speed limits and would supersede any other established speed limit that would permit a person to operate a motor vehicle at a higher rate of speed. After a district engineer temporarily lowered a speed limit, TxDOT would be required to:

- place and maintain temporary speed limit signs that conform to the state highway sign manual at the maintenance activity site;
- temporarily conceal all other signs in the affected area that would permit a person to operate a vehicle at a higher speed; and

- remove all temporary signs and concealments when the temporary speed limit expired.

A temporary speed limit would be effective when TxDOT placed the temporary speed limit signs and concealments. A temporary speed limit would be effective until the earlier of the 45th day after the date it became effective or the date on which the district engineer determined that the maintenance activity had been completed and all equipment has been removed from the maintenance activity site. The temporary speed limit would be prohibited from being extended unless established by the Texas Transportation Commission in accordance with statute.

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, 2021.

SUPPORTERS SAY:

CSHB 3282 would protect the safety and lives of Texas Department of Transportation (TxDOT) maintenance workers and contractors by allowing a district engineer to temporarily lower a speed limit on a highway where maintenance activity was being performed. Maintenance workers face many of the same dangers that workers on long-term road projects do but are not afforded the same physical protections, such as barrels and concrete barriers. Allowing for a district engineer to quickly lower speed limits as necessary without the need for Texas Transportation Commission approval would be an effective way to increase safety for these workers.

The term "maintenance" is commonly understood by drivers and TxDOT employees alike. It covers a broad range of activities, but the common factor in every one is the presence of human beings on or near a roadway. This places these individuals in an inherently dangerous situation that necessitates the protections that would be afforded by the bill. Current signage indicating a lower speed limit near maintenance activity is only advisory. Allowing TxDOT to set enforceable temporary speed limits would help to protect maintenance workers.

TxDOT district engineers possess both the technical expertise and the local knowledge that is necessary to carry out the provisions of the bill.

Texas contains a wide variety of highways and a uniform policy for lowering speed limits would not account for the unique nature of each situation. Relying on the expertise of these engineers is the most effective way to ensure the safety of maintenance workers and drivers alike.

The temporary lowering of speed limits would not present a new challenge for Texas drivers. Speed limits are lowered daily across the state, and any safe driver should be able to account for one. These temporarily lowered speed limits do not reduce the existing limit to a degree that is unsafe for drivers, with a reduction of 15 miles per hour being the most common. Allowing for the temporary lowering of speed limits in maintenance activity areas would not pose a danger to drivers and provides potentially lifesaving protection for maintenance workers.

CRITICS SAY:

CSHB 3282 is unclear about what activities it actually would cover, would allow for the arbitrary lowering of speed limits, and could create dangerous situations for drivers. The bill does not define what constitutes a maintenance activity, leaving open the possibility that speed limits could be lowered in areas where there is minor activity that does not necessitate it. Granting a TxDOT district engineer authority to unilaterally lower a speed limit based solely on the engineer's interpretation of what is unreasonable or unsafe is an arbitrary standard that would be difficult to enforce uniformly. On certain highways, a sudden lowering of the speed limit could cause dangerous situations as drivers brake suddenly to comply.

SUBJECT: Making election precinct boundary changes occur in odd-numbered years

COMMITTEE: Elections — favorable, without amendment

VOTE: 9 ayes — Cain, J. González, Beckley, Bucy, Clardy, Fierro, Jetton, Schofield, Swanson

0 nays

WITNESSES: For — Andrew Eller; Eric Opiela; Derek Ryan; (*Registered, but did not testify*: Michelle Davis, Convention of States; Heather Hawthorne, County and District Clerks Association of Texas; Wesley Whisenhunt, Grassroots Gold; Alan Vera, Harris County Republican Party Ballot Security Committee; Joey Bennett, Secure Democracy; Glen Maxey, Texas Democratic Party; Donald Garner, Texas Faith and Freedom Coalition; Shelia Franklin and Fran Rhodes, True Texas Project; and 21 individuals)

Against — (*Registered, but did not testify*: Harrison Hiner, Communications Workers of America; Joanna Cattanach, Dallas County Democratic Party)

On — Lori Gallagher; (*Registered, but did not testify*: Christina Adkins, Texas Secretary of State)

BACKGROUND: Election Code sec. 42.031(a) requires each commissioners court to determine whether county election precincts comply with certain territory and population requirements during March or April of each odd-numbered year.

Sec. 42.033(a) establishes that a change in a county precinct election boundary takes effect on the first day of the first even-numbered voting year following the voting year in which the change is ordered.

DIGEST: HB 2057 would require commissioners courts to make determinations on county election precinct compliance in March or April of even-numbered years. The bill also would specify that a change in a county precinct

election boundary would take effect on the first day of the first odd-numbered year following the year in which the change was ordered.

The bill would take effect September 1, 2021.

SUPPORTERS SAY:

HB 2057 would resolve confusion for candidates and voters in primary elections by requiring that changes in election precinct boundaries go into effect the first day of odd-numbered years, rather than the first day of even-numbered voting years.

Currently, candidates for office may begin campaigning for a primary election before election precinct boundaries are redrawn. This can cause confusion for candidates if there is a change in precinct boundaries in the district in which they are running. Voters also may be unable to vote at their usual precinct if after redrawing they are located in a different precinct. The bill would remove this confusion by requiring commissioners courts to evaluate election precinct boundaries in even-numbered years and have the new boundaries go into effect in odd-numbered years, preventing the possibility of precinct boundaries changing during a primary campaign.

CRITICS SAY:

No concerns identified.

SUBJECT: Creating a grant program for counties to fund GPS monitoring

COMMITTEE: County Affairs — favorable, without amendment

VOTE: 6 ayes — Coleman, Cason, Longoria, Lopez, Spiller, J. Turner

2 nays — Stucky, Anderson

1 absent — Stephenson

WITNESSES: For — Inna Klein, 214th District Court; (*Registered, but did not testify*: Melissa Shannon, Bexar County Commissioners Court; Adam Haynes, Conference of Urban Counties; Jim Allison, County Judges and Commissioners Association of Texas; Seetha Kulandaisamy, Texas Council on Family Violence; Julie Wheeler, Travis County Commissioners Court; Stephanie Hoffman; Thomas Parkinson)

Against — None

On — (*Registered, but did not testify*: Jason Buckner, Office of the Governor)

BACKGROUND: Code of Criminal Procedure arts. 17.292 and 17.49 establish that magistrates in certain family violence cases are authorized to require as a condition of release on bond that a defendant participate in a global positioning monitoring system.

Some have called for a program to defray the costs imposed on counties by the GPS monitoring of indigent defendants in order to encourage the use of the technology and provide further security to victims of domestic violence.

DIGEST: HB 1906 would require the Office of the Governor's Criminal Justice Division to establish and administer a grant program to reimburse counties for all or part of the costs incurred from monitoring defendants and victims in family violence cases who participate in a global positioning monitoring system.

Grant recipients could use received funds only for monitoring conducted to provide a measure of security and safety for a victim of family violence.

The Criminal Justice Division would be required to establish:

- additional eligibility criteria for grant applicants;
- grant application procedures;
- guidelines relating to grant amounts;
- procedures for evaluating grant applications; and
- procedures for monitoring the use of a grant and ensuring compliance with the conditions of the grant.

The Criminal Justice Division would have to include details on the results and performance of the grant program in its biennial report to the Legislature on the division's activities.

The bill would allow the Criminal Justice Division to use any revenue available in order to carry out its provisions.

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, 2021.

SUBJECT: Allowing extended registration period for certain fleet vehicles

COMMITTEE: Transportation — committee substitute recommended

VOTE: 13 ayes — Canales, E. Thompson, Ashby, Bucy, Davis, Harris, Landgraf, Lozano, Martinez, Ortega, Perez, Rogers, Smithee

0 nays

WITNESSES: For — Jeremy Brown, Harris County; (*Registered, but did not testify*: Guadalupe Cuellar, City of El Paso; Christine Wright, City of San Antonio; Mike McKenna, Ellis County Sheriff's Office; Thamara Narvaez, Harris County Commissioners Court; Thomas Parkinson)

Against — None

On — Pablo Luna, Texas Dept. of Public Safety; (*Registered, but did not testify*: Clint Thompson, Texas Department of Motor Vehicles)

BACKGROUND: Transportation Code sec. 502.453 exempts the owner of a motor vehicle, trailer, or semi-trailer from the vehicle registration fee if the vehicle is government-owned, a public school bus, a fire-fighting vehicle, a county marine law enforcement vehicle, a vehicle used for covert criminal investigations, or a U.S. Coast Guard auxiliary vehicle.

DIGEST: CSHB 2262 would require the Texas Department of Motor Vehicles (TxDMV) to develop and implement a system of registration to allow an owner of an exempt fleet to register the vehicles for an extended period of between one and eight years.

The bill would define "exempt fleet" as a group of two or more nonapportioned motor vehicles, semi-trailers, or trailers exempt from the registration fee and used for certain purposes described by Transportation Code sec. 502.453.

A system of extended registration would have to allow the owner of an exempt fleet to:

- select the number of years for registration;
- register the entire fleet in the county of the owner's principal place of business;
- register the motor vehicles operated most regularly in the same county; or
- register the entire fleet directly with TxDMV.

A motor vehicle, semi-trailer, or trailer registered under this bill would be subject to inspection requirements.

TxDMV would be required to adopt rules to implement the bill, including rules on the suspension of an exempt fleet's registration if the owner failed to comply with this bill or department rules, as well as rules establishing a method to enforce inspection requirements for exempt fleets.

The bill would take effect September 1, 2021.

SUPPORTERS SAY:

HB 2262 would make local government operations more efficient by providing for an extended registration period for fleet vehicles exempt from the registration fee. Currently, local governments register their fleets — which may amount to hundreds of motor vehicles — annually, creating a significant administrative burden each month. By allowing these fleets to prolong their registration periods by up to eight years, the bill would save local governments time and money.

CRITICS SAY:

No concerns identified.

NOTES:

According to the Legislative Budget Board, the Texas Department of Motor Vehicles would incur a one-time cost of $250,000 to the TxDMV Fund in fiscal 2021 to implement the provisions of the bill.

SUBJECT: Revising the rural veterinarian incentive program

COMMITTEE: Higher Education — favorable, without amendment

VOTE: 9 ayes — Murphy, Pacheco, Cortez, Frullo, Muñoz, Ortega, Raney, C. Turner, J. Turner

0 nays

2 absent — P. King, Parker

WITNESSES: For — Steven Golla, Texas Veterinary Medical Association; Kelsey Haile; Kristen White; Vanessa Marcano; (*Registered, but did not testify*: Kara Mayfield, Association of Rural Communities in Texas; Kaleb McLaurin, Texas and Southwestern Cattle Raisers Association; J. Pete Laney, Texas Association of Dairymen and Texas Quarter Horse Association; Charlie Leal, Texas Farm Bureau; Elizabeth Choate and Royce Poinsett, Texas Veterinary Medical Association)

Against — None

On — Brandon Dominguez, Texas A&M University; (*Registered, but did not testify*: Andy Schwartz, Texas Animal Health Commission)

BACKGROUND: The Legislature in 1999 created the rural veterinarian incentive program at the Texas A&M University System. This program, which is governed by provisions in Education Code ch. 88, is intended to provide eligible program participants with financial support if the participants enter into an agreement with the university to practice veterinary medicine in a rural county.

DIGEST: HB 1259 would transfer the administration of the rural veterinarian incentive program from Texas A&M University to the Texas Animal Health Commission and make revisions to the program. The bill would change the definition of a rural county from one with a population of less than 50,000 to one with a population of less than 100,000.

Administration. The bill would add members to the committee that administers the program to include:

- the deans or a dean's designee of each accredited college of veterinary medicine in the state;
- a veterinarian with a mixed animal practice and a veterinarian with a large animal practice representing each university system in the state with an accredited college of veterinary medicine, as appointed by the boards of regents; and
- a practitioner of veterinary medicine who serves as a commissioner of the Texas Animal Health Commission as appointed by the chair of the commission.

The executive director of the Texas Animal Health Commission, rather than the dean of the Texas A&M University College of Veterinary Medicine, would serve as chair of the committee.

When the committee adopted rules related to the selection, submission, or certification of areas identified as having a veterinary shortage, the committee would have to consider any applicable federal regulations and the previous work of the Texas Animal Health Commission.

Eligibility criteria. The bill would extend the application deadline for person who wanted to participate in the program from the first anniversary to the fourth anniversary of the date the veterinary student graduated from college. A person enrolled as a student in an accredited college of veterinary medicine located outside of Texas could apply to participate in the program if the student graduated from a Texas high school or Texas general academic teaching institution. Consideration of an applicant's minimum grade point average would no longer be among the criteria for eligibility, while an applicant's background and interest in rural practice would be added.

Participation. HB 1259 would expand conditions for the agreement that an eligible participant must enter into in order to participate in the program. Along with the current commitment to agree to practice veterinary medicine in a rural county for one calendar year for each

academic year for which the participant receives financial support, and to use the financial support to retire student loan debt or to pay tuition and fees, under the bill the agreement also would have to:

- specify the conditions the participant would have to satisfy to receive financial support under the program;
- provide that any financial support received would constitute a loan until the participant satisfied the conditions of the agreement; and
- require the participant to sign a promissory note acknowledging the conditional nature of the financial support received and promising to repay the financial support plus any applicable interest and reasonable collection costs if the participant did not satisfy conditions of the agreement.

Financial support would have to be awarded as a lump sum payable to both the participant and the lender or other holder of the affected loan or directly to the lender or other holder of the affected loan on the participant's behalf.

Fund. HB 1259 would rename the fund for the program as the Rural Veterinarian Incentive Program Account and establish the account in the general revenue fund. The Texas Higher Education Coordinating Board would administer the account, which would be composed of legislative appropriations, gifts, grants, in-kind contributions, or real or personal property contributed from any individual, group, association, or corporation or the United States, as well as earnings on the principal of the account. The account also could receive money deposited from a community or political subdivision that qualified to become a sponsor of an eligible participant.

Account funds would have to be made available and payable as soon as practicable at the request of the Texas Animal Health Commission and could be used only for certain purposes, including to provide financial support as a lump sum to an eligible participant, the lender or other holder of the participant's affected loan, or the participant's university system. The commission could request to use an amount of up to 7 percent of the account value to cover its administrative costs and an amount up to 3 percent of the account value to use as specifically required for the

coordinating board for administration. Any unexpended balance would remain in the account at the end of a fiscal year subject to further appropriation.

Effective date. The bill would take effect September 1, 2021. On the effective date, any obligations, rights, contracts, records, real and personal property, funds, appropriations, and money of the incentive program would be transferred from the Texas A&M University System to the Texas Animal Health Commission.

SUPPORTERS SAY:

HB 1259 would address the critical shortage of large animal veterinarians in rural areas of Texas by revising a program to provide tuition and student debt assistance to veterinary students and graduates who agree to practice in rural counties. While a program to address this issue was created in 1999, it has never received legislative appropriations.

A veterinary college education is expensive and rising student debt is a key driver of rural veterinary shortages. Many students and graduates would like to have a large animal or hybrid practice in a rural region, but their education costs often drive them to a small animal urban practice, where they typically can earn more. The Texas Higher Education Coordinating Board in 2009 published a report identifying a "serious shortage of food and fiber veterinarians," partially due to salary issues. The report recommended that Texas establish a targeted loan repayment program for students who practice in rural communities. The program envisioned by HB 1259 would pay for student loan forgiveness for each year of service in a rural area, meaning that a student could receive greater financial assistance the longer they agreed to serve in a rural county.

Doubling the size of an eligible rural county would allow the incentive program to serve areas of the state that may be near a growing metro area yet still need greater access to veterinary services. The Texas Animal Health Commission is an appropriate agency to administer the program because it already is involved in identifying areas that are underserved by veterinarians for the U.S. Department of Agriculture. The transfer of authority from the Texas A&M veterinary college also recognizes that there are now two veterinary schools in the state.

While some say that taxpayer funds should not be used to attract veterinarians to rural areas, the state has an interest in protecting the health of food-producing animals. The bill would not expand an existing loan repayment program since the current program has never been funded or awarded any financial incentives.

The general appropriations act contains a $2 million contingency rider in Article 11. If no legislative appropriations are adopted, the program could receive gifts, grants, or contributions of property for funding purposes. The bill also would allow a community or political subdivision to sponsor a student who wanted to return home to practice veterinary medicine.

CRITICS SAY:

HB 1259 would expand an existing program that has the potential to use taxpayer subsidies to pay the debt of certain students who agree to become rural veterinarians. Similar incentive programs to attract professionals to underserved areas interfere with the free market principles that best determine where people live and work.

SUBJECT: Allowing complaints to the secretary of state about early voting clerks

COMMITTEE: Elections — committee substitute recommended

VOTE: 9 ayes — Cain, J. González, Beckley, Bucy, Clardy, Fierro, Jetton, Schofield, Swanson

0 nays

WITNESSES: For —Robert Green, Travis County Republican Party Election Integrity Committee; Laura Pressley, True Texas Elections; Kimberly Young; (*Registered, but did not testify*: Matt Simpson, ACLU of Texas; Angela Smith, Fredericksburg Tea Party; Alan Vera, Harris County Republican Party Ballot Security Committee; Marcia Strickler, Wilco We Thee People; and six individuals)

Against — (*Registered, but did not testify*: David Carter; Frank Holman)

On — Keith Ingram, Texas Secretary of State; (*Registered, but did not testify*: Brad Hodges)

BACKGROUND: Elections Code sec. 87.121(a) requires early voting clerks to maintain for each election a roster listing each person who votes an early voting ballot by personal appearance and a roster listing each person to whom an early voting ballot to be voted by mail is sent. Under sec. 87.121(i), early voting clerks for primary elections or general elections for state and county officers must submit certain roster information to the secretary of state not later than 11 a.m. the day after the clerk entered the information on the roster or received a ballot voted by mail. Under sec. 87.121(j), this information must be posted publicly on the secretary of state's website.

DIGEST: CSHB 1622 would allow a person registered to vote in a county where the early voting clerk was conducting early voting to submit a complaint to the secretary of state stating that an early voting clerk had not complied with early voting roster requirements.

The secretary of state by rule would have to create and maintain a system for receiving and recording such complaints. The secretary of state also would have to maintain a record indicating early voting clerks who had failed to comply with roster requirements.

To the extent of any conflict, CSHB 1622 would prevail over another act of the 87th Legislature in the regular session relating to nonsubstantive additions to and corrections in enacted codes.

The bill would take effect September 1, 2021.

SUPPORTERS SAY:

CSHB 1622 would incentivize early voting clerks to post early voting rosters in the time required under current law by allowing complaints against noncompliant clerks to be made to the secretary of state. The bill also would give the state a tool to track noncompliant clerks by requiring the secretary of state to record complaints and keep a list of clerks who failed to comply with early voting roster posting requirements.

CRITICS SAY:

No concerns identified.

SUBJECT: Automatic nondisclosure orders for certain misdemeanor criminal records

COMMITTEE: Criminal Jurisprudence — favorable, without amendment

VOTE: 9 ayes — Collier, K. Bell, Cason, Cook, Crockett, Hinojosa, A. Johnson, Murr, Vasut

0 nays

WITNESSES: For — Emily Gerrick, Texas Fair Defense Project; (*Registered, but did not testify*: Lauren Johnson and Matt Simpson, ACLU of Texas; Genevieve Collins, Americans for Prosperity and the LIBRE Initiative; Justin Keener, for Doug Deason; Kathy Mitchell, Just Liberty; Brian Hawthorne, Sheriffs' Association of Texas; Amanda List, Texas Appleseed; Lori Henning, Texas Association of Goodwills; Donald Garner, Texas Faith and Freedom Coalition; Derek Cohen, Texas Public Policy Foundation; Molly Weiner, United Ways of Texas; Theresa Laumann; Paul Quinzi)

Against — None

BACKGROUND: Government Code subch. E-1 governs the issuing of orders of nondisclosure, which prohibit criminal justice agencies from disclosing to the public criminal history record information related to an offense. The statute governs who is eligible to petition a court for such an order and the process for doing so. Government Code sec. 411.074 establishes the general required conditions for petitioning a court for an order, including ones requiring no additional offense and prohibiting orders for certain previous offenses and offenses involving family violence.

DIGEST: HB 1394 would require courts to issue orders of nondisclosure for criminal history record information for persons convicted or placed on deferred adjudication community supervision for certain misdemeanor offenses.

The bill would apply to an individual who was convicted of or placed on deferred adjudication community supervision for a misdemeanor other than:

- a fine-only traffic offense, or
- a misdemeanor offense for driving or operating a watercraft under the influence of alcohol by a minor; driving, boating, or flying while intoxicated, or assembling or operating an amusement ride while intoxicated.

An individual must have completed the sentence for the offense, including terms of confinement or community supervision, and paid all fines, costs, and restitution, or have received a discharge and dismissal of the offense under deferred adjudication. Individuals could not have previously received an order of nondisclosure for the offense.

If such individuals satisfied the requirements for expunction under current law in Government Code sec. 411.074, courts would be required to issue an order of nondisclosure prohibiting criminal justice agencies from disclosing to the public criminal history record information related to the offense.

Courts would be required to determine if a person met the requirements and, if so, issue the order as soon as practicable after the seventh anniversary of either the date the person completed the sentence or the date of the discharge and dismissal after deferred adjudication.

The bill would take effect September 1, 2021. For individuals who completed their sentence or received a discharge and dismissal before September 1, 2014, courts would be required to issue an order of nondisclosure as soon as practicable after the bill's effective date and no later than August 31, 2023.

SUPPORTERS SAY:

HB 1394 would help individuals who have committed certain low-level, minor crimes, paid their debt to society, and remained law abiding for seven years put the past behind them and move on with their lives by establishing a system for automatic orders of nondisclosure for their criminal history records.

Having a criminal record can have negative effects on employment, housing, schooling and more, but many individuals who are eligible to ask courts for orders of nondisclosure do not undertake the process of obtaining an order because it can be difficult to navigate, time-consuming, and expensive. HB 1394 would address these issues by streamlining the process so courts would automatically issue these orders for qualifying individuals after an appropriate amount of time. Individuals would be able to move on from a minor mistake or lapse in judgment without a criminal record hanging over their head.

The bill is narrowly drawn and would not expand who is eligible for orders of nondisclosure; it merely would automate the process. The bill would apply only to misdemeanors and would exclude several intoxication offenses. The numerous criteria in current law to obtain an order would have to be met, and there would be a waiting period of seven years. Law enforcement agencies would continue to be able to access records because orders of nondisclosure only apply to releasing information to the public. Courts are required to track such cases and should be able to implement the bill within their resources.

CRITICS SAY:

HB 1394 could be challenging for courts and counties to implement, as they may have to obtain new software or hardware to set up automated systems to identify those who would qualify for automatic orders of nondisclosure and to issue the orders.

SUBJECT: Authorizing temporary weapons storage at certain public buildings

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

VOTE: 7 ayes — White, Harless, Hefner, E. Morales, Patterson, Schaefer, Tinderholt

2 nays — Bowers, Goodwin

WITNESSES: For — (*Registered, but did not testify*: Guadalupe Cuellar, City of El Paso; Frederick Frazier, Dallas Police Association and State FOP; Angela Smith, Fredericksburg Tea Party; David Sinclair, Game Warden Peace Officers Association; Richard Briscoe, Legislative Director, Open Carry Texas; Tara Mica, National Rifle Association; AJ Louderback and Brian Hawthorne, Sheriffs Association of Texas; Andi Turner, Texas State Rifle Association; and 11 individuals)

Against — (*Registered, but did not testify*: Idona Griffith; Georgia Keysor)

On — Brad Hodges; Eric Schafer

DIGEST: HB 29 would authorize secure weapon storage lockers to be placed in buildings used by state agencies or political subdivisions that are generally open to the public. The storage option would apply to buildings or portions of buildings where carrying weapons, including a handgun or other firearm, location-restricted knife, club, or other weapons would violate Penal Code ch. 46 or other law, or where the state agency or political subdivision by sign or otherwise prohibits weapons.

The bill would not apply to a penal institution or a public primary or secondary school or institution of higher education.

Storage. The temporary secure weapon storage could be provided by self-service lockers or other temporary storage operated at all times by a designated employee of the state agency or political subdivision. A self-service weapon locker would have to allow secure locking by the user and

provide a key for reopening or reopen by electronic means such as a fingerprint scan or numeric code.

The state agency or political subdivision could require a person using a self-service locker to submit the person's name, driver's license or ID number, and telephone number.

The state agency or political subdivision could provide temporary weapon storage operated by a designated employee. The employee would have to securely affix a claim tag to the weapon, provide the person with a claim receipt, and record the person's name, driver's license or ID number, and telephone number. The person could show the receipt or driver's license or ID to reclaim the weapon.

The temporary storage would have to be available and monitored by a designated employee of the agency or political subdivision at all times that the building or portion of the building was open to the public. A person who was placing a weapon in storage or retrieving it could not be required to wait more than five minutes.

A state agency or political subdivision could collect a fee for the use of a self-service weapon locker or other temporary secure weapon storage.

Unclaimed weapons. A weapon that was unclaimed at the end of a business day could be removed from the self-service locker or other temporary secure storage and placed in another secure location. If practicable, the agency or subdivision would have to notify the person that the weapon was in the custody of the agency or subdivision and subject to forfeiture if not reclaimed before the 30th day after the date it was placed in storage. Persons who provided a phone number would have to be called.

A sign would have to be placed at storage locations describing the process for reclaiming a weapon left in storage for more than one business day. A state agency or political subdivision could require identification or other evidence of ownership before returning an unclaimed weapon and could charge a fee for extended storage of the weapon.

A weapon that was not reclaimed before the 30th day after the date it was placed in storage would be forfeited. If a forfeited weapon was one that could not be legally possessed in Texas, it would be turned over to local law enforcement as evidence or for destruction. If the weapon was one that could be legally possessed in Texas, it could be sold at public auction, where it could be purchased only by a federally licensed firearms dealer. Proceeds from the sale would be transferred to the state general revenue fund or the treasury of the political subdivision.

The bill would take effect September 1, 2021.

SUPPORTERS SAY:

HB 29 would address a problem for individuals licensed to carry a firearm who must leave their guns in their cars when going to certain public buildings. This can result in individuals being unable to defend themselves while walking to and from their parked cars. Current law also effectively forces law-abiding gun owners who are entering these buildings to leave their weapons in their parked vehicles, where the firearm could be susceptible to theft.

The bill would be permissive, not mandatory, for state agencies and political subdivisions that want to provide safe weapons storage, and they could charge a fee to cover the cost of providing it. The storage option would improve the situation by providing the holder of a concealed carry license with a secure way to store a weapon on site if they are not allowed to carry the weapon inside the building.

CRITICS SAY:

HB 29 could burden state agencies and political subdivisions to provide weapons storage for members of the public who want to carry guns into public buildings where they are not authorized to carry them. The Texas Facilities Commission estimates one-time costs of more than $1 million to implement self-storage lockers in 69 state buildings, which would include installing weapon lockers, workstations with fingerprint scanners, and cameras to monitor retrieval.

Allowing members of the public to bring weapons into public buildings, even for a short time until they could be securely stored, could result in accidental discharges during the transfer of weapons into and out of lockers, possibly endangering others in the vicinity.

NOTES:

According to the Legislative Budget Board, the fiscal implications of the bill cannot be determined. Costs and gains associated with implementing the provisions of the bill would depend on the amount of secure weapons storage state agencies install in buildings under their control, fees state agencies charged for weapons storage, costs associated with storing unclaimed weapons, and proceeds from the sale of forfeited weapons.

SUBJECT: Prohibiting sex offenders in prison from using websites to find pen pals

COMMITTEE: Corrections — favorable, without amendment

VOTE: 9 ayes — Murr, Allen, Bailes, Burrows, Martinez Fischer, Rodriguez, Sherman, Slaton, White

0 nays

WITNESSES: For — William Busby

Against — Mary Molnar, Texas Voices for Reason and Justice

On — (*Registered, but did not testify*: Jason Clark, Texas Department of Criminal Justice; Thomas Parkinson)

DIGEST: HB 460 would require the Texas Department of Criminal Justice (TDCJ) to prohibit individuals who had been convicted of sex offenses and were in state custody from placing an advertisement on an internet website to solicit a pen pal. The prohibition would apply regardless of whether another person submitted or paid for the ad.

The bill would take effect September 1, 2021, and TDCJ would have to adopt the policy by December 1, 2021.

SUPPORTERS SAY: HB 460 would close a dangerous loophole in current policies that could be used by sex offenders to find new potential victims. By requiring the Texas Department of Criminal Justice (TDCJ) to implement a policy prohibiting sex offenders from placing ads for pen pals on the internet, the bill would help protect potential victims.

Currently, inmates can post ads on internet sites soliciting pen pals, and these relationships could be used by sex offenders to gain the trust of other people and commit new crimes. Under the policy that would be required by the bill, TDCJ would watch for inmates placing such ads and would be able to take disciplinary action if an ad was placed. The policy

would apply to sex offenders because of the seriousness of these crimes and the potential of pen pal relationships to further them.

The bill would not punish offenders, reduce their ability to communicate with the outside world, or infringe on free speech. Inmates have several other avenues of communication and ways to keep in touch with family, friends, and others, including visits, telephone calls, and mail. Other states have similar restrictions, and the prohibition on using the internet to solicit pen pals would be similar to the current prohibition on inmates creating or maintaining social media accounts while in prison. Prisons may limit inmate mail under certain conditions, and the bill is a logical extension of those policies.

CRITICS SAY:

HB 460 could hurt some inmates' efforts to rehabilitate and reintegrate into society by reducing their ability to make connections with the outside world. Many inmates have limited connections with family or friends, and communicating with pen pals can give them hope, encouragement, and friendship, helping them cope with prison life and prepare to reintegrate into society. Pen pals can provide mentorship and faith-based connections that are important, regardless of an individual's offense.

While protecting individuals from crime is important, the bill could punish individuals in state custody because of the possibility of a potential crime. A policy developed under the bill could be difficult to enforce as inmates might not have control over who places their information on a pen pal website. Those agreeing to be pen pals with inmates are capable of deciding whether to continue correspondence.

SUBJECT: Modifying mandatory reporting standards for child abuse or neglect

COMMITTEE: Human Services — committee substitute recommended

VOTE: 6 ayes — Frank, Hull, Klick, Neave, Noble, Shaheen

3 nays — Hinojosa, Meza, Rose

WITNESSES: For — Meagan Corser, Texas Home School Coalition; Darrin Bickham; (*Registered, but did not testify*: Andrew Brown, Texas Public Policy Foundation; Thomas Parkinson)

Against — (*Registered, but did not testify*: Alison Mohr Boleware, National Association of Social Workers - Texas Chapter; Sarah Crockett, Texas CASA)

On — (*Registered, but did not testify*: Stephen Black, Department of Family and Protective Services; Troy Alexander, Texas Medical Association)

BACKGROUND: Family Code ch. 261, subch. B governs mandatory reporting of child abuse or neglect. Sec. 261.101 contains provisions establishing who is required to report and the standard and time frame under which a report must be made. Under this section, a person or professional having cause to believe that reportable conduct has occurred must make a report to the appropriate agency.

Sec. 261.109 establishes the offense of failure to report child abuse or neglect and the penalties associated with the offense. A person or professional commits the offense if they are required to make a report under sec. 261.101 and knowingly fail to do so. Failure to report is a class A misdemeanor (up to one year in jail and/or a maximum fine of $4,000) unless certain factors are shown on the trial of the offense making it a state-jail felony (180 days to two years in a state jail and an optional fine of up to $10,000).

DIGEST:

CSHB 3379 would modify the standard under which a person or professional must report child abuse or neglect. Under the bill, a person or professional with reasonable cause to believe that reportable conduct had occurred would be required to make a report.

Persons or professionals who, with due diligence and in good faith, timely determined whether they were required to make a report in accordance with the modified standard and who reasonably determined that they lacked reasonable cause to make the report would not commit the offense of failure to report. The bill would not require a person or professional to act with due diligence to determine whether a report must be made.

The bill would take effect September 1, 2021, and would apply only to a report of suspected abuse or neglect of a child that was made on or after that date.

SUPPORTERS SAY:

CSHB 3379 would help address issues associated with the overly broad standard for mandatory reporting of suspected child abuse or neglect by changing the reporting standard so that a person had a duty to report only if there was reasonable cause to believe that reportable conduct had occurred.

The current standard, which is having any cause to believe that reportable conduct has occurred, is not explicitly defined in statute or case law and provides little guidance for a person who is required to report child abuse or neglect. This can lead to frivolous or false reports, sometimes based solely on rumors or hearsay. In addition, the overly broad reporting standard could lead to a person being criminally charged for false reporting if they did not submit an initial report due to lack of reasonable cause to make the report after doing their due diligence in a timely manner and with good faith. "Cause to believe" can have different meanings for different individuals, and CSHB 3379 would provide the needed clarification for this ambiguous standard and the assurance that a reasonable decision not to report based on due diligence and good faith would not be criminalized.

The reporting that the current standard encourages can be unnecessarily burdensome on the Department of Family and Protective Services (DFPS)

and on law enforcement, as they must process and investigate every report of potential child abuse or neglect even if that report may be false or frivolous. False or frivolous reporting caused by attempts to avoid criminal liability can lead to children being removed from their families unnecessarily, which can be traumatic for children and families and should be avoided if at all possible. The clarification provided by CSHB 3379 would strike the balance needed to incentivize mandatory reporters to investigate potential child abuse and neglect with due diligence while discouraging over reporting due to fear of criminal prosecution.

CRITICS SAY:

CSHB 3379 would introduce a new standard for the mandatory reporting of child abuse and neglect, which could unnecessarily confuse professional mandatory reporters who are already trained on how to appropriately handle reporting under the current statute. Changes made by the bill could hamper the ability of these professionals to report suspected abuse or neglect that they otherwise would have reported.

One of the most important factors for encouraging victims of reportable incidents to come forward is assuring victims that they will be believed by the person with whom they choose to share the information. The bill's "reasonable cause" standard could promote a heightened standard of scrutiny by reporters into an alleged incident, potentially causing victims who choose to share incidents of abuse or neglect with a mandatory reporter to feel disbelieved and exacerbating the trauma that they likely would already be experiencing.

SUBJECT: Appointing attorneys for indigent defendants for writ of habeas corpus

COMMITTEE: Criminal Jurisprudence — favorable, without amendment

VOTE: 9 ayes — Collier, K. Bell, Cason, Cook, Crockett, Hinojosa, A. Johnson, Murr, Vasut

0 nays

WITNESSES: For — Mike Ware, Innocence Project of Texas; Cynthia Garza, for John Creuzot Dallas County District Attorney; (*Registered, but did not testify*: Lauren Johnson, ACLU of Texas; Melissa Shannon, Bexar County Commissioners Court; Jim Allison, County Judges and Commissioners Association of Texas; M Paige Williams, for Dallas County Criminal District Attorney John Creuzot; Kathy Mitchell, Just Liberty; Amanda List, Texas Appleseed; Shea Place, Texas Criminal Defense Lawyers Association; Alycia Castillo, Texas Criminal Justice Coalition; Emily Gerrick, Texas Fair Defense Project; Rebecca Bernhardt, The Innocence Project)

Against — None

On — Benjamin Wolff, Office of Capital and Forensic Writs; Scott Ehlers, Texas Indigent Defense Commission

BACKGROUND: Code of Criminal Procedure art. 11.074 establishes circumstances under which courts must appoint attorneys for indigent criminal defendants filing writs of habeas corpus in non-death penalty cases that do not involve sentences of community supervision. Applications for writs of habeas corpus are a way to challenge the constitutionality of a criminal conviction or the process that resulted in a conviction or sentence.

Under these circumstances, courts are required to appoint attorneys for indigent defendants if the prosecutor represents to the convicting court that an eligible indigent defendant who was sentenced or had a sentence suspended:

- is not guilty;
- is guilty of only a lesser offense; or
- was convicted or sentenced under a law that has been found unconstitutional by the Court of Criminal Appeals or the U.S. Supreme Court.

DIGEST:

HB 372 would revise the circumstances under which courts must appoint attorneys for certain indigent criminal defendants filing writs of habeas corpus. Under the bill, if a prosecutor notified the convicting court that an indigent defendant had a potentially meritorious claim for relief under a writ of habeas corpus, the court would have to appoint an attorney to investigate the claim and represent the defendant.

The bill would define a potentially meritorious claim as any claim the court determined was likely to provide relief, including claims that the defendant:

- was or might be actually innocent of the offense;
- was or might be guilty of only a lesser offense;
- was or might have been convicted or sentenced under a law that had been found unconstitutional by the Court of Criminal Appeals or the U.S. Supreme Court; or
- was or might have been convicted or sentenced in violation of the constitution of this state or the United States.

The bill would take effect September 1, 2021, and would apply to applications for writs of habeas corpus regardless of whether the offense for which the defendant was in custody occurred before, on, or after that date.

SUPPORTERS SAY:

HB 372 would ensure that indigent criminal defendants had effective legal representation for certain appeals through writs of habeas corpus by expanding the circumstances under which a court would have to appoint an attorney when the prosecutor felt it was necessary. Requiring attorneys to be appointed in these cases would ensure the state had a fair criminal justice system for all Texans.

Current law requires the appointment of attorneys to represent indigent defendants for potential applications for writs of habeas corpus only in limited circumstances. For example, prosecutors must believe that a defendant is not guilty or is guilty of only a lesser offense. These circumstances do not include situations in which prosecutors believe that someone might be innocent or guilty of a lesser offense but more investigation is needed. In these situations it would be inappropriate for a prosecutor's office to investigate the case further, and potentially meritorious claims may not be addressed.

It is important that defendants have an attorney to effectively represent them because in most cases defendants have only one chance to make a habeas claim, and the cases are complicated. HB 372 would address this by expanding the types of claims that would require courts to appoint attorneys for indigent defendants at the behest of prosecutors. The bill would allow appointments for potentially meritorious claims and would allow appointed attorneys to investigate these claims along with representing the defendant. The bill also would establish a logical extension of current law by allowing appointments for claims that a defendant was or may have been convicted in violation of the Texas Constitution or U.S. Constitution.

The bill would not result in a significant expansion of these writs because prosecutors would continue to be required to bring the cases to the court. Because these situations would remain limited and continue to be rare, counties would not see a significant increase in their costs to provide attorneys to indigent defendants and may see some cost efficiencies if cases are better handled.

CRITICS SAY:

No concerns identified.