

# HOUSE JOURNAL

---

SEVENTY-FOURTH LEGISLATURE, REGULAR SESSION

---

## PROCEEDINGS

SEVENTY-EIGHTH DAY — MONDAY, May 22, 1995

The house met at 10 a.m. and was called to order by the speaker.

The roll of the house was called and a quorum was announced present (Record 497).

Present — Mr. Speaker; Alexander; Allen; Alonzo; Alvarado; Averitt; Bailey; Berlanga; Black; Bosse; Brady; Brimer; Carona; Carter; Chisum; Clemons; Coleman; Combs; Conley; Cook; Corte; Counts; Crabb; Craddick; Cuellar, H.; Cuellar, R.; Culberson; Danburg; Davila; Davis; De La Garza; Delisi; Denny; Driver; Dukes; Duncan; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Farrar; Finnell; Gallego; Giddings; Glaze; Goodman; Goolsby; Gray; Greenberg; Grusendorf; Gutierrez; Haggerty; Hamric; Harris; Hartnett; Hawley; Heflin; Hernandez; Hightower; Hilderbran; Hill; Hirschi; Hochberg; Holzheuser; Horn; Howard; Hudson; Hunter, B.; Hunter, T.; Jackson; Janek; Johnson; Jones, D.; Jones, J.; Junell; Kamel; King; Krusee; Kubiak; Kuempel; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Marchant; Maxey; McCall; McCoulskey; McDonald; Moffat; Moreno; Mowery; Munoz; Naishtat; Nixon; Oakley; Ogden; Oliveira; Park; Patterson; Pickett; Pitts; Place; Puente; Rabuck; Ramsay; Rangel; Raymond; Reyna; Rhodes; Rodriguez; Romo; Rusling; Sadler; Saunders; Seidlits; Serna; Shields; Siebert; Smithee; Solis; Solomons; Staples; Stiles; Swinford; Talton; Telford; Thompson; Tillery; Torres; Turner, S.; Uher; Van de Putte; Walker; West; Williamson; Willis; Wilson; Wohlgemuth; Wolens; Woolley; Yarbrough; Yost; Zbranek.

Absent, Excused — Hilbert; Turner, B.

Absent, Excused, Committee Meeting — Dear.

Absent — Price.

The invocation was offered by Representative B. Hunter.

### **LEAVES OF ABSENCE GRANTED**

The following member was granted leave of absence for today to attend a meeting of the conference committee on SB 1:

Dear on motion of West.

The following member was granted leave of absence for today because of important business in the district:

Hilbert on motion of Shields.

The following member was granted leave of absence temporarily for today because of important business:

B. Turner on motion of West.

**MESSAGE FROM THE SENATE**

Austin, Texas, May 22, 1995

The Honorable Speaker of the House of Representatives  
House Chamber

The Honorable  
Mr. Speaker:

I am directed by the Senate to inform the House that the Senate has passed the following:

**Local and Uncontested Bills**

**HCR 4** by Saunders, et al. (Sponsor-Armbrister), authorizing the State Preservation Board to provide for the planting of a tree on the Capitol grounds in memory of Dorothy Sanders.

**HCR 92** by Hunter, Bob (Sponsor-Wentworth), establishing the Governor's Awards for Excellence in the Arts, Humanities, and Sciences.

**HCR 186** by Johnson (Sponsor-Montford), endorsing and announcing the creation and appointment of an Events Subcommittee for the observance of the State of Texas Sesquicentennial (committee substitute).

**HB 238** by Driver and Naishtat (Sponsor-Barrientos), relating to the use of assistance dogs for persons with disabilities; providing an offense (amended).

**HB 941** by Stiles (Sponsor-West, Royce), relating to the service and return of a subpoena in a criminal proceeding.

**HB 1329** by Goolsby (Sponsor-Leedom), relating to cancellation of certain alcoholic beverage licenses for failure to pay local fees.

**HB 1405** by Holzhouser (Sponsor-Armbrister), relating to facility response plans for hazardous liquids pipelines (amended).

**HB 1434** by Hochberg (Sponsor-Ellis), relating to the claiming of the exemption from ad valorem taxation provided for certain property of a medical center development.

**HB 1644** by Hirschi (Sponsor-Zaffirini), relating to the improper disposal of medical waste; providing criminal penalties.

**HB 1698** by Maxey and Naishtat (Sponsor-Barrientos), relating to requiring a health and human services agency to inform certain clients or patients of a community-based service options (amended).

**HB 1763** by Brimer and Maxey (Sponsor-Rosson), relating to allowing the holder of a brewpub license to participate in an organized competition, review, or judging.

**HB 1770** by Lewis, Ron (Sponsor-Ellis), relating to the ability of voters in certain counties to petition a commissioners court to increase the salary of members of the county sheriff's department (amended).

**HB 2027** by Yarbrough (Sponsor-Gallegos), relating to the regulation of tanning facilities; providing civil and administrative penalties (committee substitute).

**HB 2230** by Hunter, Todd (Sponsor-Armbrister), relating to the election of commissioners of the Calhoun County Navigation District.

**HB 2314** by Gutierrez, Cuellar, Renato, De La Garza, Munoz, and Rangel (Sponsor-Lucio), relating to the election of the members of the board of trustees of South Texas Community College.

**HB 2365** by Oliveira (Sponsor-Lucio), relating to county licenses for business establishments on public beaches.

**HB 2943** by Greenberg, Naishtat, Maxey, Combs, and Dukes (Sponsor-Barrientos), relating to public retirement systems for employees of certain municipalities (amended).

**HB 3062** by Combs (Sponsor-Wentworth), relating to the windows and windshields of certain law enforcement vehicles.

Respectfully,  
Betty King  
Secretary of the Senate

### CAPITOL PHYSICIAN

Speaker Laney presented Dr. Max Latham of Sulphur Springs as the "Doctor for the Day."

The house welcomed Dr. Latham and thanked him for his participation in the Physician of the Day Program sponsored by the Texas Academy of Family Physicians.

### SIGNED BY THE SPEAKER

The speaker signed in the presence of the house, after giving due notice thereof, the following enrolled bills and resolutions:

**HB 27, HB 384, HB 668, HB 670, HB 686, HB 699, HB 869, HB 949, HB 1111, HB 1341, HB 1343, HB 1543, HB 1583, HB 1989, HB 2015, HB 2078, HB 2151, HB 2245, HB 2278, HB 2459, HB 2587, HB 2599, HB 2624, HB 2674, HB 3122, HB 3226, HJR 50, HCR 32, HCR 174**

### LEAVE OF ABSENCE GRANTED

The following member was granted leave of absence temporarily for today because of important business:

Price on motion of Edwards.

### HCR 219 - ADOPTED

Representative Kubiak moved to suspend all necessary rules to take up and consider at this time **HCR 219**.

The motion prevailed without objection.

The speaker laid before the house the following resolution:

By Kubiak,

**HCR 219**, In memory of Seferino Cabrera Romo.

The resolution was read and was unanimously adopted by a rising vote.

On motion of Representative Johnson, the names of all the members of the house were added to **HCR 219** as signers thereof.

### INTRODUCTION OF GUESTS

The speaker recognized Representative Kubiak, who introduced the family of Seferino Cabrera Romo.

**HR 872**

**HR 872**, recognizing May 22, 1995, as Jasper Day at the Capitol, having been previously adopted, was read.

**HR 1008 - ADOPTED**

Representative Combs moved to suspend all necessary rules to take up and consider at this time **HR 1008**.

The motion prevailed without objection.

The speaker laid before the house the following resolution:

By Combs,

**HR 1008**, In memory of Tara Nicole Biggs.

The resolution was unanimously adopted by a rising vote.

**HR 1003 - ADOPTED**

Representatives Davila and Woolley moved to suspend all necessary rules to take up and consider at this time **HR 1003**.

The motion prevailed without objection.

The speaker laid before the house the following resolution:

By Davila,

**HR 1003**, Honoring Tomas Diaz for his role as the 1995 Muscular Dystrophy Association's Goodwill Ambassador.

The resolution was read and was adopted without objection.

**INTRODUCTION OF GUESTS**

The speaker recognized Representatives Davila and Woolley, who introduced Tomas Diaz and his family.

Camilo and Mona Diaz, Tomas Diaz's parents, addressed the house briefly.

**HR 955 - ADOPTED**

Representative Raymond moved to suspend all necessary rules to take up and consider at this time **HR 955**.

The motion prevailed without objection.

The speaker laid before the house the following resolution:

By Raymond,

**HR 955**, In memory of Captain Robert "Bobby" Smithwick, Jr., of the Jim Wells County Sheriff's Department.

The resolution was read and was unanimously adopted by a rising vote.

**INTRODUCTION OF GUESTS**

The speaker recognized Representative Raymond, who introduced the family of Captain Robert "Bobby" Smithwick, Jr.

**SIGNED BY THE SPEAKER**

The speaker signed in the presence of the house, after giving due notice thereof, the following enrolled bills:

**SB 209, SB 221, SB 240, SB 255, SB 267, SB 329, SB 378, SB 406, SB 443**

**INTRODUCTION OF GUEST**

The speaker recognized Representative B. Hunter, who introduced Dr. Heinrich Neisser, speaker of the Austrian Parliament.

Dr. Neisser addressed the house briefly.

**INTRODUCTION OF GUESTS**

The speaker recognized Representative Carter, who introduced exchange students from Spain, Holland, and Mexico, and their Texan hosts.

**HR 1006 - ADOPTED**

Representative Seidlits moved to suspend all necessary rules to take up and consider at this time **HR 1006**.

The motion prevailed without objection.

The speaker laid before the house the following resolution:

By Seidlits,

**HR 1006**, In memory of Secret Service Agent Cindy Campbell-Brown.

The resolution was read and was unanimously adopted by a rising vote.

On motion of Representative Uher, the names of all the members of the house were added to **HR 1006** as signers thereof.

**INTRODUCTION OF GUESTS**

The speaker recognized Representative Seidlits, who introduced the family and friends of Secret Service Agent Cindy Campbell-Brown.

**HR 1007 - ADOPTED**

Representative McDonald moved to suspend all necessary rules to take up and consider at this time **HR 1007**.

The motion prevailed without objection.

The speaker laid before the house the following resolution:

By McDonald,

**HR 1007**, Honoring Charles E. Black on the occasion of his retirement.

The resolution was adopted without objection.

**HR 934 - ADOPTED**

Representative Johnson moved to suspend all necessary rules to take up and consider at this time **HR 934**.

The motion prevailed without objection.

The speaker laid before the house the following resolution:

By Johnson,

**HR 934**, Congratulating Lorene Cariker Dorsey on the occasion of her 100th birthday.

The resolution was adopted without objection.

**HR 1013 - ADOPTED**

Representative Dutton moved to suspend all necessary rules to take up and consider at this time **HR 1013**.

The motion prevailed without objection.

The speaker laid before the house the following resolution:

By Dutton,

**HR 1013**, Congratulating Mr. and Mrs. Felton Lawrence on their 60th wedding anniversary.

The resolution was adopted without objection.

**HR 1011 - ADOPTED**

Representative Carona moved to suspend all necessary rules to take up and consider at this time **HR 1011**.

The motion prevailed without objection.

The speaker laid before the house the following resolution:

By Carona,

**HR 1011**, Honoring Sue Daniel on her selection as Volunteer of the Year for Senate District 16 by the State Republican Executive Committee.

The resolution was adopted without objection.

**HCR 220 - ADOPTED**

Representative Swinford moved to suspend all necessary rules to take up and consider at this time **HCR 220**.

The motion prevailed without objection.

The speaker laid before the house the following resolution:

By Swinford,

**HCR 220**

WHEREAS, **HB 280** has been adopted by the house of representatives and the senate; and

WHEREAS, The bill contains grammatical and typographical errors that need correction; now, therefore, be it

RESOLVED, That the enrolling clerk of the house of representatives be hereby instructed to make the following corrections:

(1) In added Section 87.001(3)(D), Civil Practice and Remedies Code, place a comma after "riding".

(2) In added Section 87.001(4)(A), Civil Practice and Remedies Code, strike "a" preceding "high school".

(3) In added Section 87.003(5), Civil Practice and Remedies Code, strike "potential or" and substitute "potential of".

The resolution was adopted without objection.

### RESOLUTIONS REFERRED TO COMMITTEES

The following resolutions were laid before the house and referred to committees:

By Gallego,

**HR 992**, Commemorating the naming of a mountain in Big Bend National Park for the Honorable Calvin C. Huffman.

To Committee on Rules and Resolutions.

By Maxey,

**HR 993**, Honoring Mr. and Mrs. Beauford Gorhum on their 50th wedding anniversary.

To Committee on Rules and Resolutions.

By Hochberg and Edwards,

**HR 1000**, In memory of Malcolm Bruce McNeil.

To Committee on Rules and Resolutions.

By Giddings,

**HR 1001**, Recognizing June 16, 1995, as the Day of the African Child.

To Committee on Rules and Resolutions.

By Coleman,

**HR 1004**, Honoring Jo Ann Williams.

To Committee on Rules and Resolutions.

By Shields,

**HR 1005**, Honoring Shirley Trevor on the occasion of her retirement.

To Committee on Rules and Resolutions.

By B. Turner,

**HCR 215**, Requesting the lieutenant governor and speaker to create a joint interim committee on technical education.

To Committee on House Administration.

By Wilson,

**HCR 218**, Directing the Department of Public Safety to study the rate of traffic tickets issued to racial and ethnic minorities.

To Committee on Public Safety.

**SCR 162**, Designating May, 1995, as "Child Focused Accident, Injury, and Illness Prevention Month."

To Committee on Rules and Resolutions.

**SCR 163**, Saluting the First Baptist Church of Marshall, Texas, on its 150th anniversary.

To Committee on Rules and Resolutions.

**SB 369 ON THIRD READING**  
**(Black - House Sponsor)**

The speaker laid before the house, as postponed business, on its third reading and final passage,

**SB 369**, A bill to be entitled An Act relating to the continuation and functions of the State Preservation Board.

The bill was read third time on May 16, postponed until May 18, and was again postponed until 10 a.m. today.

Representative Black moved to postpone consideration of **SB 369** until 10 a.m. Wednesday, May 24.

The motion prevailed without objection.

**SB 141 ON SECOND READING**  
**(Hochberg, Naishtat, Farrar, and Greenberg - House Sponsors)**

The speaker laid before the house, as postponed business, on its second reading and passage to third reading,

**SB 141**, A bill to be entitled An Act relating to the prosecution of and punishment for an offense motivated by bias or prejudice.

**SB 141** was read second time on May 19 and was postponed until 10 a.m. today.

Representative Chisum raised a point of order against further consideration of **SB 141** on the grounds that **SB 141** violates Rule 4, Section 18, of the House Rules.

The speaker overruled the point of order.

(Black in the chair)

(Speaker in the chair)

(Stiles in the chair)

Representative Chisum moved to table **SB 141**.

(Speaker in the chair)

A record vote was requested.

The vote of the house was taken on the motion to table **SB 141** and the vote was announced yeas 73, nays 68.

A verification of the vote was requested and was granted.

The roll of those voting yea was again called and the verified vote resulted, as follows (Record 498): 70 Yeas, 68 Nays, 1 Present, not voting.

Yeas — Allen; Averitt; Black; Brimer; Carona; Carter; Chisum; Clemons; Cook; Corte; Counts; Crabb; Craddick; Culberson; Delisi; Denny; Driver; Duncan; Elkins; Finnell; Goodman; Goolsby; Grusendorf; Hamric; Harris; Hartnett; Heflin; Hightower; Hilderbran; Hill; Holzheuser; Horn; Howard; Hunter, B.; Jackson; Janek; Johnson; Jones, D.; Junell; Kamel; Krusee; Kubiak; Kuempel; Lewis, R.; Madden; McCall; Moffat; Mowery; Nixon; Ogden; Park;



Patterson; Pitts; Rabuck; Ramsay; Reyna; Rusling; Shields; Siebert; Smithee; Solomons; Staples; Stiles; Talton; Telford; West; Wilson; Wohlgemuth; Woolley; Yost.

Nays — Alexander; Alonzo; Alvarado; Bailey; Berlanga; Bosse; Brady; Coleman; Combs; Conley; Cuellar, H.; Cuellar, R.; Danburg; Davila; Davis; De La Garza; Dukes; Dutton; Ehrhardt; Eiland; Farrar; Gallego; Giddings; Glaze; Gray; Greenberg; Gutierrez; Haggerty; Hawley; Hernandez; Hirschi; Hochberg; Hudson; Hunter, T.; Jones, J.; King; Lewis, G.; Longoria; Luna; Maxey; McCoulskey; McDonald; Moreno; Munoz; Naishtat; Oakley; Oliveira; Pickett; Puente; Rangel; Raymond; Rhodes; Rodriguez; Romo; Saunders; Seidlits; Serna; Solis; Thompson; Tillery; Torres; Turner, S.; Uher; Van de Putte; Willis; Wolens; Yarbrough; Zbranek.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Hilbert; Price; Turner, B.

Absent, Excused, Committee Meeting — Dear.

Absent — Edwards; Marchant; Place; Sadler; Swinford; Walker; Williamson.

By unanimous consent, the house dispensed with the verification of those voting nay.

The speaker stated that the motion to table **SB 141** prevailed by the above vote.

### STATEMENT OF VOTE

When Record No. 498 was taken, I was in the house but away from my desk. I would have voted yes.

Swinford

### REASON FOR VOTE

I voted no to table because there was significant debate remaining to be heard on the bill and important amendments.

Brady

### SIGNED BY THE SPEAKER

The speaker signed in the presence of the house, after giving due notice thereof, the following enrolled bills and resolutions:

**SB 49, SB 96, SB 118, SB 149, SB 161, SB 209, SB 221, SB 240, SB 255, SB 267, SB 329, SB 378, SB 406, SB 443, SB 478, SB 489, SB 513, SB 544, SB 570, SB 598, SB 645, SB 691, SB 702, SB 714, SB 737, SB 741, SB 775, SB 794, SB 888, SB 892, SB 935, SB 942, SB 955, SB 982, SB 983, SB 993, SB 1015, SB 1038, SB 1061, SB 1062, SB 1084, SB 1129, SB 1136, SB 1162, SB 1173, SB 1280, SB 1379, SB 1438, SB 1512, SB 1515, SB 1551, SB 1604, SB 1622, SB 1628, SCR 58, SCR 142, SCR 143, SCR 144, SCR 145, SCR 151**

**LEAVES OF ABSENCE GRANTED**

The following member was granted leave of absence temporarily for today to attend a meeting of the conference committee on SB 1:

Williamson on motion of R. Lewis.

The following member was granted leave of absence temporarily for today because of important business:

Marchant on motion of Kuempel.

**MESSAGE FROM THE SENATE**

Austin, Texas, May 22, 1995

The Honorable Speaker of the House of Representatives  
House Chamber

The Honorable  
Mr. Speaker:

I am directed by the Senate to inform the House that the Senate has passed the following:

**HCR 200** by Conley, et al., in memory of former State Representative Lou Nelle Sutton.

**HB 29** by Goolsby, et al. (Sponsor-Leedom), relating to tuition-free higher education of senior citizens.

**HB 398** by Counts, Craddick, et al. (Sponsor-Lucio), relating to the eligibility of certain high-cost gas for a reduction of the gas production tax (committee substitute).

**HB 1956** by Grusendorf (Sponsor-Nixon, Drew), relating to eliminating certain mandated reports prepared by the Texas Parks and Wildlife Commission or the Texas Parks and Wildlife Department.

**HB 2012** by Turner, Bob (Sponsor-Lucio), relating to the disclosure of certain information collected by the Parks and Wildlife Department.

**HB 2390** by Black, et al. (Sponsor-Turner, Jim), relating to the abolishment of the Texas High-Speed Rail Authority.

I am directed by the Senate to inform the House that the Senate has concurred in House Amendments to the following: **SB 1262** by Viva Voce Vote; **SB 407** by 31 Yeas, 0 Nays; and **SB 905** by 31 Yeas, 0 Nays.

I am directed by the Senate to inform the House that the Senate has refused to concur in House Amendments to **SB 1513** and requests the appointment of a Conference Committee to adjust the differences between the two Houses.

The following have been appointed on the part of the Senate: Senator Ellis, Chair, Senator Henderson, Senator Armbrister, Senator West, and Senator Gallegos.

I am directed by the Senate to inform the House that the Senate has adopted the Conference Committee Report on the following: **SB 9** by Viva Voce Vote; and **HB 1792** by Viva Voce Vote.

Respectfully,  
Betty King  
Secretary of the Senate

**COMMITTEE MEETING ANNOUNCEMENT**

The following committee meeting was announced:

Transportation, on recess today, Desk 22.

**RECESS**

Representative Black moved that the house recess until 2 p.m.

The motion prevailed without objection.

The house accordingly, at 12:30 p.m., recessed until 2 p.m.

**AFTERNOON SESSION**

The house met at 2 p.m. and was called to order by the speaker.

**HCR 221 - ADOPTED**

Representative Alvarado moved to suspend all necessary rules to take up and consider at this time **HCR 221**.

The motion prevailed without objection.

The speaker laid before the house the following resolution:

By Alvarado,

**HCR 221**

WHEREAS, **HB 2062** has been adopted by the house of representatives and the senate; and

WHEREAS, The bill contains technical and typographical errors that need correction; now, therefore, be it

RESOLVED, That the enrolling clerk of the house of representatives be hereby instructed to make the following corrections:

(1) Enroll Senate Floor Amendment No. 1 as adding a new Section 2 of the bill.

(2) In the text of amended Section 4(e)(2)(A) of Article 1118x, Vernon's Texas Civil Statutes:

(A) capitalize the first word, "in";

(B) place a comma after "1,200,000" and insert "federal" between "recent" and "census";

(C) strike "1,200,00" and substitute "1,200,000";

(D) insert "removal by the" between "subject to" and "recall"; and

(E) strike "provided for" and substitute "provided".

The resolution was adopted without objection.

**HR 1005 - ADOPTED**

Representative Shields moved to suspend all necessary rules to take up and consider at this time **HR 1005**.

The motion prevailed without objection.

The speaker laid before the house the following resolution:

By Shields,

**HR 1005**, Honoring Shirley Trevor on the occasion of her retirement.

The resolution was adopted without objection.

**HR 1019 - ADOPTED**

Representative Carona moved to suspend all necessary rules to take up and consider at this time **HR 1019**.

The motion prevailed without objection.

The speaker laid before the house the following resolution:

By Carona,

**HR 1019**, In memory of James M. Curtis, Sr.

The resolution was unanimously adopted by a rising vote.

On motion of Representative Madden, the names of all the members of the house were added to **HR 1019** as signers thereof.

**HR 977 - ADOPTED**

Representative Stiles moved to suspend all necessary rules to take up and consider at this time **HR 977**.

The motion prevailed without objection.

The speaker laid before the house the following resolution:

By Stiles,

**HR 977**, Honoring Joran Meeks on winning the Class 3A state golf championship.

The resolution was adopted without objection.

On motion of Representative Brimer, the names of all the members of the house were added to **HR 977** as signers thereof.

**SB 1135 ON THIRD READING**  
**(Stiles - House Sponsor)**

The speaker laid before the house, as postponed business, on its third reading and final passage,

**SB 1135**, A bill to be entitled An Act relating to the Commission on Law Enforcement Officer Standards and Education.

The bill was read third time on May 19 and was postponed until 10 a.m. today.

Representative Stiles moved to postpone consideration of **SB 1135** until 10 a.m. Wednesday, May 24.

The motion prevailed without objection.

(Price now present)

**SB 20 ON THIRD READING**  
**(Siebert and Stiles - House Sponsors)**

The speaker laid before the house, on its third reading and final passage,

**SB 20**, A bill to be entitled An Act relating to transferring the powers and duties of the state treasurer to the comptroller of public accounts.

The bill was read third time and was passed. (Patterson recorded voting no; Holzheuser, yes)

### **SB 94 ON THIRD READING**

**(Madden, Danburg, Denny, Stiles, and Greenberg - House Sponsors)**

The speaker laid before the house, on its third reading and final passage,

**SB 94**, A bill to be entitled An Act relating to the regulation of political contributions, political expenditures, and political advertising in connection with certain judicial candidates and officeholders and to personal financial statements filed by certain judicial officeholders; providing civil and criminal penalties.

The bill was read third time.

### **Amendment No. 1**

Representative Jackson offered the following amendment to the bill:

Amend **SB 94** on third reading as follows:

(1) In SECTION 1 of the bill, in Section 253.161, Election Code, add new Subsections (c) and (d) to read as follows:

(c) A candidate, officeholder, or specific-purpose committee for supporting, opposing, or assisting the candidate or officeholder may not use a political contribution to make a campaign expenditure for an office other than a judicial office or to make an office holder expenditure in connection with an office other than a judicial office if the contribution was accepted while the candidate or officeholder:

(1) was a candidate for a judicial office; or

(2) held a judicial office, unless the person had become a candidate for another office.

(d) This section does not prohibit a candidate or officeholder from making a political contribution to another candidate or officeholder.

(2) In SECTION 1 of the bill, in the heading to Section 253.161, Election Code, strike "NONJUDICIAL OFFICE" and substitute "NONJUDICIAL OR JUDICIAL OFFICE".

(3) In SECTION 1 of the bill, in Section 253.161, Election Code, strike "(b)" and substitute "(d)".

Amendment No. 1 was adopted without objection.

A record vote was requested.

**SB 94**, as amended, was passed by (Record 499): 110 Yeas, 6 Nays, 3 Present, not voting.

Yeas — Alexander; Allen; Alonzo; Alvarado; Averitt; Bailey; Berlanga; Bosse; Brady; Brimer; Carona; Carter; Clemons; Coleman; Combs; Cook; Counts; Crabb; Craddick; Cuellar, H.; Cuellar, R.; Danburg; Davila; Davis; De La Garza; Denny; Driver; Duncan; Dutton; Ehrhardt; Farrar; Finnell; Glaze; Goodman; Goolsby; Gray; Greenberg; Grusendorf; Haggerty; Hamric; Harris; Hartnett; Hawley; Heflin; Hightower; Hilderbran; Hill; Hirschi; Holzheuser;

Howard; Hudson; Hunter, B.; Hunter, T.; Jackson; Janek; Johnson; Jones, D.; Junell; Kamel; King; Kubiak; Kuempel; Lewis, R.; Longoria; Luna; Madden; Maxey; McCall; McCoulskey; McDonald; Moffat; Moreno; Munoz; Naishtat; Nixon; Oakley; Ogden; Park; Patterson; Pitts; Place; Price; Puente; Rabuck; Ramsay; Rangel; Raymond; Rhodes; Rodriguez; Romo; Saunders; Seidlits; Serna; Siebert; Smithee; Solis; Solomons; Staples; Stiles; Talton; Tillery; Turner, S.; Van de Putte; West; Willis; Wilson; Woolley; Yarbrough; Yost; Zbranek.

Nays — Corte; Culberson; Elkins; Shields; Walker; Wohlgemuth.

Present, not voting — Mr. Speaker(C); Eiland; Thompson.

Absent, Excused — Hilbert; Marchant; Turner, B.

Absent, Excused, Committee Meeting — Dear; Williamson.

Absent — Black; Chisum; Conley; Delisi; Dukes; Edwards; Gallego; Giddings; Gutierrez; Hernandez; Hochberg; Horn; Jones, J.; Krusee; Lewis, G.; Mowery; Oliveira; Pickett; Reyna; Rusling; Sadler; Swinford; Telford; Torres; Uher; Wolens.

### **STATEMENT OF VOTE**

When Record No. 499 was taken, I was temporarily out of the house chamber. I would have voted yes.

Telford

### **SB 102 ON THIRD READING (Mowery - House Sponsor)**

The speaker laid before the house, on its third reading and final passage,

**SB 102**, A bill to be entitled An Act relating to state employee contributions to the federal old age and survivors insurance program.

### **LEAVE OF ABSENCE GRANTED**

The following member was granted leave of absence for the remainder of today to attend a meeting of the conference committee on SB 1:

Hernandez on motion of Rodriguez.

### **SB 102 - (consideration continued)**

A record vote was requested.

The bill was read third time and was passed by (Record 500): 80 Yeas, 57 Nays, 1 Present, not voting.

Yeas — Alexander; Allen; Averitt; Black; Brady; Brimer; Carona; Carter; Chisum; Combs; Cook; Corte; Counts; Crabb; Craddick; Cuellar, H.; Culberson; Delisi; Denny; Driver; Duncan; Eiland; Elkins; Gallego; Goodman; Goolsby; Gray; Grusendorf; Haggerty; Hamric; Harris; Hartnett; Heflin; Hilderbran; Hill; Holzheuser; Horn; Howard; Hudson; Hunter, B.; Hunter, T.; Jackson; Janek; Johnson; Jones, D.; Junell; Kamel; King; Krusee; Kuempel; Lewis, G.; Madden; McCall; Moffat; Mowery; Nixon; Ogden; Park; Patterson; Pitts; Price; Rabuck;

Reyna; Rhodes; Rusling; Saunders; Shields; Siebert; Smithee; Solomons; Staples; Stiles; Swinford; Talton; Uher; Walker; West; Wohlgemuth; Woolley; Yost.

Nays — Alonzo; Alvarado; Bailey; Berlanga; Bosse; Conley; Cuellar, R.; Danburg; Davila; Davis; De La Garza; Dukes; Dutton; Edwards; Ehrhardt; Farrar; Finnell; Giddings; Glaze; Greenberg; Gutierrez; Hawley; Hightower; Hirschi; Hochberg; Jones, J.; Kubiak; Lewis, R.; Longoria; Luna; Maxey; McCoulskey; McDonald; Moreno; Munoz; Naishtat; Oliveira; Pickett; Place; Puente; Rangel; Raymond; Rodriguez; Romo; Seidlits; Serna; Solis; Thompson; Tillery; Torres; Turner, S.; Van de Putte; Willis; Wilson; Wolens; Yarbrough; Zbranek.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Hilbert; Marchant; Turner, B.

Absent, Excused, Committee Meeting — Dear; Hernandez; Williamson.

Absent — Clemons; Coleman; Oakley; Ramsay; Sadler; Telford.

### STATEMENTS OF VOTE

I was shown voting yes on Record No. 500. I intended to vote no.

Hudson

When Record No. 500 was taken, I was in the house but away from my desk. I would have voted no.

Ramsay

When Record No. 500 was taken, I was temporarily out of the house chamber. I would have voted no.

Telford

### SB 840 ON THIRD READING (De La Garza - House Sponsor)

The speaker laid before the house, on its third reading and final passage,

**SB 840**, A bill to be entitled An Act relating to drug-free and weapon-free zones and to the imposition of penalties for the possession, delivery, manufacture, or possession with the intent to deliver or manufacture a controlled substance in drug-free zones or on school buses and penalties for certain offenses involving weapons committed in weapon-free zones.

The bill was read third time and was passed.

### SB 345 ON SECOND READING (Uher - House Sponsor)

The speaker laid before the house, on its second reading and passage to third reading,

**SB 345**, A bill to be entitled An Act relating to tax abatement, reinvestment zones, and the refund of certain taxes by the comptroller to reimburse certain taxes paid on property in a reinvestment zone.

The bill was read second time.

(Marchant and B. Turner now present)

**Amendment No. 1 (Committee Amendment No. 1)**

On behalf of Representative Finnell, Representative Uher offered the following committee amendment to the bill:

Amend **SB 345** as follows:

(1) In SECTION 1 of the bill, in Subsection (d)(2)(B), Section 111.301, Tax Code (senate engrossment, page 3, line 4), strike "\$10,000,000" and substitute "\$5,000,000".

**Amendment No. 2**

Representatives Oliveira and R. Cuellar offered the following amendment to Amendment No. 1:

Amend Committee Amendment No. 1 to **SB 345** (committee printing, page 12, line 5), by striking "\$5,000,000" and substituting "\$4,000,000".

Amendment No. 2 was adopted without objection.

Amendment No. 1, as amended, was adopted without objection.

**Amendment No. 3 (Committee Amendment No. 2)**

On behalf of Representative Finnell, Representative Uher offered the following committee amendment to the bill:

Amend **SB 345** by striking Section 3 of the bill (senate engrossment, page 7, line 11, through page 9, line 22) and renumbering subsequent sections accordingly.

Amendment No. 3 was adopted without objection.

**Amendment No. 4 (Committee Amendment No. 3)**

On behalf of Representative Finnell, Representative Uher offered the following committee amendment to the bill:

Amend **SB 345** as follows:

In SECTION 1 of the bill, amend Subchapter F, Section 111.301, by striking the existing Subsection (b) and substituting the following in lieu thereof:

(b) No refund may be made under this section if the person makes a payment in lieu of taxes, or any other payment, including a gift, grant, donation, or provision of in-kind service, to a municipality or county with which the person has executed a tax abatement agreement, if the payment was made during the period of the agreement. This subsection does not apply to a payment that is a tax, fee, or charge for services provided by the municipality or county, or to payments pursuant to a contract with an industrial district under Chapter 42, Local Government Code, or to a payment that in any year of the agreement does not in the aggregate exceed \$5,000 in value.



**Amendment No. 5**

Representative Uher offered the following amendment to Amendment No. 4:

Amend Committee Amendment No. 3 to **SB 345** as follows:

In the last sentence of subsection (b) as added by the amendment, insert "or Chapter 43" between "Chapter 42" and "1".

Amendment No. 5 was adopted without objection.

Amendment No. 4, as amended, was adopted without objection.

**Amendment No. 6**

Representative S. Turner offered the following amendment to the bill:

Amend **SB 345** by striking Sections 1-4 and 6 of the bill and renumbering subsequent sections accordingly.

(Berlanga in the chair)

Representative Oliveira moved to table Amendment No. 6.

A record vote was requested.

The motion to table was lost by (Record 501): 37 Yeas, 105 Nays, 2 Present, not voting.

Yeas — Alexander; Bosse; Brady; Brimer; Chisum; Crabb; Culberson; Driver; Elkins; Finnell; Glaze; Goodman; Goolsby; Grusendorf; Haggerty; Harris; Heflin; Hill; Holzheuser; Howard; Hunter, B.; Hunter, T.; Jackson; Kamel; Madden; Mowery; Oliveira; Pitts; Ramsay; Raymond; Shields; Smithee; Talton; Telford; Uher; Woolley; Yost.

Nays — Allen; Alonzo; Alvarado; Averitt; Bailey; Black; Carona; Carter; Clemons; Coleman; Combs; Conley; Cook; Counts; Craddick; Cuellar, H.; Cuellar, R.; Danburg; Davila; Davis; De La Garza; Delisi; Denny; Dukes; Duncan; Dutton; Edwards; Ehrhardt; Eiland; Farrar; Gallego; Giddings; Gray; Greenberg; Gutierrez; Hamric; Hartnett; Hawley; Hightower; Hilderbran; Hirschi; Hochberg; Horn; Hudson; Janek; Johnson; Jones, D.; Jones, J.; Junell; King; Krusee; Kubiak; Kuempel; Lewis, G.; Lewis, R.; Longoria; Luna; Marchant; Maxey; McCall; McCoulskey; McDonald; Moffat; Moreno; Munoz; Naishtat; Nixon; Oakley; Ogden; Park; Patterson; Pickett; Place; Price; Puente; Rabuck; Rangel; Reyna; Rhodes; Rodriguez; Romo; Rusling; Saunders; Seidlits; Serna; Siebert; Solis; Solomons; Staples; Stiles; Swinford; Thompson; Tillery; Torres; Turner, B.; Turner, S.; Van de Putte; Walker; West; Willis; Wilson; Wohlgenuth; Wolens; Yarbrough; Zbranek.

Present, not voting — Mr. Speaker; Berlanga(C).

Absent, Excused — Hilbert.

Absent, Excused, Committee Meeting — Dear; Hernandez; Williamson.

Absent — Corte; Sadler.

**MESSAGE FROM THE SENATE**

Austin, Texas, May 22, 1995

The Honorable Speaker of the House of Representatives  
House Chamber

The Honorable  
Mr. Speaker:

I am directed by the Senate to inform the House that the Senate has passed the following:

**HB 788** by Brimer (Sponsor-Ratliff), relating to industrial development corporations created by certain cities (committee substitute and amended).

**HB 768** by Craddick (Sponsor-Bivins), relating to statutory court judges and district judges exchanging benches and transferring cases (amended).

**HB 2890** by Lewis, Ron (Sponsor-Armbrister), relating to the management of the Edwards Aquifer (amended).

**HB 3189** by Puente, et al. (Sponsor-Armbrister), relating to the board of directors of the Edwards Aquifer Authority and the management of the Edwards Aquifer (committee substitute and amended).

**HCR 219** by Kubiak, in memory of Seferino Cabrera Romo.

Respectfully,  
Betty King  
Secretary of the Senate

**SB 345 - (consideration continued)**

Amendment No. 6 was adopted. (Alexander, Craddick, Finnell, B. Hunter, and T. Hunter recorded voting no)

**Amendment No. 7**

Representative Maxey offered the following amendment to the bill:

Amend **SB 345** by adding the following new Sections and renumbering accordingly:

SECTION \_\_\_\_\_. Chapter 312, Tax Code, is amended by adding Subchapter D to read as follows:

**SUBCHAPTER D. TAX ABATEMENT IN SCHOOL DISTRICT  
REINVESTMENT ZONE**

**Sec. 312.501. DESIGNATION OF REINVESTMENT ZONE.** (a) The board of trustees of a school district may designate as a reinvestment zone an area of the district if:

(1) the board adopts guidelines and criteria as required of a municipality to designate a reinvestment zone under Section 312.002;

(2) the district's wealth per student does not exceed the equalized wealth level;

(3) the area consists primarily of undeveloped land that is contiguous to an airport of a municipality with a population of more than 400,000; and

(4) the area is in a municipal utility district.

(b) The board may designate a reinvestment zone under this section only if the board:

(1) conducts a public hearing on the proposed designation at which persons may speak and present evidence for or against the designation; and

(2) finds that the designation would contribute to:

(A) the retention or expansion of primary employment in the zone or attract major investment to the zone that would benefit property in the zone; and

(B) the economic development of the district.

(c) The board shall give notice of the hearing in the manner required for a hearing under Section 312.201.

(d) The designation of a reinvestment zone expires on the 10th anniversary of the date of the designation and may be renewed for periods not to exceed five years. The expiration of the designation does not affect a tax abatement agreement made under this subchapter that is in effect on the date the designation expires.

(e) Territory that is located in a reinvestment zone designated by a municipality under Subchapter B or in a reinvestment zone designated by a county under Subchapter C is not ineligible to be included in the area designated by the district under this section.

(f) In this section, "wealth per student" and "equalized wealth level" have the meanings assigned those terms by Section 36.001, Education Code.

Sec. 312.502. SCHOOL DISTRICT TAX ABATEMENT AGREEMENT.

(a) The board of trustees of a school district may agree with the owner of taxable real property located in a reinvestment zone designated under this subchapter to abate ad valorem taxes that the district imposes on the property if the owner agrees to donate to the school district real property in an amount and at a location acceptable to the district that has been prepared in the manner specified by the district for construction of a school building. The tax abatement agreement does not take effect until the donation is made.

(b) Sections 312.204, 312.2041, 312.205, and 312.208 apply to an agreement executed under this section as if the agreement were executed under Subchapter B.

(c) A tax abatement agreement made by another taxing unit under this chapter does not affect the authority of a school district to make a tax abatement agreement under this section.

(d) A tax abatement agreement made by a school district under this section does not affect the authority of another taxing unit to make a tax abatement agreement under this chapter.

(e) Real property that is owned or leased by a member of the board of trustees of the school district may not be subject to a tax abatement agreement under this section.

SECTION \_\_\_\_\_. Section 312.006, Tax Code, is repealed.

Representative Uher moved to table Amendment No. 7.

The motion to table prevailed.

**Amendment No. 8**

Representative Smithee offered the following amendment to the bill:

Amend **SB 345**, as follows: On page 11, between lines 5 & 6, insert the following: Section 7: Add Sec. 312.501 of the Tax Code, as follows:

SUBCHAPTER D. COUNTY DEVELOPMENT DISTRICTS

ARTICLE I. GENERAL PROVISIONS

Sec. 1.01. SHORT TITLE. This Act may be cited as the County Development District Act.

Sec. 1.02. LEGISLATIVE INTENT. The intent of the Legislature is to

further the public purpose of developing and diversifying the economy of the state by providing incentives for the location and development of projects in certain counties to attract visitors and tourists.

Sec. 1.03. LEGISLATIVE FINDINGS. The legislature finds that:

(1) small and medium-sized counties in Texas are in need of incentives for the development of public improvements to attract visitors and tourists to such counties, and that such counties are at a disadvantage in competing with counties in other states for the location and development of projects that attract visitors and tourists by virtue of the availability and prevalent use in other states of financial incentives;

(2) that the means and measures authorized by this Act are in the public interest and serve a public purpose of the state in promoting the economic welfare of the citizens of the state by providing incentives for the location and development in certain Texas counties of projects that attract visitors and tourists and that result in employment and economic activity; and

(3) the creation of development districts is essential to the accomplishment of Section 52-a, Article III, Texas Constitution, and to the accomplishment of the other public purposes stated in this Act and further serves the purpose of Section 59, Article XVI, and Section 52, Article III, Texas Constitution.

Sec. 1.04. DEFINITIONS. In this Act:

(1) "District" means a county development district created under this Act.

(2) "Board" means the board of directors of the district.

(3) "Director" means a member of the board.

(4) "Commissioners court" means the governing body of the county in which the district is located.

(5) "County" means the county in which the district is located.

(6) "Project" has the same meaning as that term is defined to mean in Section 4B(a)(2), Development Corporation Act of 1979 (Article 5190.6, Vernon's Texas Civil Statutes).

(7) "Cost" has the same meaning as that term is defined to mean in Section 2(4), Development Corporation Act of 1979 (Article 5190.6, Vernon's Texas Civil Statutes).

(8) "Bonds" means bonds, notes, and other obligations.

Sec. 1.05. COUNTIES AUTHORIZED TO CREATE DISTRICTS. The commissioners court in a county with a population of not more than 400,000 according to the most recent federal decennial census may, upon petition of the owners of land in a proposed county, commence the creation of a county development district. The creation of the district is subject to a confirmation election held as provided by Article 2 of this Act.

## ARTICLE 2. CREATION OF DISTRICTS

Sec. 2.01. PETITION OF LANDOWNERS. To create a district, a petition requesting creation shall be filed with the county commissioners court of the county in which all of the land in the proposed district is located. The petition shall be accompanied by a sworn statement indicating consent to creation signed by the holders of fee simple title of all of the land within the proposed district.

Sec. 2.02. CONTENTS OF PETITION. The petition shall:

(1) describe the boundaries of the proposed district by metes and bounds or by lot and block number, if there is a recorded map or plat and survey of the area;

(2) include a name of the district which shall include the name of the county followed by the words Development District No. \_\_\_\_;

(3) include the names of five persons who are willing and qualified to serve as temporary directors of the proposed district;

(4) state the general nature of the work proposed to be done and the cost of the project as then estimated by the petitioners; and

(5) state the necessity and feasibility of the proposed district and whether the district will serve the public purpose of attracting visitors and tourists to the county.

Sec. 2.03. HEARING ON PETITION. Not later than the 60th day after the date a petition is received, the commissioners court shall fix a date, time, and place at which the petition shall be heard and shall issue notice of the date, time, place, and subject matter of the hearing. The notice shall inform all persons of their right to appear and present evidence and testify for or against the creation of the district.

Sec. 2.04. NOTICE OF HEARING. At least 30 days before the date set for the hearing, notice of the hearing shall be mailed to the developer who signed the petition and the landowner of all the land in the district and shall be published in a newspaper with general circulation in the county in which the proposed district is located.

Sec. 2.05. HEARING. At the hearing, the commissioners court shall examine the petition to ascertain its sufficiency, and any person interested may appear before the commission to offer testimony on the sufficiency of the petition and whether or not the district should be created.

Sec. 2.06. GRANTING OR REFUSING PETITION. (a) After the hearing, if it is found that the petition conforms to the requirements of Section 2.02 of this Act and that the creation of the district and the proposed project is feasible and necessary and would serve the public purpose of attracting visitors and tourists to the county, the commissioners court shall so find and enter an order creating the district.

(b) If the commissioners court finds that the petition does not conform to the requirements of Section 2.02 of this Act or that the creation of the district and the proposed project is not feasible and necessary and would not serve the purpose of attracting visitors and tourists to the county, the commissioners court shall so find by its order and deny the petition.

Sec. 2.07. TEMPORARY DIRECTORS; VACANCY IN OFFICE. If the commissioners court grants the petition, it shall appoint to serve as temporary directors of the district five persons who are qualified under this Act to serve as directors. A vacancy in the office of temporary director shall be filled by appointment by the commissioners court.

Sec. 2.08. QUALIFICATION OF TEMPORARY DIRECTORS. Each temporary director shall execute a bond in accordance with the provisions of Section 3.09 of this Act and shall take an oath of office, and the board shall meet and organize.

Sec. 2.09. CONFIRMATION AND SALES AND USE TAX ELECTION.

The temporary board of directors shall conduct an election within the boundaries of the district to confirm the creation of the district and authorize a sales and use tax in conformity with this Act.

Sec. 2.10. ELECTION ORDER. An order calling an election under Section 2.09 of this Act must state:

(1) the nature of the election, including the proposition that is to appear on the ballot;

(2) the date of the election;

(3) the hours during which the polls will be open;

(4) the location of the polling places; and

(5) the proposed rate of the sales and use tax for the district.

Sec. 2.11. NOTICE. The temporary directors shall give notice of the confirmation and sales and use tax election by publishing a substantial copy of the election order in a newspaper with general circulation in the county in which the proposed district is located once a week for two consecutive weeks. The first publication must appear at least 14 days before the date set for the election.

Sec. 2.12. CONDUCT OF ELECTION. (a) The election shall be held in accordance with the provisions of the Election Code, to the extent not inconsistent with this Act.

(b) The ballot shall be printed to permit voting for or against the proposition: "The creation of \_\_\_\_\_ County Development District No. \_\_\_\_\_ and the adoption of a proposed local sales and use tax rate of \_\_\_\_\_ (the rate specified in the election order) to be used for the promotion and development of tourism."

Sec. 2.13. RESULTS OF ELECTION. (a) After the confirmation and sales and use tax election, the presiding judge shall make returns of the result to the temporary board of directors. The temporary board of directors shall canvass the returns and declare the results.

(b) If a majority of the votes cast in the election favor the creation of the district and the adoption of the sales and use tax, then the temporary board shall declare that the district is created and shall declare the amount of the local sales and use tax adopted and enter the result on its minutes. If a majority of the votes cast in the election are against the creation of the district and the adoption of the sales and use tax, the temporary board shall declare that the proposition to create the district was defeated and enter the result in its minutes.

(c) A certified copy of the minute order declaring that the district is created and the local sales and use tax adopted and including the rate of the sales and use tax, or declaring that the proposition to create the district was defeated, shall be sent to the commissioners court, the comptroller, and any taxing entity by certified or registered mail. Such order also shall show the date of the election, the proposition on which the vote was held, the total number of votes cast for or against the proposition, and the number of votes by which the proposition was approved.

### ARTICLE 3. DISTRICT ADMINISTRATION

Sec. 3.01. BOARD OF DIRECTORS. (a) A district is governed by a board of five directors appointed by the county commissioners of the county in which the district is located. The temporary directors appointed under

Section 2.07 of this Act shall become permanent directors of the district provided that the creation of the district is confirmed at the confirmation election.

(b) Directors serve staggered four-year terms that expire September 1. Following confirmation of the district at the election, the temporary directors shall draw lots to determine:

(1) the two directors to serve terms that expire on September 1 of the second year following creation of the district; and

(2) the three directors to serve terms that expire on September 1 of the fourth year following creation of the district.

Sec. 3.02. QUALIFICATIONS FOR DIRECTORS. To be qualified to serve as a director, a person shall be at least 21 years old, a resident citizen of the state of Texas, and a qualified voter within the county in which the district is located.

Sec. 3.03. PERSONS DISQUALIFIED FROM SERVING. Section 50.026, Water Code, relating to disqualification of directors, shall apply to directors of districts created under this Act.

Sec. 3.04. VACANCIES ON THE BOARD. A vacancy in the office of director shall be filled by appointment of the commissioners court.

Sec. 3.05. REMOVAL OF DIRECTOR. The governing body of the commissioners court, after notice and hearing, may remove a director for misconduct or failure to carry out the director's duties on petition by a majority of the remaining directors.

Sec. 3.06. ORGANIZATION OF BOARD. After each appointment of directors by the commissioners court, and after the directors have qualified by taking the proper oath, they shall organize by electing a president, a vice president, a secretary, and any other officers as in the judgment of the board are considered necessary.

Sec. 3.07. QUORUM; OFFICERS' DUTIES; MANAGEMENT OF DISTRICT. Sections 54.107, 54.108, 54.111, and 54.118, Water Code, relating to quorum, officers' duties, and management of the district, shall govern the board of directors of a district created under this Act.

Sec. 3.08. MEETINGS AND NOTICE. (a) The board shall designate and establish a district office in the county.

(b) The board may establish regular meetings to conduct district business and may hold special meetings at other times as the business of a district requires.

(c) Notice of the time, place, and purpose of any meeting of the board shall be given by posting at a place convenient to the public within the district. A copy of the notice shall be furnished to the clerk or clerks of the county in which the district is located, who shall post them on a bulletin board in the county courthouse used for such purpose.

(d) Except as herein provided the provisions of the open meeting laws Chapter 551, Government Code, shall be applicable to meetings of the board of directors. Any interested person may attend any meeting of the board.

Sec. 3.09. DIRECTOR'S COMPENSATION; BOND AND OATH OF OFFICE. A director is not entitled to receive compensation for service on the board. Sections 375.067, 375.069, and 375.070, Local Government Code, apply to directors of a district created under this Act.



Sec. 3.10. GOVERNMENTAL AGENCY; SUITS. (a) A district, when created and confirmed, may, through its directors, sue and be sued in any and all courts of this state in the name of the district. Service of process in any suit may be had by serving any two directors.

(b) A district is a governmental agency, a body politic and corporate, and a political subdivision of the state. Section 375.004, Local Government Code, applies to a district created under this Act.

#### ARTICLE 4. POWERS AND DUTIES

Sec. 4.01. POWERS. (a) A district shall have all the power to acquire and dispose of projects and shall have all of the other powers, authority, rights, and duties which will permit accomplishment of the purposes for which the district was created.

(b) The district shall have the power to provide for general promotion and tourist advertising of the district and its vicinity and to conduct a marketing program to attract visitors, any of which may be conducted by the district pursuant to contracts for professional services with persons or organizations selected by district.

(c) The district shall have the powers of a municipal management district created under Chapter 375, Local Government Code, to the extent not inconsistent with this Act.

Sec. 4.02. COMPETITIVE BIDDING; CONTRACT AWARD. Sections 375.221 and 375.223, Local Government Code, apply to a district created under this Act. Notwithstanding any other provision of this Act to the contrary, any contract between the district and a governmental entity or nonprofit corporation created under the Development Corporation Act of 1979 (Article 5190.6, Vernon's Texas Civil Statutes) shall not be subject to the competitive bidding requirement of this Act.

Sec. 4.03. EMINENT DOMAIN. A district not located within the corporate limits of a municipality may exercise the power of eminent domain to acquire land or interests in land within the district deemed necessary by the board of directors of the district for the purpose of providing water and sewer services to an authorized project. The right of eminent domain shall be exercised in the manner provided in Chapter 21, Property Code.

#### ARTICLE 5. GENERAL FISCAL PROVISIONS

Sec. 5.01. EXPENDITURES. A district's money may be disbursed only by check, draft, order, or other instrument which shall be signed by at least three directors. The general manager, treasurer, or other employee of the district when authorized by resolution of the board may sign checks, drafts, orders, or other instruments on any district operation account and these need not be signed by anyone else.

Sec. 5.02. PURPOSES FOR BORROWING MONEY. The district may borrow money for any corporate purpose or combination of corporate purposes.

Sec. 5.03. REPAYMENT OF ORGANIZATIONAL EXPENSES. The district's directors are authorized to pay all costs and expenses necessarily incurred in the creation and organization of a district, the cost of investigation and making plans, the cost of the engineer's report, project designer fees, legal fees, and other incidental expenses and to reimburse any person for money advanced for these purposes. These payments may be made from money



obtained from the issuance of notes or the sale of bonds first issued by the district or out of other revenues of the district.

#### ARTICLE 6. ISSUANCE OF BONDS

Sec. 6.01. ISSUANCE OF BONDS. The district may issue bonds for the purpose of defraying all or part of the cost of any project as provided in this Act. Sections 375.201 through 375.208, inclusive, Local Government Code, shall apply to a district created under this Act to the extent not inconsistent with this Act.

Sec. 6.02. MANNER OF REPAYMENT OF BONDS. The board may provide for the payment of principal of and interest and redemption price on bonds from taxes; by pledging all or any part of the designated revenues, license fees, or other compensation from a project or any part thereof, including revenues and receipts derived by the district from the lease or sale of the project, or by pledging all or any part of any grant, donation, revenues, or income received to to be received from any public or private source; or from a combination of such sources.

Sec. 6.03. USE OF BOND PROCEEDS. The district may use bond proceeds to pay interest on the bonds during and after the period of the acquisition or construction of a project, to pay administrative and operating expenses, to create a reserve fund for the payment of principal and interest on the bonds, and to pay all expenses incurred and to be incurred in the issuance, sale, and delivery of the bonds.

#### ARTICLE 7. TAXES

Sec. 7.01. Sales and Use Tax. (a) A district may levy a sales and use tax for the benefit of the district if authorized by a majority of the qualified voters of the district voting at an election called and held for that purpose. The sales and use tax, if adopted, does not count toward the limitation imposed by Chapter 323, Tax Code (County Sales and Use Tax Act) on any sales and use tax that has been levied by the county.

(b) If a district adopts the tax, there is imposed a tax on the receipts from the sale at retail of taxable items within the district at a rate of up to one-half of one percent. For purposes of this section, the term "taxable items" includes all items subject to any sales and use tax that is imposed by the county in which the district is located if the county has imposed a sales and use tax. There is also imposed an excise tax on the use, storage, or other consumption within the district of taxable items purchased, leased, or rented from a retailer during the period that the tax is effective within the district. The rate of the excise tax is the same as the rate of the sales tax portion of the tax applied to the sales price of the taxable items and is included in the sales tax.

(c) Chapter 323, Tax Code (County Sales and Use Tax Act), to the extent not inconsistent with this Act, governs the imposition, computation, administration, and governance of the tax under this section, except that Subsections (b) and (e), Section 323.101, and Sections 323.209, 323.401 through 323.406, and 323.505, do not apply. Chapter 323, Tax Code (County Sales and Use Tax Act), does not apply to the use and allocation of revenues under this Act. In applying the procedures under Chapter 323, Tax Code (County Sales and Use Tax Act), the district's name shall be substituted for "the county" and "board of directors" is substituted for "commissioners court."

(d) The permissible rates for a local sales and use tax levied under this Act are one-fourth of one percent, three-eighths of one percent, and one-half of one percent.

(e) The board by order may decrease or abolish the local sales and use tax rate or may call an election to increase, decrease, or abolish the local sales and use tax rate.

(f) At the election, the ballots shall be prepared to permit voting for or against the proposition: "The increase (decrease) of the local sales and use tax rate of (name of district) to (percentage) to be used for the promotion and development of tourism" or, "The abolition of the district sales and use tax used for the promotion and development of tourism." The increase or decrease in the tax rate is effective if it is approved by a majority of the votes cast. In calling and holding the election, the board shall use the procedures for the confirmation and tax election set forth in Article 2 of this Act.

(g) Taxes collected under this section may be used only for the purposes for which the district was created, and the district may pledge the revenue derived from the taxes imposed under this Section to the payment of bonds issued by the district.

(h) A county development district may adopt a tax under this section only if as a result of adoption of the tax the combined rate of all local sales and use taxes imposed by political subdivisions having territory in the district will not exceed two percent. If, as a result of the levy of or increase in a sales and use tax by a municipality in which there is located a district with an existing sales and use tax, or as a result of the annexation by a municipality of the territory in a district with an existing sales and use tax, the overlapping local sales and use taxes in the area within the district will exceed two percent, then the district's sales and use tax rate shall automatically be reduced to a rate that when added to the combined rate of local sales and use taxes will equal two percent. If a district's tax rate is so reduced, the municipality shall make payments to the district equal to the amounts that would have been collected by the district had the municipality not levied or increased its sales and use tax or annexed the area within the district, less amounts that the district collects following the city's levy of or increase in its sales and use tax or annexation of the area within the district. Such payment shall be made by the municipality to the district within 10 days of receipt of the money from the comptroller's office and shall continue only for so long as any bonds of the district are outstanding.

#### ARTICLE 8. ADDING AND EXCLUDING TERRITORY;

##### CONSOLIDATING AND DISSOLVING DISTRICTS

##### Sec. 8.01. ADDING AND EXCLUDING LAND FROM THE DISTRICT.

(a) Before the board issues bonds, the board may, on its own motion or upon request of a landowner in the district, petition the county commissioners for the addition of land to or exclusion of land from the district.

(b) If the commissioners court unanimously determines from the evidence that the best interests of the persons and property in the district will be served by adding or excluding land, the commissioners court shall enter in its records the appropriate findings and order adding or excluding land.

Sec. 8.02. DISSOLUTION OF DISTRICT. (a) A district may be dissolved only as provided by this Section.

(b) The board of directors may petition the commissioners court to dissolve the district if a majority of the board finds at any time (1) before the authorization of bonds or the final lending of its credit, that the proposed undertaking is impracticable or cannot be successfully and beneficially accomplished, or (2) that all bonds of the district or other debts of the district have been paid and the purposes of the district have been accomplished.

(c) On receipt of a petition from the board for dissolution of the district, the county commissioners shall hold a hearing as provided in Article 2 of this Act.

(d) If the commissioners court unanimously determines from the evidence that the best interests of the county and the owners of property and interests in property within the district will be served by dissolving the district, the commissioners court shall enter in its records the appropriate findings and order dissolving the district. Otherwise the commissioners court shall enter its order providing that the district has not been dissolved. Upon dissolution of the district, funds and property of the district, if any, shall be transferred to the commissioners court.

Sec. 8.03. DISSOLUTION OF DISTRICT UPON AGREEMENT WITH MUNICIPALITY. A district may be dissolved by agreement between the governing body of a municipality and the board of directors of a district if all of the territory within the district is located within or annexed by the municipality. The agreement shall require the municipality to acquire all of the funds, property, and other assets of the district and assume all contracts, debts, bonds, and other obligations of the district, and the municipality shall be bound in the same manner and to the same extent that the district was bound with respect to such contracts, debts, bonds, and other obligations. On dissolution of the district, the taxes levied by the district are abolished.

SECTION 2. Chapter 352, Tax Code, is amended by adding Section 352.107 to read as follows:

Sec. 352.107. HOTEL TAX AUTHORIZED FOR COUNTY DEVELOPMENT DISTRICTS. Notwithstanding any other provision of this chapter to the contrary, a commissioners court of a county with a population of less than 400,000 may impose a hotel occupancy tax not to exceed seven percent on a person who pays for the use or possession or for the right to the use or possession of a room in a hotel ordinarily used for sleeping that is located within the boundaries of the county development district created under Article 2372d-9, Revised Statutes, and that is not located within the corporate limits of a municipality, subject to the limitations set forth in Sections 352.002(b) and (c). Taxes collected by a county under this section shall be remitted to the county development district not later than the 10th day after the date the county receives such funds and may be used by the district for the purposes for which sales and use tax proceeds may be used by the district.

Amendment No. 8 was adopted without objection.

#### **Amendment No. 9**

Representative Dutton offered the following amendment to the bill:

Amend **SB 345**, SECTION 1 of the bill by adding Section 111.301 to read as follows:

**Sec. 111.305. HISTORICALLY UNDERUTILIZED BUSINESSES.**

Subchapter F, Chapter 111, Tax Code, is amended by adding Section 111.305 to read as follows:

(a) The comptroller shall require each applicant to make a good faith effort to overcome the underuse of historically underutilized businesses as shown for private industry by the disparity study conducted under **HB 2626**, Acts of the 73rd Legislature, 1993.

(b) The comptroller may conduct further research and analysis to adjust the results of the disparity study as necessary to account for specific underuse of historically underutilized businesses within the city or county in which the tax abatement has been granted.

(c) Each applicant must prepare and submit to the comptroller a strategic plan for the use of historically underutilized businesses.

(d) In this section:

(1) "Historically underutilized businesses" means a business entity at least 51 percent of which is owned by minority group members, or in the case of a corporation, at least 51 percent of the shares of which are owned, managed, and controlled by minority group members.

(2) "Minority group members" includes:

(A) African Americans

(B) American Indians

(C) Asian Americans

(D) Mexican Americans and other Americans of Hispanic origin.

(E) Women

Amendment No. 9 was withdrawn.

**SB 345**, as amended, was passed to third reading. (Bosse, Greenberg, and Seidlits recorded voting yes)

(Speaker in the chair)

**SB 673 ON SECOND READING**  
**(Berlanga - House Sponsor)**

The speaker laid before the house, on its second reading and passage to third reading, the complete committee substitute for **SB 673**.

**CSSB 673**, A bill to be entitled An Act relating to health care, including powers and duties of the center for rural health initiatives, powers and duties of registered nurses and physician assistants, managed health care plans for certain inmates, and health facilities and services for the elderly or disabled.

**CSSB 673** was read second time.

**Amendment No. 1**

Representative Seidlits offered the following amendment to **CSSB 673**:

Amend **CSSB 673** by adding a new Section 16 and renumbering appropriately:

**SECTION 16.** Subsection (a), Section 6, Texas Health Maintenance Organization Act (Article 20A.06, Vernon's Texas Insurance Code), is amended to read as follows:

(a) The powers of a health maintenance organization include, but are not limited to, the following:

(1) the purchase, lease, construction, renovation, operation, or maintenance of hospitals, medical facilities, or both, and ancillary equipment and such property as may reasonably be required for its principal office or for such other purposes as may be necessary in the transaction of the business of the health maintenance organization;

(2) the making of loans to a medical group, under an independent contract with it in furtherance of its program, or corporations under its control, for the purpose of acquiring or constructing medical facilities and hospitals, or in the furtherance of a program providing health care services to enrollees;

(3) the furnishing of or arranging for medical care services only through physicians or groups of physicians who have independent contracts with the health maintenance organizations; the furnishing of or arranging for the delivery of health care services only through providers or groups of providers who are under contract with or employed by the health maintenance organization or through physician or providers who have contracted for health care services with those physicians or providers, except for the furnishing of or authorization for emergency services, services by referral, and service to be provided outside of the service area as approved by the commissioner; provided, however, that a health maintenance organization is not authorized to employ or contract with physician or providers in any manner which is prohibited by any licensing law of this state under which such physicians or providers are licensed, however, if a hospital, facility, agency or supplier is certified by the Medicare program (Title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.)), or accredited by the Joint Commission on Accreditation of Health Care Organizations or other national accrediting body, the health maintenance organization shall be required to accept such certification or accreditation.

(4) the contracting with any person for the performance on its behalf of certain functions such as marketing, enrollment, and administration;

(5) the contracting with an insurance company licensed in this state, or with a group hospital service corporation authorized to do business in the state, for the provision of insurance, reinsurance, indemnity, or reimbursement against the cost of health care and medical care services provided by the health maintenance organization;

(6) the offering of:

(A) indemnity benefits covering out-of-area emergency services; and

(B) indemnity benefits in addition to those relating to out-of-area and emergency services, provided through insurers or group hospital service corporations;

(7) receiving and accepting from government or private agencies payments covering all or part of the cost of the services provided or arranged for by the organization;

(8) all powers given to corporations (including professional corporations and associations), partnerships, and associations pursuant to their organizational documents which are not in conflict with provisions of this Act, or other applicable law.

Amendment No. 1 was adopted without objection.

**Amendment No. 2**

Representative Seidlits offered the following amendment to **CSSB 673**:

Amend **CSSB 673** by adding a new Section 17 and renumbering appropriately:

SECTION 17. Subsection (g), Section 14, Texas Health Maintenance Organization Act (Article 20A.14, Vernon's Texas Insurance Code), is amended to read as follows:

(g) No type of provider licensed or otherwise authorized to practice in this state may be denied participation to provide health care services which are delivered by the health maintenance organization and which are within the scope of licensure or authorization of the type of provider on the sole basis of type of license or authorization. However, if a hospital, facility, agency or supplier is certified by the Medicare program (Title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.)), or accredited by the Joint Commission on Accreditation of Healthcare Organizations or other national accrediting body, the health maintenance organization shall be required to accept such certification or accreditation. This section may not be construed to (1) require a health maintenance organization to utilize a particular type of provider in its operation; (2) require that a health maintenance organization accept each provider of a category or type; or (3) require that health maintenance organizations contract directly with such providers. Notwithstanding any other provision nothing herein shall be construed to limit the health maintenance organization's authority to set the terms and conditions under which health care services will be rendered by providers. All providers must comply with the terms and conditions established by the health maintenance organization for the provisions of health services and for designation as a provider.

Amendment No. 2 was adopted without objection.

**Amendment No. 3**

Representative Seidlits offered the following amendment to **CSSB 673**:

Amend **CSSB 673** by adding a new Section 18 and renumbering appropriately:

SECTION 18. Title 2, Subtitle C, Chapter 32, Human Resources Code, is amended by adding section 32.027(i) to read as follows:

(i) In its establishment of provider criteria for hospitals, home health or hospice providers, the department shall accept licensure by the Texas Department of Health or certification by the Medicare program, (Title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.)).

Amendment No. 3 was adopted without objection.

**Amendment No. 4**

Representative Berlanga offered the following amendment to **CSSB 673**:

Amend **CSSB 673** by adding new SECTIONS 19 and 20 to read as follows, and by re-numbering the subsequent SECTIONS accordingly:

SECTION 19. Section 3.06(f), Medical Practice Act (Article 4495b, Vernon's Texas Civil Statutes), is amended to read as follows:

(f) Nothing in this Act shall be construed to prohibit ~~[county or municipal corporation or a]~~ hospital ~~[district or authority]~~ from entering into an independent contractor agreement ~~[contracting]~~ with a physician to provide services at ~~[a] the hospital or at other health care facilities owned [and] or~~ operated by the ~~[county or municipal corporation or the]~~ hospital ~~[district or authority]~~, from paying the physician a minimum guarantee to assure the physician's availability, from billing and collecting the physician's professional fees from patients, or from retaining the collected professional fees up to the amount of the minimum guarantee plus a reasonable collection fee. ~~[This subsection applies only to a county or municipal corporation or a hospital district or authority which owns and operates a hospital on or after the effective date of this subsection or to an entity to which a county or municipal corporation or a hospital district or authority, to which this subsection applies, leases its hospital on or after the effective date of this subsection.]~~

SECTION 20. Subsections 3.06 (g) and (h), Medical Practice Act (Article 4495b, Vernon's Texas Civil Statutes), are repealed.

Amendment No. 4 was adopted without objection.

#### **Amendment No. 5**

Representative Van de Putte offered the following amendment to **CSSB 673**:

Amend **CSSB 673** (House Committee Report) on page 28 between lines 21 and 22 by inserting the following appropriately numbered SECTIONS:

(1) SECTION . Subtitle D, Title 2, Health and Safety Code, is amended by adding Chapter 88 to read as follows:

#### CHAPTER 88. REPORTS OF CHILDHOOD LEAD POISONING

##### Sec. 88.001. DEFINITIONS. In this chapter:

(1) "Child care" includes a school, preschool, kindergarten, nursery school, or other similar activity that provides care or instruction for young children.

(2) "Child care facility" means a public place or a residence in which a person furnishes child care.

(3) "Health authority" means a physician appointed as such under Chapter 121.

(4) "Health professional" means an individual whose:

(A) vocation or profession is directly or indirectly related to the maintenance of health in another individual; and

(B) duties require a specified amount of formal education and may require a special examination, certificate or license, or membership in a regional or national association.

(5) "Lead" includes metallic lead and materials containing metallic lead with a potential for release in sufficient concentrations to pose a threat to public health.

(6) "Blood lead levels of concern" means the presence of blood lead concentrations suspected to be associated with mental and physical disorders due to absorption, ingestion, or inhalation of lead as specified in the most recent criteria issued by the United States Department of Health and Human Service, United States Public Health Service, Centers for Disease Control and Prevention of the United States Public Health Service.



(7) "Lead poisoning" means the presence of a confirmed venous blood level established by board rule in the range specified for medical evaluation and possible pharmacologic treatment in the most recent criteria issued by the United States Department of Health and Human Services, United States Public Health Service, Centers for Disease Control and Prevention of the United States Public Health Service.

(8) "Local health department" means a department created under Chapter 121.

(9) "Physician" means a person licensed to practice medicine by the Texas State Board of Medical Examiners.

(10) "Public health district" means a district created under Chapter 121.

(11) "Regional director" means a physician appointed by the board as the chief administrative officer of a public health region under Chapter 121.

Sec. 88.002. CONFIDENTIALITY. (a) Except as specifically authorized by this chapter, reports, records, and information furnished to a health authority, a regional director, or the department that relate to cases or suspected cases of children with book lead levels of concern and lead poisoning are confidential and may be used only for the purposes of this chapter.

(b) Reports, records, and information relating to cases or suspected cases of childhood lead poisoning and children with blood lead levels of concern are not public information under the open records law, Chapter 552, Government Code, and may not be released or made public on subpoena or otherwise except as provided by this chapter.

(c) Medical, epidemiologic, or toxicologic information may be released:

(1) for statistical purposes if released in a manner that prevents the identification of any person;

(2) with the consent of each person identified in the information;

(3) to medical personnel, appropriate state agencies, health authorities, regional directors, and public officers of counties and municipalities as necessary to comply with this chapter and related rules;

(4) to appropriate federal agencies, such as the Centers for Disease Control and Prevention of the United States Public Health Service, except that the information must be limited to the information requested by the agency; or

(5) to medical personnel to the extent necessary in a medical emergency to protect the health or life of the child identified in the information.

(d) The commissioner, a regional director or other department employee, a health authority or employee of a public health district, a health authority or employee of a county or municipal health department, or a public official of a county or municipality may not be examined in a civil, criminal, special, or other proceeding as to the existence or contents of pertinent records of, or reports or information about a child identified, examined, or treated for lead poisoning or a child possessing blood lead levels of concern by the department, a public health district, a local health department, or a health authority without the consent of the child's parents, managing conservator, guardian, or other person authorized by law to give consent.

Sec. 88.003. REPORTABLE HEALTH CONDITION. (a) Childhood blood lead levels of concern are reportable.



(b) The board by rule may designate:

- (1) blood lead concentrations in children that must be reported; and
- (2) the ages of children for whom the reporting requirements apply.

(c) The board may adopt rules that establish a registry of children with blood lead levels of concern and lead poisoning.

Sec. 88.004. PERSONS REQUIRED TO REPORT. (a) A person required to report childhood blood lead levels of concern shall report to the department in the manner specified by board rule. Except as provided by this section, a person required by this section to report must make the report immediately after the person gains knowledge of the case or suspected case of child with a blood lead level of concern.

(b) A physician shall report a case or suspected case of childhood lead poisoning or of a child with a blood lead level of concern after the physician's first examination of a child for whom reporting is required by board rule.

(c) A person in charge of an independent clinical laboratory, a hospital or clinic laboratory, or other facility in which a laboratory examination of a specimen derived from the human body yields evidence of a child with a blood lead level of concern shall report the findings to the department as required by board rule.

(d) If a report is not made as required by Subsection (b) or (c), the following persons shall report a case or suspected case of a child with lead poisoning or a blood lead level of concern and all information known concerning the child:

(1) the administrator of a hospital licensed under Chapter 241;

(2) a professional registered nurse;

(3) an administrator or director of a public or private child care facility;

(4) an administrator of a home health agency;

(5) an administrator or health official of a public or private institution of higher education;

(6) a superintendent, manager, or health official of a public or private camp, home, or institution;

(7) a parent, managing conservator, guardian, or residence owner; and

(8) a health professional.

Sec. 88.005. REPORTING PROCEDURES. (a) The board shall prescribe the form and method of reporting under this chapter, including a report in writing, by telephone, or by electronic data transmission.

(b) Board rules may require the reports to contain any information relating to a case that is necessary for the purposes of this chapter, including:

(1) the child's name, address, age, sex, and race;

(2) the child's blood lead concentration;

(3) the procedure used to determine the child's blood lead concentration; and

(4) the name of the attending physician.

(c) The commissioner may authorize an alternate routing of information in particular cases if the commissioner determines that the customary reporting procedure would cause the information to be unduly delayed.

Sec. 88.006. REPORTS OF HOSPITALIZATION; DEATH. (a) A

physician who attends a child during the child's hospitalization shall immediately notify the department if the physician knows or suspects that the child has lead poisoning or a blood lead level of concern and the physician believes the lead poisoning or blood lead level of concern resulted from the child's exposure to a dangerous level of lead that may be a threat to the public health.

(b) A physician who attends a child during the child's last illness shall immediately notify the department if the physician:

(1) knows or suspects that the child died of lead poisoning; and

(2) believes the lead poisoning resulted from the child's exposure to a dangerous level of lead that may be a threat to the public health.

(c) An attending physician, health authority, or regional director, with the consent of the child's survivors, may request an autopsy if the physician, health authority, or regional director needs further information concerning the cause of death in order to protect the public health. The health authority or regional director may order the autopsy to determine the cause of death if the child's survivors do not consent to the autopsy. The autopsy results shall be reported to the department.

(d) A justice of the peace acting as coroner or a medical examiner in the course of an inquest under Chapter 49, Code of Criminal Procedure, who finds that a child's cause of death was lead poisoning that resulted from exposure to a dangerous level of lead that the justice of the peace or medical examiner believes may be a threat to the public health shall immediately notify the health authority or the regional director in the jurisdiction in which the finding is made.

SECTION . Chapter 88, Subtitle D, Title 2 of the Health and Safety Code of this Act is takes effect January 1, 1996.

(2) Renumber subsequent SECTIONs of the bill appropriately.

Amendment No. 5 was adopted without objection.

#### **Amendment No. 6**

Representative Brimer offered the following amendment to **CSSB 673**:

Amend **CSSB 673** by adding the following appropriately numbered sections and renumbering the sections of the bill accordingly:

SECTION \_\_\_\_\_. Section 1.03, Medical Practice Act (Article 4495b, Vernon's Texas Civil Statute), is amended by adding Subdivision (17) to read as follows:

(17) "Doctor of osteopathy" and "doctor of osteopathic medicine" include a doctor of osteopathic medicine, doctor of osteopathy, osteopath, osteopathic physician, and osteopathic surgeon.

SECTION \_\_\_\_\_. Section 3, Healing Art Identification Act (Article 4590e, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 3. HEALING ART IDENTIFICATIONS. Every person licensed to practice the healing art heretofore or hereafter by either the Texas State Board of Medical Examiners, the State Board of Dental Examiners, the Texas Board of Chiropractic Examiners, the Texas State Board of Examiners of Optometry, the State Board of Chiroprody Examiners and the State Board of Naturopathic

Examiners shall in the professional use of his name on any sign, pamphlet, stationery, letterhead, signature, or on any other such means of professional identification, written or printed, designate in the manner set forth in this Act the system of the healing art in which he is by his license permitted to practice. The following are the legally required identifications, one of which must be used by practitioners of the healing art:

(1) If licensed by the Texas State Board of Medical Examiners on the basis of the degree Doctor of Medicine: physician and/or surgeon, M.D.; doctor, M.D.; doctor of medicine, M.D.

(2) If licensed by the Texas State Board of Medical Examiners of the basis of the degree Doctor of Osteopathy: physician and/or surgeon, D.O.; Osteopathic physician and/or surgeon; doctor, D.O.; doctor of osteopathy; doctor of osteopathic medicine; osteopath; D.O.

(3) If licensed by the State Board of Dental Examiners: dentist; doctor, D.D.S.; doctor of dental surgery; D.D.S.; doctor of dental medicine, D.M.D.

(4) If licensed by the Texas Board of Chiropractic Examiners: chiropractor; doctor, D.C.; doctor of Chiropractic; D.C.

(5) If licensed by the Texas State Board of Examiners in Optometry: optometrist; doctor, optometrist; doctor of optometry; O.D.

(6) If a practitioner of the healing art is licensed by the State Board of Podiatry Examiners, he shall use one of the following identifications: chiropodist; doctor, D.S.C.; Doctor of Surgical Chiropody; D.S.C.; podiatrist; doctor, D.P.M.; Doctor of Podiatric Medicine; D.P.M.

(7) If licensed by the State Board of Naturopathic Examiners: naturopathic physician; physician, N.D.; doctor of naturopathy; N.D.; doctor, N.D.

Amendment No. 6 was adopted without objection.

#### **Amendment No. 7**

Representative McDonald offered the following amendment to **CSSB 673**:

Amend **CSSB 673** by adding a new, appropriately numbered section to the bill (House Committee Report, page 12, between lines 9 and 10) to read as follows and renumbering subsequent sections of the bill appropriately:

SECTION \_\_\_\_\_. Section 58.002(e), Education Code, is amended to read as follows:

(e) ~~This [It is the intent of this] chapter applies to all [that eventually at least 50 percent of the first-year] resident physicians [appointed by medical schools shall be] in the primary care areas of family medicine, internal medicine, pediatrics, geriatrics, obstetrics/gynecology, and emergency medicine[; with 25 percent of those residents in family practice].~~

Amendment No. 7 was adopted without objection.

#### **Amendment No. 8**

Representative Hilderbran offered the following amendment to **CSSB 673**:

Amend **CSSB 673** (House committee report) as follows:

(1) In SECTION 3 of the bill, in Section 262.034, Health and Safety Code, add a new Subsection (f) (page 6, between lines 2 and 3) to read as follows:

(f) This section does not authorize the construction, acquisition, ownership, operation, enlargement, improvement, furnishing, or equipping of a facility or service listed in Subsection (a) if a private provider of the facility or service is available and accessible in the service area of the authority.

(2) In SECTION 4 of the bill, in Section 285.101, Health and Safety Code, add a new Subsection (d) (page 7, between lines 15 and 16) to read as follows:

(d) This section does not authorize the construction, acquisition, ownership, operation, enlargement, improvement, furnishing, or equipping of a facility or service listed in Subsection (b)(1) if a private provider of the facility or service is available and accessible in the service area of the hospital, hospital district, or authority.

Amendment No. 8 was adopted without objection.

### **Amendment No. 9**

Representative Uher offered the following amendment to **CSSB 673**:

Amend **CSSB 673** by adding appropriately numbered sections to read as follows:

SECTION . Section 1, Chapter 94, Acts of the 51st Legislature, Regular Session, 1949 (Article 4512b, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 1. (a) A person shall be regarded as practicing chiropractic within the meaning of this Act if the person:

(1) uses objective or subjective means to analyze, examine, or evaluate the biomechanical condition of the spine and musculoskeletal system of the human body;

(2) performs nonsurgical, nonincisive ~~[uses adjustment, manipulation, or other]~~ procedures, including adjustment and manipulation, in order to improve the subluxation complex or the biomechanics of the musculoskeletal system; or

(3) holds himself out to the public as a chiropractor or uses the term "chiropractor," "chiropractic," "doctor of chiropractic," "D.C.," or any derivative of those terms in connection with his name. The term "chiropractic physician" may be used for the express purpose of filing a claim for necessary services within the definition of chiropractic under this Act when the billing for such services has universally applied, predetermined coding or description requirements that are a prerequisite to appropriate reimbursement. A chiropractor may not advertise using the term "physician," "chiropractic physician," or any combination or derivation of the term "physician."

(b) The practice of chiropractic shall not be construed to include incisive or surgical procedures or the prescribing of controlled substances or dangerous drugs.

(c) In this Act, "incisive procedure" includes entry into any tissue, cavity, or organ by any person or implement. It does not include examination of the ear, nose, and throat, drawing blood for the purposes of diagnostic testing, or acupuncture or needle EMG if the chiropractor is certified to perform acupuncture or needle EMG under Section 13b(d) of this Act.

SECTION . Subsection (h), Section 3, Chapter 94, Acts of the 51st Legislature, Regular Session, 1949 (Article 4512b, Vernon's Texas Civil Statutes), is amended to read as follows:

(h) The members of the Texas Board of Chiropractic Examiners shall be divided into three (3) classes, one, two and three, and are appointed for staggered six-year terms, with three members' terms expiring on February 1 of each odd-numbered year. No person may be appointed to serve more than two terms. The president of the Board shall be a licensed doctor of chiropractic. Members hold office for their terms and until their successors are duly appointed and qualified. In case of death or resignation of a member of the Board, the Governor shall appoint another to take his place for the unexpired term only.

SECTION . Subsection (c), Section 4, Chapter 94, Acts of the 51st Legislature, Regular Session, 1949 (Article 4512b, Vernon's Texas Civil Statutes), is amended to read as follows:

(c) The Board shall adopt rules [guidelines] for regulation and enforcement of this Act [educational preparation for all aspects of the practice of chiropractic. The Board may not adopt a rule relating to the meaning of the practice of chiropractic under this Act except for:

[(1) a rule relating to an adjustment, manipulation, or other procedure directly related to improving the subluxation of the spine or of the musculoskeletal system as it directly relates to improving the subluxation of the spine; or

[(2) a rule that defines an unacceptable practice of chiropractic and provides for a penalty or sanction under this Act]. The Board shall issue all opinions based on a vote of a majority of the Board at a regular or called meeting. The issuance of a disciplinary action or disciplinary order of the Board is not limited by this subsection.

SECTION . Section 5a, Chapter 94, Acts of the 51st Legislature, Regular Session, 1949 (Article 4512b, Vernon's Texas Civil Statutes), is amended by adding Subsection (c) to read as follows:

(c) A person who violates this section commits an offense. An offense under this section is a Class A misdemeanor. If it is shown at a trial of an offense under this section that the defendant has previously been convicted under this section, the offense is a felony of the third degree. Each day of violation constitutes a separate offense.

SECTION . Chapter 94, Acts of the 51st Legislature, Regular Session, 1949 (Article 4512b, Vernon's Texas Civil Statutes), is amended by adding Section 12b to read as follows:

Sec. 12b. (a) The advisory commission to the Texas Board of Chiropractic Examiners is created. The advisory commission shall advise the Board on scientific and technical matters regarding new and experimental diagnostic and treatment practices, procedures, or instruments that are within the definition of chiropractic as set out in Section 1 of this Act.

(b) The advisory commission shall be composed of:

(1) three persons who are licensees of the Board and who are appointed by the Board;

(2) two licensees from chiropractic colleges in this state appointed by the Board from a list submitted by the president or governing body of each college;

(3) two licensees of the Texas State Board of Medical Examiners who are designated by that board;

(4) one licensee of the Board of Nurse Examiners who is designated by that board; and

(5) one licensee of the State Board of Pharmacy who is designated by that board.

(c) Each member of the advisory commission serves at the pleasure of the authority that appointed the member to the advisory commission.

(d) The chair of the advisory commission shall be selected from among the three members of the Board who are licensed doctors of chiropractic.

(e) The members of the advisory commission shall serve without compensation but are entitled to reimbursement for actual expenses incurred in carrying out official duties, subject to the approval of the chair of the advisory commission.

SECTION . Chapter 94, Acts of the 51st Legislature, Regular Session, 1949 (Article 4512b, Vernon's Texas Civil Statutes), is amended by adding Section 13b to read as follows:

Sec. 13b. (a) Notwithstanding any other provision in this Act, the Board shall adopt a process to certify chiropractors to perform manipulation under anesthesia. The process shall include, but not be limited to, a requirement that the chiropractor demonstrate competence by submitting proof of successful completion of a postgraduate course in manipulation under anesthesia offered by a chiropractic college accredited by the Council on Chiropractic Education.

(b) A chiropractor certified by the Board to perform manipulation under anesthesia shall perform the procedure in a setting which provides immediate access to emergency medical care. Anesthesia shall only be administered by a medical or osteopathic doctor licensed by the Texas State Board of Medical Examiners to administer anesthesia, who shall be present throughout the chiropractic procedure.

(c) The Board shall adopt rules for the use of manipulation under anesthesia by a chiropractor, including the indications and contraindications for its use. In adopting these rules, the Board shall consult with the advisory commission.

(d) The Board shall adopt a process to certify chiropractors to perform acupuncture and needle EMG. The process shall include, but not be limited to, a requirement that the chiropractor demonstrate competence by submitting proof of successful completion of a postgraduate course in acupuncture or needle EMG offered by a chiropractic college accredited by the Council on Chiropractic Education. The Board shall adopt rules for the use of acupuncture and needle EMG by a chiropractor, including the indications and contraindications for use. In adopting these rules, the Board shall consult with the advisory commission.

SECTION . Section 14b, Chapter 94, Acts of the 51st Legislature, Regular Session, 1949 (Article 4512b, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 14b. (a) The Board may require evidence of proper training, precaution, and safety in the use of analytical and diagnostic x-ray in conformity with the provisions of Chapter 401, Health and Safety Code, and in conformity

with all rules and regulations of the Texas Radiation Control Agency and the Texas State Department of Health. Nothing in this section ~~[herein]~~ shall be deemed to alter, modify, or amend the provisions of Section 1 of this Act[; Chapter 94, Acts of the 51st Legislature, 1949, as amended (Article 4512b, Vernon's Texas Civil Statutes);] or to enlarge in any manner the scope of the practice of chiropractic or the acts which a chiropractor is authorized to perform; and, provided further, that nothing in this section ~~[herein]~~ shall be deemed to alter, modify, or amend the provisions of Article 4510, Revised Civil Statutes of Texas, 1925, as amended. The Board shall implement any federal law and state law requirements relating to radiologic training of the employees of a chiropractor.

(b) The Board may, insofar as no conflict with other law exists, adopt a certification process to differentiate chiropractic licensees who have successfully completed advanced, postgraduate training at a chiropractic college accredited by the Council on Chiropractic Education or who have obtained certification through a national chiropractic board.

SECTION . Section 14c, Chapter 94, Acts of the 51st Legislature, Regular Session, 1949 (Article 4512b, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 14c. (a) The Board shall appoint an enforcement committee to oversee and conduct the investigation of complaints filed with the Board under this Act and to perform other duties related to enforcement as directed by the Board. The enforcement committee is composed of three[;

~~[(1) two or more]~~ Board members, ~~two [at least one]~~ of whom are doctors ~~[is a doctor]~~ of chiropractic and ~~[at least]~~ one of whom is a representative of the general public[;

~~[(2) the executive director; and~~

~~[(3) a representative of the attorney general's office].~~

(b) The attorney general shall provide legal counsel to the enforcement committee concerning the investigation and disposition of complaints and other enforcement matters.

Sec. 14c.1. (a) The Board shall keep an information file about each complaint filed with the Board and referred to the enforcement committee. The Board's information file shall contain a record for each complaint of:

(1) all persons contacted in relation to the complaints;

(2) a summary of findings made at each step of the complaint process;

(3) an explanation of the reason for a complaint that is dismissed; and

(4) other relevant information.

(b) If a written complaint is received by the Board that the Board has authority to resolve, the Board, at least as frequently as semiannually and until final disposition of the complaint, shall notify the parties to the complaint of the status of the complaint unless the notice would jeopardize an undercover investigation.

(c) The Board by rule shall adopt a form to standardize information concerning complaints made to the Board. The Board by rule shall prescribe information to be provided to a person when the person files a complaint received by the Board.

(d) The Board shall provide reasonable assistance to a person who wishes to file a complaint.



(e) The Board by rule shall adopt procedures concerning the retention of information files on licensees and the expunction of files on licensees including complaints, adverse reports, and other investigative information on licensees.

Sec. 14c.2. (a) The Board shall adopt rules concerning the investigation of complaints ~~[a complaint]~~ filed with the Board. The rules adopted under this subsection shall:

- (1) distinguish between categories of complaints;
- (2) ensure that complaints are not dismissed without appropriate consideration;
- (3) require that the Board be advised of a complaint that is dismissed and that a letter be sent to the person who filed the complaint explaining the action taken on the dismissed complaint;
- (4) ensure that the person who filed the complaint has the ~~[an]~~ opportunity to explain the allegations made in the complaint; and
- (5) prescribe guidelines concerning the categories of complaints that require the use of a private investigator and the procedures for the Board to obtain the services of a private investigator.

(b) [(c)] The Board shall dispose of all complaints in a timely manner. The Board shall establish a time line for conducting each phase of a complaint that is under the control of the Board not later than the 30th day after the date the complaint is received by the Board. The time line shall be kept in the information file for the complaint and all parties shall be notified of the projected time requirements for pursuing the complaint. A change in the time line must be noted in the complaint information file and all parties to the complaint must be notified not later than the seventh day after the date the change is made.

(c) [(d)] The executive director of the Board shall notify the Board of a complaint that extends beyond the time prescribed by the Board for resolving the complaint so that the Board may take necessary action on the complaint.

SECTION . Section 19, Chapter 94, Acts of the 51st Legislature, Regular Session, 1949 (Article 4512b, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 19. Except as provided by Section 5a of this Act, a person who ~~[Whoever]~~ violates any provision of this Act shall be guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than Fifty Dollars (\$50) nor more than Five Hundred Dollars (\$500), or by imprisonment in the county jail for not more than thirty (30) days.

SECTION . (a) Any rule adopted or proposed for adoption by the Texas Board of Chiropractic Examiners on or after September 1, 1994, must be reviewed and amended in conformance with this Act except for a rule relating to:

- (1) procedures for the conduct of a contested case held under Chapter 2001, Government Code (Administrative Procedure Act); or
- (2) internal operating procedures.

(b) Not later than December 1, 1996, the Texas Board of Chiropractic Examiners shall submit a report to the governor, lieutenant governor, and speaker of the house of representatives on the results of the review and rulemaking actions under Subsection (a) of this section.



SECTION . The comptroller, under the authority of Section 403.022, Government Code, shall perform a review and shall analyze the effectiveness and efficiency of the policy, management, fiscal affairs, and operation of the Texas Board of Chiropractic Examiners. The report shall be made before January 10, 1997.

(Wilson in the chair)

(Speaker in the chair)

#### **Amendment No. 10**

Representative Uher offered the following amendment to Amendment No. 9:

Amend the Uher amendment to **CSSB 673** as follows:

(1) Strike lines 4 through 12, page 2.

(2) on page 1, at the end of the line 13, after the word "including" by inserting the words "but not limited to".

(3) Insert the following new SECTION and renumbering subsequent sections accordingly:

SECTION . Section 13a., Chapter 94, Acts of the 51st Legislature, Regular Session, 1949 (Article 5412b), Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 13a. (a) The practice of chiropractic shall not be construed to include:

(1) incisive or surgical procedures;

(2) the prescribing of controlled substances or dangerous drugs or any drug that requires a prescription; or

(3) the use of x-ray therapy, or therapy that exposes the body to radioactive materials.

(b) In this act, "incisive or surgical procedures" means making an incision into any tissue, cavity or organ by any person or implement. It does not include the use of a needle for the purposes of drawing blood for diagnostic testing. A chiropractor may not use in the chiropractors's practice surgery, drugs that require a prescription to be dispensed, x-ray therapy, or therapy that exposes the body to radioactive materials.

Amendment No. 10 was adopted without objection.

#### **Amendment No. 11**

Representatives Uher and Glaze offered the following amendment to Amendment No. 9:

Amend the Uher amendment to **CSSB 673** as follows:

(1) In the first section, in amended Section 1, Chapter 94, Acts of the 51st Legislature, Regular Session, 1949 (Article 4512b, Vernon's Texas Civil Statutes), strike Subsection (c) (page 2, lines 7-12, senate engrossment).

(2) In the sixth section, in added Section 13b, Chapter 94, Acts of the 51st Legislature, Regular Session, 1949 (Article 4512b, Vernon's Texas Civil Statutes), strike Subsection (d) (page 6, lines 7-16, senate engrossment).

(3) In the seventh section, in amended Section 14b, Chapter 94, Acts of the 51st Legislature, Regular Session, 1949 (Article 4512b, Vernon's Texas Civil Statutes), strike "(a)" (page 6, line 20, senate engrossment).

(4) In the seventh section, in amended Section 14b, Chapter 94, Acts of the 51st Legislature, Regular Session, 1949 (Article 4512b, Vernon's Texas Civil Statutes), strike Subsection (b)(page 7, lines 11-16, senate engrossment).

Amendment No. 11 was adopted without objection.

#### **Amendment No. 12**

Representative Janek offered the following amendment to Amendment No. 9:

Amend Amendment No. 9 by Uher to **CSSB 673** as follows:

- 1.) On page 1, line 19, after "name." delete the rest of the line.
- 2.) Delete lines 20-23 on page 1.
- 3.) Delete lines 1-3 on page 2 and add "A chiropractor may not use the term 'physician' in any form."
- 4.) On page 2 line 10 after "testing," add "¿" and delete the rest of the line.
- 5.) Delete lines 11-12 on page 2.
- 6.) On page 5, line 14, between "shall" and "adopt" insert the word "not".
- 7.) On page 5, line 15, after "anesthesia." delete the rest of the line.
- 8.) On page 5 delete lines 16-25.
- 9.) On page 6 delete lines 1-16.

Representative Uher moved to table Amendment No. 12.

The motion to table was lost.

A record vote was requested.

Amendment No. 12 was adopted by (Record 502): 81 Yeas, 51 Nays, 2 Present, not voting.

Yeas — Alexander; Alvarado; Averitt; Brady; Brimer; Carona; Chisum; Clemons; Cook; Counts; Craddick; Cuellar, R.; Culberson; Davis; De La Garza; Delisi; Driver; Duncan; Ehrhardt; Eiland; Elkins; Finnell; Gallego; Giddings; Goodman; Gray; Haggerty; Hamric; Harris; Hartnett; Hawley; Heflin; Hilderbran; Hill; Hirschi; Holzheuser; Horn; Howard; Hunter, T.; Janek; Jones, J.; Junell; Kamel; King; Kubiak; Kuempel; Lewis, G.; Lewis, R.; Luna; Madden; Marchant; Maxey; McCall; McCoulskey; Naishtat; Nixon; Ogden; Oliveira; Park; Patterson; Place; Rabuck; Raymond; Reyna; Rusling; Saunders; Seidlits; Siebert; Smithee; Staples; Swinford; Turner, B.; Turner, S.; Van de Putte; Walker; West; Wilson; Wohlgemuth; Wolens; Woolley; Yost.

Nays — Allen; Alonzo; Bailey; Black; Carter; Conley; Corte; Crabb; Cuellar, H.; Denny; Dukes; Dutton; Edwards; Farrar; Glaze; Goolsby; Gutierrez; Hightower; Hudson; Hunter, B.; Jackson; Johnson; Jones, D.; Krusee; Longoria; McDonald; Moffat; Moreno; Oakley; Pickett; Pitts; Price; Puente; Ramsay; Rangel; Rhodes; Rodriguez; Romo; Serna; Shields; Solis; Solomons; Stiles; Talton; Telford; Thompson; Tillery; Torres; Uher; Willis; Zbranek.

Present, not voting — Mr. Speaker(C); Bosse.

Absent, Excused — Hilbert.

Absent, Excused, Committee Meeting — Dear; Hernandez; Williamson.

Absent — Berlanga; Coleman; Combs; Danburg; Davila; Greenberg; Grusendorf; Hochberg; Mowery; Munoz; Sadler; Yarbrough.

### STATEMENTS OF VOTE

I was shown present not voting on Record No. 502. I intended to vote no.

Bosse

I was shown voting yes on Record No. 502. I intended to vote no.

Maxey

When Record No. 502 was taken, I was in the house but away from my desk. I would have voted no.

Greenberg

Amendment No. 9, as amended, was adopted without objection.

### Amendment No. 13

Representative Park offered the following amendment to **CSSB 673**:

Amend **CSSB 673** by adding a new Section 5 and renumbering the subsequent sections accordingly:

SECTION 5. Subchapter B, Chapter 101, Human Resources Code is amended by adding Section 101.032 to read as follows:

Sec. 101.032. ACCESS TO HEALTH CARE SERVICES FOR THE ELDERLY. (a) In this section, "area agency on aging" means an entity designated in the manner provided by 42 U.S.C. Section 3025.

(b) Area Agencies on Aging or their designated contractors shall be the primary source of information, eligibility pre-screening, and referral for persons seeking health care and long-term care assistance for individuals 60 years of age and over. In performing duties under this section, each of those agencies shall:

(1) maintain a toll-free telephone number;

(2) maintain current information on relevant long-term care local resources for long-term care services for the elderly; and

(3) utilize the client pre-screening software provided by the Health and Human Service Commission to determine probable eligibility for programs designed to assist the elderly.

(c) In order to enhance the operation of the toll-free information line and coordinate services of the Texas Department of Human Services and the Texas Department on Aging, the Texas Department on Human Services shall either use current appropriations to co-fund at least one half of the costs of at least one staff person per area or select current staff to assign to each area agency on aging. These positions shall be under the supervision of the area agency on aging program directors.

(d) The Texas Department on Human Services also shall provide training for workers using the approved, computerized eligibility pre-screening program.

(e) the department, the Texas Department of Human Services, and the area agencies on aging shall disseminate information to the public about the services provided by the area agencies on aging under this section.

Amendment No. 13 was adopted without objection.

**CSSB 673**, as amended, was passed to third reading. (Rabuck recorded voting no)

**SB 44 ON SECOND READING**  
**(Combs - House Sponsor)**

The speaker laid before the house, on its second reading and passage to third reading, the complete committee substitute for **SB 44**.

**CSSB 44**, A bill to be entitled An Act relating to the provision of good conduct time to inmates sentenced to the institutional division of the Department of Criminal Justice.

**CSSB 44** was read second time and was passed to third reading.

**SB 111 ON SECOND READING**  
**(Combs and Kamel - House Sponsors)**

The speaker laid before the house, on its second reading and passage to third reading, the complete committee substitute for **SB 111**.

**CSSB 111**, A bill to be entitled An Act relating to conditions of community supervision, parole, and release on mandatory supervision for defendants charged with or convicted of certain sexual offenses against or involving children.

**CSSB 111** was read second time.

**Amendment No. 1**

On behalf of Representative Place, Representative Combs offered the following amendment to **CSSB 111**:

Amend **CSSB 111** as follows:

(1) In SECTION 3 of the bill, in Section 13B, Article 42.12, Code of Criminal Procedure (house committee report, page 5, lines 20-25), strike proposed Subsection (e) and substitute a new Subsection (e) to read as follows:

(e) At any time after the imposition of a condition under Subsection (a)(1), the defendant may request the court to modify the child safety zone applicable to the defendant because the zone as created by the court:

(1) interferes with the ability of the defendant to attend school or hold a job and consequently constitutes an undue hardship for the defendant; or

(2) is broader than is necessary to protect the public, given the nature and circumstances of the offense.

(2) In SECTION 4 of the bill, in Section 8(u), Article 42.18, Code of Criminal Procedure (house committee report, page 8, lines 10-15), strike proposed Subdivision (4) and substitute the following:

(4) At any time after the imposition of a condition under Subdivision (1)(A), the inmate may request the parole panel to modify the child safety zone applicable to the inmate because the zone as created by the panel:

(A) interferes with the ability of the inmate to attend school or hold a job and consequently constitutes an undue hardship for the inmate; or

(B) is broader than necessary to protect the public, given the nature and circumstances of the offense.

Amendment No. 1 was adopted without objection.

**Amendment No. 2**

Representative Danburg offered the following amendment to **CSSB 111**:

Amend **CSSB 111** in SECTION 2 of the bill, in Section 5, Article 42.12, (House committee report, page 1, line 18 - page 2, line 20), by striking proposed Subsection (a) and substituting a new Subsection (a) to read as follows:

(a) Except as provided by Subsection (d) of this section, when in the judge's opinion the best interest of society and the defendant will be served, the judge may, after receiving a plea of guilty or plea of nolo contendere, hearing the evidence, and finding that it substantiates the defendant's guilt, defer further proceedings without entering an adjudication of guilt, and place the defendant on community supervision. The judge shall inform the defendant orally or in writing of the possible consequences under Subsection (b) of this section of a violation of community supervision. If the information is provided orally, the judge must record and maintain the judge's statement to the defendant. In a felony case, the period of community supervision may not exceed 10 years. For a defendant charged with a felony under Section 21.11, 22.011, or 22.021, Penal Code, regardless of the age of the victim, and for a defendant charged with a felony described by Section 13B(b) of this article, the period of community supervision may not be less than five years. In a misdemeanor case, the period of community supervision may not exceed two years. A judge may increase the maximum period of community supervision in the manner provided by Section 22(c) of this article. The judge may impose a fine applicable to the offense and require any reasonable conditions of community supervision, including mental health treatment under Section 11(d) of this article, that a judge could impose on a defendant placed on community supervision for a conviction that was probated and suspended, including confinement. However, upon written motion of the defendant requesting final adjudication filed within 30 days after entering such plea and the deferment of adjudication, the judge shall proceed to final adjudication as in all other cases.

Amendment No. 2 was adopted without objection.

**CSSB 111**, as amended, was passed to third reading.

**SB 46 ON SECOND READING**  
**(Allen - House Sponsor)**

The speaker laid before the house, on its second reading and passage to third reading,

**SB 46**, A bill to be entitled An Act relating to requiring victim notification when an inmate escapes from a facility operated by the institutional division of the Texas Department of Criminal Justice.

The bill was read second time and was passed to third reading.

**SB 47 ON SECOND READING**  
**(Allen - House Sponsor)**

The speaker laid before the house, on its second reading and passage to third reading,

**SB 47**, A bill to be entitled An Act relating to notification of certain persons about procedures in the community supervision process that apply to defendants who victimized those persons.

The bill was read second time and was passed to third reading.

**SB 1159 ON SECOND READING**  
**(Berlanga - House Sponsor)**

The speaker laid before the house, on its second reading and passage to third reading,

**SB 1159**, A bill to be entitled An Act relating to arbitration of a dispute with the General Services Commission regarding certain building construction contracts.

The bill was read second time.

Representative Davis raised a point of order against further consideration of **SB 1159** on the grounds that **SB 1159** violates Rule 4, Section 32(b)(9), of the House Rules.

The speaker sustained the point of order.

**SB 1685 ON SECOND READING**  
**(Stiles - House Sponsor)**

The speaker laid before the house, on its second reading and passage to third reading, the complete committee substitute for **SB 1685**.

**CSSB 1685**, A bill to be entitled An Act relating to the detection and prevention of prostate cancer.

**CSSB 1685** was read second time and was passed to third reading.

**SB 1658 ON SECOND READING**  
**(Coleman - House Sponsor)**

The speaker laid before the house, on its second reading and passage to third reading,

**SB 1658**, A bill to be entitled An Act relating to tax credits for real property contributed to institutions of higher education.

The bill was read second time and was passed to third reading.

**SB 1291 ON SECOND READING**  
**(Janek - House Sponsor)**

The speaker laid before the house, on its second reading and passage to third reading,

**SB 1291**, A bill to be entitled An Act relating to the practice of perfusion.

The bill was read second time and was passed to third reading.

**SB 607 ON SECOND READING**  
**(McDonald - House Sponsor)**

The speaker laid before the house, on its second reading and passage to third reading,

**SB 607**, A bill to be entitled An Act relating to benefits for the detection and prevention of osteoporosis under group health insurance policies.

The bill was read second time.

**Amendment No. 1 (Committee Amendment No. 1)**

On behalf of Representative G. Lewis, Representative McDonald offered the following committee amendment to the bill:

Amend **SB 607** by amending Subsection (b), Article 21.53C, Insurance Code, as added by Section 1 of the bill, to read as follows:

(b) "Qualified individual" means:

(1) a post-menopausal woman who is not receiving estrogen replacement therapy;

(2) an individual with:

(A) vertebral abnormalities;

(B) primary hyperparathyroidism; or

(C) a history of bone fractures; or

(3) an individual who is:

(A) receiving long-term glucocorticoid therapy; or

(B) being monitored to assess the response to or efficacy of an approved osteoporosis drug therapy.

Amendment No. 1 was adopted without objection.

**SB 607**, as amended, was passed to third reading. (Chisum recorded voting no)

**SB 726 ON SECOND READING**  
**(Hirschi - House Sponsor)**

The speaker laid before the house, on its second reading and passage to third reading, the complete committee substitute for **SB 726**.

**CSSB 726**, A bill to be entitled An Act relating to energy conservation measures by institutions of higher education.

**CSSB 726** was read second time and was passed to third reading.

**SB 1360 ON SECOND READING**  
**(Alexander - House Sponsor)**

The speaker laid before the house, on its second reading and passage to third reading, the complete committee substitute for **SB 1360**.

**CSSB 1360**, A bill to be entitled An Act relating to the operation and management of the Texas Turnpike Authority; providing penalties.

**CSSB 1360** was read second time and was passed to third reading. (Chisum and Eiland recorded voting no)

**SB 1704 ON SECOND READING**  
**(Kuempel - House Sponsor)**

The speaker laid before the house, on its second reading and passage to third reading,

**SB 1704**, A bill to be entitled An Act relating to the review and approval of certain permits by the state, a municipality, or other local governmental agencies.

The bill was read second time and was passed to third reading. (Greenberg, Naishtat, and Price recorded voting no; Rhodes, yes)

(Thompson in the chair)

(Speaker in the chair)

**SB 480 ON SECOND READING**  
**(Saunders - House Sponsor)**

The speaker laid before the house, on its second reading and passage to third reading,

**SB 480**, A bill to be entitled An Act relating to the jurisdiction of the Railroad Commission of Texas over pipeline safety.

The bill was read second time.

**Amendment No. 1**

Representative Chisum offered the following amendment to the bill:

Amend **SB 480** by adding a new sentence following the word jurisdiction, on line 3 of page 3 of the bill:

Except as provided herein, nothing in this article shall be construed to reduce, limit, or impair any power heretofore vested by law in a county, as related to county roads.

Amendment No. 1 was adopted without objection.

**SB 480**, as amended, was passed to third reading. (Conley recorded voting no)

**SB 400 ON SECOND READING**  
**(Shields - House Sponsor)**

The speaker laid before the house, on its second reading and passage to third reading,

**SB 400**, A bill to be entitled An Act relating to the application of the doctrine of forum non conveniens to certain actions.

The bill was read second time and was passed to third reading.

**SB 15 ON SECOND READING**  
**(Place - House Sponsor)**

The speaker laid before the house, on its second reading and passage to third reading, the complete committee substitute for **SB 15**.

**CSSB 15**, A bill to be entitled An Act relating to the prosecution, punishment, and creation of certain criminal offenses and to the sentencing of and facilities for housing certain defendants convicted of criminal offenses.

**CSSB 15** was read second time.

(Black in the chair)



### LEAVES OF ABSENCE GRANTED

The following member was granted leave of absence for the remainder of today to attend a meeting of the conference committee on SB 1:

Sadler on motion of McDonald.

The following member was granted leave of absence temporarily for today to attend a meeting of the conference committee on SB 1:

Hochberg on motion of McDonald.

### CSSB 15 - (consideration continued)

#### Amendment No. 1

Representative Place offered the following amendment to **CSSB 15**:

Amend **CSSB 15** in SECTION 1 of the bill, in Section 12.42, Penal Code (house committee report, page 1, lines 8-24 and page 2, lines 1-4), by striking proposed Subsection (a) and adding a new Subsection (a) to read as follows:

(a)(1) If it is shown on the trial of a state jail felony punishable under Section 12.35(a) that the defendant has previously been convicted of two state jail felonies, and the second previous state jail felony conviction is for an offense that occurred subsequent to the sentencing for the first previous conviction, on conviction the defendant shall be punished:

(A) as provided by Section 12.35(a); or

(B) for a third-degree felony.

(2) If it is shown on the trial of a state jail felony punishable under Section 12.35(a) that the defendant has previously been finally convicted of two felonies other than state jail felonies punishable under Section 12.35(a), and the second previous felony conviction is for an offense that occurred subsequent to the first previous conviction having become final, on conviction the defendant shall be punished for a second-degree felony.

(3) If it is shown on the trial of a state jail felony punishable under Section 12.35(c) or on the trial of a third-degree felony that the defendant has been once before convicted of a felony, on conviction he shall be punished for a second-degree felony.

Amendment No. 1 was adopted without objection.

#### Amendment No. 2

Representative Place offered the following amendment to **CSSB 15**:

Amend **CSSB 15** in SECTION 34 of the bill as follows:

(1) In the introductory language to SECTION 34 (house committee report, page 24, line 15), strike "amending Subsections (a), (b), (d)" and substitute "amending Subsections (a), (b), (c), (d)".

(2) In proposed Section 15, Article 42.12, Code of Criminal Procedure (house committee report, page 25, between lines 8 and 9), insert Subsection (c) to read as follows:

(c) A judge may impose any condition of community supervision on a defendant that the judge could impose on a defendant placed on supervision for an offense other than a state jail felony, except that the judge may impose on

the defendant a condition that the defendant submit to a period of confinement in a county jail under Section 12 of this article only if the term does not exceed 90 [30] days~~[- or does not exceed 60 days if the defendant previously has been convicted of a felony]~~.

(3) In proposed Section 15, Article 42.12, Code of Criminal Procedure (house committee report, page 25, lines 9-24), strike Subsection (d) and substitute a new Subsection (d) to read as follows:

(d) A judge may impose as a condition of community supervision that a defendant submit at the beginning of the period of community supervision to a term of confinement in a state jail felony facility for a term of 90 [not to exceed 60] days, except that the judge may impose a term of not less than 90 or more than [or] 180 days if the defendant previously has been convicted of a felony, or not less than 90 days or more than one year if the defendant is convicted of an offense punishable as a state jail felony under Section 481.112, Health and Safety Code~~[- or the defendant previously has been convicted of two or more felonies]~~. A judge may not require a defendant to submit to both the term of confinement authorized by this subsection and a term of confinement under Section 12 of this article. For the purposes of this subsection, a defendant previously has been convicted of a felony regardless of whether the sentence for the previous conviction was actually imposed or was probated and suspended.

Amendment No. 2 was adopted without objection.

#### **Amendment No. 3**

Representative Place offered the following amendment to **CSSB 15**:

Amend **CSSB 15** in SECTION 34 of the bill, in Section 15(f)(2), Article 42.12, Code of Criminal Procedure (house committee report, page 26, lines 7 and 8), by striking "and before the first anniversary of the date the defendant is received into the custody of a state jail" and substitute "[~~and before the first anniversary of the date the defendant is received into the custody of a state jail~~]".

Amendment No. 3 was adopted without objection.

#### **Amendment No. 4**

Representative Place offered the following amendment to **CSSB 15**:

Amend **CSSB 15** by adding an appropriately numbered SECTION to read as follows and renumbering existing SECTIONS accordingly:

SECTION \_\_\_\_\_. Subsection (e), Section 13, Article 42.12, Code of Criminal Procedure, is amended to read as follows:

(e) The confinement imposed shall be treated as a condition of community supervision, and in the event of a sentence of confinement upon the revocation of community supervision, the term of confinement [imprisonment] served may not [hereunder shall] be credited toward service of such subsequent confinement.

Amendment No. 4 was adopted without objection.

#### **Amendment No. 5**

Representative Place offered the following amendment to **CSSB 15**:

Amend **CSSB 15** in SECTION 28(a) of the bill, in Article 38.37, Code of Criminal Procedure (House Committee Report, page 17, lines 13-23), by striking proposed Section 2 and substituting the following:

Sec. 2. Notwithstanding Rules 404 and 405, Texas Rules of Criminal Evidence, evidence of other crimes or bad acts committed by the defendant against the child who is the victim of the alleged offense is admissible for its bearing on the previous or subsequent relationship between the defendant and the child.

Amendment No. 5 was adopted without objection.

#### **Amendment No. 6**

Representative Place offered the following amendment to **CSSB 15**:

Amend **CSSB 15** in SECTION 11 of the bill, in proposed Section 38.113(a)(2), Penal Code (house committee report, page 9, line 24), by striking "or programmatic".

Amendment No. 6 was adopted without objection.

#### **Amendment No. 7**

Representative Place offered the following amendment to **CSSB 15**:

Amend **CSSB 15**, in SECTION 34 of the bill, by striking proposed Subsection (i), Section 15, Article 42.12, Code of Criminal Procedure (House Committee Report, page 27, lines 5-7).

Amendment No. 7 was adopted without objection.

#### **Amendment No. 8**

Representative Place offered the following amendment to **CSSB 15**:

Amend **CSSB 15** by adding an appropriately numbered SECTION to read as follows and by renumbering existing SECTIONS accordingly:

SECTION \_\_\_\_\_. Section 20.04, Penal Code, is amended to read as follows:

Sec. 20.04. AGGRAVATED KIDNAPPING. (a) A person commits an offense if he intentionally or knowingly abducts another person with the intent to:

- (1) hold him for ransom or reward;
- (2) use him as a shield or hostage;
- (3) facilitate the commission of a felony or the flight after the attempt or commission of a felony;
- (4) inflict bodily injury on him or violate or abuse him sexually;
- (5) terrorize him or a third person; or
- (6) interfere with the performance of any governmental or political function.

(b) A person commits an offense if the person intentionally or knowingly abducts another person and uses or exhibits a deadly weapon during the commission of the offense.

(c) Except as provided by Subsection (d) [(e)], an offense under this section is a felony of the first degree.

(d) [(e)] At the punishment stage of a trial, the defendant may raise the

issue as to whether he voluntarily released the victim in a safe place. If the defendant proves the issue in the affirmative by a preponderance of the evidence, the offense is a felony of the second degree.

Amendment No. 8 was adopted without objection.

#### **Amendment No. 9**

Representative Place offered the following amendment to **CSSB 15**:

Amend **CSSB 15** by adding an appropriately numbered SECTION to read as follows and by renumbering existing SECTIONS accordingly:

SECTION \_\_\_\_\_. Section 13(a), Article 42.12, Code of Criminal Procedure, as amended by Chapters 886 and 900, Acts of the 73rd Legislature, Regular Session, 1993, is amended to read as follows:

(a) A judge granting community supervision to a defendant convicted of an offense under Chapter 49, Penal Code, shall require as a condition of community supervision that the defendant submit to:

(1) 72 hours of detention in a jail if the defendant was punished ~~[convicted]~~ under Section 49.09(a) ~~[Subsection (d) of Article 67011-1, Revised Statutes]~~, of which not less than 48 hours must be served consecutively, except that in lieu of the requirement of 48 consecutive hours of detention, the court may require not less than 80 hours of community service; 10 days of detention in a jail if the defendant was punished ~~[convicted]~~ under Section 49.09(b) ~~[Subsection (e) of Article 67011-1, Revised Statutes]~~, of which not less than 48 hours must be served consecutively, except that in lieu of the requirement of 48 consecutive hours of detention, the court may require not less than 160 hours of community service; or 30 days of detention in a jail if the defendant was convicted under Section 49.07 ~~[Subsection (f) of Article 67011-1, Revised Statutes]~~, of which not less than 48 hours must be served consecutively, except that in lieu of the requirement of 48 consecutive hours of detention, the court may require not less than 360 hours of community service; and

~~[(1) not less than 72 hours of continuous confinement if the defendant was punished under Section 49.09(a); not less than 10 days of continuous confinement if the defendant was punished under Section 49.09(b) or (c); or not less than 30 days of continuous confinement if the defendant was convicted under Section 49.07; and]~~

(2) an evaluation by a supervision officer or by a person, program, or facility approved by the Texas Commission on Alcohol and Drug Abuse for the purpose of having the facility prescribe and carry out a course of conduct necessary for the rehabilitation of the defendant's drug or alcohol dependence condition.

Amendment No. 9 was adopted without objection.

#### **Amendment No. 10**

Representative Place offered the following amendment to **CSSB 15**:

Amend **CSSB 15** by striking SECTION 29 of the bill (house committee report, page 18, lines 7-12) and substituting a new SECTION 29 to read as follows:

SECTION 29. Chapter 38, Code of Criminal Procedure, is amended by adding Article 38.38 to read as follows:

Art. 38.38. EVIDENCE RELATING TO RETAINING ATTORNEY. Evidence that a person has contacted or retained an attorney is not admissible on the issue of whether the person committed a criminal offense. In a criminal case, neither the judge nor the attorney representing the state may comment on the fact that the defendant has contacted or retained an attorney in the case.

Amendment No. 10 was adopted without objection.

#### **Amendment No. 11**

Representative Place offered the following amendment to **CSSB 15**:

Amend **CSSB 15** by striking SECTION 35 of the bill (house committee report, page 27, lines 8-15), and substituting a new SECTION 35 to read as follows:

SECTION 35. Section 18(h), Article 42.12, Code of Criminal Procedure, is amended to read as follows:

(h) A judge that requires as a condition of community supervision that the defendant serve a term in a community corrections facility may not impose a subsequent term in a community corrections facility or jail during the same supervision period that, when added to the terms previously imposed, exceeds 36 [24] months.

Amendment No. 11 was adopted without objection.

#### **Amendment No. 12**

Representative Place offered the following amendment to **CSSB 15**:

Amend **CSSB 15** by adding an appropriately numbered SECTION to the bill to read as follows and by renumbering existing SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. Sections 49.09(c), (d), and (e), Penal Code, are amended to read as follows:

(c) For the purposes of this section:

(1) "Offense relating to the driving or operating of a motor vehicle while intoxicated" means:

(A) an offense under Section 49.04;

(B) an offense under Section 49.07 or 49.08, if the vehicle operated was a motor vehicle;

(C) an offense under Article 67011-1, Revised Statutes, as that law existed before September 1, 1994;

(D) ~~[(C)]~~ an offense under Article 67011-2, Revised Statutes, as that law existed before January 1, 1984;

(E) an offense under Section 19.05(a)(2), as that law existed before September 1, 1994, if the vehicle operated was a motor vehicle; or

(F) ~~[(D)]~~ an offense under the laws of another state that prohibit the operation of a motor vehicle while intoxicated.

(2) "Offense of operating an aircraft while intoxicated" means:

(A) an offense under Section 49.05;

(B) an offense under Section 49.07 or 49.08, if the vehicle operated was an aircraft;

(C) an offense under Section 1, Chapter 46, Acts of the 58th Legislature, Regular Session, 1963 (Article 46f-3, Vernon's Texas Civil Statutes), as that law existed before September 1, 1994;

(D) an offense under Section 19.05(a)(2), as that law existed before September 1, 1994, if the vehicle operated was an aircraft; or

(E) [~~(C)~~] an offense under the laws of another state that prohibit the operation of an aircraft while intoxicated.

(3) "Offense of operating a watercraft while intoxicated" means:

(A) an offense under Section 49.06;

(B) an offense under Section 49.07 or 49.08, if the vehicle operated was a watercraft;

(C) an offense under Section 31.097, Parks and Wildlife Code, as that law existed before September 1, 1994;

(D) an offense under Section 19.05(a)(2), as that law existed before September 1, 1994, if the vehicle operated was a watercraft; or

(E) [~~(C)~~] an offense under the laws of another state that prohibit the operation of a watercraft while intoxicated.

(d) For the purposes of this section, a conviction for an offense under Section 49.04, 49.05, [~~or~~] 49.06, 49.07, or 49.08 that occurs on or after September 1, 1994, is a final conviction, whether the sentence for the conviction is imposed or probated.

(e) A conviction may not be used for purposes of enhancement under this section if:

(1) the conviction was a final conviction under Subsection (d) [~~(e)~~] and was for an offense committed more than 10 years before the offense for which the person is being tried was committed; and

(2) the person has not been convicted of an offense under Section 49.04, 49.05, [~~or~~] 49.06, 49.07, or 49.08 or any offense related to driving or operating a motor vehicle while intoxicated committed within 10 years before the date on which the offense for which the person is being tried was committed.

Amendment No. 12 was adopted without objection.

### **Amendment No. 13**

Representative Place offered the following amendment to **CSSB 15**:

Amend **CSSB 15** as follows:

(1) Strike SECTIONS 6, 8, and 9 of the bill (house committee report, page 4, lines 24-27, page 5, lines 1-22, page 7, lines 17-27, and page 8, lines 1-13).

(2) Add an appropriately numbered SECTION of the bill to read as follows:

SECTION \_\_\_\_\_. Chapter 31, Penal Code, is amended by adding Sections 31.12 and 31.13 to read as follows:

Sec. 31.12. UNAUTHORIZED USE OF TELEVISION DECODING AND INTERCEPTION DEVICE OR CABLE DESCRAMBLING, DECODING, OR INTERCEPTION DEVICE. (a) A person commits an offense if, with the intent to intercept or decode a transmission by a cable television service without the authorization of the provider of the service, the person intentionally or

knowingly attaches to, causes to be attached to, or incorporates in a television set, videotape recorder, or other equipment designed to receive a television transmission a device that intercepts and decodes the transmission.

(b) A person commits an offense if, with the intent to intercept, descramble, or decode a cable television service and without the authorization of the provider of the service, the person intentionally or knowingly:

(1) makes or maintains an unauthorized cable connection or otherwise intercepts cable television service;

(2) purchases, possesses, attaches to, causes to be attached to, maintains an attachment to, or incorporates in a television set, videotape recorder, other equipment designed to receive a television transmission, or equipment of a cable television system a device that intercepts, descrambles, or decodes the service; or

(3) tampers with, changes, or modifies the equipment of a cable television system.

(c) In this section:

(1) "Cable television service" means a service provided by or through a facility of a cable television system, closed circuit coaxial cable communication system, or microwave or similar transmission service used in connection with a cable television system.

(2) "Device" means a device other than a nondecoding or nondescrambling channel frequency converter or television receiver type-accepted by the Federal Communications Commission.

(d) If an unauthorized device capable of or designed to intercept, descramble, or decode a cable television service is present on the premises or property occupied and used by a person, it is presumed that the person intentionally or knowingly used the device to intercept, descramble, or decode a transmission or a service. If an unauthorized cable television connection is present on the premises or property occupied and used by a person, it is presumed that the person intentionally or knowingly used the connection to intercept cable television service. If equipment of a cable television system that has been tampered with, changed, or modified is present on the premises or property occupied and used by a person, it is presumed that the person intentionally or knowingly used the equipment to intercept, descramble, or decode a cable television service.

(e) The presumptions created by Subsection (d) do not apply if the person accused shows by a preponderance of the evidence that the presence of the unauthorized device or connection, or the tampering, change, or modification of the equipment of the cable television system, may be attributed to the conduct of another.

(f) The presumptions created by Subsection (d) do not apply to a telecommunications company that provides local or long distance communications services and uses equipment described by that subsection in the normal course of its business.

(g) This section does not prohibit the manufacture, distribution, sale, or use of satellite receiving antennas that are otherwise permitted by state or federal law.

(h) An offense under this section is a Class B misdemeanor unless the actor committed the offense for remuneration, in which event it is a Class A misdemeanor.



Sec. 31.13. MANUFACTURE, SALE, OR DISTRIBUTION OF TELEVISION DECODING AND INTERCEPTION DEVICE OR CABLE DESCRAMBLING, DECODING, OR INTERCEPTION DEVICE. (a) A person commits an offense if the person for remuneration intentionally or knowingly manufactures, assembles, modifies, imports into the State, exports out of the State, distributes, or sells, with an intent to aid an offense under Section 31.12, a device, a plan for a system of components, or part for a device that intercepts, descrambles, or decodes a cable television service.

(b) In this section, "cable television service" and "device" have the meanings assigned by Section 31.12.

(c) This section does not prohibit the manufacture, distribution, sale, or use of satellite receiving antennas that are otherwise permitted by state or federal law.

(d) An offense under this section is a Class A misdemeanor.

(3) Renumber the existing SECTIONS of the bill accordingly.

Amendment No. 13 was adopted without objection.

#### **Amendment No. 14**

Representative Place offered the following amendment to **CSSB 15**:

Amend **CSSB 15** by adding new SECTIONS 41, 42, 43, 44, 45, 46, and renumber the subsequent SECTIONS accordingly, to read as follows:

SECTION 41. Article 52.01, Code of Criminal Procedure, is amended by adding Subsection (e) to read as follows:

(e) If any person or political subdivision is the subject of more than one court of inquiry, then all such courts of inquiry shall be consolidated and shall be transferred to the county in which the subject resides. For the purpose of this section, a state agency shall be deemed to reside in Travis County, Texas.

SECTION 42. Article 52.08, Code of Criminal Procedure, is amended by adding the following after the words "and filed":

If a court of inquiry is convened and there is no arrest made, the affiant shall be liable for all costs incurred by the subject, including attorney fees. The punishment for any offense committed under this section shall not exceed \$500.

SECTION 43. Article 52.01, subsections (a) and (b), Code of Criminal Procedure, are amended to read as follows:

(a) When a judge of any district court of this state, acting in his capacity as magistrate, has good cause to believe that an offense has been committed against the laws of this state, he may ~~[summon and examine any witness in relation thereto in accordance with the rules hereinafter provided, which procedure is defined as a "Court of Inquiry"]~~

~~(b) Before calling a Court of Inquiry, a judge must:~~

~~[(1)] enter into the minutes of his court a sworn affidavit stating the good cause establishing his belief that an offense has been committed against the laws of this state; and~~

~~[(2)] no later than 10 days prior to the commencement of the Court of Inquiry, file with the district clerk a copy of the sworn affidavit [and a written order calling the Court of Inquiry and stating its scope].~~

~~(b) After the affidavit has been entered into the minutes of his court had~~



a copy filed with the district clerk, the judge shall request the presiding judge of the administrative judicial district in which the affidavit is filed to appoint a judge to convene the court of inquiry. The presiding judge shall not name the judge who requests the court of inquiry to preside over the court of inquiry.

SECTION 44. Article 52.02, Code of Criminal Procedure, is amended as follows:

At the hearing at a Court of Inquiry, evidence may be taken orally or by deposition [~~-, or, in the discretion of the judge, by affidavit. If affidavits are admitted, any witness against whom they may bear has the right to propound written interrogatories to the affiants or to file answering affidavits].~~ The judge in hearing such evidence, [~~at his discretion, may conclude not to sustain objections to all or to any portion of the evidence taken nor exclude same;~~] shall be bound to follow the Texas Rules of Evidence. [~~but any witnesses or attorneys engaged in taking the testimony and reserved for the action of any court in which such evidence is thereafter sought to be admitted, but such court is not confined to objections made at the taking of the testimony at the Court of Inquiry. Without restricting the foregoing, the judge may allow the introduction of any documentary or real evidence which he deems reliable and the testimony adduced before any grand jury;~~]

SECTION 45. Article 52.04, Code of Criminal Procedure, is amended as follows:

Any witnesses testifying in any Court of Inquiry have the same rights as to testifying as do defendants in felony prosecutions in this state. Before any witness is sworn to testify in any Court of Inquiry, he shall be instructed by the judge that he is entitled to counsel; that he cannot be forced to testify against himself; and that such testimony may be taken down and used against him in a later trial or trials ensuing from the instant Court of Inquiry. Any witness or his counsel has the right to fully cross-examine any of the witnesses whose testimony bears in any manner against him. Any elected or appointed official or employee or officers of the political subdivision who is alleged to have committed an act against the state or are required to testify in the court of inquiry shall be entitled to counsel of his choosing. The cost of such attorney's fees shall be borne by the county in which said Court of Inquiry is conducted.

SECTION 46. Article 52.09, subsection (b), Code of Criminal Procedure, is amended as follows:

(b) Assistance by a county or district attorney to a Court of Inquiry is a duty of the attorney's office, and the attorney may not receive a fee for the service. [~~A county is not liable for attorney's fees claimed for assistance in a Court of Inquiry by any attorney other than an attorney pro tem appointed under Article 52.01(d) of this code.~~]

Amendment No. 14 was adopted without objection. (McDonald and Pickett recorded voting no)

#### **Amendment No. 15**

Representative Solomons offered the following amendment to **CSSB 15**:

Amend **CSSB 15**, in SECTION 7 of the bill, by striking Sections 31.03(e)(1) and (2), Penal Code (house committee report, page 5, line 27, and page 6, lines 1-7), and substituting the following:

(1) a Class C misdemeanor if the value of the property stolen is less than;

(A) \$50 [~~\$20~~]; or

(B) \$20 and the defendant obtained the property by issuing or passing a check or similar sight order in a manner described by Section 31.06;

(2) a Class B misdemeanor if:

(A) the value of the property stolen is;

(i) \$50 [~~\$20~~] or more but less than \$500; or

(ii) \$20 or more but less than \$500 and the defendant obtained the property by issuing or passing a check or similar sight order in a manner described by Section 31.06; or

(B) the value of the property stolen is less than;

(i) \$50 [~~\$20~~] and the defendant has previously been convicted of any grade of theft; or

(ii) \$20, the defendant has previously been convicted of any grade of theft, and the defendant obtained the property by issuing or passing a check or similar sight order in a manner described by Section 31.06;

(Speaker in the chair)

Amendment No. 15 was adopted without objection.

#### **Amendment No. 16**

Representative Johnson offered the following amendment to **CSSB 15**:

Amend **CSSB 15** as follows:

(1) Strike SECTION 14 of the bill (house committee report, page 11, lines 19-27, and page 12, lines 1-20).

(2) Add appropriately numbered SECTIONS of the bill to read as follows:  
SECTION \_\_\_\_\_. Section 46.02(b), Penal Code, is amended to read as follows:

(b) It is a defense to prosecution under this section that the actor was, at the time of the commission of the offense:

(1) in the actual discharge of his official duties as a member of the armed forces or state military forces as defined by Section 431.001, Government Code, or as a guard employed by a penal institution;

(2) on his own premises or premises under his control unless he is an employee or agent of the owner of the premises and his primary responsibility is to act in the capacity of a security guard to protect persons or property, in which event he must comply with Subdivision (5);

(3) traveling;

(4) engaging in lawful hunting, fishing, or other sporting activity on the immediate premises where the activity is conducted, or was directly en route between the premises and the actor's residence, if the weapon is a type commonly used in the activity;

(5) a person who holds a security officer commission issued by the Texas Board of Private Investigators and Private Security Agencies, if:

(A) he is engaged in the performance of his duties as a security officer or traveling to and from his place of assignment;

(B) he is wearing a distinctive uniform; and

(C) the weapon is in plain view; or

(6) a supervision officer who:

(A) is employed by a community supervision and corrections department under Article 42.131, Code of Criminal Procedure;

(B) is authorized to carry a weapon by the director of the department and the judges participating in the supervision and administration of the department; and

(C) possesses a certificate of firearms proficiency issued by the Commission on Law Enforcement Officer Standards and Education under Section 415.038, Government Code [a peace officer, other than a person commissioned by the Texas State Board of Pharmacy].

SECTION \_\_\_\_\_. Subchapter B, Chapter 415, Government Code, is amended by adding Section 415.038 to read as follows:

Sec. 415.038. FIREARMS PROFICIENCY: SUPERVISION OFFICERS.

(a) The commission and the community justice assistance division of the Texas Department of Criminal Justice shall adopt a memorandum of understanding that establishes their respective responsibilities in developing a basic training program in the use of firearms by supervision officers. The memorandum of understanding must establish a program that provides instruction in:

(1) legal limitations on the use of firearms and on the powers and authority of supervision officers;

(2) range firing and procedure, and firearms safety and maintenance; and

(3) other topics determined by the commission and the division to be necessary for the responsible use of firearms by supervision officers.

(b) The commission and the division by rule shall adopt the memorandum of understanding establishing the basic training program.

(c) The commission shall administer the training program and shall issue a certificate of firearms proficiency to each supervision officer the commission determines has successfully completed the program described by Subsection (a).

(d) The commission may establish reasonable and necessary fees for the administration of this section.

SECTION \_\_\_\_\_. The Commission on Law Enforcement Officer Standards and Education and the community justice assistance division of the Texas Department of Criminal Justice shall adopt the memorandum of understanding required by Section 415.038, Government Code, as added by this Act, not later than January 1, 1996.

(3) Renumber the existing SECTIONS of the bill accordingly.

Amendment No. 16 was adopted without objection.

#### **Amendment No. 17**

Representative De La Garza offered the following amendment to **CSSB 15**:

Amend **CSSB 15** (House committee report) as follows:

(1) Strike SECTION 22 of the bill (page 15, line 19, through page 16, line 8) and substitute the following:

SECTION 22. Section 481.134, Health and Safety Code, is amended to read as follows:

Sec. 481.134. DRUG-FREE ZONES. (a) In this section:

(1) "Minor" means a person who is younger than 18 years of age.

(2) ~~[(1)]~~ "Institution of higher education" means any public or private technical institute, junior college, senior college or university, medical or dental unit, or other agency of higher education as defined by Section 61.003, Education Code.

(3) ~~[(2)]~~ "Playground" means any outdoor facility that is not on the premises of a school and that:

(A) is intended for recreation;

(B) is open to the public; and

(C) contains three or more separate apparatus intended for the recreation of children, such as slides, swing sets, and teeterboards.

(4) ~~[(3)]~~ "Premises" means real property and all buildings and appurtenances pertaining to the real property.

(5) ~~[(4)]~~ "School" means a private or public elementary or secondary school.

(6) ~~[(5)]~~ "Video arcade facility" means any facility that:

(A) is open to the public, including persons who are 17 years of age or younger;

(B) is intended primarily for the use of pinball or video machines; and

(C) contains at least three pinball or video machines.

(7) ~~[(6)]~~ "Youth center" means any recreational facility or gymnasium that:

(A) is intended primarily for use by persons who are 17 years of age or younger; and

(B) regularly provides athletic, civic, or cultural activities.

(b) The minimum term of confinement or imprisonment for an offense otherwise punishable ~~[and the maximum fine for an offense]~~ under Section 481.112(c), (d), (e), or (f), 481.113(c), (d), or (e), 481.114(c), (d), or (e), 481.115(c), (d), (e), or (f), 481.116(c), (d), or (e), 481.117(c), (d), or (e), 481.118(c), (d), or (e), 481.120(b)(4), (5), or (6), or 481.121(b)(4), (5), or (6) is increased by five years and the maximum fine for the offense is ~~[481.112, 481.113, 481.114, 481.119, or 481.120 are]~~ doubled if it is shown on the trial of the offense that the offense was committed:

(1) in, on, or within 1,000 feet of the premises of ~~[owned, rented, or leased by]~~ a school ~~[or an institution of higher learning or a playground]; [or]~~

(2) on a school bus;

(3) in, on, or within 1,000 feet of the premises of an institution of higher education; or

(4) in, on, or within 300 feet of the premises of a playground, public or private youth center, public swimming pool, or video arcade facility.

(c) An offense otherwise punishable under Section 481.112(b), 481.113(b), 481.114(b), 481.115(b), 481.116(b), 481.120(b)(3), or 481.121(b)(3) is a felony of the third degree if it is shown on the trial of the offense that the offense was committed in a drug-free zone described by Subsection (b)(1), (2), (3), or (4).

(d) An offense otherwise punishable under Section 481.117(b), 481.119(a),

481.120(b)(2), or 481.121(b)(2) is a state jail felony if it is shown on the trial of the offense that the offense was committed in a drug-free zone described by Subsection (b)(1), (2), (3), or (4).

(e) An offense otherwise punishable under Section 481.118(b), 481.119(b), 481.120(b)(1), or 481.121(b)(1) is a Class A misdemeanor if it is shown on the trial of the offense that the offense was committed in a drug-free zone described by Subsection (b)(1), (2), (3), or (4).

(f) Subsection (e) does not apply to an offense if:

(1) the offense was committed inside a private residence; and  
(2) no minor was present in the private residence at the time the offense was committed.

(g) This section does not apply to a defendant unless it is shown beyond a reasonable doubt that the defendant committed the offense in a place that the defendant knew was:

(1) in, on, or within 1,000 feet of the premises of a school;  
(2) on a school bus;  
(3) in, on, or within 1,000 feet of the premises of an institution of higher education; or  
(4) in, on, or within 300 feet of the premises of a playground, public or private youth center, public swimming pool, or video arcade facility.

(2) Strike SECTION 31 of the bill (page 18, line 22, through page 19, line 18) and substitute the following:

SECTION 31. Section 3g(a), Article 42.12, Code of Criminal Procedure, is amended to read as follows:

(a) The provisions of Section 3 of this article do not apply:

(1) to a defendant adjudged guilty of an offense under ~~[defined by the following sections of the Penal Code]:~~

(A) Section 19.02, Penal Code (Murder);  
(B) Section 19.03, Penal Code (Capital murder);  
(C) Section 21.11(a)(1), Penal Code (Indecency with a child);  
(D) Section 20.04, Penal Code (Aggravated kidnapping);  
(E) Section 22.021, Penal Code (Aggravated sexual assault);  
(F) Section 29.03, Penal Code (Aggravated robbery);  
(G) Section 22.011(a)(2), Penal Code (Sexual assault); or  
(H) Chapter 481, Health and Safety Code, for which punishment is increased under Section 481.134, Health and Safety Code, if it is shown that the defendant has been previously convicted of an offense for which punishment was increased under that section; or

(2) to a defendant when it is shown that a deadly weapon as defined in Section 1.07, Penal Code, was used or exhibited during the commission of a felony offense or during immediate flight therefrom, and that the defendant used or exhibited the deadly weapon or was a party to the offense and knew that a deadly weapon would be used or exhibited. On an affirmative finding under this subdivision, the trial court shall enter the finding in the judgment of the court. On an affirmative finding that the deadly weapon was a firearm, the court shall enter that finding in its judgment.

(3) Add a new SECTION of the bill to read as follows and renumber existing SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. Section 4(d), Article 42.12, Code of Criminal Procedure, is amended to read as follows:

(d) A defendant is not eligible for community supervision under this section if the defendant:

(1) is sentenced to a term of imprisonment that exceeds 10 years;

(2) is sentenced to serve a term of confinement under Section 12.35, Penal Code; ~~or~~

(3) does not file a sworn motion under Subsection (e) of this section or for whom the jury does not enter in the verdict a finding that the information contained in the motion is true; or

(4) is adjudged guilty of an offense for which punishment is increased under Section 481.134, Health and Safety Code, if it is shown that the defendant has been previously convicted of an offense for which punishment was increased under that section.

(4) In SECTION 32 of the bill, in the introductory language (page 19, line 20), strike "Subsections (a) and (b)" and substitute "Subsections (a), (b), and (d)".

(5) In SECTION 32 of the bill, after proposed Subsection (b) of Section 5, Article 42.12 (page 21, between lines 16 and 17), insert the following:

(d) In all other cases the judge may grant deferred adjudication unless the defendant is charged with an offense:

(1) under Section 49.04, 49.05, 49.06, 49.07, or 49.08, Penal Code;  
or

(2) for which punishment may be increased under Section 481.134, Health and Safety Code, if it is shown that the defendant has been previously convicted of an offense for which punishment was increased under that section.

(6) Strike SECTION 40 of the bill (page 29, lines 5-17) and substitute the following:

SECTION 40. Section 8(b)(3), Article 42.18, Code of Criminal Procedure, is amended to read as follows:

(3) If a prisoner~~[, other than a prisoner described by Subdivision (4) of this subsection,]~~ is serving a sentence for the offenses described by [listed in] Subdivision (1)(A), (C), (D), (E), [or] (F), (G), or (H) of Section 3g(a), Article 42.12 of this code, or if the judgment contains an affirmative finding under Subdivision (2) of Subsection (a) of Section 3g of that article, he is not eligible for release on parole until his actual calendar time served, without consideration of good conduct time, equals one-half of the maximum sentence or 30 calendar years, whichever is less, but in no event shall he be eligible for release on parole in less than two calendar years.

(7) Add a new SECTION 44 of the bill to read as follows and renumber existing SECTIONS of the bill accordingly:

SECTION 44. Section 8(b)(4), Article 42.18, Code of Criminal Procedure, is repealed.

Amendment No. 17 was adopted without objection.

### **Amendment No. 18**

Representative Greenberg offered the following amendment to **CSSB 15**:

Amend **CSSB 15** as follows:

(1) In SECTION 31 of the bill, in proposed Section 3g(a)(1), Article 42.12, Code of Criminal Procedure (House Committee Report, page 19, between lines 8 and 9), add a new Paragraph (H) to read as follows:

"(H) Section 22.011(a)(1) (Sexual assault), but only if the defendant previously has been adjudged guilty of an offense under Section 21.11(a)(1), 22.011, or 22.021; or".

(2) Add an appropriately numbered SECTION to the bill to read as follows and renumber existing SECTIONS accordingly:

SECTION \_\_\_\_\_. Section 7(g), Article 42.18, Code of Criminal Procedure, is amended to read as follows:

(g) The board may grant parole to a person convicted of a [~~capital~~] felony under Section 19.03, 21.11(a)(1), or 22.021, Penal Code, only on a two-thirds vote of the entire membership of the board.

Amendment No. 18 was adopted without objection.

### **Amendment No. 19**

Representative Hill offered the following amendment to **CSSB 15**:

Amend **CSSB 15** by striking SECTIONS 36, 37, and 38 of the bill and renumbering the remaining SECTIONS accordingly.

Representative Place moved to table Amendment No. 19.

A record vote was requested.

The motion to table was lost by (Record 503): 65 Yeas, 74 Nays, 1 Present, not voting.

Yeas — Alonzo; Alvarado; Bailey; Black; Bosse; Brady; Coleman; Combs; Conley; Cook; Counts; Cuellar, H.; Cuellar, R.; Davila; Davis; De La Garza; Dukes; Dutton; Edwards; Ehrhardt; Eiland; Farrar; Gallego; Giddings; Glaze; Greenberg; Gutierrez; Hightower; Hirschi; Hudson; Johnson; Jones, J.; Junell; King; Lewis, G.; Longoria; Luna; Maxey; McCoulskey; McDonald; Moreno; Naishtat; Pickett; Place; Price; Puente; Ramsay; Rangel; Rhodes; Rodriguez; Romo; Seidlits; Serna; Solis; Telford; Thompson; Tillery; Torres; Turner, S.; Uher; Van de Putte; Willis; Wilson; Yarbrough; Zbranek.

Nays — Alexander; Allen; Averitt; Brimer; Carona; Carter; Chisum; Clemons; Corte; Crabb; Craddick; Culberson; Danburg; Delisi; Denny; Driver; Duncan; Elkins; Finnell; Goodman; Goolsby; Gray; Grusendorf; Haggerty; Hamric; Harris; Hartnett; Hawley; Heflin; Hilderbran; Hill; Holzheuser; Horn; Howard; Hunter, B.; Hunter, T.; Jackson; Janek; Jones, D.; Kamel; Krusee; Kubiak; Kuempel; Lewis, R.; Madden; Marchant; McCall; Moffat; Nixon; Oakley; Ogden; Oliveira; Park; Patterson; Pitts; Rabuck; Raymond; Reyna; Rusling; Shields; Siebert; Smithee; Solomons; Staples; Stiles; Swinford; Talton; Turner, B.; Walker; West; Wohlgemuth; Wolens; Woolley; Yost.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Hilbert.

Absent, Excused, Committee Meeting — Dear; Hernandez; Hochberg; Sadler; Williamson.



Absent — Berlanga; Mowery; Munoz; Saunders.

### STATEMENTS OF VOTE

I was shown voting yes on Record No. 503. I intended to vote no.

Counts

I was shown voting yes on Record No. 503. I intended to vote no.

Greenberg

Amendment No. 19 was adopted.

### Amendment No. 20

Representative Danburg offered the following amendment to **CSSB 15**:

Amend **CSSB 15** by adding an appropriately numbered SECTION to read as follows and by renumbering existing SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. Section 12.42, Penal Code, is amended by amending Subsections (b) and (c) and by adding Subsection (f) to read as follows:

(b) Except as provided by Subsection (f), if [H] it is shown on the trial of a second-degree felony that the defendant has been once before convicted of a felony, on conviction he shall be punished for a first-degree felony.

(c) Except as provided by Subsection (f), if [H] it is shown on the trial of a first-degree felony that the defendant has been once before convicted of a felony, on conviction he shall be punished by imprisonment in the institutional division of the Texas Department of Criminal Justice for life, or for any term of not more than 99 years or less than 15 years. In addition to imprisonment, an individual may be punished by a fine not to exceed \$10,000.

(f) If it is shown on the trial of a felony under Section 20.04(a)(4), 21.11(a)(1), 22.011(a)(2), or 22.021 that the defendant has been once before convicted of a felony under any of those sections, on conviction the defendant shall be punished by:

(1) imprisonment in the institutional division for life, or for any term of not more than 99 years or less than 20 years; and

(2) a fine not to exceed \$10,000.

Amendment No. 20 was adopted without objection.

### Amendment No. 21

Representative Nixon offered the following amendment to **CSSB 15**:

Amend **CSSB 15** by adding an appropriately numbered SECTION to read as follows and by renumbering existing SECTIONS accordingly:

SECTION \_\_\_\_\_. Section 20.04, Penal Code, is amended to read as follows:

Sec. 20.04. AGGRAVATED KIDNAPPING. (a) A person commits an offense if he intentionally or knowingly abducts another person with the intent to:

(1) hold him for ransom or reward;

(2) use him as a shield or hostage;

(3) facilitate the commission of a felony or the flight after the attempt or commission of a felony;



(4) inflict bodily injury on him or violate or abuse him sexually;  
(5) terrorize him or a third person; or  
(6) interfere with the performance of any governmental or political function.

(b) A person commits an offense if the person intentionally or knowingly abducts another person and uses or exhibits a deadly weapon during the commission of the offense.

(c) Except as provided by Subsection (d) [(e)], an offense under this section is a felony of the first degree.

(d) [(e)] At the punishment stage of a trial, the defendant may raise the issue as to whether he voluntarily released the victim in a safe place. If the defendant proves the issue in the affirmative by a preponderance of the evidence, the offense is a felony of the second degree.

Amendment No. 21 was withdrawn.

#### **Amendment No. 22**

Representative Danburg offered the following amendment to **CSSB 15**:

Amend **CSSB 15** by adding the following new SECTIONS to the bill, appropriately numbered, and renumbering existing SECTIONS of the bill accordingly:

SECTION \_\_. Chapter 21, Penal Code, is amended by adding Sections 21.12 and 21.13 to read as follows:

Sec. 21.12. SEXUAL EXPLOITATION BY MENTAL HEALTH SERVICES PROVIDER. (a) In this section:

(1) "Mental health services" means assessment, diagnosis, treatment, or counseling in a professional relationship to assist an individual or group in:

(A) alleviating mental or emotional illness, symptoms, conditions, or disorders, including alcohol or drug addiction;

(B) understanding conscious or subconscious motivations;

(C) resolving emotional, attitudinal, or relationship conflicts;

or

(D) modifying feelings, attitudes, or behaviors that interfere with effective emotional, social, or intellectual functioning.

(2) "Mental health services provider" means an individual, licensed or unlicensed, who performs or purports to perform mental health services, including a:

(A) licensed social worker as defined by Section 50.001, Human Resources Code;

(B) chemical dependency counselor as defined by Section 1, Chapter 635, Acts of the 72nd Legislature, Regular Session, 1991 (Article 4512o, Vernon's Texas Civil Statutes);

(C) licensed professional counselor as defined by Section 2, Licensed Professional Counselor Act (Article 4512g, Vernon's Texas Civil Statutes);

(D) licensed marriage and family therapist as defined by Section 2, Licensed Marriage and Family Therapist Act (Article 4512c-1, Vernon's Texas Civil Statutes);

(E) physician who is practicing medicine as defined by Section 1.03, Medical Practice Act (Article 4495b, Vernon's Texas Civil Statutes);

(F) psychologist offering psychological services as defined by Section 2, Psychologists' Certification and Licensing Act (Article 4512c, Vernon's Texas Civil Statutes); and

(G) registered nurse who is practicing professional nursing as defined by Section 5, Article 4518, Revised Statutes.

(3) "Patient" means an individual who seeks or obtains mental health services.

(4) "Sexually exploitive behavior" means a pattern, practice, or scheme of conduct, which may include sexual contact, that can reasonably be construed as being for the purposes of sexual arousal or gratification or sexual abuse of any person. The term does not include discussing sexual subject matter within standard accepted practice.

(b) A person commits an offense if the person is a mental health services provider and intentionally:

(1) engages in sexual contact with a patient or former patient; or

(2) engages in sexually exploitive behavior with a patient or former patient.

(c) It is not a defense to prosecution under this section that the sexual contact or sexually exploitive behavior with the patient or former patient occurred:

(1) with the consent of the patient or former patient;

(2) outside the therapy or treatment sessions of the patient or former patient; or

(3) off the premises regularly used by the mental health services provider for the therapy or treatment sessions of the patient or former patient.

(d) It is a defense to prosecution under this section that the former patient was not emotionally dependent on the mental health services provider when the sexual contact occurred or the sexually exploitive behavior began and the mental health services provider terminated psychotherapy with the patient more than two years before the date the sexual contact occurred or the sexually exploitive behavior began.

(e) A person is considered emotionally dependent for purposes of this section if the nature of the patient's or former patient's emotional condition and the nature of the treatment provided by the mental health services provider are such that the mental health services provider knows or has reason to believe that the patient or former patient is unable to withhold consent to the sexual contact or the sexually exploitive behavior.

(f) It is a defense to prosecution under this section that the sexual contact is a part of a professionally recognized medical treatment of a patient.

(g) If the conduct constitutes an offense under this section and under another section of this code, the actor may be prosecuted under either section but not under both sections.

(h) Except as provided by Subsection (i), an offense under this section is a felony of the third degree.

(i) If it is shown on the trial of an offense under this section that the

defendant has been previously convicted of an offense under this section, the offense is a felony of the second degree.

Sec. 21.13. SEXUAL EXPLOITATION BY CLERGY. (a) A person commits an offense if the person is a member of the clergy or purports to be a member of the clergy and intentionally engages in sexual contact with another person if:

(1) the sexual contact occurred during:

(A) a meeting in which the person sought or received religious or spiritual advice, aid, or comfort from the actor in private; or

(B) a period in which the person was engaged in a series of private consultations or meetings with the actor to seek or receive religious or spiritual advice, aid, or comfort even if the contact did not occur during a meeting described by Subdivision (A); and

(2) the actor:

(A) was not married to the person at the time the offense was committed; or

(B) had no private personal relationship with the person before the first meeting with the actor in which the person sought or received religious or spiritual advice, aid, or comfort from the actor in private.

(b) It is not a defense to prosecution under this section that the victim consented to the sexual contact.

(c) If the conduct constitutes an offense under this section and under another section of this code, the actor may be prosecuted under either section but not under both sections.

(d) Except as provided by Subsection (e), an offense under this section is a felony of the third degree.

(e) If it is shown on the trial of an offense under this section that the defendant has been previously convicted of an offense under this section, the offense is a felony of the second degree.

SECTION \_\_. Section 50.021(a), Human Resources Code, is amended to read as follows:

(a) The board shall revoke or suspend a license or order of recognition, place on probation a person whose license or order of recognition has been suspended, or reprimand a person with a license or order of recognition for any of the following reasons:

(1) violating a provision of this chapter or a rule of the board;

(2) circumventing or attempting to circumvent this chapter or a rule of the board;

(3) participating, directly or indirectly, in a plan, scheme, or arrangement attempting or having as its purpose the evasion of this chapter or a rule of the board;

(4) engaging in unethical conduct;

(5) engaging in conduct which discredits or tends to discredit the profession of social work;

(6) performing an act, allowing an omission, or making an assertion or representation that is fraudulent, deceitful, or misleading or that in any manner tends to create a misleading impression;

(7) knowingly associating with or permitting or allowing the use of

any licensed person's professional services or professional identification in a project or enterprise that the person knows or with the exercise of reasonable diligence should know is a practice that violates this chapter or a rule of the board pertaining to the practice of social work;

(8) knowingly associating with or permitting the use of a licensed person's name, professional services, professional identification, or endorsement in connection with a venture or enterprise that the person knows or with the exercise of reasonable diligence should know is a trade, business, or professional practice of a fraudulent, deceitful, misleading, or dishonest nature;

(9) revealing, directly or indirectly, or causing to be revealed a confidential communication transmitted to the licensed person by a client or recipient of his services except as may be required by law;

(10) having a certificate or a license to practice social work in another jurisdiction denied, suspended, or revoked for reasons or causes the board finds would constitute a violation of this chapter or a rule pertaining to the practice of social work adopted by the board;

(11) having been convicted of a felony in an American jurisdiction;

(12) refusing to do or perform any act or service for which the person is licensed under this chapter solely on the basis of the recipient's age, sex, race, religion, national origin, color, or political affiliation; or

(13) committing an act in violation of Section 21.12 [21.14], Penal Code, or for which liability exists under Chapter 81, Civil Practice and Remedies Code.

SECTION \_\_\_\_\_. Section 23(a), Psychologists' Certification and Licensing Act (Article 4512c, Vernon's Texas Civil Statutes), is amended to read as follows:

(a) The Board shall revoke or suspend a license or certificate, place on probation a person whose license or certificate has been suspended, or reprimand a license or certificate holder if the license or certificate holder:

(1) has been convicted of a felony or of a violation of the law involving moral turpitude by any court; the conviction of a felony shall be the conviction of any offense which if committed within this state would constitute a felony under the laws of this state;

(2) uses drugs or intoxicating liquors to an extent that affects his professional competency;

(3) has been guilty of fraud or deceit in connection with his services rendered as a psychologist;

(4) except as provided by Section 15B of this Act, has aided or abetted a person, not a licensed psychologist, in representing that person as a psychologist within this state;

(5) except as provided by Section 15B of this Act, has represented himself or herself to be a psychologist licensed in this state at a time he or she was not licensed to practice psychology in this state, or practiced psychology in this state without a license to practice psychology in this state;

(6) violates a rule adopted by the Board;

(7) violates a provision of this Act; or

(8) has committed an act in violation of Section 21.12 [21.14], Penal Code, or for which liability exists under Chapter 81, Civil Practice and Remedies Code.

SECTION \_\_. Section 25(a), Licensed Marriage and Family Therapist Act (Article 4512c-1, Vernon's Texas Civil Statutes), is amended to read as follows:

(a) The board shall suspend or revoke a license, place on probation a person whose license has been suspended, or reprimand a license holder if the license holder has:

(1) been convicted of a felony or a misdemeanor involving moral turpitude;

(2) obtained or attempted to obtain registration by fraud or deception;

(3) used drugs or alcohol to an extent that affects professional competence;

(4) been grossly negligent in performing professional duties;

(5) been adjudicated mentally incompetent by a court of competent jurisdiction;

(6) practiced in a manner detrimental to the public health or welfare;

(7) advertised in a manner that tends to deceive or defraud the public;

(8) had a license or certification revoked by a licensing agency or by a certifying professional organization;

(9) otherwise violated this Act or a rule or code of ethics adopted under this Act; or

(10) committed an act in violation of Section 21.12 [~~21.14~~], Penal Code, or for which liability exists under Chapter 81, Civil Practice and Remedies Code.

SECTION \_\_. Section 16(a), Licensed Professional Counselor Act (Article 4512g, Vernon's Texas Civil Statutes), is amended to read as follows:

(a) The board shall revoke, suspend, suspend on an emergency basis, or refuse to renew the license of a counselor, place on probation a counselor whose license has been suspended, or reprimand a counselor if the counselor:

(1) has committed an act in violation of Section 21.12 [~~21.14~~], Penal Code, or for which liability exists under Chapter 81, Civil Practice and Remedies Code;

(2) has violated this Act or a rule or code of ethics adopted by the board;

(3) is legally committed to an institution because of mental incompetence from any cause; or

(4) [~~(3)~~] offers to pay or agrees to accept any remuneration, directly or indirectly, to or from any person or entity for securing or soliciting a patient or patronage.

SECTION \_\_. Section 16, Chapter 635, Acts of the 72nd Legislature, Regular Session, 1991 (Article 4512o, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 16. LICENSE REFUSAL; DISCIPLINARY ACTIONS. The commission may refuse to issue or renew a license, place on probation a license holder whose license has been suspended, reprimand a license holder, or revoke or suspend a license issued under this Act for:

(1) violating or assisting another to violate this Act or a rule of the commission adopted under this Act;

(2) circumventing or attempting to circumvent this Act or a rule of the commission adopted under this Act;

(3) participating, directly or indirectly, in a plan the purpose of which is the evasion of this Act or a rule of the commission adopted under this Act;

(4) engaging in false, misleading, or deceptive conduct as defined by Section 17.46, Business & Commerce Code;

(5) engaging in conduct that discredits or tends to discredit the profession of chemical dependency counseling;

(6) revealing or causing to be revealed, directly or indirectly, a confidential communication made to the licensed chemical dependency counselor by a client or recipient of services, except as required by law;

(7) having a license to practice chemical dependency counseling in another jurisdiction refused, suspended, or revoked for a reason that the commission finds would constitute a violation of this Act or a commission rule established under this Act;

(8) refusing to perform an act or service for which the person is licensed to perform under this Act on the basis of the client's or recipient's age, sex, race, religion, national origin, color, or political affiliation; or

(9) committing an act in violation of Section 21.12 [~~21.14~~], Penal Code, or for which liability exists under Chapter 81, Civil Practice and Remedies Code.

### MESSAGE FROM THE SENATE

Austin, Texas, May 22, 1995

The Honorable Speaker of the House of Representatives  
House Chamber

The Honorable  
Mr. Speaker:

I am directed by the Senate to inform the House that the Senate has concurred in House Amendments to the following: **SB 1063** by Viva Voce Vote.

Respectfully,  
Betty King  
Secretary of the Senate

### CSSB 15 - (consideration continued)

Amendment No. 22 was adopted without objection.

### Amendment No. 23

Representative Danburg offered the following amendment to **CSSB 15**:

Amend **CSSB 15** by inserting a new SECTION to read as follows and by renumbering existing SECTIONS accordingly:

SECTION \_\_\_\_\_. Section 22.011(b), Penal Code, is amended to read as follows:

(b) A sexual assault under Subsection (a)(1) is without the consent of the other person if:

(1) the actor compels the other person to submit or participate by the use of physical force or violence;

(2) the actor compels the other person to submit or participate by threatening to use force or violence against the other person, and the other person believes that the actor has the present ability to execute the threat;

(3) the other person has not consented and the actor knows the other person is unconscious or physically unable to resist;

(4) the actor knows that as a result of mental disease or defect the other person is at the time of the sexual assault incapable either of appraising the nature of the act or of resisting it;

(5) the other person has not consented and the actor knows the other person is unaware that the sexual assault is occurring;

(6) the actor has intentionally impaired the other person's power to appraise or control the other person's conduct by administering any substance without the other person's knowledge;

(7) the actor compels the other person to submit or participate by threatening to use force or violence against any person, and the other person believes that the actor has the ability to execute the threat; ~~or~~

(8) the actor is a public servant who coerces the other person to submit or participate; or

(9) the other person expresses lack of consent by words or conduct.

#### **Amendment No. 24**

Representative Place offered the following amendment to Amendment No. 23:

Amend the Danburg Amendment No. 23 as follows: Amend Section 22.011(b), Penal Code, to add subsections (9) and (10) as follows:

(9) the actor is a mental health services provider who causes the other person, a patient or former patient, to submit or participate by exploiting the other person's emotional dependency upon the actor.

(10) the actor is a clergyman who causes the other person to submit or participate by exploiting the other person's emotional dependency upon the clergyman in his professional character as spiritual adviser.

Amendment No. 24 was adopted without objection.

Amendment No. 23, as amended, was adopted without objection.

#### **Amendment No. 25**

Representative Holzheuser offered the following amendment to **CSSB 15**:

Amend **CSSB 15** (House Committee Report) as follows:

(1) In SECTION 4 of the bill, in the introductory language (page 4, line 4), strike "Subsection (b)" and substitute "Subsections (b) and (c)".

(2) In SECTION 4 of the bill, between proposed Subsection (b) and Subsection (d) of Section 22.01, Penal Code (page 4, between lines 11 and 12), insert the following:

(c) An offense under Subsection (a)(2) or (3) is a Class C misdemeanor, except that an offense under Subsection (a)(3) is a Class B misdemeanor if the actor was a licensed physician and the offense was committed against a patient of the actor.

Amendment No. 25 was adopted without objection.

**Amendment No. 26**

Representative Puente offered the following amendment to **CSSB 15**:

Amend **CSSB 15** by adding the following section and renumbering the subsequent sections accordingly:

SECTION \_\_\_\_\_. Section 22.05(b), Penal Code, is amended to read as follows:

(b) A person commits an offense if he knowingly discharges a firearm at or in the direction of:

- (1) one or more individuals; [~~or~~]
- (2) a [~~habitation;~~] building [;] or vehicle and is reckless as to whether the [~~habitation;~~] building[;] or vehicle is occupied; or
- (3) a habitation.

Amendment No. 26 was adopted without objection.

**Amendment No. 27**

Representative Danburg offered the following amendment to **CSSB 15**:

Amend **CSSB 15** by adding appropriately numbered SECTIONS to the bill to read as follows and renumbering subsequent SECTIONS appropriately:

SECTION \_\_\_\_\_. Section 30.05(b), Penal Code, is amended by adding Subdivision (4) to read as follows:

(4) "Health care facility" includes a hospital, emergency room, clinic, minor emergency center, physician's office building, nursing home, personal care home, outpatient surgical facility, or a facility providing health-related counseling services.

SECTION \_\_\_\_\_. Section 30.05(d), Penal Code, is amended to read as follows:

(d) An offense under this section is a Class B misdemeanor unless:

(1) it is committed in a habitation, a health care facility, or a shelter center or unless the actor carries a deadly weapon on or about his person during the commission of the offense, in which event it is a Class A misdemeanor;

(2) it is committed in a health care facility and the actor has previously been convicted of an offense under this section committed in a health care facility, in which event the offense is a felony of the third degree; or

(3) it is committed in a health care facility and the conduct that constitutes the offense also constitutes the violation of a court order that was directed to the actor and of which the actor had notice before the commission of the offense, in which event the offense is a felony of the third degree.

**Amendment No. 28**

Representative Hightower offered the following amendment to Amendment No. 27:

Amend Danburg Amendment No. 27 to **CSSB 15** as follows: (1) on page 1, line 22, by striking "felony of the third degree" and substituting "state jail felony".

(2) On page 2, line 3, strike "felony of the third degree" and substitute "state jail felony".



Amendment No. 28 was adopted without objection.

Representative Ogden moved to table Amendment No. 27, as amended.

A record vote was requested.

The motion to table prevailed by (Record 504): 97 Yeas, 23 Nays, 1 Present, not voting.

Yeas — Alexander; Allen; Alvarado; Averitt; Berlanga; Black; Bosse; Brady; Brimer; Carona; Carter; Chisum; Clemons; Combs; Conley; Cook; Corte; Counts; Crabb; Cuellar, H.; Cuellar, R.; Culberson; Davila; De La Garza; Delisi; Denny; Duncan; Edwards; Eiland; Elkins; Finnell; Gallego; Giddings; Glaze; Goodman; Goolsby; Grusendorf; Gutierrez; Haggerty; Hamric; Harris; Hartnett; Hawley; Heflin; Hightower; Hilderbran; Hill; Holzheuser; Horn; Howard; Hunter, B.; Hunter, T.; Janek; Johnson; Jones, D.; Kamel; Krusee; Kubiak; Kuempel; Lewis, G.; Longoria; Madden; McCall; McCoulskey; Munoz; Oakley; Ogden; Park; Patterson; Pitts; Place; Puente; Rabuck; Ramsay; Reyna; Rhodes; Rodriguez; Shields; Siebert; Smithee; Solis; Solomons; Staples; Stiles; Swinford; Telford; Torres; Turner, B.; Turner, S.; Van de Putte; Walker; West; Willis; Wohlgemuth; Wolens; Yost; Zbrank.

Nays — Alonzo; Bailey; Danburg; Davis; Dukes; Ehrhardt; Gray; Greenberg; Hirschi; Jones, J.; Luna; Maxey; McDonald; Naishtat; Pickett; Rangel; Raymond; Romo; Seidlits; Serna; Tillery; Uher; Woolley.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Hilbert.

Absent, Excused, Committee Meeting — Dear; Hernandez; Hochberg; Sadler; Williamson.

Absent — Coleman; Craddick; Driver; Dutton; Farrar; Hudson; Jackson; Junell; King; Lewis, R.; Marchant; Moffat; Moreno; Mowery; Nixon; Oliveira; Price; Rusling; Saunders; Talton; Thompson; Wilson; Yarbrough.

### **Amendment No. 29**

Representative Van de Putte offered the following amendment to **CSSB 15**:

Amend **CSSB 15** by adding appropriately numbered SECTIONS of the bill to read as follows and renumbering the existing SECTIONS of the bill accordingly:

SECTION A. Subchapter D, Chapter 12, Penal Code, is amended by adding Section 12.48 to read as follows:

Sec. 12.48. PENALTY IF CRIME COMMITTED ON PUBLIC TRANSPORTATION SYSTEM. (a) The punishment prescribed for an offense under Section 49.02, Penal Code, is increased to the punishment prescribed for the next highest category of offense if it is shown on the trial of the offense that: (1) the offense occurred on the premises of a designated recipient of mass transit funds under Chapter 679, Acts of the 64th Legislature, 1975 (Article 6663c, Vernon's Texas Civil Statutes), or an authority or department created under:

(A) Chapter 141, Acts of the 63rd Legislature, Regular Session, 1973 (Article 1118x, Vernon's Texas Civil Statutes);

(B) Chapter 683, Acts of the 66th Legislature, 1979 (Article 1118y, Vernon's Texas Civil Statutes); or

(C) Article 1118z, Revised Statutes, and

(B) the actor has previously been convicted of an offense described by Subdivision (1):

(b) In this section, "premises" means a bus, vehicle, rail car, rolling stock, station, platform, bus stop, bus shelter, sales outlet, parking lot, garage, or terminal that is used by the public for mass transit purposes.

SECTION A. Chapter 141, Acts of the 63rd Legislature, Regular Session, 1973 (Article 1118x, Vernon's Texas Civil Statutes), is amended by adding Section 6J to read as follows:

Sec. 6J. PROHIBITION OF CONSUMPTION OF ALCOHOLIC BEVERAGES. (a) In this section, "alcoholic beverage" has the meaning assigned by Section 1.04, Alcoholic Beverage Code.

(b) An authority, by resolution of its board, may prohibit the consumption of an alcoholic beverage on any real or personal property under the possession or control of the authority. The board shall describe with particularity a place where the consumption of an alcoholic beverage is prohibited.

(c) The authority shall post a sign in each separate place where consumption is forbidden indicating that a person may not consume an alcoholic beverage in that place.

(d) A person commits an offense if the person consumes an alcoholic beverage in a place where the authority has forbidden consumption.

(e) An offense under this section is a Class C misdemeanor.

SECTION A. Chapter 683, Acts of the 66th Legislature, 1979 (Article 1118y, Vernon's Texas Civil Statutes), is amended by adding Section 10D to read as follows:

Sec. 10D. PROHIBITION OF CONSUMPTION OF ALCOHOLIC BEVERAGES. (a) In this section, "alcoholic beverage" has the meaning assigned by Section 1.04, Alcoholic Beverage Code.

(b) An authority, by resolution of its board, may prohibit the consumption of an alcoholic beverage on any real or personal property under the possession or control of the authority. The board shall describe with particularity a place where the consumption of an alcoholic beverage is prohibited.

(c) The authority shall post a sign in each separate place where consumption is forbidden indicating that a person may not consume an alcoholic beverage in that place.

(d) A person commits an offense if the person consumes an alcoholic beverage in a place where the authority has forbidden consumption.

(e) An offense under this section is a Class C misdemeanor.

SECTION A. Article 1118z, Revised Statutes, is amended by adding Section 6B to read as follows:

Sec. 6B. PROHIBITION OF CONSUMPTION OF ALCOHOLIC BEVERAGES. (a) In this section, "alcoholic beverage" has the meaning assigned by Section 1.04, Alcoholic Beverage Code.

(b) A department, by resolution of its board, may prohibit the consumption of an alcoholic beverage on any real or personal property under the possession or control of the department. The board shall describe with particularity a place where the consumption of an alcoholic beverage is prohibited.

(c) The department shall post a sign in each separate place where consumption is forbidden indicating that a person may not consume an alcoholic beverage in that place.

(d) A person commits an offense if the person consumes an alcoholic beverage in a place where the department has forbidden consumption.

(e) An offense under this section is a Class C misdemeanor.

SECTION A. To the extent of any conflict between this Act or any rules or regulations adopted under this Act and the Alcoholic Beverage Code, the provisions of the Alcoholic Beverage Code and rules of the Texas Alcoholic Beverage Commission shall control and prevail. No standard may be adopted under this Act which is more stringent than or which has the effect of modifying a provision of or a standard imposed under the Alcoholic Beverage Code or a rule of the Texas Alcoholic Beverage Commission, and, in the event of such conflict, a decision by any official or court shall be made in favor of the Alcoholic Beverage Code and rules of the Texas Alcoholic Beverage Commission.

Amendment No. 29 was adopted without objection.

#### **Amendment No. 30**

Representative Naishtat offered the following amendment to **CSSB 15**:

Amend **CSSB 15** by adding the appropriately numbered two new sections, to read as follows, and renumbering the subsequent sections appropriately:

SECTION \_\_\_\_ Subchapter D, Chapter 32, Penal Code, is amended by adding Section 32.55 to read as follows:

Sec. 32.55. INSURANCE CLAIM FRAUD. (a) A person commits an offense if the person, with intent to injure, defraud, or deceive an insurer, causes to be prepared or presents to an insurer in support of a claim for payment under a health insurance policy a statement that the person knows:

(1) contains false or misleading information concerning a matter that is material to the claim; or

(2) conceals or fails to disclose a material fact that affects:

(A) a person's right to a payment; or

(B) the amount of a payment to which a person is entitled.

(b) A person commits an offense if the person, with the intent to injure, defraud, or deceive an insurer, solicits, offers, pays, or receives a benefit in connection with the furnishing of health care goods or services for which payment is sought under an insurance policy.

(c) For the purposes of Subsection (a), information concerning a matter that is material to a claim for payment under an insurance policy includes information concerning:

(1) whether health care goods or services were medically necessary under professionally accepted standards;

(2) whether health care goods or services were provided;

(3) the nature of the health care goods or services provided;

(4) the date on which health care goods or services were provided;

(5) the medical record of goods or services provided;

(6) the condition treated or diagnosis made; or

(7) the identity of the provider or the recipient of health care goods or services.

(d) Except as provided by Subsection (e), an offense under this section is:

(1) a Class C misdemeanor if the value of the claim is less than \$20;

(2) a Class B misdemeanor if:

(A) the value of the claim is \$20 or more but less than \$500;

or

(B) the value of the claim is less than \$20 and the actor has been previously convicted of a misdemeanor under this section;

(3) a Class A misdemeanor if the value of the claim is \$500 or more but less than \$1,500;

(4) a state jail felony if:

(A) the value of the claim is \$1,500 or more but less than \$20,000; or

(B) the value of the claim is less than \$1,500 and the actor has been previously convicted of a misdemeanor two or more times under this section;

(5) a felony of the third degree if the value of the claim is \$20,000 or more but less than \$100,000;

(6) a felony of the second degree if the value of the claim is \$100,000 or more but less than \$200,000; or

(7) a felony of the first degree if:

(A) the value of the claim is \$200,000 or more;

(B) the value of the claim is less than \$200,000 and the actor has been previously convicted of a felony under this section; or

(C) the value of the claim is less than \$200,000 and the commission of the offense placed a person at risk of death or serious bodily injury.

(e) An offense under this section is, if the actor is a health care practitioner:

(1) a state jail felony if the value of the claim is less than \$20,000;

(2) a felony of the third degree if the value of the claim is \$20,000 or more but less than \$100,000;

(3) a felony of the second degree if the value of the claim is \$100,000 or more but less than \$200,000; or

(4) a felony of the first degree if:

(A) the value of the claim is \$200,000 or more;

(B) the value of the claim is less than \$200,000 and the actor has been previously convicted of a felony under this section; or

(C) the value of the claim is less than \$200,000 and the commission of the offense placed a person at risk of death or serious bodily injury.

(f) In this section:

(1) "Insurer" means any person who does business as an insurer in this state, including an insurer that is not authorized to do business in this state. The term includes a health maintenance organization, a company subject to Chapter 20, Insurance Code, and an organization that is self-insured and that provides health care benefits to its employees.

(2) "Health care practitioner" mean a person who renders or causes to be rendered health care or mental health care services and who is entitled to payment under a health insurance policy. The term includes:

(A) any person who may be selected by an insured or a beneficiary under Article 21.52, Insurance Code; and

(B) an officer, employee, or agent of an organization that renders health care or mental health care services.

(3) "Statement" means any written representation of fact, including a notice, proof of loss, bill of lading, receipt for payment, invoice, account, estimate of property damages, bill for services, diagnosis, prescription, medication record, X-ray, test result, or other evidence of loss, injury, or expense. A statement may be computer-generated.

SECTION \_\_\_\_\_. The changes in law made by Section 32.55, Penal Code, as added by this Act, applies only to the punishment for an offense committed on or after the effective date of this Act. For the purpose of this section, an offense is committed before the effective date of this Act if any element of the offense occurs before the effective date. An offense committed before the effective date of this Act is covered by the law in effect when the offense was committed, and the former law is continued in effect for this purpose.

Amendment No. 30 was withdrawn.

### LEAVE OF ABSENCE GRANTED

The following member was granted leave of absence for the remainder of today because of important business:

Bosse on motion of Yarbrough.

### CSSB 15 - (consideration continued)

#### Amendment No. 31

Representative Maxey offered the following amendment to **CSSB 15**:

Amend **CSSB 15** by adding an appropriately numbered SECTION to read as follows and by renumbering existing SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. Section 21.06, Penal Code, is repealed.

Amendment No. 31 was withdrawn.

#### Amendment No. 32

On behalf of Representative Nixon, Representative Talton offered the following amendment to **CSSB 15**:

Amend **CSSB 15** by adding appropriately numbered SECTIONS of the bill to read as follows and renumbering the existing SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. Section 38.01, Penal Code, is amended by amending Subdivision (11) and adding Subdivision (12) to read as follows:

(11) "Solicit employment" means to communicate in person or by telephone [~~or written communication~~] with a prospective client or a member of the prospective client's family concerning professional employment within the scope of a professional's license, registration, or certification [~~legal~~]

~~representation~~] arising out of a particular occurrence or event, or series of occurrences or events, or concerning an existing ~~[legal]~~ problem of the prospective client within the scope of the professional's license, registration, or certification, for the purpose of providing professional services ~~[legal representation]~~ to the prospective client, when neither the person receiving the communication nor anyone acting on that person's behalf has requested the communication. The term does not include a communication initiated by a family member of the person receiving a communication, a communication by a professional ~~[an attorney]~~ who has a prior or existing professional-client ~~[attorney-client]~~ relationship with the person receiving the communication, or communication by an attorney for a qualified nonprofit organization with the organization's members for the purpose of educating the organization's members to understand the law, to recognize legal problems, to make intelligent selection of legal counsel, or to use available legal services. The term does not include an advertisement by a professional ~~[an attorney]~~ through public media.

(12) "Professional" means an attorney, chiropractor, physician, surgeon, private investigator, or any person licensed, certified, or registered by a state agency that regulates a health care profession.

SECTION \_\_. Section 38.12, Penal Code, is amended by amending the section heading and Subsections (a) and (b) to read as follows:

Sec. 38.12. BARRATRY AND SOLICITATION OF PROFESSIONAL EMPLOYMENT. (a) A person commits an offense if, with intent to obtain an economic benefit the person:

(1) knowingly institutes a suit or claim that the person has not been authorized to pursue;

(2) solicits employment, either in person or by telephone, for himself or for another;

(3) pays, gives, or advances or offers to pay, give, or advance to a prospective client money or anything of value to obtain employment as a professional ~~[legal representation]~~ from the prospective client;

(4) pays or gives or offers to pay or give a person money or anything of value to solicit employment;

(5) pays or gives or offers to pay or give a family member of a prospective client money or anything of value to solicit employment; or

(6) accepts or agrees to accept money or anything of value to solicit employment.

(b) A person commits an offense if the person:

(1) ~~[is an attorney, chiropractor, physician, surgeon, or private investigator licensed to practice in this state or any person licensed, certified, or registered by a health care regulatory agency of this state; and~~

~~[(2)] knowingly[-~~

~~[(A)] finances [or invests funds the person knows or believes are intended to further]~~ the commission of an offense under Subsection (a); ~~[or]~~

(2) invests funds the person knows or believes are intended to further the commission of an offense under Subsection (a); or

(3) is a professional who knowingly ~~[(B)]~~ accepts employment within the scope of the person's license, registration, or certification that results from the solicitation of employment in violation of Subsection (a).

SECTION \_\_\_\_\_. Subsection (a), Section 45, Uniform Act Regulating Traffic on Highways (Article 6701d, Vernon's Texas Civil Statutes), is amended to read as follows:

(a) The department shall prepare and upon request supply to police departments, coroners, sheriffs, garages, and other suitable agencies or individuals, forms for accident reports required hereunder, appropriate with respect to the persons required to make such reports and the purposes to be served. The written reports to be made by person involved in accidents and by investigation officers shall call for sufficiently detailed information to disclose with reference to a traffic accident the cause, conditions then existing, and the persons and vehicle involved. Also, the forms for the written reports shall include a means for designating and identifying peace officers, fire fighters, and emergency medical services employees who during an emergency are involved in accidents while driving law enforcement vehicles, fire department vehicles, or emergency medical services vehicles in pursuit of their duties. The forms shall also contain a statement by the peace officers, fire fighters, and emergency medical services employees describing the nature of the emergency. The forms must include a means of designating whether an individual involved in an accident does or does not desire to be contacted by persons seeking to obtain professional employment as a professional described by Section 38.01(12) [~~38.12(b)(1)~~], Penal Code. An individual's response as to whether the individual desires to be contacted is not admissible evidence in a civil trial.

#### **Amendment No. 33**

Representative Place offered the following amendment to Amendment No. 32:

Amend the Nixon Amendment No. 32 to **CSSB 15** as follows:

(1) On page 2, between lines 9 and 10, add the following:

(13) "Client" means an individual for whom legal or other professional services are to be performed. The term does not include a corporation or association.

Amendment No. 33 was adopted without objection.

Amendment No. 32, as amended, was adopted without objection.

#### **Amendment No. 34**

On behalf of Representative Nixon, Representative Talton offered the following amendment to **CSSB 15**:

Amend **CSSB 15** by adding the following appropriately numbered SECTIONS to the bill to read as follows and by renumbering existing SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. Section 38.04, Penal Code, is amended by amending Subsection (b) and by adding Subsections (c) and (d) to read as follows:

(b) An offense under this section is a Class B misdemeanor, except that the offense is:

(1) a Class A misdemeanor [~~felony of the third degree~~] if the actor uses a vehicle while the actor is in flight and the actor has not been previously convicted under this section;



(2) a state jail felony if the actor uses a vehicle while the actor is in flight and the actor has been previously convicted under this section;

(3) a felony of the third degree if another [a peace officer] suffers serious bodily injury [or death from any cause other than an assault or homicide by the actor] as a direct result of an attempt by the officer from whom the actor is fleeing to apprehend the actor while the actor is in flight; or

(4) a felony of the second degree if another suffers death as a direct result of an attempt by the officer from whom the actor is fleeing to apprehend the actor while the actor is in flight.

(c) In this section, "vehicle" has the meaning assigned by Section 2, Uniform Act Regulating Traffic on Highways (Article 6701d, Vernon's Texas Civil Statutes).

(d) A person who is subject to prosecution under both this section and another law may be prosecuted under either or both this section and the other law.

SECTION \_\_\_\_\_. Subdivision (2), Article 59.01, Code of Criminal Procedure, as amended by Chapters 761 and 828, Acts of the 73rd Legislature, 1993, is amended to read as follows:

(2) "Contraband" means property of any nature, including real, personal, tangible, or intangible, that is:

(A) used in the commission of:

(i) any first or second degree felony under the Penal Code;

(ii) any felony under Section 38.04 or Chapters 29, 30, 31, or 32, Penal Code; or

(iii) any felony under The Securities Act (Article 581-1 et seq., Vernon's Texas Civil Statutes);

(B) used or intended to be used in the commission of:

(i) any felony under Chapter 481, Health and Safety Code (Texas Controlled Substances Act);

(ii) any felony under Chapter 483, Health and Safety Code;

(iii) a felony under Article 350, Revised Statutes; [or]

(iv) any felony under Chapter 34, Penal Code; [or]

(v) [(iv)] a Class A misdemeanor under Subchapter B, Chapter 365, Health and Safety Code, if the defendant has been previously convicted twice of an offense under that subchapter; or

(vi) [(v)] any felony under The Sale of Checks Act (Article 489d, Vernon's Texas Civil Statutes);

(C) the proceeds gained from the commission of a felony listed in Paragraph (A) or (B) of this subdivision or a crime of violence; or

(D) acquired with proceeds gained from the commission of a felony listed in Paragraph (A) or (B) of this subdivision or a crime of violence.

SECTION \_\_\_\_\_. Subsection (a), Section 24, Chapter 173, Acts of the 47th Legislature, Regular Session, 1941 (Article 6687b, Vernon's Texas Civil Statutes), is amended to read as follows:



(a) Except as provided by Subsection (g) of this Section, the license of any person shall be automatically suspended upon final conviction of:

(1) an offense under Section 19.05 [~~49.07~~], Penal Code, committed as a result of the person's criminally negligent operation of a motor vehicle;

(2) an offense under Section 49.04 or 49.08 [~~49.05(a)(2)~~], Penal Code;

(3) an offense under Section 49.07, Penal Code [~~Article 6701H-1, Revised Statutes~~], if the person used a motor vehicle in the commission of the offense [~~committed as a result of the introduction of alcohol into the body~~];

(4) an offense punishable as a felony under the motor vehicle laws of this State;

(5) an offense under Section 38, Uniform Act Regulating Traffic on Highways (Article 6701d, Vernon's Texas Civil Statutes); ~~or~~

(6) an offense under Section 32 or 32A of this Act; ~~or~~

(7) an offense under Section 38.04, Penal Code, if the actor used a motor vehicle in the commission of the offense.

Amendment No. 34 was adopted without objection.

#### **Amendment No. 35**

Representatives Puente and Rodriguez offered the following amendment to **CSSB 15**:

Amend **CSSB 15**, in SECTION 13 of the bill, by striking proposed Section 42.09(f), Penal Code (house committee report, page 11, lines 16-18), and substituting the following:

(f) It is a defense to prosecution under Subsection (a)(8) that the actor tripped the horse:

(1) for the purpose of identifying the ownership of the horse or giving veterinary care to the horse; or

(2) in connection with an ongoing rodeo event or in practice for the event.

Amendment No. 35 was adopted.

#### **Amendment No. 36**

Representative Denny offered the following amendment to **CSSB 15**:

Amend **CSSB 15** by adding an appropriately numbered SECTION of the bill to read as follows and renumbering the existing SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. Section 43.251(a)(5), Penal Code, is amended to read as follows:

(5) "Sexually oriented commercial activity" means a massage establishment, nude studio, modeling studio, love parlor, adult tanning salon, lingerie modeling studio, adult or totally nude car wash, or other similar commercial enterprise the primary business of which is the offering of a service that is intended to provide sexual stimulation or sexual gratification to the customer.

Amendment No. 36 was adopted without objection.

**Amendment No. 37**

Representative Raymond offered the following amendment to **CSSB 15**:

Amend **SB 15** by adding appropriately numbered SECTIONS of the bill to read as follows and by renumbering the existing SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. Section 49.01(2), Penal Code, is amended to read as follows:

(2) "Intoxicated" means:

(A) not having the normal use of mental or physical faculties by reason of the introduction of alcohol, a controlled substance, a drug, a dangerous drug, a combination of two or more of those substances, or any other substance into the body; or

(B) having an alcohol concentration of:

(i) 0.10 or more, if the actor is at least 21 years of age; or

(ii) more than 0.02, if the actor is younger than 21 years of age.

SECTION \_\_\_\_\_. Section 24(j), Chapter 173, Acts of the 47th Legislature, Regular Session, 1941 (Article 6687b, Vernon's Texas Civil Statutes), is amended to read as follows:

(j) The Department shall suspend the license of a person who is younger than 21 years of age and is convicted of an offense under Section 49.04 [~~49.05(a)(2)~~], Penal Code, or Section 49.07 or 49.08 of that code if the offense involved the operation of a motor vehicle [Article 6701H-1, Revised Statutes], regardless of whether the person is required to attend an educational program designed to rehabilitate persons who have driven while intoxicated under Section 13(h), Article 42.12, Code of Criminal Procedure, for a period that continues until the person attains the age of 21 years. If during the period of suspension and before the person attains the age of 21 the person's driver's license expires, the Department is prohibited from renewing that driver's license or issuing the person a new driver's license until the person attains the age of 21, or if the person did not hold a valid driver's license on the date of the conviction, the Department is prohibited from issuing a driver's license to the person until the person attains the age of 21 [one year]. If a person required to attend an educational program designed to rehabilitate persons who have driven while intoxicated under Section 13(h), Article 42.12, Code of Criminal Procedure, does not complete the program before the end of the person's suspension, the Department shall continue the suspension until the Department receives proof that the person has successfully completed the program. A person who completes the educational program required under this subsection may submit proof of the completion to the clerk of the convicting court who shall send it to the Department in the manner provided by Section 13(h), Article 42.12, Code of Criminal Procedure.

(Hochberg now present)

Representative Place moved to table Amendment No. 37.

The motion to table prevailed.

**Amendment No. 38**

Representative Hochberg offered the following amendment to **CSSB 15**:

Amend **CSSB 15** by adding an appropriately numbered section to read as follows and renumbering subsequent sections accordingly:

SECTION \_\_\_\_\_. Section 49.01(2), Penal Code, is amended to read as follows:

(2) "Intoxicated" means:

(A) not having the normal use of mental or physical faculties by reason of the introduction of alcohol, a controlled substance, a drug, a dangerous drug, a combination of two or more of those substances, or any other substance into the body; or

(B) having an alcohol concentration of 0.08 [0.10] or more.

Amendment No. 38 was adopted without objection.

**Amendment No. 39**

Representative Hill offered the following amendment to **CSSB 15**:

Amend **CSSB 15** by adding an appropriately numbered SECTION to read as follows and by renumbering the existing SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. Section 49.03, Penal Code, is amended to read as follows:

Sec. 49.03. CONSUMPTION OR POSSESSION OF ALCOHOLIC BEVERAGE IN MOTOR VEHICLE. (a) A person commits an offense if the person consumes an alcoholic beverage while operating a motor vehicle in a public place and is observed doing so by a peace officer.

(b) A person commits an offense if the person operates or travels in a motor vehicle in a public place and the motor vehicle has, present in the passenger portion of the vehicle, a bottle, can, or other receptacle that contains an alcoholic beverage and that has been opened, has a seal broken, or has the contents partially removed.

(c) Subsection (b) does not apply if the alcoholic beverage is in the possession:

(1) of a passenger in the living quarters of a house trailer; or

(2) of a passenger, other than the owner, who has hired the vehicle and the vehicle is owned or operated by a person engaged in the business of transporting passengers for compensation.

(d) Subsection (b) does not apply if the alcoholic beverage is in the possession of a doctor or patient carrying alcoholic beverages for therapeutic purposes. The department may require acceptable medical proof for a person carrying a container of alcohol for therapeutic purposes.

(e) Subsection (b) does not apply if the alcoholic beverage is in the possession of a minister, priest, rabbi, accredited Christian Science practitioner, or other similar functionary of a religious organization who is carrying it for religious purposes.

(f) An offense under this section is a Class C misdemeanor.

Amendment No. 39 was adopted without objection.

**Amendment No. 40**

Representative Kamel offered the following amendment to **CSSB 15**:

Amend **CSSB 15** by adding an appropriately numbered section to read as follows and renumbering subsequent sections of the bill accordingly:

SECTION \_\_\_\_\_. Section 49.08, Penal Code, is amended to read as follows:

Sec. 49.08. INTOXICATION MANSLAUGHTER. (a) A person commits an offense if the person:

(1) operates a motor vehicle in a public place, an aircraft, or a watercraft; and

(2) is intoxicated and by reason of that intoxication causes the death of one or more other individuals ~~[another]~~ by accident or mistake.

(b) An offense under this section is:

(1) a felony of the second degree if the person causes the death of one other individual by the commission of the offense; or

(2) a felony of the first degree if the person causes the death of more than one other individual.

Amendment No. 40 was adopted without objection.

**Amendment No. 41**

Representatives Duncan, Allen, J. Jones, Carter, and Talton offered the following amendment to **CSSB 15**:

Amend **CSSB 15** by adding appropriately numbered sections to read as follows and renumbering subsequent sections accordingly:

SECTION \_\_\_\_\_. Section 49.09(a), Penal Code, is amended to read as follows:

(a) If it is shown on the trial of an offense under Section 49.04, 49.05, or 49.06 that the person has previously been convicted one time of an offense relating to the driving or operating of a motor vehicle while intoxicated, an offense of operating an aircraft while intoxicated, or an offense of operating a watercraft while intoxicated, the offense is a Class A misdemeanor, with a minimum term of confinement of 30 ~~[15]~~ days.

SECTION \_\_\_\_\_. Section 13(g), Article 42.12, Code of Criminal Procedure, is amended to read as follows:

(g) A jury that recommends community supervision for a person convicted of an offense under Sections 49.04-49.08, Penal Code, may recommend that any driver's license issued to the defendant under Chapter 173, Acts of the 47th Legislature, Regular Session, 1941 (Article 6687b, Vernon's Texas Civil Statutes), not be suspended ~~[only if the defendant was 21 years of age or older at the time of the commission of the offense].~~

SECTION \_\_\_\_\_. Chapter 17, Code of Criminal Procedure, is amended by adding Article 17.441 to read as follows:

Art. 17.441. CONDITIONS REQUIRING MOTOR VEHICLE IGNITION INTERLOCK. (a) Except as provided by Subsection (b), a magistrate shall require on release that a defendant charged with a subsequent offense under Sections 49.04-49.06, Penal Code, shall require on release that a defendant charged with a subsequent offense under Sections 49.04-49.06, Penal Code, or an offense under Section 49.07 or 49.08 of that code:

(1) have installed on the motor vehicle owned by the defendant or on the vehicle most regularly driven by the defendant, a device that uses a deep-lung breath analysis mechanism to make impractical the operation of a motor vehicle if ethyl alcohol is detected in the breath of the operator; and

(2) not operate any motor vehicle unless the vehicle is equipped with that device.

(b) The magistrate may not require the installation of the device if the magistrate finds that to require the device would not be in the best interest of justice.

(c) If the defendant is required to have the device installed, the magistrate shall require that the defendant have the device installed on the appropriate motor vehicle, at the defendant's expense, before the 30th day after the date the defendant is released on bond.

(d) The magistrate may designate an appropriate agency to verify the installation of the device and to monitor the device.

SECTION \_\_. Section 13(i), Article 42.12, Code of Criminal Procedure, as amended by Chapters 662 and 900, Acts of the 73rd Legislature, Regular Session, 1993, is revised and amended to read as follows:

(i) If a person convicted of an offense under Sections 49.04-49.08, Penal Code, ~~[and punished under Subsection (c) or (d) of that article, or of a first or second offense under Section 49.05(a)(2), Penal Code,]~~ is placed on community supervision, the court may require as a condition of community supervision that the defendant have a device installed, on the motor vehicle owned by the defendant or on the vehicle most regularly driven by the defendant, [not operate a motor vehicle unless the vehicle is equipped with a device] that uses a deep-lung breath analysis mechanism to make impractical the operation of the motor vehicle if ethyl alcohol is detected in the breath of the operator and that the defendant not operate any motor vehicle that is not equipped with that device. If the person is convicted of an offense under Sections 49.04-49.06 ~~[Section 49.04]~~, Penal Code, and punished under Section 49.09(a) or (b), Penal Code ~~[Subsection (c) for that article]~~, or of a second [third] or subsequent offense under Section 49.07 or 49.08, Penal Code, and the person after conviction of either offense is placed on community supervision, the court shall require as a condition of community supervision that the defendant have the device installed on the appropriate vehicle and that the defendant not operate any [a] motor vehicle unless the vehicle is equipped with that device. Before placing on community supervision a person convicted of an offense under Sections 49.04-49.08 ~~[Section 49.04 or 49.08]~~, Penal Code, the court shall determine from criminal history record information maintained by the Department of Public Safety whether the person has one [two] or more previous convictions under Sections 49.04-49.08, Penal Code, ~~[that article or that section]~~ or has one previous conviction under Sections 49.04-49.07, Penal Code, or [that article and] one previous conviction under Section 49.08, Penal Code ~~[that section]~~. If the court determines that the person has one [two] or more such previous convictions, the court shall require as a condition of community supervision that the defendant have that device installed on the motor vehicle owned by the defendant or on the vehicle most regularly driven by the defendant and that the defendant not operate any [a] motor vehicle unless the vehicle is equipped with

the device described in this subsection. The court shall require the defendant to obtain the device at the defendant's [his] own cost before the 30th day after the date of conviction unless the court finds that to do so would not be in the best interest of justice and enters its findings on record. The court shall require the defendant to provide evidence to the court within the 30-day period that the device has been installed on the appropriate vehicle and order the device to remain installed on that vehicle for a period not less than 50 percent of the supervision period. If the court determines the offender is unable to pay for the device, the court may impose a reasonable payment schedule not to exceed twice the period of the court's order. The Department of Public Safety shall approve devices for use under this subsection. The provisions of Section 23A(f), Chapter 173, Acts of the 47th Legislature, Regular Session, 1941 (Article 6687b, Vernon's Texas Civil Statutes), apply to the approval of a device under this subsection and the consequences of that approval. Notwithstanding the provisions of this section, if a person is required to operate a motor vehicle in the course and scope of the person's employment and if the vehicle is owned by the employer, the person may operate that vehicle without installation of an approved ignition interlock device if the employer has been notified of that driving privilege restriction and if proof of that notification is with the vehicle. This employment exemption does not apply, however, if the business entity that owns the vehicle is owned or controlled by the person whose driving privilege has been restricted.

SECTION \_\_. Section 13(j), Article 42.12, Code of Criminal Procedure, as amended by Chapters 796 and 900, Acts of the 73rd Legislature, 1993, is amended to read as follows:

(j) The judge shall require a defendant who is punished under Section 49.09, Penal Code, as a condition of community supervision, to attend and successfully complete~~[-before the end of the defendant's period of driver's license suspension,]~~ an educational program for repeat offenders approved by the Texas Commission on Alcohol and Drug Abuse. The Texas Commission on Alcohol and Drug Abuse shall adopt rules and shall monitor, coordinate, and provide training to persons providing the educational programs. The Texas Commission on Alcohol and Drug Abuse is responsible for the administration of the certification of approved educational programs. The judge may waive the educational program requirement only if the defendant by a motion in writing shows good cause. In determining good cause, the judge may consider the defendant's school and work schedule, the defendant's health, the distance that the defendant must travel to attend an educational program, and whether the defendant resides out of state or does not have access to transportation. The judge shall set out the finding of good cause in the judgment. If a defendant is required, as a condition of community supervision, to attend an educational program, the court clerk shall immediately report that fact to the Department of Public Safety, on a form prescribed by the department, for inclusion in the defendant's driving record. The report must include the beginning date of the defendant's community supervision. On the successful completion of the educational program for repeat offenders, the defendant shall give notice to the community supervision and corrections department. The community supervision and corrections department shall then forward the notice to the court clerk. The

court clerk shall then report the date of successful completion of the educational program to the Department of Public Safety for inclusion in the defendant's driving record. If the Department of Public Safety does not receive notice that a defendant required to complete an educational program has successfully completed the program for repeat offenders within the period required by the judge [this section], as shown on department records, the department shall revoke ~~[continue the suspension of]~~ the defendant's driver's license, permit, or privilege or prohibit the defendant from obtaining a license or permit, as provided by Section 24(g)(2), Chapter 173, Acts of the 47th Legislature, Regular Session, 1941 (Article 6687b, Vernon's Texas Civil Statutes).

SECTION \_\_. Section 23A(f), Chapter 173, Acts of the 47th Legislature, Regular Session, 1941 (Article 6687b, Vernon's Texas Civil Statutes), is amended to read as follows:

(f) The judge hearing the petition shall enter an order either finding that no essential need exists for the operation of a motor vehicle or enter an order finding an essential need for operating a motor vehicle. In the event the judge enters the order finding an essential need, he shall also, as part of the order, determine the actual need of the petitioner in operating a motor vehicle. The order shall require the petitioner to give proof of a valid policy of automobile liability insurance in accordance with the Texas Motor Vehicle Safety-Responsibility Act (Article 6701h, Vernon's Texas Civil Statutes). If the person's license has been suspended following a conviction under Section 19.05(a)(2), Penal Code, as that law existed before September 1, 1994, or Sections 49.04-49.08 of that code ~~[but only on conviction of a second or subsequent offense under that section]~~, the order may ~~[shall]~~ restrict the person to the operation of a motor vehicle equipped with a device that uses a deep-lung breath analysis mechanism to make impractical the operation of the motor vehicle if ethyl alcohol is detected in the breath of the restricted operator. If the person's license has been suspended following a conviction of an offense under Article 6701l-1, Revised Statutes, for which the person has been punished under Subsection (e) of that article, as that article existed before September 1, 1994, or a second or subsequent offense under Section 19.05(a)(2), Penal Code, as that section existed before September 1, 1994, or under Sections 49.04-49.08 of that code, the order shall restrict the person to the operation of a motor vehicle equipped with that device. If the person's license has been suspended following a conviction of an offense under Article 6701l-1, Revised Statutes, or Section 19.05(a)(2), Penal Code, as those laws existed before September 1, 1994, or under Sections 49.04-49.08 of that code, before entering the order, the judge shall determine from criminal history record information maintained by the Department of Public Safety whether the person has two or more previous convictions under that article or those sections ~~[that section]~~ or has one previous conviction under that article and one previous conviction under those sections ~~[that section]~~. If the judge determines that the person has two or more such previous convictions, as part of the order the judge shall require that the petitioner not operate a motor vehicle unless the vehicle is equipped with the device described in this subsection. The defendant shall obtain the device at his own cost unless the court finds that to do so would not be in the best interest of justice and enters its findings on record. The court shall order the



device to remain installed on that vehicle for a period not less than 50 percent of the supervision period. If the court determines the offender is unable to pay for the device, the court may impose a reasonable payment schedule not to exceed twice the period of the court's order. Notwithstanding the provisions of this section, if a person is required to operate a motor vehicle in the course and scope of the person's employment and if the vehicle is owned by the employer, the person may operate that vehicle without installation of an approved ignition interlock device if the employer has been notified of such driving privilege restriction and if proof of that notification is with the vehicle. This employment exemption does not apply, however, if the business entity that owns the vehicle is owned or controlled by the person whose driving privilege has been restricted. The order shall be definite as to hours of the day, days of the week, specific reasons for travel, and areas or routes of travel to be permitted, except that the petitioner shall not be allowed to operate a motor vehicle more than four (4) hours in any twenty-four (24) consecutive hours. On a proper showing of necessity, however, the court may waive the four-hour restriction and allow the petitioner to operate a motor vehicle for any period determined by the court that does not exceed twelve (12) hours in any twenty-four (24) consecutive hours. When a person's license is suspended under Article 6687b-1, Revised Statutes, or Chapter 434, Acts of the 61st Legislature, Regular Session, 1969 (Article 67011-5, Vernon's Texas Civil Statutes), and the person has not had a prior suspension arising from an alcohol-related or drug-related enforcement contact, as defined in Article 6687b-1, Revised Statutes, in the five years immediately preceding the date of the person's arrest, an order under this section granting the person an occupational license to meet an essential need shall be immediately effective. Provided, that the court shall order the petitioner to comply with the alcohol counselling and rehabilitation program requirements contained in Subsection (g) of this section. If the person's driver's license has been suspended as a result of an alcohol-related or drug-related enforcement contact, as defined in Section 1(2)(B) or (C), Article 6687b-1, Revised Statutes, in the five years immediately preceding the date of the person's arrest, the order may not be effective before 90 days after the effective date of the suspension. If the person's driver's license has been suspended as a result of a conviction under Article 67011-1, Revised Statutes, or under Section 19.05(a)(2), Penal Code, as those laws existed before September 1, 1994, or under Sections 49.04-49.08 of that code in the five years immediately preceding the date of the person's arrest, the order may not be effective before 180 days after the effective date of the suspension. An order entered by the court shall extend until the end of the period of the suspension. A certified copy of the petition and the court order setting out the judge's finding and the restrictions shall be forwarded to the Department. The petitioner may use a copy of the court order as a restricted license for thirty (30) days after the date the order is effective. The Department of Public Safety shall promulgate rules and regulations for the approval of models and classes of devices used under this subsection and Section 25(a) of this Act. The Department by rule shall establish standards for the calibration and maintenance of devices, but the calibration and maintenance of each individual device is the responsibility of the manufacturer of that device or an authorized representative of the manufacturer. If the Department approves



a device, the Department shall notify the manufacturer in writing of that fact. Written notice from the Department to a manufacturer approving a device is admissible in any civil or criminal proceeding in this state. The manufacturer shall reimburse the Department for any cost incurred by the Department in approving a device under this subsection. The Department may not be held liable in a civil or criminal proceeding arising out of the use of a device approved under this subsection.

SECTION \_\_. Section 24(a-1), Chapter 173, Acts of the 47th Legislature, Regular Session, 1941 (Article 6687b, Vernon's Texas Civil Statutes), is amended to read as follows:

(a-1) Except as provided by Subsection (g) of this section, the ~~[The]~~ license of any person who was younger than 21 years of age at the time of the offense, other than a misdemeanor punishable by fine only, shall be automatically suspended on conviction of:

(1) an offense under Article 67011-1, Revised Statutes, as that law existed before September 1, 1994, or under Section 49.04, Penal Code, committed as a result of the introduction of alcohol into the body;

(2) an offense under the Alcoholic Beverage Code involving the manufacture, delivery, possession, transportation, or use of an alcoholic beverage;

(3) a misdemeanor offense under Chapter 481, Health and Safety Code (Texas Controlled Substances Act), for which Section 24B of this Act does not require the automatic suspension of the license of the person;

(4) an offense under Chapter 483, Health and Safety Code, involving the manufacture, delivery, possession, transportation, or use of a dangerous drug; or

(5) an offense under Chapter 484, Health and Safety Code, involving the manufacture, delivery, possession, transportation, or use of a volatile chemical.

SECTION \_\_. Section 24(g)(1), Chapter 173, Acts of the 47th Legislature, Regular Session, 1941 (Article 6687b, Vernon's Texas Civil Statutes), is amended to read as follows:

(1) Except as provided by Subdivision (2) of this subsection and Subsection (j) of this section, the Department may not, during the period of probation, revoke the driver's license, permit, or resident or nonresident privilege to operate a motor vehicle of a person if the person is required under Section 13(h) or (j), Article 42.12, Code of Criminal Procedure, to attend and successfully complete an educational program designed to rehabilitate persons who have driven while intoxicated. The Department also may not revoke the driver's license, permit, or nonresident operating privilege of a person:

(A) for whom the jury has recommended, under Section 13(g), Article 42.12, Code of Criminal Procedure, no revocation; or

(B) placed on community supervision under that article and required as a condition of community supervision to not operate a motor vehicle unless the vehicle is equipped with the device described by Subsection (i) of that section.

SECTION \_\_. Section 24(j), Chapter 173, Acts of the 47th Legislature, Regular Session, 1941 (Article 6687b, Vernon's Texas Civil Statutes), is amended to read as follows:

(j) The Department shall suspend the license of a person who is younger than 21 years of age and is convicted of an offense under Section 19.05(a)(2), Penal Code, or Article 67011-1, Revised Statutes, as those laws existed before September 1, 1994, or under Section 49.04, 49.07, or 49.08 of that code, regardless of whether the person is required to attend an educational program designed to rehabilitate persons who have driven while intoxicated under Section 13(h), Article 42.12, Code of Criminal Procedure, for one year, unless the person is placed on community supervision under that article, and required as a condition of community supervision to not operate a motor vehicle unless the vehicle is equipped with the device described by Subsection (i) of that section. If a person required to attend an educational program designed to rehabilitate persons who have driven while intoxicated under Section 13(h), Article 42.12, Code of Criminal Procedure, does not complete the program before the end of the person's suspension, the Department shall suspend the person's license or continue the suspension, as appropriate, until the Department receives proof that the person has successfully completed the program. A person who completes the educational program required under this subsection may submit proof of the completion to the clerk of the convicting court who shall send it to the Department in the manner provided by Section 13(h), Article 42.12, Code of Criminal Procedure.

SECTION \_\_. Section 12, Chapter 173, Acts of the 47th Legislature, Regular Session, 1941 (Article 6687b, Vernon's Texas Civil Statutes), is amended by adding Subsection (g) to read as follows:

(g) Upon receipt of notice that a person has been restricted to the operation of a motor vehicle equipped with a device that uses a deep-lung breath analysis mechanism to make impractical the operation of the motor vehicle if ethyl alcohol is detected in the breath of the restricted operator, the department shall notify the person that his current license will expire in thirty (30) days. Upon application by the person and payment of a fee of Ten Dollars (\$10.00), the department shall issue a special restricted driver's license to operate only a motor vehicle equipped with a device that uses a deep-lung breath analysis mechanism. Upon receipt of a copy of a court order removing the restriction, the department shall issue a driver's license without the restriction.

SECTION \_\_. Section 12, Chapter 173, Acts of the 47th Legislature, Regular Session, 1941 (Article 6687b, Vernon's Texas Civil Statutes), is amended by adding Subsection (i) to read as follows:

(i) If a person has been restricted to the operation of a motor vehicle equipped with a device that uses a deep-lung breath analysis mechanism to make impractical the operation of the motor vehicle if ethyl alcohol is detected in the breath of the restricted operator, information in the custody of the department concerning the conviction and restriction is confidential. The department may not release this information to any person except a law enforcement agency or state's attorney.

SECTION \_\_. Section 3(a), Article 42.13, Code of Criminal Procedure, is amended to read as follows:

(a) The division shall require each department to:

(1) keep financial and statistical records determined necessary by the division;

(2) submit a community justice plan and all supporting information requested by the division;

(3) present data requested by the division as necessary to determine the amount of state aid for which the department is eligible; ~~and~~

(4) submit periodic financial audits and statistical reports to the division;

(5) submit periodic data to the division on the required use of deep-lung breath analysis mechanisms to make impractical the operation of a motor vehicle if ethyl alcohol is detected in the breath of the operator, including the number of devices in use, the number of violations detected, malfunctions by the devices, and attempts to circumvent the devices; and

(6) submit to the Department of Public Safety the full name, address, date of birth, social security number, and driver's license number of each person restricted to the operation of a motor vehicle equipped with a device that uses a deep-lung breath analysis mechanism to make impractical the operation of the motor vehicle if ethyl alcohol is detected in the breath of the restricted operator.

SECTION \_\_\_\_\_. Section 23A, Chapter 173, Acts of the 47th Legislature, Regular Session, 1941 (Article 6687b, Vernon's Texas Civil Statutes), is amended by adding Subsection (h) to read as follows:

(h) On January 1 of each year, the Department shall issue an evaluation of each device approved under Subsection (f) of this section using guidelines established by the National Highway Traffic Safety Administration and including accurate detection of alveolar air, moving retest abilities, the use of tamper-proof blood alcohol content level software, anticircumvention design, recalibration requirements, and breath action required by the driver. The cost of preparing this evaluation shall be assessed equally against each manufacturer of an approved device.

SECTION \_\_\_\_\_. Section 13, Article 42.12, Code of Criminal Procedure, is amended by adding Subsection (m) to read as follows:

(m) Notwithstanding any other provision of this section or other law, the judge who places on community supervision a defendant who is younger than 21 years of age and convicted for an offense under Sections 49.04-49.08, Penal Code, shall:

(1) order that the defendant's driver's license be suspended for 90 days beginning on the date that the person is placed on community supervision; and

(2) require as a condition of community supervision that the defendant not operate a motor vehicle unless the vehicle is equipped with the device described by Subsection (i) of this section.

Amendment No. 41 was adopted without objection.

#### **Amendment No. 42**

Representatives Kamel and Talton offered the following amendment to **CSSB 15**:

Amend **CSSB 15** by adding an appropriately numbered SECTION to the bill to read as follows and by renumbering existing SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. Section 49.09, Penal Code, is amended by adding Subsection (f) to read as follows:

(f) If it is shown on the trial of an offense under Section 49.04, 49.05, or 49.06 that at the time of the offense a person younger than 17 years of age was present as a passenger in the motor vehicle, aircraft, or watercraft, the court shall impose a minimum term of continuous confinement that is not less than 30 days. This subsection does not apply to an offense under Section 49.04, 49.05, or 49.06 that is enhanced under Subsection (b).

Amendment No. 42 was adopted without objection.

### **Amendment No. 43**

Representatives J. Jones and Allen offered the following amendment to **CSSB 15**:

Amend **CSSB 15** by adding an appropriately numbered SECTION to read as follows and renumbering existing SECTIONS accordingly:

SECTION \_\_. Section 43.24, Penal Code, is amended to read as follows:

Sec. 43.24. ~~[SALE, DISTRIBUTION, OR DISPLAY OF HARMFUL]~~ MATERIAL OR PERFORMANCE HARMFUL TO MINOR. (a) In ~~[For purposes of]~~ this section:

(1) "Minor" means an individual younger than 18 years.

(2) "Harmful material" means material whose dominant theme taken as a whole:

(A) appeals to the prurient interest of a minor~~[-]~~ in sex, nudity, or excretion;

(B) is patently offensive to prevailing standards in the adult community as a whole with respect to what is suitable for minors; and

(C) is utterly without redeeming social value for minors.

(3) "Harmful performance" means a performance the dominant theme of which, taken as a whole:

(A) appeals to the prurient interest of a minor in sex, nudity, or excretion;

(B) is patently offensive to prevailing standards in the adult community as a whole with respect to what is suitable for minors; and

(C) is utterly without redeeming social value for minors.

(b) A person commits an offense if, knowing that the material is harmful:

(1) and knowing the person is a minor, he sells, distributes, exhibits, or possesses for sale, distribution, or exhibition to a minor harmful material; or

(2) he displays harmful material and is reckless about whether a minor is present who will be offended or alarmed by the display~~[-; or~~

~~[(3) he hires, employs, or uses a minor to do or accomplish or assist in doing or accomplishing any of the acts prohibited in Subsection (b)(1) or (b)(2)].~~

(c) It is a defense to prosecution under Subsection (b) ~~[this section]~~ that:

(1) the sale, distribution, or exhibition was by a person having scientific, educational, governmental, or other similar justification; or

(2) the sale, distribution, or exhibition was to a minor who was accompanied by a consenting parent, guardian, or spouse.

(d) A person commits an offense if, knowing that a performance is harmful, the person produces, presents, or directs the performance or participates in a portion of the performance that is harmful and the person:

(1) knows that a minor will be admitted to the audience of the performance; or

(2) is reckless as to whether a minor will be admitted to the audience of the performance.

(e) It is a defense to prosecution under Subsection (d) that the performance was presented for a scientific, educational, governmental, or other reasonable purpose.

(f) A person commits an offense if, knowing that the material or performance is harmful, the person hires, employs, or uses a minor to do or accomplish or assist in doing or accomplishing any act prohibited by Subsection (b) or (d).

(g) An offense under this section is a Class A misdemeanor unless it is committed under Subsection (f), [(b)(3)] in which event it is a felony of the third degree.

Amendment No. 43 was adopted without objection.

#### **Amendment No. 44**

On behalf of Representative Nixon, Representative Talton offered the following amendment to **CSSB 15**:

Amend **CSSB 15** by adding an appropriately numbered SECTION of the bill to read as follows and renumbering the existing SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. Section 43.251, Penal Code, is amended to read as follows:

Sec. 43.251. EMPLOYMENT HARMFUL TO PERSONS YOUNGER THAN 21 ~~CHILDREN~~. (a) In this section:

(1) ~~["Child" means a person younger than 18 years of age.~~

~~[(2)]~~ "Massage" has the meaning assigned to the term "massage therapy" by Section 1, Chapter 752, Acts of the 69th Legislature, Regular Session, 1985 (Article 4512k, Vernon's Texas Civil Statutes).

(2) ~~[(3)]~~ "Massage establishment" has the meaning assigned by Section 1, Chapter 752, Acts of the 69th Legislature, Regular Session, 1985 (Article 4512k, Vernon's Texas Civil Statutes).

(3) ~~[(4)]~~ "Nude" means a person ~~child~~ who is:

(A) entirely unclothed; or

(B) clothed in a manner that leaves uncovered or visible through less than fully opaque clothing any portion of the breasts below the top of the areola of the breasts, if the person ~~child~~ is female, or any portion of the genitals or buttocks.

(4) ~~[(5)]~~ "Sexually oriented commercial activity" means a massage establishment, nude studio, modeling studio, love parlor, or other similar commercial enterprise the primary business of which is the offering of a service that is intended to provide sexual stimulation or sexual gratification to the customer.

(5) [(6)] "Topless" means a female person ~~[child]~~ clothed in a manner that leaves uncovered or visible through less than fully opaque clothing any portion of her breasts below the top of the areola.

(b) A person commits an offense if the person employs, authorizes, or induces a person younger than 21 years of age ~~[child]~~ to work:

(1) in a sexually oriented commercial activity; or

(2) in any place of business permitting, requesting, or requiring a person ~~[child]~~ to work nude or topless.

(c) A person commits an offense if the person:

(1) as an owner of the activity or place of business, authorizes or employs another to work in a sexually oriented commercial activity or in any place of business permitting, requesting, or requiring a person to work nude or topless; and

(2) does not have physically present at the premises while the other person is working a valid Texas driver's license or an identification card issued by the Department of Public Safety that contains a physical description consistent with the appearance of the person who is working and that establishes that the person who is working is legally able to be employed by the establishment as described by this section.

(d) An offense under Subsection (b) is a Class A misdemeanor.

(e) An offense under Subsection (c) is a Class C misdemeanor.

~~[(c) An offense under this section is a Class A misdemeanor.]~~

Amendment No. 44 was adopted without objection.

#### **Amendment No. 45**

Representative Carter offered the following amendment to **CSSB 15**:

Amend **CSSB 15** by adding the following new SECTIONS to the bill, appropriately numbered, and renumbering existing SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. Section 71.01, Penal Code, is amended by adding Subsection (d) to read as follows:

(d) "Criminal street gang" means three or more persons having a common identifying sign or symbol or an identifiable leadership who continuously or regularly associate in the commission of criminal activities.

SECTION \_\_\_\_\_. Subsection (a), Section 71.02, Penal Code, is amended to read as follows:

(a) A person commits an offense if, with the intent to establish, maintain, or participate in a combination or in the profits of a combination or as a member of a criminal street gang, he commits or conspires to commit one or more of the following:

(1) murder, capital murder, arson, aggravated robbery, robbery, burglary, theft, aggravated kidnapping, kidnapping, aggravated assault, aggravated sexual assault, sexual assault, forgery, deadly conduct, assault punishable as a Class A misdemeanor, burglary of a motor vehicle, or unauthorized use of a motor vehicle;

(2) any gambling offense punishable as a Class A misdemeanor;

(3) promotion of prostitution, aggravated promotion of prostitution, or compelling prostitution;

(4) unlawful manufacture, transportation, repair, or sale of firearms or prohibited weapons;

(5) unlawful manufacture, delivery, dispensation, or distribution of a controlled substance or dangerous drug, or unlawful possession of a controlled substance or dangerous drug through forgery, fraud, misrepresentation, or deception;

(6) any unlawful wholesale promotion or possession of any obscene material or obscene device with the intent to wholesale promote the same;

(7) any unlawful employment, authorization, or inducing of a child younger than 17 years of age in an obscene sexual performance;

(8) any felony offense under Chapter 32, Penal Code;

(9) any offense under Chapter 36, Penal Code; or

(10) any offense under Chapter 34, Penal Code.

SECTION \_\_\_\_\_. Section 125.001, Civil Practice and Remedies Code, as amended by Section 1, Chapter 968, and Section 2, Chapter 857, Acts of the 73rd Legislature, 1993, is reenacted and amended to read as follows:

Sec. 125.001. COMMON NUISANCE. A person who knowingly maintains a place to which persons habitually go for the purpose of prostitution or gambling in violation of the Penal Code, ~~[for the purpose of reckless discharge of a firearm as described by Section 42.015, Penal Code;]~~ for the purpose of engaging in organized criminal activity as a member of a combination or as a member of a criminal street gang as described by Section 71.02, Penal Code, or for the delivery or use of a controlled substance in violation of Chapter 481, Health and Safety Code, maintains a common nuisance.

SECTION \_\_\_\_\_. Subsection (b), Section 125.004, Civil Practice and Remedies Code, as amended by Section 3, Chapter 857, and Section 2, Chapter 968, Acts of the 73rd Legislature, 1993, is reenacted and amended to read as follows:

(b) Evidence that persons have been convicted of gambling, committing prostitution, ~~[reckless discharge of a firearm as described by Section 42.015, Penal Code;]~~ engaging in organized criminal activity as a member of a combination or a criminal street gang as described by Section 71.02, Penal Code, or delivering or using a controlled substance in violation of Chapter 481, Health and Safety Code, in the place involved is admissible to show knowledge on the part of the defendant that the act occurred. The originals or certified copies of the papers and judgments of those convictions are admissible in the suit for injunction, and oral evidence is admissible to show that the offense for which a person was convicted was committed at the place involved.

SECTION \_\_\_\_\_. Subsection (g), Section 125.004, Civil Practice and Remedies Code, is reenacted to read as follows:

(g) Proof that organized criminal activity by a member of a combination or a criminal street gang as described by Section 71.02, Penal Code, is frequently committed at a place or proof that a place is frequently used for engaging in organized criminal activity by a member of a combination or a criminal street gang as described by Section 71.02, Penal Code, is prima facie evidence that the proprietor knowingly permitted the act, unless the act constitutes conspiring to commit an offense as described by Section 71.02, Penal Code.



SECTION \_\_\_\_\_. Section 125.021, Civil Practice and Remedies Code, as amended by Section 1, Chapter 968, and Section 2, Chapter 857, Acts of the 73rd Legislature, 1993, is reenacted and amended to read as follows:

Sec. 125.021. PUBLIC NUISANCE. The habitual use or the threatened or contemplated habitual use of any place for any of the following purposes is a public nuisance:

- (1) gambling, gambling promotion, or communicating gambling information prohibited by law;
- (2) promotion or aggravated promotion of prostitution;
- (3) compelling prostitution;
- (4) commercial manufacture, commercial distribution, or commercial exhibition of obscene material;
- (5) commercial exhibition of live dances or other acts depicting real or simulated sexual intercourse or deviate sexual intercourse;
- (6) engaging in a voluntary fight between a man and a bull if the fight is for a thing of value or a championship, if a thing of value is wagered on the fight, or if an admission fee for the fight is directly or indirectly charged, as prohibited by law;

~~[(7) reckless discharge of a firearm as described by Section 42.015, Penal Code; or]~~

(7) engaging in organized criminal activity as a member of a combination or as a member of a criminal street gang as described by Section 71.02, Penal Code; or

(8) delivering or using a controlled substance in violation of Chapter 481, Health and Safety Code.

SECTION \_\_\_\_\_. Section 125.041, Civil Practice and Remedies Code, as amended by Section 1, Chapter 968, and Section 2, Chapter 857, Acts of the 73rd Legislature, 1993, is reenacted and amended to read as follows:

Sec. 125.041. PUBLIC NUISANCE. For the purposes of this subchapter, a public nuisance is considered to exist at a place if one or more of the following acts occurs at that place on a regular basis:

- (1) gambling, gambling promotion, or communication of gambling information, as prohibited by Chapter 47, Penal Code;
- (2) promotion or aggravated promotion of prostitution, as prohibited by Chapter 43, Penal Code;
- (3) compelling prostitution, as prohibited by Chapter 43, Penal Code;
- (4) commercial manufacture, commercial distribution, or commercial exhibition of material that is obscene, as defined by Section 43.21, Penal Code;
- (5) commercial exhibition of a live dance or other act in which a person engages in real or simulated sexual intercourse or deviate sexual intercourse, as defined by Section 43.01, Penal Code;

~~[(6) reckless discharge of a firearm as described by Section 42.015, Penal Code; or]~~

(6) engaging in organized criminal activity as a member of a combination or as a member of a criminal street gang as described by Section 71.02, Penal Code; or

(7) manufacture, delivery, or use of a controlled substance in violation of Chapter 481, Health and Safety Code.



SECTION \_\_\_\_\_. The heading for Subchapter D, Chapter 125, Civil Practice and Remedies Code, is reenacted to read as follows:

**SUBCHAPTER D. MEMBERSHIP IN CRIMINAL STREET GANG**

SECTION \_\_\_\_\_. Section 125.061, Civil Practice and Remedies Code, is reenacted to read as follows:

Sec. 125.061. DEFINITIONS. In this subchapter, "combination" and "criminal street gang" have the meanings assigned by Section 71.01, Penal Code.

SECTION \_\_\_\_\_. Section 125.062, Civil Practice and Remedies Code, is reenacted to read as follows:

Sec. 125.062. PUBLIC NUISANCE; COMBINATION OR CRIMINAL STREET GANG. A combination or criminal street gang that continuously or regularly associates in organized criminal activities as described by Section 71.02, Penal Code, is a public nuisance.

SECTION \_\_\_\_\_. Subsection (b), Section 125.064, Civil Practice and Remedies Code, is reenacted to read as follows:

(b) Any person who habitually associates with others to engage in organized criminal activity as a member of a combination or criminal street gang may be made a defendant in the suit. Any person who owns or is responsible for maintaining a place that is habitually used for engaging in organized criminal activity as described by Section 71.02, Penal Code, may be made a defendant in the suit.

SECTION \_\_\_\_\_. Subsection (a), Section 125.065, Civil Practice and Remedies Code, is reenacted to read as follows:

(a) If the court finds that a combination or criminal street gang constitutes a public nuisance, the court may enter an order enjoining a defendant in the suit from engaging in the organized criminal activities of the combination or gang.

SECTION \_\_\_\_\_. Section 125.069, Civil Practice and Remedies Code, is reenacted to read as follows:

Sec. 125.069. USE OF PLACE; EVIDENCE. In an action brought under this subchapter, proof that organized criminal activity by a member of a combination or a criminal street gang as described by Section 71.02, Penal Code, is frequently committed at a place or proof that a place is frequently used for engaging in organized criminal activity by a member of a combination or a criminal street gang as described by Section 71.02, Penal Code, is prima facie evidence that the proprietor knowingly permitted the act, unless, the act constitutes conspiring to commit an offense as described by Section 71.02.

Amendment No. 45 was adopted without objection.

**Amendment No. 46**

Representatives Naishtat and Duncan offered the following amendment to **CSSB 15**:

Amend **CSSB 15** by adding appropriately numbered SECTIONS to the bill to read as follows and by renumbering existing SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. Title 7, Penal Code, is amended by adding Chapter 35 to read as follows:

## CHAPTER 35. INSURANCE FRAUD

### Sec. 35.01. DEFINITIONS. In this chapter:

(1) "Health care goods" means a tangible product, device, medicine, or other object provided in conjunction with a health care service.

(2) "Health care provider" means a person who renders health care services or an agent or employee of an organization that renders or provides a facility and means to render health care services. The term includes a physician, surgeon, person who may be selected by an insured or a beneficiary under Article 21.52, Insurance Code, and person defined as a provider of health care under Section 2.05(d)(1), Medical Practice Act (Article 4495b, Vernon's Texas Civil Statutes).

(3) "Health care service" means a service that is intended to improve or maintain the physical or mental condition of an individual and that is rendered, directed, or supervised by a health care provider.

(4) "Insurer" means a person who engages in the business of insurance in this state, including:

(A) an insurer that is not authorized to do business in this state;

(B) a health maintenance organization;

(C) a group hospital service corporation regulated under Chapter 20, Insurance Code; and

(D) any person who self-insures and provides health care benefits to the person's employees.

(5) "Statement" means an oral or written communication or a record or documented representation of fact evidencing a loss, injury, or expense. The term includes computer-generated information.

Sec. 35.02. INSURANCE FRAUD. (a) A person commits an offense if, with intent to defraud or deceive an insurer, the person prepares or presents to an insurer in support of a claim for payment under a health or property and casualty insurance policy a statement that the person knows contains false or misleading information concerning a matter that is material to the claim, and the matter affects a person's right to a payment or the amount of payment to which a person is entitled.

(b) A person commits an offense if the person, with intent to defraud or deceive an insurer, solicits, offers, pays, or receives a benefit in connection with the furnishing of health care goods or services for which payment is sought under an insurance policy.

(c) For purposes of Subsection (a), information concerning a matter that is material to a claim for payment under an insurance policy includes information concerning:

(1) whether health care goods or services were provided;

(2) whether health care goods or services were medically necessary under professionally accepted standards;

(3) the nature of the health care goods or services provided;

(4) the date on which health care goods or services were provided;

(5) the medical record of goods or services provided;

(6) the condition treated or diagnosis made;

(7) the identity and applicable license of the provider or the recipient of health care goods or services;

(8) whether property was damaged or lost in the manner and under the circumstances described in a statement related to a claim for insurance payment; or

(9) whether any other claim for insurance payment has been communicated to any other insurer concerning property damage or loss to the same property.

(d) An offense under this section is:

(1) a state jail felony if the value of the claim or of the benefit solicited, offered, paid, or received is \$1,500 or more but less than \$20,000;

(2) a felony of the third degree if the value of the claim or of the benefit solicited, offered, paid, or received is \$20,000 or more but less than \$100,000;

(3) a felony of the second degree if the value of the claim or of the benefit solicited, offered, paid, or received is \$100,000 or more but less than \$200,000; or

(4) a felony of the first degree if the value of the claim or of the benefit solicited, offered, paid, or received is \$200,000 or more.

Sec. 35.03. AGGREGATION AND MULTIPLE OFFENSES. (a) If benefits are received in violation of this chapter or if statements are made in support of multiple claims pursuant to one scheme or continuing course of conduct, whether from the same or several sources, the conduct may be considered as one offense and the benefits or claims aggregated in determining the category of the offense.

(b) If three or more offenses are committed in violation of this chapter, the penalty for each offense is one category higher than the penalty for the most serious single offense for which the defendant is convicted. However, if the punishment for the most serious single offense is a felony of the first degree, the penalty for each offense is a felony of the first degree.

(c) If the attorney representing the state seeks enhancement under Subsection (b), the state may not aggregate amounts under Subsection (a) in the prosecution of the case.

Sec. 35.04. JURISDICTION OF ATTORNEY GENERAL. (a) The attorney general may offer to an attorney representing the state in the prosecution of an offense under Section 35.02 the investigative, technical, and litigation assistance of the attorney general's office.

(b) The attorney general may prosecute or assist in the prosecution of an offense under Section 35.02 on the request of the attorney representing the state described by Subsection (a).

SECTION \_\_\_\_. Article 2.12, Code of Criminal Procedure, is amended to read as follows:

Art. 2.12. WHO ARE PEACE OFFICERS. The following are peace officers:

(1) sheriffs and their deputies;

(2) constables and deputy constables;

(3) marshals or police officers of an incorporated city, town, or village;

(4) rangers and officers commissioned by the Public Safety Commission and the Director of the Department of Public Safety;

(5) investigators of the district attorneys', criminal district attorneys', and county attorneys' offices;

(6) law enforcement agents of the Texas Alcoholic Beverage Commission;

(7) each member of an arson investigating unit commissioned by a city, a county, or the state;

(8) officers commissioned under Section 21.483, Education Code, or Subchapter E, Chapter 51, Education Code;

(9) officers commissioned by the General Services Commission;

(10) law enforcement officers commissioned by the Parks and Wildlife Commission;

(11) airport police officers commissioned by a city with a population of more than one million, according to the most recent federal census, that operates an airport that serves commercial air carriers;

(12) airport security personnel commissioned as peace officers by the governing body of any political subdivision of this state, other than a city described by Subdivision (11), that operates an airport that serves commercial air carriers;

(13) municipal park and recreational patrolmen and security officers;

(14) security officers commissioned as peace officers by the State Treasurer;

(15) officers commissioned by a water control and improvement district under Section 51.132, Water Code;

(16) officers commissioned by a board of trustees under Chapter 341, Acts of the 57th Legislature, Regular Session, 1961 (Article 1187f, Vernon's Texas Civil Statutes);

(17) investigators commissioned by the Texas State Board of Medical Examiners;

(18) officers commissioned by the board of managers of the Dallas County Hospital District, the Tarrant County Hospital District, or the Bexar County Hospital District under Section 281.057, Health and Safety Code;

(19) county park rangers commissioned under Subchapter E, Chapter 351, Local Government Code;

(20) investigators employed by the Texas Racing Commission;

(21) officers commissioned by the State Board of Pharmacy;

(22) officers commissioned by the governing body of a metropolitan rapid transit authority under Section 13, Chapter 141, Acts of the 63rd Legislature, Regular Session, 1973 (Article 1118x, Vernon's Texas Civil Statutes), or by a regional transportation authority under Section 10, Chapter 683, Acts of the 66th Legislature, Regular Session, 1979 (Article 1118y, Vernon's Texas Civil Statutes);

(23) officers commissioned under the Texas High-Speed Rail Act (Article 6674v.2, Revised Statutes) ~~[by the Texas High-Speed Rail Authority]~~;

(24) investigators commissioned by the attorney general under Section 402.009, Government Code;

(25) security officers and investigators commissioned as peace officers under Chapter 466, Government Code; ~~[and]~~

(26) an officer employed by the Texas Department of Health under Section 431.2471, Health and Safety Code; ~~[:]~~

~~(27)~~ ~~[(26)]~~ officers appointed by an appellate court under Subchapter F, Chapter 53, Government Code; ~~[:]~~

(28) ~~[(26)]~~ officers commissioned by the state fire marshal under Chapter 417, Government Code; and

(29) an investigator commissioned by the commissioner of insurance under Article 1.10D, Insurance Code.

SECTION \_\_\_\_\_. Article 59.01(2), Code of Criminal Procedure, as amended by Section 5, Chapter 761, and Section 1, Chapter 828, Acts of the 73rd Legislature, Regular Session, 1993, is amended to read as follows:

(2) "Contraband" means property of any nature, including real, personal, tangible, or intangible, that is:

(A) used in the commission of:

(i) any first or second degree felony under the Penal Code;

(ii) any felony under Chapters 29, 30, 31, ~~[or]~~ 32, or 35, Penal Code; or

(iii) any felony under The Securities Act (Article 581-1 et seq., Vernon's Texas Civil Statutes);

(B) used or intended to be used in the commission of:

(i) any felony under Chapter 481, Health and Safety Code (Texas Controlled Substances Act);

(ii) any felony under Chapter 483, Health and Safety Code;

(iii) a felony under Article 350, Revised Statutes; ~~[or]~~

(iv) any felony under Chapter 34, Penal Code; ~~[or]~~

(v) ~~[(iv)]~~ a Class A misdemeanor under Subchapter B, Chapter 365, Health and Safety Code, if the defendant has been previously convicted twice of an offense under that subchapter; or

(vi) ~~[(v)]~~ any felony under The Sale of Checks Act (Article 489d, Vernon's Texas Civil Statutes);

(C) the proceeds gained from the commission of a felony listed in Paragraph (A) or (B) of this subdivision or a crime of violence; or

(D) acquired with proceeds gained from the commission of a felony listed in Paragraph (A) or (B) of this subdivision or a crime of violence.

SECTION \_\_\_\_\_. Article 59.06, Code of Criminal Procedure, is amended by adding Subsection (j) to read as follows:

(j) Notwithstanding Subsections (b) and (c), the disposition of property that is contraband because of its use in the commission of an offense under Chapter 35, Penal Code, or because it is a proceed gained from the commission of an offense under Chapter 35, Penal Code, is as follows:

(1) to the attorney general, if the attorney general has investigated, prosecuted, or assisted in the prosecution of the offense;

(2) to the attorney representing the state; and

(3) to the insurer defrauded as a result of the offense.

SECTION \_\_\_\_\_. Section 2, Article 1.10D, Insurance Code, is amended by amending Subsections (b) and (e) and adding Subsections (f) and (g) to read as follows:

(b) If the commissioner has reason to believe that a person has engaged

in or is engaging in an act or practice that may constitute ~~[a fraudulent]~~ insurance fraud ~~[act]~~ or has committed, or is about to commit, ~~[a fraudulent]~~ insurance fraud ~~[act]~~, the commissioner may make any investigation necessary inside or outside this state to determine whether or not the act has occurred, or to aid in the enforcement of the laws relating to fraudulent insurance acts. ~~[In regard to allegations of fraud on the part of a policyholder or claimant, the commissioner's authority to initiate investigations under this subsection is limited to those instances in which there is evidence showing a pattern of fraudulent activity.]~~

(e) This section does not prohibit or limit the authority of an insurer to conduct its own independent investigation into a suspected case of insurance claim fraud. Before an insurer may request the commissioner to conduct an investigation of suspected claim fraud, the insurer must have completed its investigation and drafted a report of its findings. The insurer shall submit the report and the related investigation file to the commissioner as part of the insurer's request for investigation by the commissioner. ~~[In regard to an insurer's request for investigation under this subsection, the commissioner's authority to undertake an investigation against a policyholder or claimant is limited to those instances in which the insurer's investigation reports show a pattern of fraudulent activity.]~~

(f) The commissioner may employ investigators as the commissioner considers necessary to enforce this article and may commission those investigators as peace officers. An investigator employed by the department as a peace officer must meet the requirements for peace officers imposed under Chapter 415, Government Code. If the commissioner elects to the commission peace officers, the commissioner shall appoint a chief investigator who is commissioned as a peace officer and who is qualified by training and experience in law enforcement to supervise, direct, and administer the activities of the commissioned investigators.

(g) An investigator employed by the department may request the assistance of local law enforcement officers in conducting an investigation authorized by this article.

Amendment No. 46 was adopted without objection.

#### **Amendment No. 47**

Representatives Brady and McDonald offered the following amendment to **CSSB 15**:

Amend **CSSB 15** by adding the following new SECTIONS to the bill, appropriately numbered, and renumbering existing SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. Chapter 21, Penal Code, is amended by adding Section 21.12 to read as follows:

Sec. 21.12. INDECENCY WITH AN ELDERLY OF DISABLED INDIVIDUAL. (a) In this section, "elderly individual" and "disabled individual" have the meanings assigned by Section 22.04(c).

(b) A person commits an offense if the person engages in sexual contact with an elderly or disabled individual without the consent of the individual.

(c) Sexual contact under Subsection (b) is without the consent of an elderly or disabled individual if:

(1) the actor compels the individual to submit or participate by the use of physical force or violence;

(2) the actor compels the individual to submit or participate by threatening to use force or violence against the individual, and the individual believes that the actor has the present ability to execute the threat;

(3) the individual had not consented and the actor knows the individual is unconscious or physically unable to resist;

(4) the actor knows that as a result of mental disease or defect the individual is at the time of the sexual contact incapable either of appraising the nature of the act or of resisting it;

(5) the individual has not consented and the actor know the individual is unaware that the sexual contact is occurring;

(6) the actor has intentionally impaired the individual's power to appraise or control the individual's conduct by administering any substance without the individual's knowledge; or

(7) the actor compels the individual to submit or participate by threatening to use force or violence against any person, and the individual believes that the actor has the ability to execute the threat.

(d) An offense under this section is a felony of the second degree.

SECTION \_\_\_\_\_. Section 22.021(a) , Penal Code, is amended to read as follows:

(a) A person commits an offense:

(1) if the person:

(A) intentionally or knowingly:

(i) causes the penetration of the anus or female sexual organ of another person by any means, without that person's consent;

(ii) causes the penetration of the mouth of another person by the sexual organ of the actor, without that person's consent; or

(iii) causes the sexual organ of another person, without that person's consent, to contact or penetrate the mouth, anus, or sexual organ of another person, including the actor; or

(B) intentionally or knowingly:

(i) causes the penetration of the anus or female sexual organ of a child by any means;

(ii) causes the penetration of the mouth of a child by the sexual organ of the actor;

(iii) causes the sexual organ of a child to contact or penetrate the mouth, anus, or sexual organ of another person, including the actor; or

(iv) causes the anus of a child to contact the mouth, anus, or sexual organ of another person, including the actor, and;

(2) if:

(A) the person:

(i) causes serious bodily injury or attempts to cause the death of the victim or another person in the course of the same criminal episode;



(ii) by acts or words places the victim in fear that death, serious bodily injury, or kidnapping will be imminently inflicted on any person;

(iii) by acts or words occurring in the presence of the victim threatens to cause the death, serious bodily injury, or kidnapping of any person;

(iv) uses or exhibits a deadly weapon in the course of the same criminal episode; or

(v) acts in concert with another who engages in conduct described by Subdivision (1) directed toward the same victim and occurring during the course of the same criminal episode; [or]

(B) the victim is younger than 14 years of age; or

(C) the victim is 65 years of age or older.

Amendment No. 47 was adopted without objection.

#### **Amendment No. 48**

Representative Haggerty offered the following amendment to **CSSB 15**:

Amend **CSSB 15** as follows:

(1) Insert the following appropriately numbered section:

SECTION \_\_\_\_ Chapter 47, Penal Code, is amended by adding Section 47.11 to read as follows:

Sec. 47.11. CALCUTTA GAME. (a) In this section:

(1) "Calcutta game" means a game or activity in which:

(A) a player selects a competitor and makes a wager into a pool; and

(B) the pool is distributed based on the result of the competition to:

(i) the sponsor, the players who selected winning competitors, and the winning competitors; or

(ii) the sponsor and the players who selected winning competitors.

(2) "Competition" means a sporting contest in which there are one or more winners. The term does not include a horse race or greyhound race conducted under the Texas Racing Act (Article 179e, Vernon's Texas Civil Statutes).

(3) "Competitor" means an individual who takes part in a competition.

(4) "Player" means a person who makes a wager.

(5) "Pool" means the total amount of wagers received by a sponsor.

(6) "Sponsor" means a person who conducts a calcutta game.

(7) "Wager" means a payment of or promise of a payment of money that entitles a player to participate in a calcutta game.

(b) It is a defense to prosecution under this chapter that the conduct consisted entirely of sponsorship of or participation in a calcutta game.

(2) Renumber the subsequent sections of the bill appropriately.

Amendment No. 48 was adopted without objection. (Talton recorded voting no)



**Amendment No. 49**

Representative Yarbrough offered the following amendment to **CSSB 15**:

Amend **CSSB 15** by adding an appropriately numbered SECTION of the bill to read as follows and by renumbering the existing SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. Section 42.01(c), Penal Code, is amended to read as follows:

(c) For purposes of this section:

(1) [5] an act is deemed to occur in a public place or near a private residence if it produces its offensive or proscribed consequences in the public place or near a private residence; and

(2) a noise is presumed to be unreasonable if the noise exceeds a decibel level of 85 after the person making the noise receives notice from a magistrate or peace officer that the noise is a public nuisance.

Amendment No. 49 was adopted without objection.

**Amendment No. 50**

Representatives Gallego and Ogden offered the following amendment to **CSSB 15**:

Amend **CSSB 15** by adding the following appropriately numbered SECTIONS to read as follows and by renumbering existing SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. Chapter 22, Penal Code, is amended by adding Section 22.11 to read as follows:

Sec. 22.11. PUNISHMENT FOR INJURY TO PREGNANT WOMAN. (a) If it is shown on the trial of an offense under this chapter other than an offense punishable as a Class A misdemeanor or a first-degree felony that the actor knowingly caused bodily injury to another who was pregnant or knowingly caused serious bodily injury to another who was pregnant, the punishment for the offense is increased to the punishment for the next highest category of offense. If the offense is a Class A misdemeanor, the minimum term of confinement for the offense is increased to 180 days.

(b) In this section:

SECTION \_\_\_\_\_. Section 49.07(c), Penal Code, is amended to read as follows:

(c) An offense under this section is a felony of the third degree, unless it is shown on the trial of the offense that the person to whom the serious bodily injury was caused was pregnant at the time of the offense, in which event the offense is a felony of the second degree.

Amendment No. 50 was adopted without objection.

**CSSB 15 - AMENDMENTS LIMITED**

Representative Stiles moved to limit amendments to those pending on the speaker's desk.

The motion was seconded.

The motion prevailed.

(Williamson now present)

**SCR 158 - ADOPTED**  
**(Combs - House Sponsor)**

Representative Combs moved to suspend all necessary rules to take up and consider at this time **SCR 158**.

The motion prevailed without objection.

The speaker laid before the house the following resolution:

**SCR 158**, Designating the month of May as Texas Special Olympics Summer Games Month.

The resolution was adopted without objection.

**HCR 222 - ADOPTED**

Representative Kamel moved to suspend all necessary rules to take up and consider at this time **HCR 222**.

The motion prevailed without objection.

The speaker laid before the house the following resolution:

By Kamel,

**HCR 222**

WHEREAS, **HB 160** has been adopted by the house of representatives and the senate; and

WHEREAS, The bill contains a technical error that needs correction; now, therefore, be it

RESOLVED, That the enrolling clerk of the house of representatives be hereby instructed to make the following correction: in amended Section 365.017(a), Health and Safety Code, in the sentence added by Senate Committee Amendment No. 1, strike "Section 361" and substitute "Chapter 361" and strike "commissioner's" and substitute "commissioners".

The resolution was adopted without objection.

**STATEMENT OF VOTE**

Please be advised that while I was on the Senate Floor on Friday, May, 19th, working on passage of **HB 768** with Senator Teel Bivins, my House Floor machine malfunctioned and voted me incorrectly. Please be advised that had I been on the House Floor I would have voted no on **SJR 1**.

Craddick

**ADJOURNMENT**

Representative Luna moved that the house adjourn until 10 a.m. tomorrow in memory of Mrs. Adelaida Reyes.

The motion prevailed without objection.

The house accordingly, at 8:02 p.m., adjourned until 10 a.m. tomorrow.

---

**APPENDIX**

---

**STANDING COMMITTEE REPORTS**

Favorable reports have been filed by committees as follows:

Appropriations - **SB 867, SB 1019, SB 1116**

Civil Practices - **SB 308, SB 913, SB 1439**

County Affairs - **SB 861, SB 949, SB 1462, SB 1705**

Criminal Jurisprudence - **SB 135, SB 285, SB 453, SB 1074**

Financial Institutions - **SB 1260**

Human Services - **SB 151, SB 196, SB 434, SB 1596**

Juvenile Justice and Family Issues - **SB 188, SB 262, SB 936**

Land and Resource Management - **SB 1619**

Licensing and Administrative Procedures - **SB 1330, SB 1391, SB 1398**

Natural Resources - **SB 1718, HCR 207**

Pensions and Investments - **SB 1535**

Public Health - **SB 476, SB 718, SB 1554**

Public Safety - **SB 1689**

State Affairs - **SB 103, SB 246, SB 373, SB 452, SB 636, SB 670, SB 671, SB 915, SB 1020, SB 1179, SB 1237, SB 1276, SB 1344, SB 1421, SB 1428, SB 1599, SB 1601, SB 1644, SB 1677, SB 1694, SCR 146, SCR 147, SCR 148, SCR 149**

Transportation - **SB 954, SB 1089, HCR 154, SCR 89**

Urban Affairs - **SB 477**

Ways and Means - **SB 751, SB 976, SB 1567, HCR 211**

**ENGROSSED**

May 19 - **HB 3237, HCR 129**

**ENROLLED**

May 19 - **HB 27, HB 384, HB 949, HB 2015, HB 2245, HB 2599**

May 20 - **HB 1543, HB 1989, HB 2078, HB 2278, HB 2459, HB 2587, HB 2624, HB 3226, HJR 50**

May 22 - **HB 668, HB 670, HB 686, HB 699, HB 869, HB 1111, HB 1341, HB 1343, HB 1583, HB 2151, HB 2674, HB 3122, HCR 32, HCR 174**

**SENT TO THE GOVERNOR**

May 22 - **HB 27, HB 384, HB 668, HB 670, HB 686, HB 699, HB 869, HB 949, HB 1111, HB 1341, HB 1343, HB 1543, HB 1583, HB 1989, HB 2015, HB 2078, HB 2151, HB 2245, HB 2278, HB 2459, HB 2587, HB 2599, HB 2624, HB 2674, HB 3122, HB 3226, HCR 32, HCR 174**

**SENT TO THE SECRETARY OF STATE**

May 22 - **HJR 50**

**RECOMMENDATIONS OF THE TEXAS NATURAL RESOURCE  
CONSERVATION COMMISSION FILED WITH THE SPEAKER**

May 15 - **HB 3234, HB 3236**

May 19 - **HB 3233**