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HOUSE RESEARCH ORGANIZATION

daily floor report

Wednesday, April 19, 2023
88th Legislature, Number 45
The House convenes at 10 a.m.
Part Two

Five bills are on the Major State Calendar and 24 bills are on the General State Calendar for second reading consideration today. The table of contents for Part Two of today's *Daily Floor Report* appears on the following page.

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Alma Allen
Chairman
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Wednesday, April 19, 2023

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Part 2

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SUBJECT: Revising requirements for excusing certain student absences

COMMITTEE: Public Education — favorable, without amendment

VOTE: 12 ayes — Buckley, Allen, Allison, Cunningham, Dutton, Cody Harris,
Harrison, Hefner, Hinojosa, K. King, Longoria, Talarico

0 nays

1 absent — Schaefer

WITNESSES: For — Katie Fruge, Christian Life Commission; Faizan Atiq, Islamic Society of Greater Houston; Sharyn Vane, Jewish Federation of Greater Austin, Austin Jewish community; Shariq Ghani, Minaret Foundation; Mujeeb Kazi, North Texas Islamic Council; Carrie Moore, Texas Education 911; Jennifer Allmon, The Texas Catholic Conference of Bishops (*Registered, but did not testify*: Muhammad A Khan, IACC; Lesley Rivas, Mexican American School Boards Association; Alejandro Pena, Texas American Federation of Teachers; Joshua Houston, Texas Impact; Bryce Adams, Texas Public Charter Schools Association; Dee Carney, Texas School Alliance; Fran Rhodes; Bonnie Seelig; Susan Stewart)

Against — (*Registered, but did not testify*: Natalie Ibe)

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

DIGEST: HB 1212 would prohibit a school district from requiring a note from a clergy member or other religious leader to excuse a student absence related to the observance of a religious holy day. The school district would be required to accept a note from the student's parent or person standing in parental relation verifying the student's absence was related to observance of a religious holy day.

The bill would apply beginning with the 2023-24 school year. The bill would take effect immediately if it received a vote of two-thirds of the

members elected to each house. If it does not receive the vote necessary for immediate effect, the bill would take effect September 1, 2023.

**SUPPORTERS
SAY:**

HB 1212 would ensure student absences due to observance of a religious holy day were treated equally by school districts across the state. Some districts have policies that require students to submit a note from clergy to be excused for a religious holy day not recognized as a school holiday. This establishes a barrier for students unable to obtain the required signature and could lead some students to forego the observance. Students that choose to observe the holy day as an unexcused absence may be unable to make up missed work, which could jeopardize their grades or lead to other penalties such as detention, ineligibility for extracurricular activities, or extra course work.

The bill would make the requirements for an excused absence to observe a religious holy day more clear to students, parents, and schools across the state. The bill also would recognize and treat all religions practiced within the state equally by applying the same standard for an excused absence to each. This is a practical and meaningful way to respect the deeply held religious beliefs of Texas families and a parent's right to determine which religious holy days their family will observe.

The bill would not include requirements for school districts to confirm the dates of religious holy days or to require a district or school to alter school schedules to accommodate a religious holy day. It also would not include requirements for a school or district to develop a new process to accept a parent note for a religious holy day, as parent notes are already accepted for other absences such as illness or health-related and other appointments.

**CRITICS
SAY:**

No concerns identified.

SUBJECT: Repealing limitations on pedestrian traffic on highways without sidewalks

COMMITTEE: Transportation — favorable, without amendment

VOTE: 11 ayes — Canales, Raney, Ashby, Davis, Gámez, Caroline Harris, Landgraf, Lozano, Ordaz, Patterson, Perez

0 nays

2 absent — Lujan, Romero

WITNESSES: For — Rick Briscoe (*Registered, but did not testify*: Jay Crossley, Farm&City; Ruth York, Tea Party Patriots of Eastland County; Texas Family Defense Committee; Terri Hall, Texas TURF, Texans for Toll-free Highways; Scott White, Velo Paso Bicycle-Pedestrian Coalition; Tom Glass; Thomas Parkinson; Gregory Porter)

Against — (*Registered, but did not testify*: Anne O’Ryan, AAA Texas; James Parnell, Dallas Police Association; Jessica Anderson, Houston Police Department; Ray Hunt, Houston Police Officer's Union)

DIGEST: HB 1277 would repeal the requirement that a pedestrian walking along and on a highway without a sidewalk must, if possible, walk on the left side of the road or on the highway shoulder facing oncoming traffic.

The bill would take effect September 1, 2023, and would not apply to an offense committed before that date.

SUPPORTERS SAY: HB 1277 would prevent unnecessary arrests by abolishing overly prescriptive requirements for pedestrians walking on highways when no sidewalk is available. Current statute offers too much opportunity for law enforcement to make arrests without sufficient probable cause. The bill would allow pedestrians to use common sense to decide where to walk for their own safety. The bill would not repeal current law requiring pedestrians walking along highways to use available sidewalks.

CRITICS
SAY:

HB 1277 would allow pedestrians to walk anywhere on a highway that lacked a sidewalk, which could slow traffic and create safety hazards. Repealing the current law entirely rather than creating an exception for emergency conditions is too broad.

SUBJECT: Extending the duration of youth hunting season

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

VOTE: 7 ayes — Ashby, Martinez, Bailes, Flores, Holland, Morrison, Troxclair
0 nays
2 absent — Collier, Garcia

WITNESSES: For — None
Against — John Shepperd, Texas Foundation for Conservation
(*Registered, but did not testify*: Joey Park, Texas Wildlife Association)

DIGEST: HB 555 would require the minimum length of a youth hunting season for game animals and game birds to be no less than seven consecutive days. The bill would not apply to special open seasons provided for the hunting of migratory game birds or waterfowl.

SUPPORTERS SAY: HB 555 would give youth more time to hunt before the start of the general hunting season and encourage outdoor activities for young adults.

CRITICS SAY: By extending the minimum length of the youth hunting seasons, HB 555 could create a conflict with other general hunting seasons. The bill could encourage youth to skip school when the youth hunting season conflicted with the school session. The Texas Parks and Wildlife Commission would be better suited to determine the duration of hunting seasons.

SUBJECT: Revising law of parties in capital murder cases seeking death penalty

COMMITTEE: Criminal Jurisprudence — favorable, without amendment

VOTE: 9 ayes — Moody, Cook, Bhojani, Bowers, Darby, Harrison, Leach, C. Morales, Schatzline

0 nays

WITNESSES: For — Allen Place, Texas Criminal Defense Lawyers Association; Jessica Dickerson, Texas Prisons Community Advocates; Nikki Pressley, Texas Public Policy Foundation, Right on Crime; Terri Been; (*Registered, but did not testify*: Lauren Johnson, ACLU of Texas; Ben Yisrael, Center for Justice Research; Justin Keener, Doug Deason; David Emerick, JPMorgan Chase & Co.; Shea Place, Texas Criminal Defense Lawyers Association; Joe Morris, Texas Game Warden Peace Officers Association; Scott Cobb, Texas Moratorium Network; Jennifer Allmon, The Texas Catholic Conference of Bishops)

Against — (*Registered, but did not testify*: Ray Hunt, HPOU; Lindy Borchardt, Phil Sorrells; Buddy Mills, Sheriffs Association of Texas; John Wilkerson, Texas Municipal Police Association)

BACKGROUND: Penal Code sec. 7.02 establishes the conditions under which a person is criminally responsible for an offense committed by another. Sec. 7.02(b) provides that if, in an attempt to carry out a conspiracy to commit a felony, another felony is committed by one of the conspirators, all conspirators are guilty of the felony actually committed if the offense was in furtherance of the unlawful purpose and should have been anticipated as a result of carrying out the conspiracy.

DIGEST: HB 1736 would specify that Penal Code sec. 7.02(b) would not apply to the prosecution of the offense of capital murder.

The bill would establish that, though having no intent to commit it, a conspirator was guilty of capital murder committed by a coconspirator

while attempting to carry out another felony only under the following conditions:

- the conspirator was a major participant in the conspiracy;
- in attempting to carry out the conspiracy, the conspirator acted with reckless indifference to human life; and
- the capital murder was committed to further the unlawful conspiracy.

A conspirator would be considered a major participant if the conspirator planned, organized, directed, or otherwise substantially participated in the specific conduct that resulted in the death of a victim.

Under HB 1737, a conspirator would be acting with reckless indifference to human life if the conspirator was aware of but consciously disregarded a substantial and unjustifiable risk that another conspirator intended to commit an act clearly dangerous to human life.

HB 1736 would remove whether or not the defendant anticipated that a human life would be taken as an issue to be considered by a jury in the sentencing phase of capital murder cases for a defendant who was found guilty under Penal Code sec. 7.02(b).

Not later than January 1, 2024, the Board of Pardons and Paroles would be required to review the criminal conviction of each inmate who was serving a sentence of death after having been found guilty only as a party under Penal Code sec. 7.02(b) to identify appropriate inmates to recommend to the governor for purposes of granting clemency. This provision would expire September 1, 2024.

The bill would take effect September 1, 2023, and would apply only to the prosecution of any element of offense committed on or after that date.

**SUPPORTERS
SAY:**

HB 1736 would strengthen the integrity of Texas' capital punishment system and ensure that the death penalty was reserved for the worst defendants who committed the most heinous crimes. In a capital murder case involving a defendant convicted under the law of parties, which allows courts to convict individuals of an offense committed by someone else in certain circumstances, a conspirator could be sentenced to death on

the basis that they should have anticipated that a human life would be taken. This premise allows individuals who did not knowingly and intentionally cause the death of an individual to be sentenced to death. HB 1736 would address this issue by limiting the imposition of the death penalty to cases in which a conspirator met certain conditions and caused the death of or intended to cause the death of the victim.

HB 1737 would bring statute in alignment with court rulings regarding the law of parties by requiring that a conspirator was a major participant and acted with reckless indifference to human life. The bill would not eliminate the state's ability to prosecute individuals under the law of parties. A jury could still impose a death sentence for conspirators who met the criteria in the bill and existing provisions. Individuals who did not meet the criteria in the bill would be sentenced appropriately.

CRITICS
SAY:

HB 1736 would be unnecessary as the sentencing process provides safeguards for a defendant determined guilty under the law of parties. During the sentencing phase of a trial for a capital case in which the state seeks the death penalty, a jury would be able to consider any evidence of the defendant's case that mitigates the imposition of the death penalty. By removing the requirement that the jury determine whether the defendant anticipated that a human life would be taken, HB 1736 would remove a determination that is important in establishing culpability, making the prosecution of a conspirator more difficult.

By requiring the Board of Pardons and Paroles to review criminal convictions of inmates serving a death sentence as a party to an offense, HB 1736 would place a undue burden on the board and would negate the resources counties and jurors expended to make a determination in a capital case. HB 1736 could result in lesser sentences for conspirators due to vague language regarding who would be considered a major participant.

- SUBJECT: Creating the artificial intelligence advisory council
- COMMITTEE: State Affairs — committee substitute recommended
- VOTE: 11 ayes — Hunter, Hernandez, Geren, Guillen, Metcalf, Raymond, Slawson, Smithee, Spiller, S. Thompson, Turner
- 0 nays
- 2 absent — Anchía, Dean
- WITNESSES: For — (*Registered, but did not testify*: Rahul Sreenivasan, Texas 2036; Fred Shannon, Texas Association of Manufacturers)
- Against — (*Registered, but did not testify*: Adam Cahn)
- On — (*Registered, but did not testify*: John Hoffman, Tx DIR)
- DIGEST: CSHB 2060 would establish an artificial intelligence (AI) advisory council consisting of:
- one member of the House of Representatives appointed by the speaker;
 - one member of the Senate appointed by the lieutenant governor;
 - the executive director of the Department of Information Resources (DIR) or the director's designee;
 - an academic professional specializing in ethics employed by an institution of higher education;
 - an academic professional specializing in AI systems employed by an institution of higher education;
 - an expert on law enforcement usage of AI systems; and
 - an expert in constitutional and legal rights.

The academic professionals and experts would be appointed by the governor. The members appointed by the speaker of the House and the lieutenant governor would serve as co-chairs of the council. The DIR would provide administrative support for the council. The council would

study and monitor AI systems developed, employed, or procured by state agencies. The council would be required to:

- assess the need for a state code of ethics for AI systems in state government;
- review automated decision systems inventory reports submitted by state agencies as required by the bill, including review of these systems' effect on residents' rights, duties, or privileges, as well as the potential risks and benefits of implementing such systems; and
- recommend administrative actions that state agencies could take without further legislative authorization.

Advisory council report. By December 1, 2024, the council would have to submit a report to the legislature that included:

- a summary of the council's findings after reviewing the automated decision systems inventory reports required by the bill;
- a summary of the recommendations of any relevant national bodies on AI systems in state government;
- an assessment of the impact of using AI systems in state government on the liberty and interests of Texas residents;
- recommendations of any policies necessary to protect Texas residents from certain negative effects caused by the use of AI systems in state government and to promote the development of ethical AI systems in state government; and
- any other information the council deemed relevant.

The council members would have to be appointed as soon as practicable after the bill's enactment, but no later than October 1, 2023. The council would be abolished January 1, 2025.

Automated decision systems inventory reports. By July 1, 2024, each state agency would be required to submit an inventory report of all automated decision systems that were being developed, used, or procured by the agency. For each system, the report would have to include a description of:

- the name and vendor of the automated decision system, if any;
- the system’s general capabilities, including those outside the scope of the agency’s proposed use and whether the system was or could be used for independent decision-making powers, and the impact of those decisions on Texas residents;
- the types of data inputs that the technology used;
- how the data was generated, collected, and processed;
- the types of data the system was likely to generate;
- whether the automated decision system had been tested by an independent third party, had a known bias, or was untested for bias;
- the purpose and proposed use of the system, including whether the system could make final decisions or only support human decision-making;
- how system data was securely stored and processed and whether the agency intended to share access to the system or data with another entity, and why; and
- the information technology fiscal impacts of the system, including costs, savings, and sources of funding.

The reports would be required to be submitted to the AI advisory council, DIR, and the House and Senate committees with primary jurisdiction over state agency information technology.

CSHB 2060 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, 2023.

**SUPPORTERS
SAY:**

CSHB 2060 would ensure that the Legislature received adequate information to exercise proper oversight of AI use by state agencies and would help the state develop ethically responsible standards for AI systems in state government. In 2019, the Legislature authorized state agencies to use AI systems, and DIR began efforts to support agencies in their adoption and development of AI systems. However, agencies are not required to participate in DIR’s support program, and many agencies are not connected to DIR’s services. CSHB 2060 is needed to provide the Legislature with a full picture of how AI is being employed across state government.

AI has the potential to solve difficult problems, create growth, and accelerate decision-making, but it also carries the risk of infringing on citizens' liberties, perpetuating biases, and producing other unintended consequences. The advisory council created by CSHB 2060 and the report it would produce are necessary tools that would enable and inform legislative as well as executive oversight. Once the council had completed its assigned task, it would sunset in 2025.

CRITICS
SAY:

Creating a new, specific state entity is not necessarily the best way to address concerns about the use of AI in state government.

- SUBJECT:** Creating an exemption for the filing of certain third-party affidavits
- COMMITTEE:** Judiciary & Civil Jurisprudence — committee substitute recommended
- VOTE:** 7 ayes — Leach, Julie Johnson, Flores, Murr, Schofield, Slawson, Vasut
1 nay — Davis
1 absent — Moody
- WITNESSES:** For — Corbin Van Arsdale, AGC-Texas Building Branch; Stephanie Cook (*Registered, but did not testify*: Geoffrey Tahuahua, Associated Builders and Contractors of Texas; Adam Leggett, Texas Water Infrastructure Network; Leticia Van de Putte, Zachry Corp)
Against — None
- BACKGROUND:** Civil Practice and Remedies Code sec. 150.002(a) states that any action or arbitration proceeding for damages arising out of the provision of professional services by a licensed or registered professional, a claimant is required to file with the complaint an affidavit of a third-party licensed architect, licensed professional engineer, registered landscape architect, or registered professional land surveyor who meet certain eligibility criteria.
Concerns have been raised that for some design-build projects in which design professionals and contractors are on the same design-build team, the current certificate of merit requirements have led to some parties admitting liability by getting a certificate of merit against their own team member, resulting in insurance coverage issues.
- DIGEST:** CSHB 2007 would add an exception to Civil Practice and Remedies Code sec. 150.002(a). A third-party plaintiff that was a member of a design-build team or firm would not be required to file an affidavit described in sec. 150.002(a) if the action or arbitration proceeding arisen out of a design-build project in which a governmental entity contracted with a single entity to provide both construction and design services for certain construction, expansion, rehabilitation, or alternation projects.

- SUBJECT:** Allowing certain juvenile justice proceedings to be conducted remotely
- COMMITTEE:** Juvenile Justice & Family Issues — committee substitute recommended
- VOTE:** 9 ayes — Dutton, Lujan, Cook, Leo-Wilson, J. Lopez, Martinez Fischer, Smithee, Talarico, Wu
- 0 nays
- WITNESSES:** For — Tina Lincoln, Hill County Juvenile Probation Officer; Marc Bittner, Juvenile Probation Department, serving the counties of Blanco, Burnet, Gillespie, Llano, and San Saba; Linette Dury, Medina County Juvenile Probation; William Carter (*Registered, but did not testify*: Laura Nodolf, Midland County District Attorney's Office; Sarah Crockett, Texas CASA; Alycia Castillo, Texas Center for Justice and Equity)
- Against — (*Registered, but did not testify*: Joanne Bradley, Kendall County Juvenile Probation; Stephanie Richardson, Tarrant County Criminal District Attorney Phil Sorrells)
- On — Jana Jones, Jack Choate, Special Prosecution Unit
- DIGEST:** CSHB 422 would allow a juvenile court to conduct a hearing or other proceeding remotely without the consent of the parties unless the United States or Texas Constitution required consent. Juvenile courts also could allow or require a party, attorney, witness, court reporter, or any other individual to participate in remote proceedings, including depositions and hearings. The bill also would repeal certain requirements related to video hearings, including requirements for children and their attorneys to agree to a video hearing before such hearings can take place.
- The judge of a juvenile court would be required to submit a plan for conducting remote proceedings to the Office of Court Administration that included protocols for handling physical evidence and required an unobstructed view of any party or witness who provided testimony from a remote location.
- The bill would take effect September 1, 2023.

- SUPPORTERS SAY:** CSHB 422 would encourage efficiency for certain juvenile court hearings by allowing them to be conducted remotely. The bill could reduce the costs and time associated with holding in-person hearings and reduce the potential safety risks associated with transporting youth to in-person hearings. This would be especially helpful for rural counties that often have to transport youth long distances for short proceedings. Parents also could participate more easily if the hearings were held remotely. The bill would give judges sole authority on whether to conduct hearings remotely and would not apply to jury trials.
- CRITICS SAY:** The bill should require that all parties consented to remote proceedings to ensure that everyone was in agreement. Remote proceedings also could make it more difficult to determine who was present at the proceeding.

- SUBJECT:** Enhancing the penalty for providing alcohol to a minor in certain cases
- COMMITTEE:** Licensing & Administrative Procedures — favorable, without amendment
- VOTE:** 8 ayes — K. King, Walle, Goldman, Harless, Hernandez, T. King, Patterson, S. Thompson
- 0 nays
- 3 absent — Herrero, Schaefer, Shaheen
- WITNESSES:** For — Dusty Boyd, Coryell County District Attorney Office; Christopher Sandell; Jimmy Tennison (*Registered, but did not testify*: Rick Donley, Beer Alliance of Texas; Mia McCord, Consumer Choice Coalition; James Parnell, Dallas Police Association; Jessica Anderson, Houston Police Department; John Wilkerson, Texas Municipal Police Association; Lance Lively, Texas Package Stores Association; JP Urrabazo, The Beer Alliance of Texas; Tom Spilman, Wholesale Beer Distributors of Texas; Ricky Knox, Wine and Spirits Wholesalers of Texas; Thomas Parkinson; Tonya Tennison)
- Against — None
- DIGEST:** HB 420 would reenact and amend Alcoholic Beverage Code sec. 106.06(a) to specify that a person committed an offense if the person purchased an alcoholic beverage for or gave or with criminal negligence made available an alcoholic beverage to a minor and that the element of criminal negligence was removed from the offenses of purchasing alcohol for or giving alcohol to a minor.
- HB 420 would provide an exception to the class A misdemeanor (up to one year in jail and/or a maximum fine of \$4,000) for the above offenses. An offense under this section would be a state-jail felony (180 days to two years in a state jail and an optional fine of up to \$10,000) if the person purchased an alcoholic beverage for or gave or made an alcoholic beverage available to a minor who, as a result of the consumption of the

alcoholic beverage, caused another person to suffer serious bodily injury or death.

The bill would take effect September 1, 2023, and would apply only to an offense committed on or after that date.

**SUPPORTERS
SAY:**

In the last year, several children were seriously injured or died due to DWIs, causing significant suffering for the children and their families. The punishment for providing minors with alcohol in these cases does not fit the crime. HB 420, by enhancing the penalty for certain cases that caused serious bodily injury or death, would provide prosecutors with another tool to improve accountability for people who provided alcohol to minors. The bill would provide the option to assess whether a felony was a fitting charge for an offense after the facts were considered. The bill would not affect cases involving common negligence, such as when an adult may have left alcohol at home without the intention of providing alcohol to the minor.

**CRITICS
SAY:**

No concerns identified.

- SUBJECT: Requiring notice of medical waste permit application filing
- COMMITTEE: Environmental Regulation — favorable, without amendment
- VOTE: 9 ayes — Landgraf, Guerra, K. Bell, Dean, Kuempel, J. Lopez, Meza, Morales Shaw, Reynolds
- 0 nays
- WITNESSES: For — (*Registered, but did not testify*: Guadalupe Cuellar, City of El Paso; Alexa Aragonéz, City of Houston, Mayor's Office; Jason Sabo, Environment Texas; Cyrus Reed, Lone Star Chapter Sierra Club; Adrian Shelley, Public Citizen; Julie Wheeler, Travis County Commissioners Court)
- Against — None
- On — Brenda Haney, Texas Lone Star Chapter of the Solid Waste Association of North America (*Registered, but did not testify*: Charly Fritz, Texas Commission on Environmental Quality (TCEQ))
- DIGEST: HB 26 would require an applicant for a permit to construct, operate, or maintain a medical waste facility to provide notice of the application or notice of intent to file an application to certain elected officials within 30 days of filing. Notice would be provided to:
- the state senator and representative for the area proposed as the facility location;
 - the commissioners court of the applicable county;
 - the governing body of the applicable municipality;
 - the governing body of any applicable school district; and
 - the tribal council of any applicable Indian tribe on whose tribal lands the facility may be located.
- The applicant would be required to submit to the Texas Commission on Environmental Quality (TCEQ) proof that notice was provided.

The bill would take effect September 1, 2023. The bill would apply only to applications for medical waste facility permits submitted to TCEQ on or after the effective date of the bill.

**SUPPORTERS
SAY:**

HB 26 would promote transparency by giving community leaders the chance to participate in the medical waste permitting process. The bill would provide more awareness to communities of the location in which a facility planned to operate so that they could review, comment, and provide input.

**CRITICS
SAY:**

No concerns identified.

SUBJECT: Amending duties and composition of Specialty Courts Advisory Council

COMMITTEE: Judiciary & Civil Jurisprudence — favorable, without amendment

VOTE: 9 ayes — Leach, Julie Johnson, Davis, Flores, Moody, Murr, Schofield,
Slawson, Vasut

0 nays

WITNESSES: For — (*Registered, but did not testify*: Jennifer Balido, Dallas County
Criminal District Attorney John Cruzot)

Against — None

BACKGROUND: Government Code sec. 772.0061(a)(2) establishes the following courts as
“specialty courts” for the purposes of the Specialty Courts Advisory
Council:

- commercially sexually exploited persons court programs;
- family drug court programs;
- drug court programs;
- veterans treatment court programs;
- mental health court programs; and
- public safety employees treatment court programs.

Sec. 772.0061(b)(2) establishes the Specialty Courts Advisory Council's
role in recommending best practices for specialty courts to the governor's
criminal justice division.

Sec. 772.0061(c) establishes the membership of the Specialty Courts
Advisory Council as the following:

- one member with experience as the judge of a commercially
sexually exploited persons court program;
- one member with experience as the judge of a family drug court
program;
- one member with experience as the judge of a drug court program;

- one member with experience as the judge of a veterans treatment court program; and
- five members who represent the public.

DIGEST: HB 2741 would amend Government Code sec. 772.0061(a)(2) to include a juvenile family drug court program in the list of specialty courts under the Specialty Courts Advisory Council.

The bill would amend Government Code sec. 772.0061(b)(2) to require that the Specialty Court Advisory Council's best practices recommendations be made to the Texas Judicial Council and Office of Court Administration of the Texas Judicial System, in addition to the governor's criminal justice division.

Required membership of the Specialty Court Advisory Council would be amended to consist of four judges, each of whom must have experience as a judge in at least one specialty court, and five members representing the public.

The bill would take effect September 1, 2023.

SUPPORTERS SAY: HB 2741 would add a recently established specialty court to the Specialty Courts Advisory Council. Additionally, the bill would update the Specialty Courts Advisory Council's role by requiring them to provide recommendations to two new entities which have since assumed the function of the governor's criminal justice division. The bill also would grant more flexibility in appointing judges to the Specialty Court Advisory Council by increasing the pool of eligible judges and allowing for experience in additional areas.

CRITICS SAY: No concerns identified.

SUBJECT: Requiring school districts to adopt policies relating to opioid antagonists

COMMITTEE: Public Education — committee substitute recommended

VOTE: 13 ayes — Buckley, Allen, Allison, Cunningham, Dutton, Cody Harris, Harrison, Hefner, Hinojosa, K. King, Longoria, Schaefer, Talarico

0 nays

WITNESSES: For — Laura Colangelo, Texas Private Schools Association; Rebecca Harkleroad, Texas School Nurses Organization (*Registered, but did not testify*); Julia Grizzard, Bexar County Education Coalition; Bill Kelly, Mayor’s Office, City of Houston; Christine Yanas, Methodist Healthcare Ministries; Greg Hansch, National Alliance on Mental Illness Texas; Kelsey Kling, Texas American Federation of Teachers; Barry Haenisch, Texas Association of Community Schools; Amy Beneski, Texas Association of School Administrators; Alycia Castillo, Texas Center for Justice and Equity; David Reynolds, Texas Chapter American College of Physicians Services; Paige Williams, Texas Classroom Teachers Association; Isabel Casas, Texas Council of Community Centers; Sara Gonzalez, Texas Hospital Association; Michelle Romero, Texas Medical Association; Jill Sutton, Texas Osteopathic Medical Association; Clayton Travis, Texas Pediatric Society; Suzi Kennon, Texas PTA; Bryce Adams, Texas Public Charter Schools Association; AJ Louderback, Texas Sheriffs Regional Alliance; Jennifer Allmon, The Texas Catholic Conference of Bishops; Cynthia Van Maanen, Travis County Democratic Party; and 10 individuals)

Against — None

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

DIGEST: CSHB 2411 would require school districts to adopt and implement a policy at each campus serving students in grades 6 through 12 on the maintenance, administration, and disposal of opioid antagonists, which are drugs that inhibit the effects of opioids. School districts could implement a

policy at each campus in the district, including campuses serving students in a grade level below 6. Open-enrollment charter schools or private schools could adopt and implement such a policy only at campuses serving students grades 6 through 12 or could apply the policy at each campus of the school.

Opioid antagonist policies. The policy would be required to:

- allow school personnel and volunteers who are authorized and trained to administer an opioid antagonist to a person who is reasonably believed to be experiencing an opioid-related overdose;
- require each school campus subject to the policy to have one or more school personnel or volunteers authorized or trained to administer an opioid antagonist present during regular school hours;
- establish the number of opioid antagonists that would have to be available at each campus; and
- require the supply of opioid antagonists to be stored in a secure location and to be easily accessible to authorized and trained personnel and volunteers.

The executive commissioner of the Health and Human Services Commission (HHSC) would be required to consult with the Texas Education Agency (TEA) commissioner to adopt rules on the maintenance, administration, and disposal of opioid antagonists at a school campus subject to a policy under the bill. The rules would have to establish the process for checking the inventory of opioid antagonists for expiration and replacement at regular intervals and the amount of training required for school personnel and volunteers to administer an opioid antagonist.

Training. Each school district, charter school, and private school that adopted an opioid antagonist policy would be responsible for training school personnel and volunteers in administering opioid antagonists. The training would have to include information on recognizing the signs and symptoms of opioid-related drug overdoses, administering an opioid antagonist, and properly disposing of a used or expired opioid antagonist. The training also would have to be provided in a formal training session

or through online education and in accordance with the school's professional development policy.

Reporting the administration of opioid antagonists. Within 10 business days of administering an opioid antagonist, the school would be required to make a report to:

- the school district, charter holder, or governing body;
- the physician or other person who prescribed the opioid antagonist; and
- the commissioner of state health services.

The report would have to include:

- the age of the person who received the opioid antagonist;
- whether the person who received the opioid antagonist was a student, school personnel member or volunteer, or a visitor;
- the physical location where the opioid antagonist was administered;
- the number of doses administered;
- the title of the person who administered the opioid antagonist; and
- any other information that the TEA commissioner required.

Prescription of opioid antagonists. A physician or person who has been delegated prescriptive authority could prescribe for opioid antagonists in the name of a school district, charter schools, or private schools. A physician or other person would have to provide the school district, charter school, or private schools with a standing order for administering an opioid antagonist to a person reasonably believed to be experiencing an opioid-related drug overdose. The standing order would not have to be patient-specific and could be administered to a person without a previously established physician-patient relationship. Notwithstanding any other statute, a physician's supervision or delegation would be adequate if the physician periodically reviewed the order and was available through direct telecommunication as needed. The standing order would have to contain:

- the name and signature of the prescribing physician or other person;
- the name of the school district, charter school, or private school to which the order was issued;
- the quantity of opioid antagonists obtained and maintained under the order; and
- the issue date.

A pharmacist could dispense an opioid antagonist to a school district, charter school, or private school without requiring the name or other identifying information related to the user.

Immunity from liability. A person who took or failed to take any action in good faith under the provisions of the bill would be immune from civil or criminal liability or disciplinary action resulting from the action or inaction, including certain actions relating to administering, possessing, prescribing, dispensing, or providing training for use of an opioid antagonist or any other act permitted or required under the bill. These immunities or limitations of liability would be in addition to other immunities or limitations of liability provided by law.

The bill would not create a civil, criminal, or administrative cause of action, a liability, or a standard of care, obligation, or duty that would be a basis for a cause of action for an act or omission under the bill. A school district, charter school, or private school would be immune from suit resulting from an act or failure to act under the bill or related policies and procedures. An act or failure to act would be considered the exercise of judgment or discretion for the school personnel or volunteer and would not be a ministerial act for the purposes of liability.

Rules. The TEA commissioner and the HHSC executive commissioner would jointly adopt rules as necessary, except as otherwise specified by the bill.

Gifts, grants, and donations. A school district, charter school, or private school could accept gifts, grants, donations, and federal and local funds to implement a policy under the bill.

Opioid abatement account. The bill would allow a state agency to use money appropriated from the opioid abatement account for school policies related to the maintenance, administration, and disposal of opioid antagonists.

Other provisions. The executive commissioner of HHSC, in consultation with the commissioner of TEA would be required to adopt rules by November 1, 2023. School districts would not be required to comply with the bill until January 1, 2024.

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, 2023.

**SUPPORTERS
SAY:**

CSHB 2411 would save lives in schools by requiring districts to implement a policy on storing and administering opioid antagonists, more commonly known as naloxone or Narcan. Charter schools and private schools also would have the option to implement these policies. The opioid crisis affects children as well as adults, and many children do not know they are ingesting fentanyl when they overdose. Increasing access to naloxone on school campuses would help schools more effectively respond to an overdosing student.

Some school districts already stock naloxone, but not all do. CSHB 2411 would ensure that schools across the state have access to naloxone. Naloxone has no potential for abuse and has no negative effects if it is administered to a person who is not experiencing an opioid overdose. The bill would guide schools in adopting these policies while allowing them flexibility to meet their own needs, helping them to address opioid overdoses on campuses.

**CRITICS
SAY:**

While CSHB 2411 would improve access to naloxone on school campuses, school policies also should include a plan to provide emergency medical care to people after they have received a dose of naloxone.

SUBJECT: Amending the offense of voyeurism to include electronic means

COMMITTEE: Criminal Jurisprudence — favorable, without amendment

VOTE: 9 ayes — Moody, Cook, Bhojani, Bowers, Darby, Harrison, Leach, Morales, Schatzline

0 nays

WITNESSES: For — (*Registered, but did not testify*: Chris Jones, Combined Law Enforcement Associations of Texas; M Paige Williams, Dallas County Criminal District Attorney John Creuzot; James Parnell, Dallas Police Association; Ray Hunt, HPOU; Tiana Sanford, Montgomery County District Attorney’s Office; John Wilkerson, Texas Municipal Police Association; AJ Louderback, Texas Sheriffs Regional Alliance; Kai Bovik; Thomas Parkinson; Calvin Tillman)

Against — (*Registered, but did not testify*: Norma Farias)

BACKGROUND: Penal Code sec. 21.17(a) states that a person commits an offense if, with the intent to arouse or gratify their own sexual desire, observes another person without the other person’s consent while the other person is in a dwelling or structure where there is a reasonable expectation of privacy.

DIGEST: HB 2306 would amend Penal Code sec. 21.17(a) to include observing another individual remotely through the use of electronic means.

The bill would take effect September 1, 2023.

SUPPORTERS SAY: HB 2306 would close a loophole in current voyeurism laws to clarify that voyeurism done remotely through electronic means would constitute an offense.

CRITICS SAY: No concerns identified.

- SUBJECT:** Establishing a criminal justice system sentencing database
- COMMITTEE:** Judiciary & Civil Jurisprudence — favorable, without amendment
- VOTE:** 8 ayes — Leach, Julie Johnson, Davis, Flores, Murr, Schofield, Slawson, Vasut
- 0 nays
- 1 absent — Moody
- WITNESSES:** For — Luis Soberon, Texas 2036 (*Registered, but did not testify*: M Paige Williams, Dallas County Criminal District Attorney John Creuzot; Jessica Anderson, Houston Police Department; Guy Herman, Presiding Judge of the Statutory Probate Courts of Texas)
- Against — None
- On — Louis Tomasetti, Office of Court Administration
- DIGEST:** HB 3937 would direct the Office of Court Administration (OCA) to establish a database of defendant sentencing information, which would be free and accessible to the public. For each defendant convicted of a Class B misdemeanor or higher category of offense, the database would include:
- the age and zip code of the defendant at the time of the offense;
 - the defendant's indigence status;
 - the defendant's race, ethnicity, and gender;
 - information on the offense(s) for which the defendant was sentenced, including: a) each offense and its category; b) the provision of law under which the defendant was sentenced; and c) the date on which the offense(s) occurred and the sentencing date;
 - the length of confinement, imprisonment, probation, or community supervision;
 - in the case of multiple sentences, whether the sentences were ordered to be served consecutively or concurrently;
 - the amount of any applicable court fee, fine, and restitution;

- all charges brought against the defendant;
- any penalty enhancements applied;
- the amount and type of any court-ordered bail;
- any credit for time served;
- any requirement to attend a pretrial diversion or treatment program and which one;
- the defendant's plea;
- any accepted or rejected plea bargain agreement;
- any jury-assessed punishment and recommended sentence;
- whether the defendant was convicted in a jury or bench trial;
- the defendant's type of legal representation;
- the category of facility to which the defendant was sentenced; and
- for drug offense(s), substance information.

This information would not be required to be removed from the database if an order of expunction was issued. The bill would require OCA to publish the data in electronic format on the OCA's website no later than April 1, 2024. HB 3937 would require the data to be updated monthly and be searchable by each of the data elements included in the database. The bill would prohibit the publishing of information disclosing the defendant's name or other identifying information, or that of any other individual involved in the defendant's sentencing.

Under the bill, a court would not be required to submit information to OCA regarding any sentencing that occurred before January 1, 2024. 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, 2023.

**SUPPORTERS
SAY:**

HB 3937 would provide transparency regarding the criminal legal system, while protecting the identity of defendants, in establishing a new database collecting detailed information on the process. Policy makers are limited in their ability to analyze and effectively act on criminal justice trends and outcomes since there is currently no centralized sentencing database. The bill would provide a greater understanding of the factors driving justice involvement, prison populations, and the equities impacted by the current system.

The public also would benefit from the bill by gaining insight on the criminal justice system to assess how their tax dollars were being spent. Funding for the IT upgrades necessary at OCA for this database has already been accounted for in both the House and the Senate base budget.

CRITICS
SAY:

No concerns identified.

NOTES:

According to the Legislative Budget Board, the bill would have an estimated negative impact of \$6 million to general revenue related funds through fiscal 2025. The bill would make no appropriation, but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.