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HOUSE RESEARCH ORGANIZATION

daily floor report

Tuesday, May 11, 2021
87th Legislature, Number 54
The House convenes at 10 a.m.
Part Two

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

The House will consider a Local, Consent, and Resolutions Calendar.

Analyses of postponed bills and all bills on second reading can be found online at TLIS and at https://hro.house.texas.gov/BillAnalysis.aspx.

Alma Allen
Chairman
87(R) - 54

HOUSE RESEARCH ORGANIZATION

Daily Floor Report

Tuesday, May 11, 2021

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Part 2

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SUBJECT: Allowing municipal annexation of certain rights-of-way

COMMITTEE: Land and Resource Management — committee substitute recommended

VOTE: 8 ayes — Deshotel, Leman, Biedermann, Craddick, Romero, Rosenthal, Spiller, Thierry

0 nays

1 absent — Burrows

WITNESSES: For — (*Registered, but did not testify*: Tammy Embrey, City of Corpus Christi; Guadalupe Cuellar, City of El Paso; Angela Hale, City of McKinney; Bill Kelly, Mayor's Office, City of Houston; Mackenna Wehmeyer, TAG Houston; Bill Longley, Texas Municipal League)

Against — None

On — Aaron Bell and Michael Byrum-Bratsen, City of Iowa Colony

BACKGROUND: It has been suggested that allowing municipalities to annex rights-of-way for parts of state highways that run through the municipalities and their extraterritorial jurisdictions would provide clarity on the respective jurisdictions of state and local officials with regard to calls for law enforcement and other emergency services in certain areas.

DIGEST: CSHB 545 would allow a municipality by ordinance to annex a road right-of-way if the right-of-way was contiguous to the municipality's boundary or to an area being simultaneously annexed and either:

- was parallel to the municipality's boundary or to an area being simultaneously annexed; or
- connected the boundary of the municipality to an area being simultaneously annexed or to another point on the boundary.

Annexations under the bill's provisions would not be allowed if they resulted in the municipality's boundaries surrounding any area that was

not already in the municipality's extraterritorial jurisdiction immediately before the annexation of the right-of-way.

A municipality could annex a right-of-way under the bill only if:

- the owner of the right-of-way or the governing body of the political subdivision that maintained it requested the annexation; or
- the municipality provided written notice of annexation to the owner or governing body no later than 61 days before the proposed annexation and the owner or governing body did not submit a written objection before the date of the annexation.

Annexations under the bill would be exempt from certain statutory width requirements.

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: Revising certain procedures under Texas' Title IV-D program

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

VOTE: 9 ayes — Neave, Swanson, Cook, Frank, Leach, Ramos, Talarico, Vasut, Wu

0 nays

WITNESSES: For — Angela Igrisan, Dallas County Domestic Relations Office; Jane McMahon, Harris County Domestic Relations Office; Clint Dupew, Tarrant County Domestic Relations Office; (*Registered, but did not testify*: Ender Reed, Harris County Commissioners Court)

Against — None

On —Joel Rogers, Office of the Attorney General - Child Support Division; Taran Champagne

BACKGROUND: Family Code ch. 231 governs Texas' Title IV-D program, and the Office of the Attorney General is the state's Title IV-D agency in charge of managing child support enforcement.

Family Code sec. 105.008 requires that the state case registry be provided with a record of a court order for child support, which must include information provided by the parties on a form developed by the Title IV-D agency. The form must be completed by the petitioner and submitted to the clerk at the time the order is filed for record.

Sec. 111.001 requires that at least once every four years, the Title IV-D agency must review the child support guidelines under Family Code ch. 154, which governs child support, and report the results of the review and any recommendations for changes to the standing committees of the House and Senate with jurisdiction over family law issues.

Sec 231.001 governs the development of the statewide integrated child support system (ICSS) and allows the Title IV-D agency to contract with

any county meeting technical system requirements necessary to comply with federal law for provision of Title IV-D services in that county. All new cases entered in such county after the effective date of a monitoring contract are Title IV-D cases, and any other case in the county may be included as a Title IV-D case if certain requirements are met.

Sec. 231.104 governs the assignment of the right to support in relation to the Title IV-D agency.

Sec. 233.018 establishes that if a negotiation conference results in an agreement of the parties, each party must sign the child support review order and the order must contain as to each party a waiver by the party of the right to service of process and a court hearing, the mailing address of the party, and a statement of acknowledgement and understanding.

The federal waiver allowing certain child support cases to be opened as Title IV-D cases without an application for service is set to expire, and interested parties have suggested that revisions to certain processes and requirements related to Texas' Title IV-D program are needed in order to continue providing counties with child support services and to address barriers to the implementation of the child support review process.

DIGEST:

HB 2953 would make revisions to certain processes and requirements related to Texas' Title IV-D program, including revisions to the record of support form and the designation of cases pursuant to such forms, the signing and content of agreed orders, assignment of support rights, service requirements, and time frames for a judge to sign certain orders.

Title IV-D record of support form. The Title IV-D form completed and submitted under Family Code sec. 105.008 by a petitioner to the clerk of the court at the time the support order was filed could include an option for a party to apply for child support services provided by the Office of the Attorney General (OAG). If a party applied for such services, the party or the party's authorized representative would be required to sign the form.

The clerk of the court of a county participating in the statewide integrated child support system (ICSS) for the provision of Title IV-D services would be required to use the record of support order form that included an

option for the obligee or obligor to apply for child support services provided by the OAG. The form would be used instead of the automatic Title IV-D designation that new cases with support orders in participating counties currently receive.

Agreed support orders. After entering an agreed child support review order, the bill would allow a party to sign the required waiver of the right to service of process and a court hearing using a digitized signature. The waiver would have to be sworn before a notary public or executed using an unsworn declaration under applicable law.

The bill also would require that the mailing address of a party be omitted from the order if the order contained an agreed finding, or had previously made a finding, that requiring a party to provide certain information to another party would likely cause the child or a conservator harassment, abuse, serious harm, or injury, or subject the child or a conservator to family violence, and that finding had not been superseded.

On the filing of an agreed child support review order signed by all parties, together with waiver of service, the court would have until the seventh day after the filing of the order, instead of the third, to sign the order. The order would be considered confirmed by the court by operation of law on expiration of the seventh day after the filing of the order, regardless of whether the court signed the order.

Assignment of support rights. The bill would establish that filing a notice of assignment of support rights, a notice of change of payee under applicable law, or a pleading by the OAG in a suit affecting the parent-child relationship would be evidence of the assignment of support rights to the OAG in that cause and would be admissible as evidence of the truth of the assignment of support rights without requiring further authentication or verification.

Other provisions. HB 2953 would require that medical and dental support be included in the record of the court order for child support that would be provided for the state case registry.

The bill would include a reference to federal regulations providing guidelines for setting child support with the existing referenced federal regulations that require the OAG to review child support guidelines once every four years.

The clerk of court would be allowed to deliver by a method of court-ordered substituted service a copy of the petition for confirmation of a nonagreed review order and a copy of the order to each party entitled to service.

The bill's provisions related to the Title IV-D record of support form and how that form would be used by counties would apply to a suit affecting the parent-child relationship pending in a trial court on, or filed on or after, the effective date of the bill.

The bill's provisions related to substituted service for nonagreed order petitions and the extension of time for a judge to sign an agreed order would apply only to a petition or agreed order filed on or after the effective date of the bill.

The bill would take effect September 1, 2021.

SUBJECT: Creating presumption of compensability of COVID-19 for nurses

COMMITTEE: Business and Industry — committee substitute recommended

VOTE: 5 ayes — C. Turner, Hefner, Crockett, Ordaz Perez, Patterson

1 nay — Lambert

3 absent — Cain, Shine, S. Thompson

WITNESSES: For — Rene Lara, Texas AFL-CIO; Serena Bumpus, Texas Nurses Association; Kimberly Smith, Texas Nurses Association and National Nurses United; (*Registered, but did not testify*: Susana Carranza; Idona Griffith; Georgia Keysor; Vanessa MacDougal; Suzanne Mitchell)

Against — Lee Ann Alexander, American Property and Casualty Insurance Association; Jon Schnautz, National Association of Mutual Insurance Companies; Cesar Lopez, Texas Hospital Association; (*Registered, but did not testify*: Adam Burklund, Sentry Insurance)

On — (*Registered, but did not testify*: Todd Holt and Stephen Vollbrecht, State Office of Risk Management; Amy Lee, Texas Department of Insurance, Division of Workers' Compensation; Timothy Cox)

BACKGROUND: Under sec. 408.001 of the Texas Workers' Compensation Act (Labor Code Subtitle A), recovery of workers' compensation benefits is the exclusive remedy of an employee covered by workers' compensation insurance coverage or a legal beneficiary against the employer for the death of on employee or a work-related injury sustained by the employee.

During the COVID-19 pandemic, many observed that nurses were put at risk of contracting the disease by working with contagious patients. State law provides presumptions that certain illnesses were contracted on the job for compensation under the Texas Workers' Compensation Act. Calls have been made to establish a presumption for nurses who contracted COVID-19 to ease the process of seeking compensation.

DIGEST:

CSHB 396 would provide that a licensed nurse who suffered from coronavirus disease (COVID-19) on or after February 1, 2020, resulting in disability or death was presumed to have contracted the disease during the course and scope of employment as a nurse if the nurse:

- was assigned to treat a patient diagnosed with COVID-19 or to duties that required contact with patients diagnosed with the disease;
- contracted the disease within 14 days of treating or coming into contact with the patient; and
- before diagnosis did not decline or refuse a preventative immunization against the disease, unless the immunization was medically contraindicated.

Under the bill, a nurse would include a nurse employed by a state agency or political subdivision.

The presumption could be rebutted through a showing by a preponderance of the evidence that a risk factor, accident, hazard, or other cause not associated with the nurse's employment was a substantial factor in bringing about their disease or illness, without which the disease or illness would not have occurred.

A rebuttal would have to include a statement by the person offering the rebuttal that described, in detail, the evidence that the person reviewed before making the determination that a cause not associated with the nurse's employment was a substantial factor in bringing about the disease or illness.

In addressing an argument based on a rebuttal, an administrative judge would have to make findings of fact and conclusions of law that considered whether a qualified expert stated the opinion that a cause not associated with the nurse's employment was a substantial factor in bringing about the disease or illness. The expert would have to rely on evidence-based medicine and base the opinion on reasonable medical probability.

In lieu of any other benefits to which a beneficiary was entitled to, the amount of a death benefit paid to the legal beneficiary of a nurse who suffered from COVID-19 on or after February 1, 2020, resulting in death would be $500,000 in a lump sum.

A nurse whose injury occurred between February 1, 2020, and the bill's effective date and whose claim was subsequently denied could request that the insurance carrier reprocess the claim. The request could not be made later than six months after the bill's effective date.

The bill would apply only to a claim for workers' compensation based on an injury that occurred on or after the effective date, except as otherwise provided.

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.

NOTES:

According to the Legislative Budget Board, the bill would have an estimated negative impact of about $564,000 from interagency contracts if all previously denied claims for workers' compensation due to COVID-19 were deemed compensable. This analysis did not take into account potential new claims.

The State Office of Risk Management would need to increase assessments charged to state agencies to cover the bill's costs, and it is assumed that payments could be a significant cost to affected agencies. However, the cost cannot be determined currently, according to the Legislative Budget Board.

SUBJECT: Requiring DFPS to implement community-based foster care statewide

COMMITTEE: Human Services — committee substitute recommended

VOTE: 8 ayes — Frank, Hinojosa, Hull, Meza, Neave, Noble, Rose, Shaheen

0 nays

1 absent — Klick

WITNESSES: For — Brandon Logan, One Accord for Kids; Jamie McCormick, Texas Alliance of Child and Family Services; Andrew Brown, Texas Public Policy Foundation; (*Registered, but did not testify*: Linda Garcia, 2Ingage; Maggie Luna, Statewide Leadership Council; Julia Hatcher, Texas Association of Family Defense Attorneys; Sarah Crockett, Texas CASA; Shannon Jaquette, Texas Catholic Conference of Bishops; Dan Finch, Texas Medical Association; Knox Kimberly, Upbring)

Against — (*Registered, but did not testify*: Tyler Sheldon, Texas State Employees Union)

On — (*Registered, but did not testify*: Ellen Letts and Angie Voss, Department of Family and Protective Services; Victoria Grady, Health and Human Services Commission; Deseray Matteson, Texas Health Care Association)

BACKGROUND: The 85th Legislature in 2017 enacted SB 11 by Schwertner, which required the Department of Family and Protective Services to transfer certain case management services to qualified private contractors, called "single source continuum contractors (SSCCs)," providing community-based foster care services within selected geographic areas called "catchment areas." "Community-based foster care," formerly known as foster care redesign, has not yet been fully implemented statewide.

The federal Family First Prevention Services Act allows states to receive funds through Title IV-E of the Social Security Act that previously were available to be spent only on services such as foster care placements,

adoption assistance, and guardianship. States now may use the funds for time-limited prevention services for children at imminent risk of entering foster care, for parents or kin caregivers of such children, and for pregnant or parenting youth in foster care.

Family Code sec. 263.001 defines "substitute care" as the placement of a child who is in the conservatorship of the Department of Family and Protective Services in care outside the child's home. The term incudes foster care, institutional care, adoption, placement with a relative of the child, or commitment to the Texas Juvenile Justice Department.

Some have suggested the need to revise initial statutes governing community-based care to increase efficiency and flexibility in the state's foster care system by providing for the statewide implementation of community-based care and family preservation services.

DIGEST:

CSHB 3691 would require the Department of Family and Protective Services (DFPS) to define a statewide strategic plan for implementing community-based foster care in catchment areas and transfer to a single source continuum contractor (SSCC) additional services, including family preservation services, in certain catchment areas.

Definitions. The bill would define "community-based care" as the provision of child welfare services in accordance with state and federal child welfare goals by a contracted, community-based nonprofit or a local governmental entity that included direct case management to prevent entry in foster care; reunify and preserve families; ensure child safety, permanency, and well-being; and reduce future referrals of children or parents to DFPS.

The bill would define "child who is a candidate for foster care" as a child who was at imminent risk of being removed from the child's home and placed into the department's conservatorship because of a continuing danger to the child's physical health or safety caused by an act or failed action of a person entitled to possession of the child but for whom a court had issued an order allowing the child to remain safely in the child's home or in a kinship placement with the provision of family preservation services.

"Family preservation service" would mean a time-limited, family-focused service provided to the family of a child who was a candidate for foster care or a pregnant or parenting child to prevent or eliminate the need to remove the child and allow the child to remain safely with the child's family, including a service subject to the Family First Prevention Services Act.

"Foster care services" would mean "substitute care" as defined by current law and also would include the assessment and referral of children into a residential placement outside the child's home and the assessment and referral of a child for adoption.

Community-based care implementation plan. In addition to requiring a statewide strategic plan for implementing community-based care, the bill would require the existing implementation plan to:

- include the specific order and rationale for implementing expanded community-based care in the catchment areas of the state;
- include an independent entity's evaluation of each contractor's processes and fiscal and qualitative outcomes concerning the children and families in its care;
- require DFPS to transmit immediately on receipt all required reports and evaluations to the relevant standing committees of the Legislature and the office of the governor; and
- include a specific implementation plan for each catchment area identified for expansion of community-based care that included a timeline to transfer certain services, among other specified provisions.

By August 31 each year, DFPS would have to provide a copy of the implementation plan to the governor, lieutenant governor, House speaker, and presiding officer of each standing committee of the Legislature with jurisdiction over matters involving the department.

Statewide expansion of community-based foster care. The bill would remove the requirement that the department identify by December 31, 2019, up to eight catchment areas in the state best suited to implement

community-based care. Instead, the bill would require the department, by the last day of the state fiscal biennium, to identify the catchment areas in the state where the department would implement community-based care.

Following the implementation of community-based care services in catchment areas, the department would have to retain an independent entity based in the state to conduct an evaluation of the implementation process and the SSCC's performance in each catchment area.

Transfer of services to SSCC. In addition to case management and foster care services, the bill would require DFPS to transfer to the SSCC family preservation services in each catchment area where community-based care had been implemented.

Under the bill, an SSCC could implement its own procedures to execute the department's statutory duties the contractor assumed and would not be required to follow the department's procedures to execute the department duties the contractor assumed.

Qualifications and selection of SSCC. The bill would revise the SSCC qualifications to require a nonprofit entity to have a majority of the entity's board members residing in the state.

The bill would require DFPS to request local stakeholders in a catchment area to provide any necessary information about the area that would assist the department in preparing the department's request for bids and proposals and selecting a contractor to provide community-based care in the area.

The bill also would revise the required readiness review process for determining the ability of an SSCC to provide certain services in a catchment area.

SSCC contract. The bill would expand the required contract provisions with an SSCC to include a timeline for implementing family preservation services and creating a risk-sharing funding model that strategically balanced financial risk between the state and the contractor, among other specified provisions.

Data access and standards governance council. Under the bill, the standards governance council would have to develop protocols for the access, management, and security of data shared with an independent entity retained to conduct independent evaluations. The protocols would have to ensure the entity had full, unrestricted access to all data necessary to perform an evaluation.

The council would have to include SSCCs with active contracts and department employees who provided data, legal, information technology, and child protective services. The council would have to meet at least quarterly each year.

Performance outcomes. The bill would require the department to implement a process to monitor and evaluate an SSCC's performance in achieving specified contract outcomes in a catchment area.

Report. The department would be required to regularly report on its and each SSCC's performance in providing services based on specified performance outcomes. The report would have to include:

- a comparison of the SSCC's performance with the department's performance in the catchment area during the 10 years preceding the date the contractor began providing services in that area;
- a comparison of the performances of service providers for each region of the state for the time covered by the report; and
- information provided by SSCCs.

The report would have to be prepared, to the extent feasible, using existing data and department resources and be published at least annually.

By October 1, 2022, DFPS would have to publish the initial report as required by the bill.

The bill would take effect September 1, 2021, and would apply only to a contract for foster care services entered into or renewed on or after that date.

NOTES: According to the Legislative Budget Board, the bill would have a negative impact of about $3.4 million to general revenue through fiscal 2023.

SUBJECT: Authorizing a fee to create a georeferenced map for certain applications

COMMITTEE: Culture, Recreation and Tourism — favorable, without amendment

VOTE: 9 ayes — K. King, Gervin-Hawkins, Burns, Clardy, Frullo, Israel, Krause, Martinez, C. Morales

0 nays

WITNESSES: For — (*Registered, but did not testify*: Kevin Davis, Deer Breeders Corporation; David Yeates, Texas Wildlife Association)

Against — None

On — (*Registered, but did not testify*: John Silvosky, Texas Parks and Wildlife)

BACKGROUND: Parks and Wildlife Code ch. 43, subch. G governs permits to manage wildlife and exotic animals from aircraft.

Interested parties note that some landowners who are required to electronically map their land for exotic animals management from aircraft are experiencing technical difficulties. Some have called for authorizing the Texas Parks and Wildlife Commission to offer a fee-based electronic mapping service for landowners.

DIGEST: HB 1631 would require the Texas Parks and Wildlife Commission (TPWC) by rule to establish a fee in an amount reasonably necessary to cover the cost of converting a map prescribed by the Texas Parks and Wildlife Department (TPWD) to a georeferenced map to be submitted with an application for a permit to manage wildlife and exotic animals from aircraft.

A "georeferenced map" would be defined as a map incorporating a system of geographic ground coordinates, including latitude and longitude and Universal Transverse Mercator coordinates.

An applicant for a permit would have to submit with the application either:

- a georeferenced map in a format prescribed by TPWD showing the exact boundaries of the property where the management of wildlife or exotic animals would be performed; or
- a map in a format prescribed by TPWD clearly indicating the location and boundaries of the property where the management of wildlife or exotic animals would be performed and the fee established by TPWC under the provisions of this bill.

An applicant would also have to submit a signed, written statement stating that the map or georeferenced map provided was true and correct.

TPWD would not be allowed to require an applicant to submit a map of a property for which a map had previously been submitted, and TPWD would be required to maintain a record of all maps submitted.

The bill would take effect September 1, 2021.

SUBJECT: Interest list management for certain Medicaid HCBS waiver programs

COMMITTEE: Human Services — committee substitute recommended

VOTE: 8 ayes — Frank, Hinojosa, Klick, Meza, Neave, Noble, Rose, Shaheen

0 nays

1 absent — Hull

WITNESSES: For — Erin Lawler, Texas Council of Community Centers; (*Registered, but did not testify*: Jeff Miller, Disability Rights Texas; Carole Smith, Private Providers Association of Texas; Sandra Frizzell Batton, Providers Alliance for Community Services of Texas; Laurie Vanhoose, Texas Association of Health Plans; Adrienne Trigg, Texas Medical Equipment Providers Association; Linda Litzinger, Texas Parent to Parent; Jennifer Martinez, The Arc of Texas; Tim Schauer, The Center for Pursuit, Reach Unlimited, and Avalon House)

Against — None

On — Terri Carriker, Protect Texas Fragile Kids; (*Registered, but did not testify*: Molly Lester, Health and Human Services Commission)

BACKGROUND: Government Code sec. 531.001 defines "section 1915(c) waiver program" as a federally funded program of the state under Medicaid authorized under Section 1915(c) of the federal Social Security Act.

Section 1915(c) of the Social Security Act allows states to develop home and community-based services (HCBS) waivers to provide long-term care services and supports to individuals with intellectual disabilities in their home and community, rather than in an institutional setting. The Health and Human Services Commission (HHSC) oversees several types of section 1915(c) HCBS waivers.

Government Code sec. 534.053 governs the Intellectual and Developmental Disability System Redesign Advisory Committee that

advises HHSC on the implementation of acute care and long-term services and supports system redesign.

Concerns have been raised that there are limited slots in Medicaid HCBS waiver programs. As of January 2021, more than 170,000 people were on at least one interest list, with some people waiting over a decade for services. Suggestions have been made to improve management of waiver program interest lists, improve data collection, and reduce the number of individuals in priority populations who are waiting for needed services.

DIGEST:

CSHB 3720 would require the Health and Human Services Commission (HHSC), in consultation with certain entities, to develop a questionnaire for individuals requesting to be placed on or currently on an interest list for an applicable waiver program.

The bill also would require HHSC to expand eligibility for the Texas Home Living (TxHmL) waiver program and conduct a medical necessity assessment for children to determine their eligibility for the medically dependent children (MDCP) waiver program.

Applicability. The bill would apply only to the following Section 1915(c) waiver programs:

- the community living assistance and support services (CLASS) waiver program;
- the home and community-based services (HCS) waiver program;
- the deaf-blind with multiple disabilities (DBMD) waiver program;
- the TxHmL waiver program;
- the MDCP waiver program; and
- the STAR+PLUS home and community-based services (HCBS) waiver program.

Questionnaire. As soon as practicable after the bill's effective date, HHSC, in consultation with the Intellectual and Developmental Disability System Redesign Advisory Committee, the state Medicaid managed care advisory committee, and interested stakeholders, would have to develop a questionnaire to be completed by or on behalf of an individual who

requested to be placed on or was currently on an applicable waiver program interest list.

At minimum, the questionnaire would have to request certain information about an individual seeking or receiving services under a waiver program, including:

- contact information for the individual or the individual's parent or other legally authorized representative;
- the individual's general demographic information;
- the individual's living arrangement;
- the types of assistance the individual required;
- the individual's current caregiver supports and circumstances that could cause the individual to lose those supports; and
- when the delivery of services under a waiver program should begin to ensure the individual's health and welfare.

Subject to the availability of funds, the commission would have to require all individuals on an interest list to annually update the questionnaire and the questionnaire would have to be implemented by September 1, 2024.

Online portal. If HHSC determined it was feasible, the commission would have to develop an online portal to allow an individual or an individual's parent or other legal representative to request placement on a waiver program interest list and complete and update the questionnaire developed under the bill. The determination and, if applicable, the development of the portal would have to be completed as soon practicable after the bill's effective date.

The bill also would require HHSC to designate an individual's status on an interest list as active or inactive, depending on whether notification was provided to the commission that the individual was still interested in receiving services under the waiver program. The commission's designation of an individual's inactive status could not result in the individual being removed from that list or any other waiver program interest list.

By September 1 of each year, HHSC would have to provide to the Intellectual and Developmental Disability System Redesign Advisory Committee the number of individuals on an interest list to receive services under a waiver program, including individuals whose status was designated as inactive.

TxHml waiver program. Under the bill and to the extent allowed by federal law, an individual would be financially eligible to participate in the TxHmL waiver program if the individual's family income was not more than the special income limit established by HHSC for other Section 1915(c) waiver programs, including the HCS waiver program.

To the extent permitted by federal law, the commission would be required to expand medical eligibility criteria under the TxHmL waiver program to ensure that an individual was medically eligible to participate in the program if the individual:

- had a primary diagnosis by a licensed physician of a related condition that was included on the list of diagnostic codes for persons with related conditions that were approved by the commission; and
- had moderate to extreme deficits in adaptive behavior, as determined by commission rule, obtained by administering a standardized assessment of adaptive behavior.

The bill would define "related condition" as a severe and chronic disability that:

- was attributed to cerebral palsy, epilepsy, or any other condition, other than mental illness, found to be closely related to intellectual disability;
- was manifested before the individual reached 22 years old;
- was likely to continue indefinitely; and
- resulted in substantial functional limitation in at least three of the areas of major life activity specified in the bill.

MDCP waiver program. The bill would require HHSC to conduct a medical necessity assessment of a child to determine their eligibility for services before placing the child on the interest list for the MDCP waiver program. This provision would apply only to a child who received Supplemental Security Income.

As soon as practicable after the bill's effective date, the commission, as appropriate, would have to conduct a medical necessity assessment of each child who was on the MDCP waiver program interest list on the bill's effective date to ensure the child's eligibility for program services.

The bill would take effect September 1, 2021.

NOTES: According to the Legislative Budget Board, the bill would have a negative impact of $6.8 million in general revenue through fiscal 2023.

SUBJECT: Repealing offense for walking along highway when sidewalk not provided

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*: Jason Sabo, Environment Texas; Taylor Sims, Farm and City; Thomas Parkinson; Jason Vaughn)

Against — (*Registered, but did not testify*: Frederick Frazier, Dallas Police Association/FOP716 State FOP Director; John Wilkerson, Texas Municipal Police Association)

BACKGROUND: Transportation Code sec. 552.006 requires a pedestrian walking on a highway, if a sidewalk is not provided, to if possible walk on the left side of the roadway or the shoulder facing oncoming traffic. According to sec. 542.301, a person commits an offense if they fail to perform an act required by the subtitle governing the rules of the road.

Concerns have been raised that during Winter Storm Uri, there were examples of individuals being arrested for walking on a highway because parts of the road were iced over or impassable. Some have suggested addressing this issue by eliminating the offense for a pedestrian walking along and on a highway for which a sidewalk is not provided.

DIGEST: HB 3925 would repeal the statute requiring a pedestrian walking on a highway, if no sidewalk was provided, to walk on the left side of the roadway or the shoulder of the roadway facing oncoming traffic.

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

SUBJECT: Authorizing disclosure of a life insurance beneficiary to a funeral director

COMMITTEE: Insurance — committee substitute recommended

VOTE: 8 ayes — Oliverson, Vo, J. González, Israel, Middleton, Paul, Romero, Sanford

1 nay — Hull

WITNESSES: For — Gene Allen, Jason Harrell, and Gary Shaffer, Texas Funeral Directors Association; (*Registered, but did not testify*: Harvey Hilderbran, Texas Funeral Directors Association)

Against — Jay Thompson, TALHI

On — (*Registered, but did not testify*: Luke Bellsnyder, Texas Department of Insurance)

DIGEST: CSHB 643 would authorize a funeral director to request a disclosure from a life insurer under certain conditions.

The bill's provisions would apply only to a life insurance policy with a death benefit of not more than $15,000 issued in Texas by a legal reserve life insurance company, a mutual assessment life insurance company, a stipulated premium life insurance company, a burial association, or a fraternal benefit society.

The bill would apply only to a funeral director who was directing a decedent's funeral in Texas and who:

- was provided reasonably sufficient information by an heir, heir's representative, or the personal representative of the decedent that the deceased was or could be an insured under a life insurance policy; and
- needed information from the insurer because the heir, heir's representative, or the decedent's personal representative was unaware or unable to provide information on whether the decedent

was the owner of a life insurance policy or on the identity of the policy's designated beneficiary.

Written consent. CSHB 643 would authorize a funeral director to request a disclosure from a life insurer if the director had obtained written consent from an heir, an heir's representative, or the personal representative of the decedent for the director to contact a specific life insurer concerning designated beneficiaries in a policy insuring the life of the decedent.

The written consent would have to include:

- the name and address of the heir, heir's representative, or personal representative who provided consent;
- a brief statement of the facts establishing knowledge as to the family and nearest relatives of the decedent;
- a brief statement of facts describing the basis for the belief the decedent was or may have been insured under a life insurance policy with a particular life insurer; and
- a statement of facts concerning whether the decedent was or may have been the owner of the policy.

A funeral director would have to provide a copy of the written consent to the life insurer from which the director was requesting a disclosure.

Disclosure by insurer. A life insurer would be required to provide a written disclosure of the designated beneficiary of a life insurance policy owned by the decedent for which a funeral director requested information under the bill. The disclosure would have to be provided not later than the fifth day after the date the insurer received the request.

The bill would prohibit a life insurer from disclosing the designated beneficiary of a life insurance policy if the decedent was not the owner of the policy unless the insurer received the written consent of the policy owner to provide the disclosure. The insurer could advise the funeral director who requested the information that the decedent was not the owner of the policy.

Other provisions. The bill would prohibit its provisions from being construed to:

- require a life insurer to disclose the owner or designated beneficiary of a life insurance policy insuring the life of a decedent that was not owned by the decedent without the owner's written consent;
- establish a right of the funeral director or their assignee to benefits under a life insurance policy unless the designated beneficiary of the policy had executed a written assignment of benefits to the funeral director; or
- establish any determination that benefits were payable under the terms of the applicable life insurance policy.

Under the bill, a life insurer would not be subject to civil liability or administrative action by making an authorized disclosure.

The bill would take effect September 1, 2021.

SUBJECT: Executing arrest warrants for parolees on super-intensive supervision

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

VOTE: 9 ayes — White, Bowers, Goodwin, Harless, Hefner, E. Morales, Patterson, Schaefer, Tinderholt

0 nays

WITNESSES: For — None

Against — None

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

BACKGROUND: Under Government Code sec. 508.317(d), the Texas Department of Criminal Justice (TDCJ) is required to have a program to provide super-intensive supervision to inmates released on parole or mandatory supervision and determined to require the highest level of supervision. Under Government Code sec. 508.253, an arrest warrant may be issued for a parolee accused of a parole violation or of committing a new offense.

Concerns have been raised that law enforcement authorities statewide do not have a directive to execute as soon as possible arrest warrants issued for parolees on the state's super-intensive supervision, which is used for those who are the highest risk.

DIGEST: HB 461 would require law enforcement agencies to execute, as soon as practicable, a warrant they receive for the return of a parolee in the super-intensive supervision program if the warrant was based on a violation of a condition of parole or mandatory supervision related to the individual's electronic monitoring.

The bill would take effect September 1, 2021, and would apply only to arrest warrants issued on or after that date.

SUBJECT: Establishing preferential voting system for military, abroad runoff ballots

COMMITTEE: Elections — committee substitute recommended

VOTE: 8 ayes — Cain, J. González, Beckley, Bucy, Clardy, Fierro, Jetton, Swanson

1 nay — Schofield

WITNESSES: For — Cinde Weatherby, League of Women Voters of Texas; Joanne Richards, Ranked Choice Voting for Texas; (*Registered, but did not testify*: Cindy Ji, Children's Defense Fund Texas; Anthony Gutierrez, Common Cause Texas; Gerald Welty, Convention of States; Cyrus Reed, Lone Star Chapter Sierra Club; Sandra Weinstein and David Billings, Stand Up Republic Texas; Glen Maxey, Texas Democratic Party; and 12 individuals)

Against — (*Registered, but did not testify*: Alan Vera, Harris County Republican Party Ballot Security Committee; Robert L. Green, Travis County Republican Party Election Integrity Committee; and 11 individuals)

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

BACKGROUND: Election Code sec. 101.001 makes certain persons qualified to vote in Texas, including those who would be qualified if registered, eligible to vote early by mail. Such persons include:

- members of the U.S. armed forces and members of the U.S. merchant marine, or the spouse or dependent of such members; and
- persons domiciled in Texas but temporarily living outside the territorial limits of the United States and the District of Columbia.

Concerns have been raised that the process by which members of the military and eligible voters abroad cast their ballots is inefficient and results in low turnout rates among these individuals.

DIGEST:

CSHB 740 would require the secretary of state to prescribe procedures to provide for a runoff election ballot issued to an eligible voter under Election Code ch. 101 to use a preferential voting system. The system would have to allow a voter to rank each candidate through a numerical designation from the candidate the voter favored most to the candidate the voter favored least. These voters would receive a runoff election ballot at the same time and in the same manner as the general election ballot.

If a runoff election for any office voted by the voter occurred, the carrier envelope containing the voter's runoff election ballot would be opened and the ballot counted. The voter's vote in the election would be assigned to the runoff candidate whom the voter assigned the highest favorable ranking. A runoff ballot only could be counted if the voter returned the ballot at the same time and in the same manner as a general election ballot voted by the voter.

In addition to any other balloting materials provided to the voter, the early voting clerk would have to provide the voter with a runoff election ballot for each office for which the voter was eligible to vote and a second carrier envelope in which the voter could return the runoff ballot.

The secretary of state would have to create detailed instructions on the use of a preferential voting system and provide the instructions to each county clerk. County clerks would have to:

- post the instructions on the county clerk's public internet website, if the clerk maintained a website; and
- ensure that a copy of the instructions was mailed to each voter who received a runoff election ballot in the same time and in the same manner as that ballot.

The bill would take effect January 1, 2022.

SUBJECT: Expanding achievement indicators under the school accountability system

COMMITTEE: Public Education — favorable, without amendment

VOTE: 12 ayes — Dutton, Lozano, Allen, Allison, K. Bell, Bernal, Buckley, Huberty, K. King, Meza, Talarico, VanDeaver

0 nays

1 absent — M. González

WITNESSES: For — (*Registered, but did not testify*: Andrea Chevalier, Association of Texas Professional Educators; Valerie DeBill, League of Women Voters of Texas; Charles Gaines, Raise Your Hand Texas; Grover Campbell, TASB; Paulina Van Eeden Hill and Molly Quirk, Texas Association for the Gifted and Talented; Barry Haenisch, Texas Association of Community Schools; Amy Beneski, Texas Association of School Administrators; Paige Williams, Texas Classroom Teachers Association; Mark Terry, Texas Elementary Principals and Supervisors Association; Starlee Coleman, Texas Public Charter Schools Association; Gilbert Zavala, The Greater Austin Chamber of Commerce; Ramiro Canales)

Against — None

On — Beth Cooper, The University of Texas at Austin; (*Registered, but did not testify*: Jeff Cottrill and Eric Marin, Texas Education Agency)

BACKGROUND: Under Education Code sec. 39.053, the education commissioner must adopt a set of indicators of the quality of learning and achievement that measure and evaluate school districts and campuses. The statute lists three domains of indicators that districts and campuses must be evaluated on: student achievement, school progress, and closing the gaps.

It has been suggested that the public school accountability system should better account for certain academic achievements, such as early graduation, pre-advanced placement courses, advanced grade promotion,

course credit by examination, and project-based learnings, in evaluating campuses and districts.

DIGEST:

HB 1302 would expand the list of items included in the student achievement domain of achievement indicators for evaluating school districts and campuses.

For evaluating the performance of high school campuses and districts that included high school campuses, the indicators would have to account for students who earned a diploma after no more than three and a half years of high school attendance.

For evaluating the performance of elementary, middle, and junior high school campuses and districts that included those campuses, the indicators would have to account for students who:

- in grade seven or eight, completed a pre-advanced placement course or pre-international baccalaureate course;
- had been promoted to higher grade levels than they would ordinarily be assigned;
- were identified as gifted and talented and had been promoted to higher grade levels than they would ordinarily be assigned;
- had received credit by examination;
- were identified as gifted and talented and had received credit by examination; and
- completed no less than 10 project-based learning projects during a school year.

The bill would apply beginning with the 2021-2022 school year.

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.

NOTES:

According to the fiscal note, the bill would cost $203,797 in general revenue in fiscal 2022-23.

SUBJECT: Requiring registration of certain unmanned automatic teller machines

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

VOTE: 9 ayes — Anchia, Parker, Capriglione, Muñoz, Perez, Rogers, Slawson, Stephenson, Vo

0 nays

WITNESSES: For — Caroline Roberts, Children at Risk; Adam Chaney, Elijah Rising; Joseph Scaramucci, McLennan County Sheriffs Office; (*Registered, but did not testify*: Melodie Durst, Credit Union Coalition of Texas; George Craig, Houston Police Department)

Against — None

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

BACKGROUND: Finance Code sec. 59.301 defines an "unmanned teller machine" to mean a machine, other than a telephone, capable of being operated solely by a customer to communicate to a financial institution.

Concerns have been raised that some unmanned automatic teller machines that are not operated by financial institutions are inadequately regulated and could be linked to vice crimes and human trafficking. Some have called for these machines to be registered in order to operate in the state.

DIGEST: CSHB 2629 would require the Texas Department of Banking to establish and maintain on the department's website an online registry of unmanned automatic teller machines (ATMs), to be updated at least quarterly.

The registration requirement would not apply to an unmanned ATM that was:

- installed, maintained, owned, leased, or operated by, or at the discretion of, a financial institution or an affiliate of a financial institution;
- located or operated in another state; or
- not available for public use.

Registration and application. Before operating an ATM in the state, the operator of the machine would have to register the machine and place a valid registration sticker on it. To register one or more ATMs, the operator of the machine would be required to file an application with the Texas Department of Banking (TDB). The registration application would have to be in writing and notarized and be completed by the operator of the ATM.

The application for each ATM the operator was applying to register would have to include:

- the name, address, and telephone number of the facility or place of business where the ATM would be located;
- the name, address and telephone number of the occupant and operator;
- the ATM equipment information, including the quantity, equipment make and model, and machine identification or serial number;
- a copy of each agreement used or intended to be used by the operator relating to the operation of the ATM; and
- any other relevant information that could be required by TDB.

Application fee. The application would be accompanied by a fee paid to the Texas Finance Commission, which the commission by rule would be required to impose. The commission could not charge an application fee for the filing of a new application for an ATM following a material change in the information disclosed in the registration of the machine.

The application fee would have to be in an amount:

- that was at least $5 but not more than $25 for each ATM being registered;

- that did not exceed a total of $200, regardless of the number of ATMs being registered;
- sufficient to cover the costs of TDB in carrying out its duties prescribed by the bill.

Approval or denial. No later than the 90th day after the date an application for registration was filed, TDB would be required to approve or deny the application. The department would have to approve the application if it was accurate, complete, and complied with this bill's provisions.

Upon approval, TDB would be required to notify the applicant of the approval and issue the applicant a registration sticker for each ATM included in the application. If TDB found that the application was incomplete, inaccurate, or did not comply with the registration requirements outlined by this bill, it would have to deny the application and notify the applicant of the reasons for denial.

A complete and accurate application that was not approved or denied before the 91st day after the date TDB received the application would be considered approved. Proof of submission of an application to TDB would satisfy the requirement to display a registration sticker for each ATM included in the application until the operator was issued a registration sticker for the machine.

An operator that had submitted an application considered approved because of TDB's failure to approve or deny the application within 90 days could install and operate each of the machines listed for registration until the date on which the department denied the application, if ever, or the operator failed to comply with the bill's provisions for relocation of an ATM.

If a registration application that was considered approved because of the department's failure to approve or deny the application within 90 days was later denied by the department, the operator would have to uninstall and cease operation of each ATM operating under that approval until the date an application for registration of the ATM received the department's approval, if ever.

TDB would have sole discretion to determine whether a submitted application was accurate and complete.

Registration sticker. The Texas Finance Commission by rule would be required to determine the size, design, display location, and technology used for a registration sticker. Minimum requirements for the sticker would have to include:

- the ATMs identification and serial number;
- the name, address, and telephone number of the facility or place of business where the ATM was located;
- the name, address, and telephone number of the occupant and the operator; and
- the date of issuance of the registration.

The ATM operator would be required to display the registration sticker issued for each machine in the manner prescribed by finance commission rule. Rules established by the commission would have to ensure that the registration sticker was plainly visible and readable by the public.

The registration of an ATM would be valid unless a material change in the information disclosed in the registration of the machine occurred and the operator of the machine failed to comply with provisions for relocation of a registered machine.

Relocation of an ATM. If a registered ATM was relocated or there was a change in the operator or occupant of the facility where the machine was located, no later than the 30th day before the scheduled or effective date of the applicable change, the operator would have to notify TDB in writing of a material change in the information disclosed in the registration of the machine.

In such cases, the machine's operator, no later than the 60th day after the scheduled or effective date of a material change in the registration of an ATM, would be required to file a new registration application or submit a request for written approval of the transfer of the registration due to a relocation of the ATM, to a new occupant, operator, lessee or lessor of the

machine, as applicable. If an operator failed to file a new application or submit a request for transfer approval within 60 days, the operator would have to uninstall and cease operation of the ATM, unless the department granted the operator an extension.

Registration of a machine could be transferred following a relocation of a machine only with the written approval of TDB. The finance commission by rule could prescribe registration transfer procedures and forms to be used for the issuance of new registration stickers.

Violations. An operator of an ATM subject to the bill's registration requirements would be in violation if the operator operated the machine without a valid registration sticker. An occupant would be in violation if the occupant permitted an ATM subject to registration to be placed in the premises of a business establishment or facility owned or operated by the occupant without a valid registration sticker.

Civil penalty. Violators of the registration requirements or related rules would be liable to this state for a civil penalty of no less than $50 or more than $500 for each violation. Each day of a continuing violation would be a separate violation. The civil penalty could not exceed $2,000 in the aggregate for the violation and all violations of a similar nature.

The bill would authorize the attorney general to bring an action in the name of this state for injunctive relief, recovery of a civil penalty, or both in a district court in Travis County or a county in which any part of the violation or threatened violation occurred.

The finance commission would be required to adopt rules to administer, implement, and enforce the provisions of this bill no later than January 1, 2022.

Other provisions. The operator of an ATM subject to registration that was not in operation on or before the bill's effective date would not be required to file a registration application until January 1, 2022.

The operator of an ATM that was in operation before the effective date of the bill and was subject to registration would be required to file a registration application by January 1, 2023.

Provisions related to the civil penalty and injunctive relief would take effect January 1, 2023.

The bill would take effect September 1, 2021.

SUBJECT: Creating a criminal offense for damage to agricultural facilities

COMMITTEE: Agriculture and Livestock — favorable, without amendment

VOTE: 7 ayes — Burns, Anderson, Bailes, Cole, Cyrier, Herrero, Toth

0 nays

2 absent — Guillen, Rosenthal

WITNESSES: For — J.C. Essler, Texas Poultry Federation; (*Registered, but did not testify*: Peyton Schumann, Texas and Southwestern Cattle Raisers Association; Shayne Woodard, Texas Association of Dairymen; Joe Morris, Texas Beekeepers Association; J. Pete Laney, Texas Citrus Mutual; Joy Davis, Texas Farm Bureau; Rob Hughes, Texas Forestry Association)

Against — Judith McGeary, Farm and Ranch Freedom Alliance; Marie Camino, Mercy For Animals; Katy Fendrich-Turner, The Hailey Foundation; (*Registered, but did not testify*: Luke Metzger, Environment Texas; Cyrus Reed, Lone Star Chapter Sierra Club; Adrian Shelley, Public Citizen; Lauren Loney, The Humane Society of the United States; Liz Carrasco

BACKGROUND: Concerns have been raised regarding recent actions by individuals entering agricultural facilities without the consent of facility owners and operators that have resulted in damage and destruction of livestock and facilities and pose a threat to the safety of the state's food supply from disease and contamination.

DIGEST: **Criminal offense.** HB 1480 would establish that a person committed a criminal offense if the person:

- intentionally released, stole, destroyed, or otherwise caused the loss of an animal or crop from an animal or crop facility without the consent of the owner or operator of the animal or crop facility;

- damaged, vandalized, or stole any property on or from an animal or crop facility;
- broke and entered into an animal or crop facility with the intent to destroy or alter records, data, materials, equipment, animals, or crops;
- knowingly obtained control by theft or deception or exerted unauthorized control over any materials, equipment, animals, or crops of an animal or crop facility for the purpose of depriving the owner or operator of the facility or the facility of materials, equipment, animals, or crops; or
- entered or remained on an animal or crop facility with the intent to commit an act prohibited under the bill.

Such actions would not constitute an offense under the bill if the actor caused a loss to the animal or crop facility of less than $500. An offense under the bill would be a class B misdemeanor (up to 180 days in jail and/or a maximum fine of $2000) if the actor caused a loss of between $500 and $2,500 or a class A misdemeanor (up to one year in jail and/or a maximum fine of $4,000) if the actor caused a loss of more than $2,500.

A person who engaged in conduct constituting an offense under the bill that also constituted an offense under other law could be prosecuted under either law or both, except that a person whose conduct constituted an offense under certain provisions related to criminal mischief or theft could be prosecuted only under those provisions.

Mandatory restitution. HB 1480 also would require a court to order a defendant convicted of a criminal offense under the bill's provisions to pay restitution to the owner or operator of the animal or crop facility in an amount equal to the amount of loss caused by the defendant. After considering the defendant's financial circumstances, the court would be required to specify in a restitution order the manner in which the defendant would have to pay the restitution. The restitution order could be enforced by the state or a victim named in the order to receive the restitution in the same manner as a judgment in a civil action. A victim could recover court costs and reasonable attorney's fees incurred in enforcing a restitution order. The court could hold a hearing, make

findings of fact, and amend the restitution order if the defendant failed to pay the victim in the manner specified by the court.

Injunctive relief. The owner or operator of an animal or crop facility could bring an action for injunctive relief against a person who engaged or threatened to engage in conduct constituting an offense under the bill's provisions. The action could be brought in a district court in a county in which any part of the conduct or threatened conduct occurred. The court could grant any appropriate injunctive relief to prevent or abate the conduct or threatened conduct.

The bill would take effect September 1, 2021.

SUBJECT: Exempting some funeral establishments from certain restrictions

COMMITTEE: Land and Resource Management — committee substitute recommended

VOTE: 7 ayes — Deshotel, Leman, Biedermann, Burrows, Craddick, Spiller, Thierry

2 nays — Romero, Rosenthal

WITNESSES: For — Rick Allen and Jason Harrell, Texas Funeral Directors Association; (*Registered, but did not testify*: Harvey Hilderbran, Texas Funeral Directors Association)

Against — Bill Wright, Greenwood/Mount Olivet Cemetery Association and Texas Cemeteries and Crematories Association; Arlie Davenport, Texas Cemeteries and Crematories Association; (*Registered, but did not testify*: Georgia Keysor)

On — Glenn Bower, Texas Funeral Service Commission

BACKGROUND: Health and Safety Code sec. 711.008 prohibits, with some specified exceptions, the establishment or operation of a cemetery or use of any land for the interment of remains within certain distances of municipalities depending on population.

Interested parties have noted that while a columbarium for storing urns containing cremated remains may be located in cemeteries or at churches, colleges, and universities, funeral homes currently are unable to have a columbarium on site due to the statutory prohibition of cemeteries and other establishments for interred remains being located and operated within city limits.

DIGEST: CSHB 1591 would exempt a licensed funeral establishment that entombs only cremated remains in a columbarium on its premises from the cemetery location restrictions under Health and Safety Code sec. 711.008.

The bill would take effect September 1, 2021.

SUBJECT: Joining interstate compact on audiology and speech-language pathology

COMMITTEE: Public Health — favorable, without amendment

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

0 nays

1 absent — Guerra

WITNESSES: For — Shawna Jackson, Texas Academy of Audiology; Lawrence Higdon, Texas Speech Language Hearing Association; (*Registered, but did not testify*: Bradford Shields, Texas Academy of Audiology; Nora Belcher, Texas e-Health Alliance; Denise Rose, Texas Occupational Therapy Association; Mark Hanna, Texas Speech Language Hearing Association)

Against — John Edwards, Texas Association of Otolaryngology

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

BACKGROUND: The Audiology and Speech-Language Pathology Interstate Compact is an agreement made among participating states to facilitate the interstate practice of audiology and speech-language pathology while maintaining protections for the public.

The Audiology and Speech-Language Pathology Interstate Compact Commission is responsible for establishing and administering the compact's rules and bylaws and implementing the compact's shared interstate licensure data system. The compact currently has been enacted into law in 10 states, the threshold for the activation and establishment of the compact commission.

Interested observers have noted that the Legislature could increase access to audiology and speech-language pathology services for Texans by enacting the Audiology and Speech-Pathology Interstate Compact.

DIGEST:

HB 1633 would enact the Audiology and Speech-Language Pathology Interstate Compact in Texas and provide for its implementation.

Purpose. The bill would establish that the purpose of the compact is to facilitate interstate practice of audiology and speech-language pathology with the goal of improving access to these services. The compact would preserve the regulatory authority of the state to protect public health and safety through the current system of state licensure and is designed to achieve specific objectives related to audiology and speech-language pathology services and licensure.

Administration, rules. The Texas Department of Licensing and Regulation would administer the Audiology and Speech-Language Pathology Compact for Texas. The Texas Commission of Licensing and Regulation could adopt rules necessary to implement the compact.

Compact commission. The bill would codify the rights, duties, responsibilities, powers, finances, and other obligations of the Audiology and Speech-Language Pathology Interstate Compact Commission.

License recognition. Each member state in the compact would have to require an applicant to obtain or retain a license in the home state and meet the home state's qualifications for licensure or renewal of licensure, in addition to all other applicable state laws. A license issued to an audiologist or speech-language pathologist by a home state to a resident in that state would be recognized by each member state as authorizing such a licensed individual to practice audiology or speech-language pathology, under a privilege to practice, in each member state.

Requirements. The bill would establish certain requirements for audiologists and speech-language pathologists, including requirements related to education, the completion of a supervised clinical practicum experience or supervised postgraduate professional experience, the

passing of a national exam, the holding of an active and unencumbered license, criminal history, and the possession of identifying information.

Active duty military personnel. Active duty military personnel or their spouses would have to designate a home state where an individual had a current license in good standing. An individual could retain the home state designation during the period the service member was on active duty. Subsequent to designating a home state, an individual only could change their home state through an application for licensure in a new state.

Criminal history records. A state would have to implement or utilize procedures for considering the criminal history records of applicants for initial privilege to practice. These procedures would have to include the submission of fingerprints or other biometric-based information by applicants for the purpose of obtaining an applicant's criminal history record information from the Federal Bureau of Investigation (FBI) and the agency responsible for retaining the state's criminal records.

Within a time frame established by rule, a member state would have to fully implement a criminal background check requirement by receiving the results of the FBI record search on criminal background checks and use the results in making licensure decisions.

Communication between a member state, the commission, and among member states regarding the verification of licensure eligibility could not include any information received from the FBI relating to a federal criminal records check performed by a member state.

Privilege to practice. The privilege to practice would be derived from the home state license. An audiologist or speech-language pathologist practicing in a member state would have to comply with the state practice laws of the state in which the client was located at the time service was provided. The practice of audiology and speech-language pathology in a member state under a privilege to practice would subject an audiologist or speech-language pathologist to the jurisdiction of the licensing board, the courts, and the laws of the member state in which the client was located at the time service was provided.

Individuals not residing in a member state would continue to be able to apply for a member state's single-state license as provided under the laws of each member state. Single-state licenses granted to such individuals would not be recognized as granting the privilege to practice audiology or speech-language pathology in any other member state. Nothing in the compact would affect the requirements established by a member state for the issuance of a single-state license.

Compact privilege. The bill would define "compact privilege" to mean the authorization granted by a remote state to allow a licensee from another member state to practice as an audiologist or speech-language pathologist in the remote state under its laws and rules. A "remote state" would be a member state other than the home state where a licensee was exercising or seeking to exercise the compact privilege.

To exercise the compact privilege under the terms and provisions of the compact, an audiologist or speech-language pathologist would have to meet certain requirements listed in the bill. For the purposes of compact privilege, an audiologist or speech-language pathologist only could hold one home state license at a time.

Except as otherwise provided, if an audiologist or speech-language pathologist changed primary state of residence by moving between two member states, that individual would have to apply for licensure in the new home state, and the license issued by the prior home state would be deactivated in accordance with the applicable rules adopted by the compact commission.

An audiologist or speech-language pathologist could apply for licensure in advance of a change in primary state of residence. A license could not be issued by the new home state until the audiologist or speech-language pathologist provided satisfactory evidence of a change in primary state of residence to the new home state and satisfied all applicable requirements to obtain a license from the new home state.

A remote state, in accordance with due process and that state's law, could remove a licensee's compact privilege in the remote state for a specified period of time, impose fines, and take any other necessary actions to

protect the health and safety of its citizens. Member states could charge a fee for granting a compact privilege.

The bill would set out certain conditions for the loss and restoration of compact privilege in any remote state.

Member states would have to recognize the right of a licensed audiologist or speech-language pathologist to practice audiology or speech-language pathology in any member state via telehealth under a privilege to practice as provided in the compact and rules promulgated by the compact commission.

Data system. A compact member state would have to submit a uniform data set to the data system developed by the compact commission on all individuals to whom the compact would apply. This data set would have to include identifying information, licensure data, adverse actions against a license or compact privilege, non-confidential information related to alternative program participation, any denial of application for licensure and the reasons for denial, and other information that could facilitate the administration of the compact.

Investigative information pertaining to a licensee in any member state would be available only to other member states. Member states contributing information to the data system could designate information that could not be shared with the public without the express permission of the contributing state. Any information submitted to the data system that subsequently was required to be expunged by laws of the submitting state would have to be removed from the data system.

Upon application for a privilege to practice, the licensing board in the issuing remote state would have to ascertain, through the data system:

- whether the applicant had ever held, or was the holder of, a license issued by any other state;
- whether there were any encumbrances on any license or privilege to practice held by the applicant; and
- whether any adverse action had been taken against any license or privilege to practice held by the applicant.

Adverse actions. In addition to other powers conferred by state law, a remote state would have the authority to, in accordance with existing state due process law:

- take adverse action against an audiologist's or speech-language pathologist's privilege to practice within that member state; and
- issue subpoenas for both hearings and investigations that required the attendance and testimony of witnesses as well as the production of evidence.

Only the home state would have the power to take adverse action against an audiologist's or speech-language pathologist's license issued by the home state. For the purposes of taking adverse action, the home state would have to give the same priority and effect to reported conduct received from a member state as it would if the conduct had occurred within the home state.

The home state would have to complete any pending investigations of an audiologist or speech-language pathologist who changed primary state of residence during the course of the investigations and would have the authority to take appropriate actions. The home state also would have to promptly report the conclusions of investigations to the administrator of the data system, and the administrator would have to promptly notify the new home state of any adverse actions.

The bill would authorize a member state to participate with other member states in joint investigations of licensees.

If a member state took adverse action, it would have to promptly notify the administrator of the data system, and the administrator would have to promptly notify the home state of any adverse actions by remote states.

If adverse action was taken by the home state against an audiologist's or speech-language pathologist's license, the license holder's privilege to practice in all other member states would be deactivated until all encumbrances had been removed from the state license.

Withdrawal. A member state could withdraw from the compact by enacting a statute repealing the enacting statute. Withdrawal would not take effect until six months after enactment of the repealing statute. Withdrawal would not affect the continuing requirement of the withdrawing state's audiology or speech-language pathology licensing board to comply with the investigative and adverse action reporting requirements of the bill prior to the withdrawal effective date.

Application. The compact provisions could not be construed to invalidate or prevent any audiology or speech-language pathology licensure agreement or other cooperative arrangement between a member state and a non-member state that did not conflict with the compact provisions.

Amendment. The compact could be amended by member states. No amendment would become effective and binding upon any member state until enacted into the laws of all member states.

Construction and severability. The compact would be liberally construed so as to effectuate its purposes. The provisions of the compact would be severable and if any phrase, clause, sentence, or provision of the compact was declared to be contrary to the constitution of any member state or the United States or the applicability thereof to any government, agency, person, or circumstance was held invalid, the validity and applicability of the remainder of the compact would not be affected.

Binding effect of compact. All lawful actions of the compact commission, including all rules and bylaws promulgated by the commission, would be binding upon the member states. All agreements between the commission and member states would be binding in accordance with their terms.

Nothing in the bill would prevent the enforcement of any other law of a member state that was not inconsistent with the compact. All laws in a member state in conflict with the compact would be superseded to the extent of the conflict.

In the event any provision of the compact exceeded the constitutional limits imposed on the legislature of any member state, the provision would be ineffective to the extent of the constitutional conflict.

The bill would take effect September 1, 2021.

NOTES:

According to the Legislative Budget Board, the fiscal impact of HB 1633 cannot be determined because the fees authorized by the bill and the number of states that could join the compact are unknown.

SUBJECT: Revising statutory provisions for durable powers of attorney

COMMITTEE: Judiciary and Civil Jurisprudence — committee substitute recommended

VOTE: 6 ayes — Leach, Julie Johnson, Krause, Middleton, Schofield, Smith

0 nays

3 absent — Davis, Dutton, Moody

WITNESSES: For — Craig Hopper, State Bar of Texas Real Estate Probate and Trust Law Section; (*Registered, but did not testify*: Lauren Hunt, Real Estate, Probate, State Bar of Texas Real Estate Probate and Trust Law Section; Guy Herman, Statutory Probate Courts of Texas as Presiding Judge)

Against — None

BACKGROUND: Estates Code chs. 751 and 752 establish the general provisions regarding durable powers of attorney and statutory durable powers of attorney.

Interested parties have suggested that changes to the Estates Code are needed to clarify that durable powers of attorney are tools for use by individuals, not by entities, and to clarify that the statutory durable power of attorney regarding business operation transactions applies to limited liability companies.

DIGEST: CSHB 2183 would specify that a principal who signed a durable power of attorney would have to be an adult "individual" rather than a "person."

The bill also would specify that the definition of "disabled or incapacitated" for the purposes of the durable power of attorney would apply only to individuals, not entities, and that a statutory durable power of attorney could be used only by individuals, not entities.

The bill would make revisions to the authority granted to an agent when the principal granted authority with respect to business operating transactions, specifying that the statutory durable power of attorney would

extend to actions with respect to membership interest in a limited liability company.

The bill would take effect September 1, 2021, and would apply only to a durable power of attorney, including a statutory durable power of attorney, executed on or after that date.

SUBJECT: Increasing penalty for assault, aggravated assault of process server

COMMITTEE: Criminal Jurisprudence — favorable, without amendment

VOTE: 8 ayes — Collier, K. Bell, Cason, Cook, Hinojosa, A. Johnson, Murr, Vasut

1 nay — Crockett

WITNESSES: For —Timothy Quinn, Quinn Private Investigations, PLLC; Linda Coker; Lindsey Kuehn; Stephen Myers; Martin Renteria; (*Registered, but did not testify*: Frederick Frazier, Dallas Police Association/FOP716 State FOP Director; James Parnell, Dallas Police Association; David Sinclair, Game Warden Peace Officers Association; Ray Hunt, HPOU; Jimmy Rodriguez, San Antonio Police Officers Association; AJ Louderback, Sheriffs Association of Texas; Destinee Serdinia, Texas Association Of Professional Process Servers; Dallas Reed, Texas Municipal Police Association (TMPA); Rock Robinson, TPSA; and seven individuals)

Against — None

BACKGROUND: Penal Code sec. 22.01 makes assault a criminal offense. Offenses generally are class A misdemeanors (up to one year in jail and/or a maximum fine of $4,000) but are increased to a third-degree felony (two to 10 years in prison and an optional fine of up to $10,000) if committed against certain types of individuals.

Penal Code sec. 22.02 establishes the offense of aggravated assault. Offenses generally are second-degree felonies (two to 20 years in prison and an optional fine of up to $10,000) but are increased to first-degree felonies (life in prison or a sentence of five to 99 years and an optional fine of up to $10,000) under certain circumstances.

Concerns have been raised about attacks on process servers, who are vital to the judicial process in Texas. Some have proposed increasing the penalty for assaulting a process server to better protect them and deter assaults.

DIGEST:

HB 1306 would make assault a third-degree felony and aggravated assault a first-degree felony if committed against a person the individual knew was a process server and while the persons was performing a duty as a process server.

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

SUBJECT: Requiring suicide prevention information on certain student ID cards

COMMITTEE: Public Education — favorable, without amendment

VOTE: 10 ayes — Dutton, Lozano, Allen, Bernal, Buckley, Huberty, K. King, Meza, Talarico, VanDeaver

2 nays — Allison, K. Bell

1 absent — M. González

WITNESSES: For — Ana O'Quin, National Alliance on Mental Illness TX; Josette Saxton, Texans Care for Children; (*Registered, but did not testify*: Andrea Chevalier, Association of Texas Professional Educators; Jennifer Toon, Coalition of Texans with Disabilities; Elisa Tamayo, Emergence Health Network; Vanessa Beltran, Girls Empowerment Network; Valerie DeBill, League of Women Voters of Texas; Annalee Gulley, Mental Health America of Greater Houston; Christine Yanas, Methodist Healthcare Ministries of South Texas, Inc.; Greg Hansch, National Alliance on Mental Illness Texas; Alison Mohr Boleware, National Association of Social Workers-Texas Chapter; Hillary Lilly, San Antonio ISD; Grover Campbell, TASB; Barry Haenisch, Texas Association of Community Schools; Amy Beneski, Texas Association of School Administrators; Amanda Afifi, Texas Association of School Psychologists; Paige Williams, Texas Classroom Teachers Association; Lee Johnson, Texas Council of Community Centers; Jan Friese, Texas Counseling Association; Mark Terry, Texas Elementary Principals and Supervisors Association; Clayton Stewart, Texas Medical Association; Suzi Kennon, Texas PTA; Starlee Coleman, Texas Public Charter Schools Association; Laura Atlas Kravitz, Texas State Teachers Association; Gilbert Zavala, The Greater Austin Chamber of Commerce; Ashley Harris, United Ways of Texas; Knox Kimberly, Upbring; Ramiro Canales; Susana Carranza; Thomas Parkinson)

Against — None

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

BACKGROUND:

Education Code ch. 38, subch. G requires the Texas Education Agency and Health and Human Services Commission to provide programs and practices for mental health and substance abuse prevention and intervention, and suicide prevention.

Concerned parties have noted that during the pandemic some students have felt isolated due to limited access to their peers and support networks. Some have called for the state to raise awareness and promote mental health services available to students.

DIGEST:

HB 1754 would require that all student identification cards issued by a public school to a student in grade six or higher include contact information for the National Suicide Prevention Lifeline.

The provisions of this bill would apply beginning with student identification cards issued for the 2022-2023 school year.

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: Revising procedures for appealing certain disciplinary actions within DPS

COMMITTEE: Homeland Security and Public Safety — committee substitute recommended

VOTE: 9 ayes — White, Bowers, Goodwin, Harless, Hefner, E. Morales, Patterson, Schaefer, Tinderholt

0 nays

WITNESSES: For — Richard Jankovsky, DPS Officers Association; (*Registered, but did not testify*: Jennifer Szimanski, CLEAT; Frederick Frazier, Dallas Police Association FOP 716, Legislative Director State FOP; Mitch Landry, Texas Municipal Police Association)

Against — None

BACKGROUND: Government Code sec. 411.007 allows the public safety director to appoint, promote, reduce, suspend, or discharge any officer or employee of the Department of Public Safety (DPS). A commissioned officer may not be discharged, suspended, or demoted except for the violation of a specific Public Safety Commission rule.

A commissioned officer ordered discharged may appeal to the Public Safety Commission, and during the appeal the officer must be suspended without pay. A discharged commissioned officer is entitled to a public hearing before the commission, who must affirm or set aside the discharge on the basis of presented evidence. If the commission affirms the discharge, the officer may seek judicial review in a district court within 90 days after the commission affirms the discharge. The officer remains suspended without pay while the case is under judicial review.

Sec. 411.0072 governs appeals of disciplinary actions within DPS and requires the commission to establish procedures and practices governing such appeals.

Some have suggested guaranteeing an officer the right to present testimony and evidence in an appeal hearing and providing a path for an officer to be reinstated with back pay if the discharge was modified or set aside on the basis of the presented evidence.

DIGEST:

CSHB 2001 would allow the Public Safety Commission to modify, in addition to affirm or set aside, the discharge of a commissioned officer of the Department of Public Safety (DPS) during an appeal hearing of the disciplinary action.

If the commission set aside or modified the discharge, including by prescribing a period of suspension or a demotion, it could award back pay for all or part of the period during which the commissioned officer was suspended without pay.

The bill would require the procedures and practices established by the commission to govern the appeal of a disciplinary action within DPS to allow a commissioned officer who was the subject of a disciplinary action to present testimony and evidence at a hearing on the appeal.

The bill would take effect September 1, 2021.

SUBJECT: Eliminating enhancement for repeat offense of driving with license invalid

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

VOTE: 6 ayes — White, Bowers, Goodwin, E. Morales, Schaefer, Tinderholt

3 nays — Harless, Hefner, Patterson

WITNESSES: For — Justin Martinez, Texas Criminal Justice Coalition; Emily Gerrick, Texas Fair Defense Project; (*Registered, but did not testify*: Lauren Johnson, ACLU of Texas; Chas Moore, Austin Justice Coalition; Scott Henson, Just Liberty; Julie Campbell)

Against — (*Registered, but did not testify*: James Smith, San Antonio Police Department; Mitch Landry, Texas Municipal Police Association; Dee Chambless)

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

BACKGROUND: Transportation Code sec. 521.457(e) makes driving with an invalid license a class C misdemeanor (maximum fine of $500). Under sec. 521.457(f), the offense is a class B misdemeanor (up to 180 days in jail and/or a maximum fine of $2,000), if the person had previously been convicted of an offense or at the time of the offense, was operating the motor vehicle in violation of vehicle liability insurance requirements.

Concerns have been raised that these provisions can result in drivers accumulating debt and criminal penalties that can then hinder their efforts at financial stability and can be costly for county jails housing individuals convicted of the offense.

DIGEST: HB 2147 would eliminate provisions that enhance the offense of driving without a license to a class B misdemeanor.

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

SUBJECT: Adjusting requirements for allocation of low income housing tax credits

COMMITTEE: Urban Affairs — committee substitute recommended

VOTE: 7 ayes — Cortez, Holland, Bernal, Campos, Jarvis Johnson, Minjarez, Morales Shaw

2 nays — Gates, Slaton

WITNESSES: For — Nicholas Tuccio, LDG Development; Chris Akbari, Janine Sisak, and Jean Latsha, Texas Affiliation of Affordable Housing Providers; Todd Kercheval, Texas Association of Local Housing Finance Agencies; (*Registered, but did not testify*: Allison Greer, CHCS; Christine Wright, City of San Antonio; Roger Arriaga, Texas Affiliation of Affordable Housing Providers; David Mintz, Texas Apartment Association; Jay Brown, Texas Association of Builders; Gilbert Turrieta, Texas Association of Builders; Julie Wheeler, Travis County Commissioners Court; Zenobia Joseph)

Against — None

On — Marni Holloway, Texas Department of Housing and Community Affairs

BACKGROUND: Government Code sec. 2306.67071 prohibits the board of the Texas Department of Housing and Community Affairs from approving an application for housing tax credits for developments financed through the private activity bond program unless the applicant has submitted to the department a certified copy of a resolution from each applicable governing body certifying that each governing body:

- has been provided notice of intent to apply;
- has had sufficient opportunity to receive a response from the applicant regarding questions or concerns about the proposed development;
- has held the required public hearing on the application; and
- does not object to the proposed application.

It has been suggested that the statewide housing shortage could be addressed in part by increasing the supply of affordable housing through adjustments to the low income housing tax credit program.

DIGEST:

CSHB 2027 would amend the application process for housing tax credits for developments financed through the private activity bond program under the Texas Department of Housing and Community Affairs (TDHCA).

The bill would repeal the provision requiring a county or municipality to hold a hearing at which public comment could be made on the application. It would replace the certified copy of governing body resolutions currently required to be submitted by the applicant to TDHCA with a certification required to be submitted by each applicable governing body stating the same information regarding notice of an application and responses by the applicant to questions. Such certifications would not have to include a statement that the governing body did not object to the proposed application.

The TDHCA board could approve an application without receiving each such certification if, after the 60th day following the date on which all applicable governing bodies had received notice of an intended application, the applicant submitted to TDHCA a certification stating that applicable governing bodies had had sufficient opportunity to obtain a response from the applicant regarding questions or concerns about the proposed development.

CSHB 2027 also would eliminate provisions requiring TDHCA to prioritize in a specific order the criteria that must be considered in scoring an application for low income housing tax credits that had satisfied other threshold criteria; and provide incentives to reward applicants who agreed to locate the development in a census tract in which there were no other existing developments supported by housing tax credits.

The bill would apply only to an application for low income housing tax credits that was submitted to TDHCA during an application cycle based

on the 2022 qualified allocation plan or a subsequent plan adopted by the TDHCA board.

The bill would take effect September 1, 2021.

SUBJECT: Creating a criminal offense for injury to a pedestrian within a crosswalk

COMMITTEE: Transportation — favorable, without amendment

VOTE: 12 ayes — Canales, E. Thompson, Ashby, Bucy, Davis, Harris, Lozano, Martinez, Ortega, Perez, Rogers, Smithee

0 nays

1 absent — Landgraf

WITNESSES: For — Robin Stallings, BikeTexas; Alison Baimbridhe and Brian Middleton, Fort Bend County District Attorney's Office; Eric Fagan, Fort Bend County Sheriff Office; Elliot Smith; Edmund Smith; Gina Torry; (*Registered, but did not testify*: Chris Riley, Bike Austin; Jamaal Smith, City of Houston, Office of the Mayor Sylvester Turner; John Pitts, Jr, Farm&City; Jessica Anderson, Houston Police Department; Mark Stine, Texans for State Parks)

Against — (*Registered, but did not testify*: Don Dixon)

On — Terri Hall, Texas TURF; Texans for Toll-free Highways; (*Registered, but did not testify*: Thomas Parkinson)

BACKGROUND: Transportation Code sec. 552.003 governing pedestrian right-of-way at a crosswalk, states that the operator of a vehicle shall yield the right-of-way to a pedestrian crossing a roadway if:

- no traffic control signal is in place or in operation; and
- the pedestrian is on the half of the roadway in which the vehicle is traveling, or approaching so closely from the opposite half of the roadway as to be in danger.

A pedestrian may not suddenly leave a curb or other place of safety and proceed into a crosswalk in the path of a vehicle so close that it is impossible for the vehicle operator to yield.

DIGEST:

Under HB 2081, it would be an offense if a person with criminal negligence operated a motor vehicle within the area of a crosswalk and caused bodily injury to a pedestrian or a person operating a bicycle, motor-assisted scooter, electronic personal assistive mobility device, neighborhood electric vehicle, or a golf cart. The penalty would be a class A misdemeanor (up to one year in jail and/or a maximum fine of $4,000), except that it would be enhanced to a state-jail felony (180 days to two years in a state jail and an optional fine of up to $10,000) if the victim suffered serious bodily injury.

The bill would provide an affirmative defense to prosecution if at the time of the offense the injured party was violating rules of the road related to walking, movement, or operation in a crosswalk or on a roadway.

If conduct that would constitute an offense under the provisions of this bill also constituted an offense under any other law, the driver could be prosecuted under this bill's provisions, the other law, or both.

The bill would take effect on September 1, 2021.

SUBJECT: Providing measures to assist adult learners completing academic programs

COMMITTEE: Higher Education — favorable, without amendment

VOTE: 6 ayes — Cortez, Frullo, Ortega, Raney, C. Turner, J. Turner

2 nays — Murphy, P. King

3 absent — Pacheco, Muñoz, Parker

WITNESSES: For — (*Registered, but did not testify*: Dana Harris, Austin Chamber of Commerce; Gerald Lee, San Antonio Chamber of Commerce; Mike Meroney, Texas Association of Manufacturers; Ashley Harris, United Ways of Texas; and 11 individuals)

Against — None

BACKGROUND: Concerns have been raised that the number of adult learners successfully completing degree or certification programs in the state is too low. Interested observers contend that tuition assistance and paid internships could help adult learners complete degrees.

DIGEST: HB 4487 would require the Texas Higher Education Coordinating Board (THECB) to provide tuition assistance and incentive funding, arrange final semester internships, and establish an assisting program for adult learners, defined as persons at least 25 years old but no older than 34 who had within the preceding 48 months achieved at least 75 percent completion of a baccalaureate or associate degree or certificate program.

Tuition assistance for adult learners. HB 4487 would require THECB for the 2021-2022 and 2022-2023 academic years to provide to each adult learner enrolled in a baccalaureate or associate degree or certificate program at an institution of higher education a grant for each semester or term in an amount equal to 25 percent of the average statewide amount of tuition and required fees that a resident student enrolled full-time in such a degree or certificate program would be charged for that semester or term at the type of institution at which the adult learner was enrolled. Adult

learners receiving this grant could use the money only to pay the cost of tuition or required fees for the program in which they were enrolled.

Incentive funding for adult learners. For the state fiscal biennium beginning September 1, 2023, THECB would be required to distribute incentive funding to each institution of higher education based on the number of adult learners enrolled at the institution who, during the preceding biennium, had received a baccalaureate or associate degree or certificate in a target field as established by THECB rules, or had timely completed:

- a baccalaureate or associate degree program in accordance with the adult learner's degree plan; or
- a certificate program as established but THECB rule.

Subject to the availability of funds, the amount of such incentive funding distributed per adult learner could not be less than the amount of funding per student for that biennium for achievement of certain other equivalent student success measures.

Final semester internships for adult learners. For the 2021-2022 and 2022-2023 academic years, the board would be required to collaborate with employers who participate in the Texas WORKS internship program to ensure that:

- employers gave priority under that program to adult learners in the final semester of baccalaureate or associate degree or certificate program; and
- each adult learner employed through that program during the learner's final semester of a degree or certificate program received an additional $2,500 stipend as part of the wages under the program.

THECB would certify internships provided through the program through which adult learners could earn course credit toward their degree or certificate.

Grad TX Program. THECB would be required to establish the Grad TX program in collaboration with higher education institutions to support the reskilling, upskilling, and high-value degree or certificate program completion of adult learners. The program could include academic and career advising, assistance with financial aid options, and flexible degree or certificate programs designed for adult learners.

Other provisions. The total amount spent under the bill's provisions could not exceed $50 million. THECB could accept gifts, grants, and donations from any source for the purposes specified by the bill. No later than December 1 of each year, THECB would submit to the governor, the lieutenant governor, and the House speaker a report on the status and effectiveness of the measures established by the bill. THECB could adopt rules as necessary to implement those measures, and in adopting rules would consult with higher education institutions, the Texas Workforce Commission, members of the business community, and other relevant stakeholders. The bill's provisions would expire September 1, 2025.

THECB would be required to implement a provision of the bill only if the Legislature appropriated money specifically for that purpose. Otherwise the board could, but would not be required to, implement a provision of the bill using other available appropriations.

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.

NOTES:

According to the Legislative Budget Board, the bill would have an estimated negative impact of $50 million to general revenue through fiscal 2023. The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement its provisions.

SUBJECT: Expanding recipients of certain secretary of state notices and court lists

COMMITTEE: Elections — favorable, without amendment

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

3 nays — J. González, Beckley, Bucy

1 absent — Fierro

WITNESSES: For — Cyndie Phillips and Gerald Welty, Convention of States; Shawn Hall Lecuona, Lecuona Law, PLLC, dba Lecuona Life Ministries, and Burning For Quote; Robert L. Green, Travis County Republican Party Election Integrity Committee; Eric Opiela; (*Registered, but did not testify*: Brandon Moore, Election Integrity Committee of the State Republican Executive Committee; Donald Garner, Texas Faith and Freedom Coalition; Chad Ennis, Texas Public Policy Foundation; and six individuals)

Against — James Slattery, Texas Civil Rights Project; (*Registered, but did not testify*: Matt Simpson, ACLU of Texas; David Weinberg, Brennan Center for Justice; Joanne Richards, Common Ground for Texans; Daniel Collins, El Paso County; Tammy Narvaez, Harris County Commissioners Court; Cynthia Weatherby, League of Women Voters of Texas; Fatima Menendez, Mexican American Legal Defense and Educational Fund; Rose Clouston and Jen Ramos, Texas Democratic Party; Stephanie Gharakhanian, Workers Defense Action Fund; and 18 individuals)

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

BACKGROUND: Government Code sec. 62.114 requires a court clerk to maintain a list containing the name and address of each person who is excused or disqualified from jury service because the person is not a county resident.

Election Code sec. 18.068(a) requires the secretary of state, upon determination that a voter on the statewide computerized voter registration

list is deceased or has been excused or disqualified from jury service because the voter is not a citizen, to send notice of the determination to the voter registrar of the counties considered appropriate by the secretary.

Election Code sec. 13.007 specifies that a person commits a class B misdemeanor (up to 180 days in jail and/or a maximum fine of $2,000) if the person knowingly makes a false statement or requests, commands, or attempts to induce another person to make a false statement on a registration application.

Some have suggested that, to prevent voter fraud, the required notice from the secretary of state regarding the exclusion or disqualification from jury service of a noncitizen should be sent to additional authorities beyond the voter registrar and appropriate counties.

DIGEST:

HB 2339 would require the secretary of state to quarterly compare the information received under Government Code sec. 62.114 to the statewide computerized voter registration list. If the secretary determined that a voter on the registration list was not a resident of the county in which the voter was registered to vote, the secretary would have to send notice of the determination to the voter registrar of the counties considered appropriate by the secretary and the attorney general. The attorney general would have to quarterly review the information to investigate whether a person had committed an offense under Election Code sec. 13.007 or other law.

On the third business day of each month, a court clerk would have to send a copy of the list of persons excused or disqualified because of citizenship in the previous month to the attorney general for an investigation of whether the person committed an offense under Election Code sec. 13.007 or other law.

On the third business day of each month, a court clerk would have to send a copy of the list of persons excused or disqualified in the previous month because the persons did not reside in the county to:

- the voter registrar of the county, as under current law;
- the secretary of state; and

- the county or district attorney or the attorney general for an investigation of whether the person committed an offense under Election Code sec. 13.007 or other law.

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: Revising certain statutory provisions related to trusts

COMMITTEE: Judiciary and Civil Jurisprudence — committee substitute recommended

VOTE: 6 ayes — Leach, Julie Johnson, Krause, Middleton, Schofield, Smith

0 nays

3 absent — Davis, Dutton, Moody

WITNESSES: For — Craig Hopper, State Bar of Texas Real Estate, Probate, and Trust Law Section; (*Registered, but did not testify*: Melissa Shannon, Bexar County Commissioners Court; Lauren Hunt, State Bar of Texas Real Estate, Probate, and Trust Law Section; Guy Herman, Statutory Probate Courts of Texas as Presiding Judge)

Against — None

BACKGROUND: Property Code sec. 41.002(a)(1) governs the homestead creditor-protection for qualifying trusts, and Tax Code sec. 11.13(j) provides requirements for a property to be considered a residence homestead for the purpose of qualifying for a homestead exemption.

Property Code sec. 112.0715 governs the creation of a second trust, which can be created by a distribution of principal to a trust created under the same trust instrument as the first trust from which the principal was distributed or to a trust created under a different trust instrument.

Under Property Code sec. 115.014(b), at any point in a trust proceeding, a court is allowed to appoint an attorney ad litem to represent any interest that the court considers necessary.

Interested parties have noted that Texas trust laws are in need of a number of technical revisions and clarifications.

DIGEST: CSHB 2179 would modify certain standards and procedures in Texas law regarding trusts, including revising provisions related to homesteads in

qualifying trusts, testamentary general powers of appointment, creation of second trusts, and attorneys ad litem in trust proceedings.

Homesteads. CSHB 2179 would revise the section of Property Code related to homesteads in qualifying trusts to conform its homestead protection qualifying language with the homestead exemption qualifying language under the Tax Code, including adopting the phrase "rent free and without charge."

Testamentary general powers of appointment. The bill would prohibit a beneficiary of a spendthrift trust or the beneficiary's estate from being considered a settlor merely because the beneficiary, in any capacity, did any of the following:

- held or exercised a testamentary power of appointment, other than a general power of appointment;
- held a testamentary general power of appointment; or
- exercised a testamentary general power of appointment in favor of or for the benefit of the takers in default of the appointive assets.

If a beneficiary exercised a testamentary general power of appointment in favor of or for the benefit of any appointee other than the takers in default of the appointive assets, the appointive assets would be subject to the claims of the beneficiary's creditors, but only to the extent the beneficiary's owned property was insufficient to meet their debts. Unless appointed to the beneficiary's estate, the assets would not be subject to:

- administration as part of the beneficiary's estate;
- recovery by the personal representative of the beneficiary's estate, except as provide under applicable law; or
- the payment of taxes or administration expenses of the beneficiary's estate.

Distribution to second trust. The bill also would specify that a second trust could be created by a distribution of principal to a trust that retained the same name used by the first trust, and if permitted by applicable law, the tax identification number of the first trust. If a second trust was created

that retained the same name as the first trust, the property would not have to be retitled.

Attorney ad litem for trust proceedings. The bill would condition a court's authority to appoint an attorney ad litem to represent any interest that the court considered necessary, including to defend an action for a minor beneficiary or an incompetent beneficiary, on the court first determining that representation of the interest otherwise would be inadequate.

Other provisions. The bill would provide that, as intended by the Legislature, the bill's provisions concerning the distribution of principal to a second trust would be a codification of the common law of Texas in effect immediately before the effective date of the bill.

The bill's provisions would apply to a trust created before, or, or after the effective date of the bill.

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 community supervision reporting by risk level, requiring report

COMMITTEE: Corrections — committee substitute recommended

VOTE: 7 ayes — Murr, Allen, Bailes, Burrows, Rodriguez, Slaton, White

0 nays

2 absent — Martinez Fischer, Sherman

WITNESSES: For — M. Paige Williams, for Dallas County Criminal District Attorney John Creuzot; Devin Driver and Douglas Smith, Texas Criminal Justice Coalition; (*Registered, but did not testify*: Nick Hudson, American Civil Liberties Union of Texas; Kathy Mitchell, Just Liberty; Jorge Renaud, LatinoJustice; Susana Carranza, League of Women Voters of Texas; Maggie Luna, Statewide Leadership Council; Jason Vaughn, Texas Young Republicans; Lauren Johnson; Sarah Reyes)

Against — (*Registered, but did not testify*: Eric Knustrom, Texas Probation Association)

On — Andrea Bode, Kerr, Bandera and Gillespie County CSCD; Carey Green, Texas Department of Criminal Justice, Community Justice Assistance Division; (*Registered, but did not testify*: Leighton Iles, Tarrant County Community Supervision and Corrections Department)

BACKGROUND: Government Code ch. 509 governs the Texas Department of Criminal Justice's community assistance division, which administers community supervision (adult probation) in the state. Under sec. 509.003, the division adopts standards and procedures for local community supervision and corrections departments.

Interested parties have suggested that local community supervision and corrections departments and individuals on probation could benefit from local departments allowing individuals to report based on risk level and from an exchange of ideas on best practices.

DIGEST:

CSHB 2384 would authorize reporting intervals based on risk for those on community supervision, establish a program to improve successful community supervision, revise provisions relating to grants, and require a statewide report on probation outcomes.

Reporting by risk levels. The Community Justice Assistance Division of the Texas Department of Criminal Justice (TDCJ) would be required to allow local community supervision departments to implement reporting intervals for defendants that were determined by risk, with higher-risk defendants reporting at more frequent intervals than lower-risk defendants. Reporting intervals for low-risk defendants could not exceed 12 months.

The division would be prohibited from reducing the amount of funding it paid a local department based on the reporting interval of a defendant supervised by the department.

The division would have to make available guidance documents to help departments and judges determine best practices in using progressive sanctions. The division also would have to implement an online technical assistance library with training to improve the rate of successful completion of community supervision for all departments and judges.

Program for improving successful community supervision. CSHB 2384 would require the division to implement a program in which departments with a rate of successful completion of community supervision that is above the statewide average provide training and technical assistance to other departments to improve the successful completion rate of those departments or to implement innovative or cost-effective methods.

Grant programs. The bill would establish requirements for priorities for the division when awarding grants. The division would be required to give priority to departments that provided or received training or technical assistance under the program that would be established by the bill or that implemented innovative or cost-effective methods under that program.

The division would be authorized to provide grants to departments for certified peer support specialists, certified recovery coaches, and certified reentry support specialists.

Report on probation outcomes. The division would be required to submit an annual report by April 1 to the governor, the Legislature, each department, and each district court, office of an attorney representing the state, and public defender's office in the state.

The report would have to include community supervision outcomes for the preceding calendar year for each department, county, district court, and constitutional or statutory county court with criminal jurisdiction and would have include specific information on revocations and terminations outlined in the bill. The report also would have to include a comparison of the outcomes this information to the statewide data for the outcomes and to outcomes of comparable courts with a rate of successful completion of community supervision that is above the statewide average. The division would have to include in the report a detailed summary of its efforts to reduce the revocation rate of defendants placed on community supervision.

The bill would take effect September 1, 2021.

SUBJECT: Requiring Board of Nursing to waive certain regulations

COMMITTEE: Public Health — favorable, without amendment

VOTE: 8 ayes — Klick, Guerra, Allison, Jetton, Oliverson, Price, Smith, Zwiener

2 nays — Campos, Collier

1 absent — Coleman

WITNESSES: For — Elizabeth Clark, Texas Nurses Association; (*Registered, but did not testify*: Christine Yanas, Methodist Healthcare Ministries of South Texas, Inc.; Calvin Tillman; Al Zito)

Against — None

BACKGROUND: Occupations Code sec. 301.261 authorizes the Texas Board of Nursing to place on inactive status the license of a person who is not actively engaged in the practice of professional nursing or vocational nursing if the person submits a written request to the board. Sec. 301.261(d) requires the board to remove a person's license from inactive status if the person:

- requests that the board remove the person's license from inactive status;
- pays each appropriate fee; and
- meets requirements as determined by the board.

Suggestions have been made to codify certain nursing regulation waivers implemented by the governor in response to the COVID-19 pandemic to allow inactive and retired nurses to more easily return to work and assist an overwhelmed health care industry.

DIGEST: HB 2409 would require the Texas Board of Nursing to waive a requirement that a person pay a fee or complete any required continuing education to remove the person's license from inactive status if the license had been on inactive status for less than four years. The board would have

to waive these requirements as necessary to mitigate a nursing workforce shortage caused by a state of disaster.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2021.