

HOUSE JOURNAL

SEVENTY-FOURTH LEGISLATURE, REGULAR SESSION

PROCEEDINGS

EIGHTY-FIRST DAY — THURSDAY, MAY 25, 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 541).

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; Dear; 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; Price; Puente; Rabuck; Ramsay; Rangel; Raymond; Reyna; Rhodes; Rodriguez; Romo; Rusling; Sadler; Saunders; Seidlits; Serna; Siebert; Smithee; Solis; Solomons; Staples; Stiles; Swinford; Talton; Telford; Thompson; Tillery; Torres; Turner, B.; Turner, S.; Uher; Van de Putte; Walker; West; Williamson; Willis; Wilson; Wohlgenuth; Wolens; Woolley; Yarbrough; Yost; Zbranek.

Absent — Hilbert; Shields.

The invocation was offered by Dr. Claudette Anderson Copeland, New Creation Christian Fellowship, San Antonio.

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 73, HB 76, HB 160, HB 200, HB 280, HB 331, HB 333, HB 336, HB 340, HB 457, HB 496, HB 609, HB 740, HB 741, HB 824, HB 841, HB 1124, HB 1205, HB 1225, HB 1359, HB 1375, HB 1385, HB 1417, HB 1491, HB 1510, HB 1536, HB 1537, HB 1544, HB 1551, HB 1604, HB 1605, HB 1648, HB 1661, HB 1670, HB 1717, HB 1757, HB 1875, HB 1882, HB 1943, HB 1964, HB 2008, HB 2022, HB 2053, HB 2062, HB 2187, HB 2304, HB 2463, HB 2496, HB 2574, HB 2588, HB 2613, HB 2640, HB 2658, HB 2661, HB 2669, HB 2673, HB 2684, HB 2731, HB 2771, HB 2793, HB 2926, HB 3053, HB 3109, HB 3165, HB 3188, HB 3195, HB 3198, HB 3211, HCR 127, HCR 220, HCR 221, HCR 222

CAPITOL PHYSICIAN

Speaker Laney presented Dr. Robin Worsham of Burleson as the "Doctor for the Day."

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

RESOLUTIONS REFERRED TO COMMITTEE

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

By Hill,

HR 1103, Honoring Julie Behr and Jill Liberman.

To Committee on Rules and Resolutions.

By Gallego,

HR 1104, Honoring Rinaldo Ramiro "Ray" Salinas on the occasion of his retirement.

To Committee on Rules and Resolutions.

By Bosse,

HR 1105, In memory of Terence Christopher Gorman.

To Committee on Rules and Resolutions.

By Place,

HR 1106, Honoring Mr. and Mrs. James Inabnet on their 50th wedding anniversary.

To Committee on Rules and Resolutions.

By Kubiak,

HR 1107, Honoring Jimmy Hauk on his retirement.

To Committee on Rules and Resolutions.

By Alonzo,

HR 1108, Commemorating the anniversary of the Treaty of Guadalupe-Hidalgo.

To Committee on Rules and Resolutions.

By Alonzo,

HR 1109, Honoring Dallas Service, Employment and Redevelopment (SER)-Jobs for Progress, Inc.

To Committee on Rules and Resolutions.

By Alonzo,

HR 1110, Paying tribute to the work of Cesar Chavez.

To Committee on Rules and Resolutions.

By Alonzo,

HR 1111, Commemorating the observance of 1996 Cinco de Mayo festivities.

To Committee on Rules and Resolutions.

By Alonzo,

HR 1112, Honoring Dallas Service Employment and Redevelopment (SER)-Jobs for Progress, Inc., on the occasion of its 23rd anniversary.

To Committee on Rules and Resolutions.

By Alonzo,

HR 1113, Paying tribute to the work of Cesar Chavez.

To Committee on Rules and Resolutions.

SCR 164, Declaring Rains County the Eagle Capitol of Texas.

To Committee on Rules and Resolutions.

SCR 167, Congratulating the O. Henry Museum on its 18th Annual World Championship Pun-Off.

To Committee on Rules and Resolutions.

SCR 168, In memory of Trooper Timothy Wade McDermott.

To Committee on Rules and Resolutions.

SIGNED BY THE SPEAKER

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

SB 46, SB 47, SB 126, SB 129, SB 131, SB 133, SB 135, SB 182, SB 224, SB 225, SB 338, SB 351, SB 413, SB 428, SB 472, SB 512, SB 519, SB 585, SB 600, SB 601, SB 602, SB 634, SB 636, SB 698, SB 944, SB 1017, SB 1020, SB 1046, SB 1076, SB 1092, SB 1175, SB 1177, SB 1178, SB 1197, SB 1217, SB 1222, SB 1371, SB 1397, SB 1435, SB 1437, SB 1514, SB 1535, SB 1549, SB 1554, SB 1601, SB 1632, SB 1647, SB 1657, SB 1658, SB 1670, SB 1681, SB 1704, SB 1705, SB 1709, SB 1714, SB 1720

INTRODUCTION OF GUEST

The speaker recognized Representative R. Cuellar, who introduced his cousin, Rick Cardenas.

(Hilbert now present)

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 89, SB 124, SB 525, SB 871, SB 904, SB 914, SB 918, SB 919, SB 1179, SB 1182, SCR 38, SCR 124, SCR 146, SCR 147, SCR 148, SCR 149 SB 10, SB 400, SB 1252, SB 1276, SB 1291, SB 1301, SB 1314, SB 1337, SB 1338, SB 1357, SB 1363, SB 1691, SB 1694, SB 1695, SB 1701, SJR 7, SCR 158

(Shields now present)

HR 1107 - ADOPTED

Representative Kubiak moved to suspend all necessary rules to take up and consider at this time **HR 1107**.

The motion prevailed without objection.

The speaker laid before the house the following resolution:

By Kubiak,

HR 1107, Honoring Jimmy Hauk on his retirement.

The resolution was adopted without objection.

On motion of Representative Alexander, the names of all the members of the house were added to **HR 1107** as signers thereof.

HR 1095 - ADOPTED

Representative Black moved to suspend all necessary rules to take up and consider at this time **HR 1095**.

The motion prevailed without objection.

The speaker laid before the house the following resolution:

By Black,

HR 1095, In memory of Daniel Reece Currens.

The resolution was unanimously adopted by a rising vote.

HR 1098 - ADOPTED

Representative Davila moved to suspend all necessary rules to take up and consider at this time **HR 1098**.

The motion prevailed without objection.

The speaker laid before the house the following resolution:

By Davila, Thompson, and Rodriguez,

HR 1098, Honoring the winner of the 1995 NBA Western Conference championship finals.

The resolution was read and was adopted without objection.

On motion of Representative Farrar, the names of all the members of the house were added to **HR 1098** as signers thereof.

RESOLUTIONS CALENDAR

The speaker laid before the house the following resolutions on committee report:

By Hirschi,

HCR 78, Encouraging the Texas Department of Transportation and Texas Department of Public Safety to set transportation and safety goals consistent with those recommended by the National Bicycle and Walking Study.

The resolution was adopted without objection.

By Johnson,

HCR 113, Directing the Texas Department of Transportation to issue "State Judge" plates to Texas Court of Appeal judges, district court judges and magistrates, members of the Administrative Judicial Districts, statutory county court judges, and those judges who preside over special county courts.

The resolution was adopted without objection.

By Delisi,

HCR 137, Directing the Texas Department of Health, the Blackland Research Center, the Texas A&M University System, and the Lyndon Baines Johnson School of Public Affairs of the University of Texas to study the current role of local governments in providing public health services.

The resolution was adopted without objection.

By Nixon,

HCR 139, Endorsing the efforts of the Houston International Sports Committee.

The resolution was adopted without objection.

By Danburg, Madden, Hill, Denny, and J. Jones,

HCR 185, Memorializing congress regarding the National Voter Registration Act.

The resolution was adopted without objection.

By De La Garza, R. Cuellar, Solis, Gutierrez, and Oliveira,

HCR 207, Urging the Mexican government to prevent Mexican farmers from siphoning water from the Rio Grande.

The resolution was adopted without objection.

By Swinford,

HCR 211, Declaring legislative intent that the comptroller of public accounts adopt certain policies relating to refund and credit claims on erroneously collected taxes, penalties, and interest.

Representative Swinford moved to lay **HCR 211** on the table subject to call.

The motion prevailed without objection.

By Giddings,

HR 330, Encouraging Texas banks and other lending institutions to grant more loans to small, growth-oriented enterprises in their communities.

The resolution was adopted without objection.

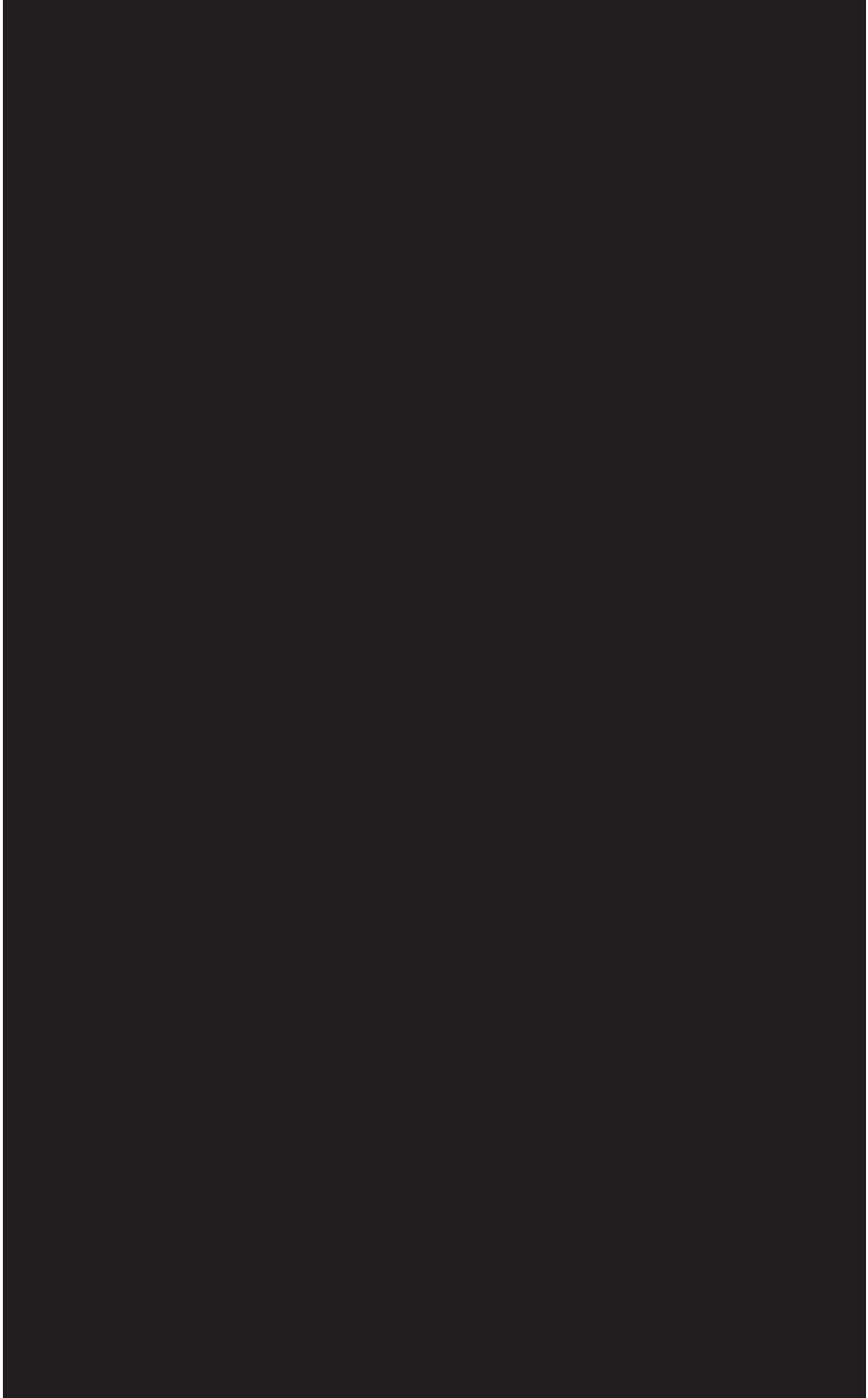
HR 1102 - ADOPTED

The speaker laid before the house the following privileged resolution:

By Junell,

HR 1102





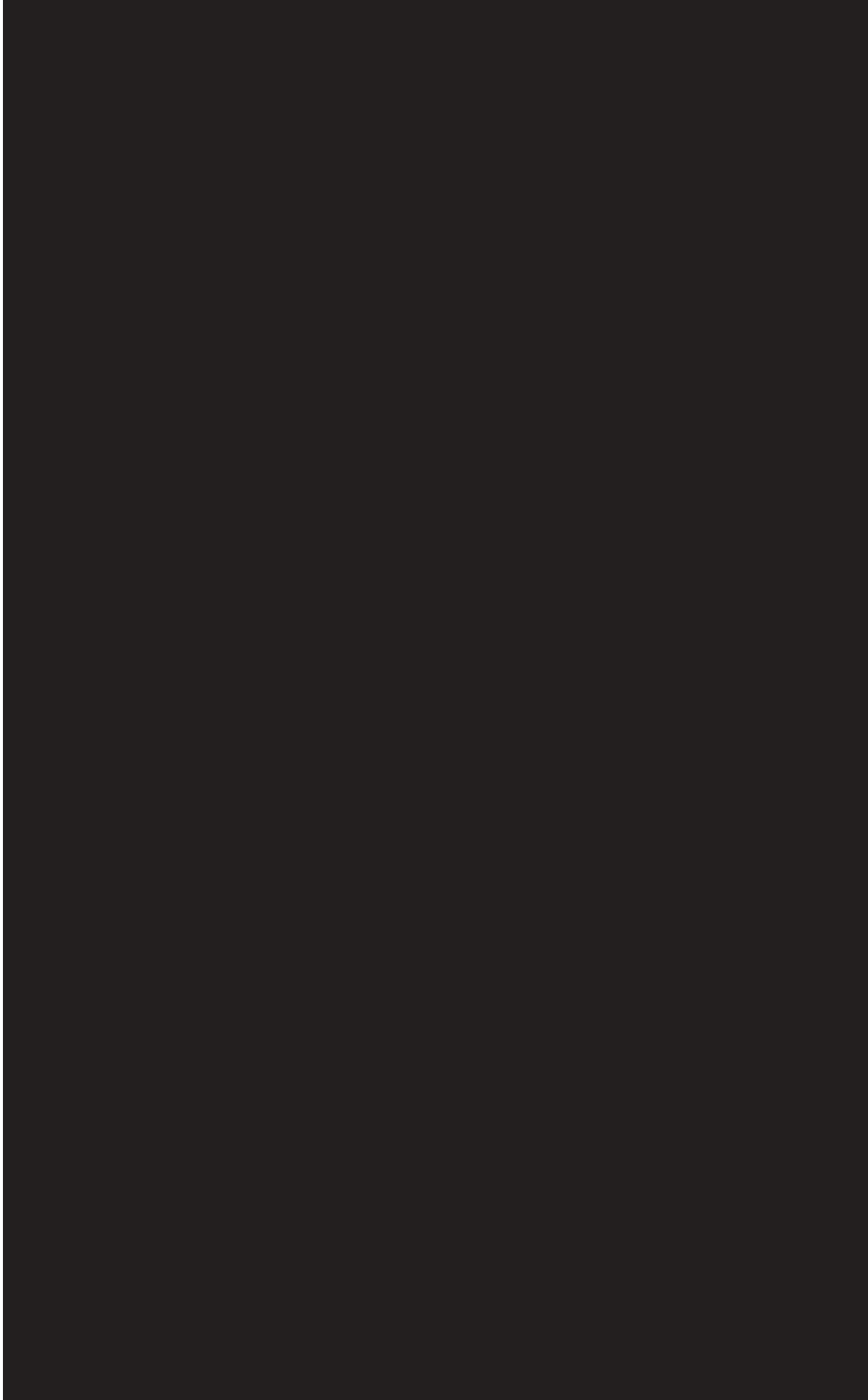




















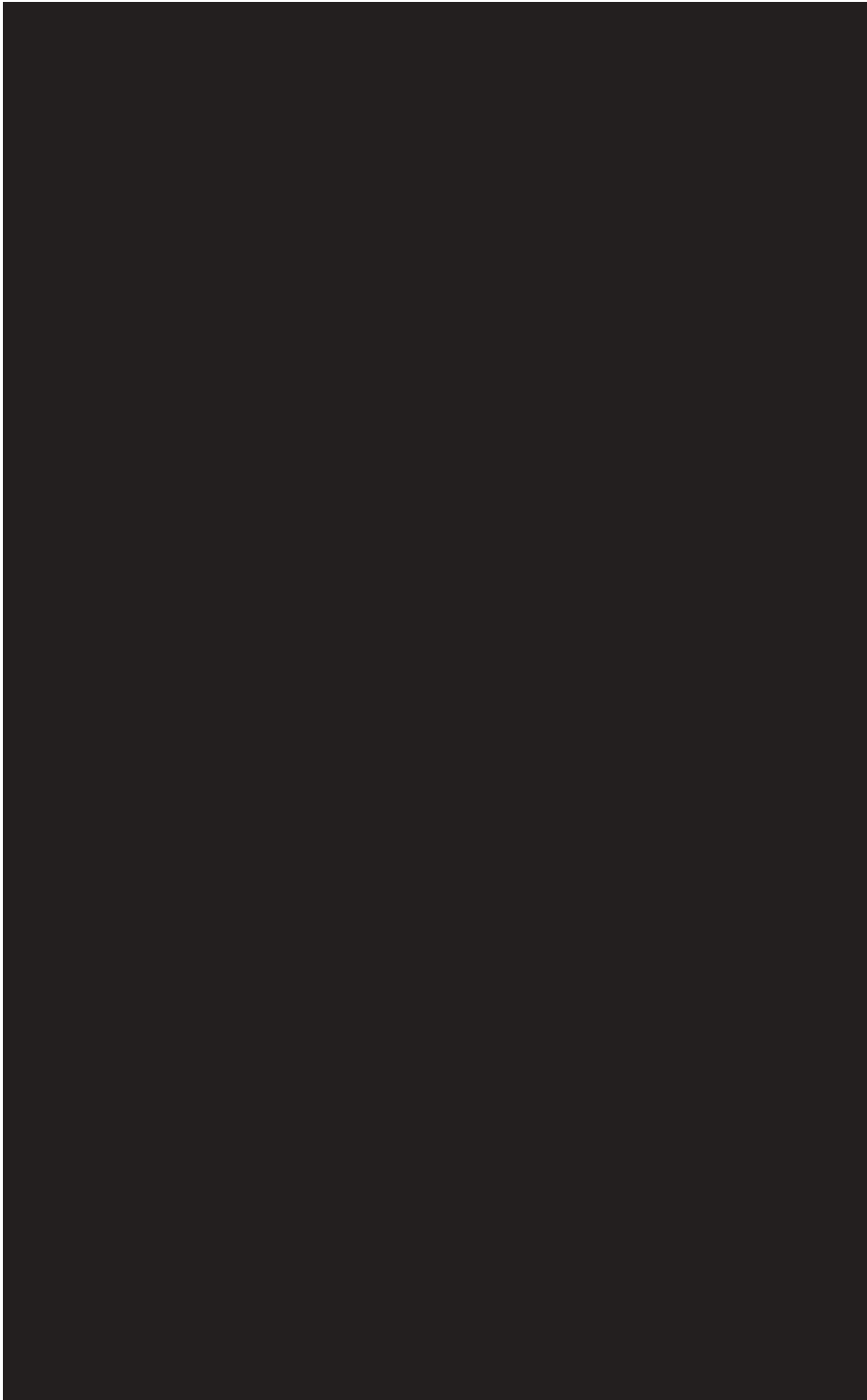




























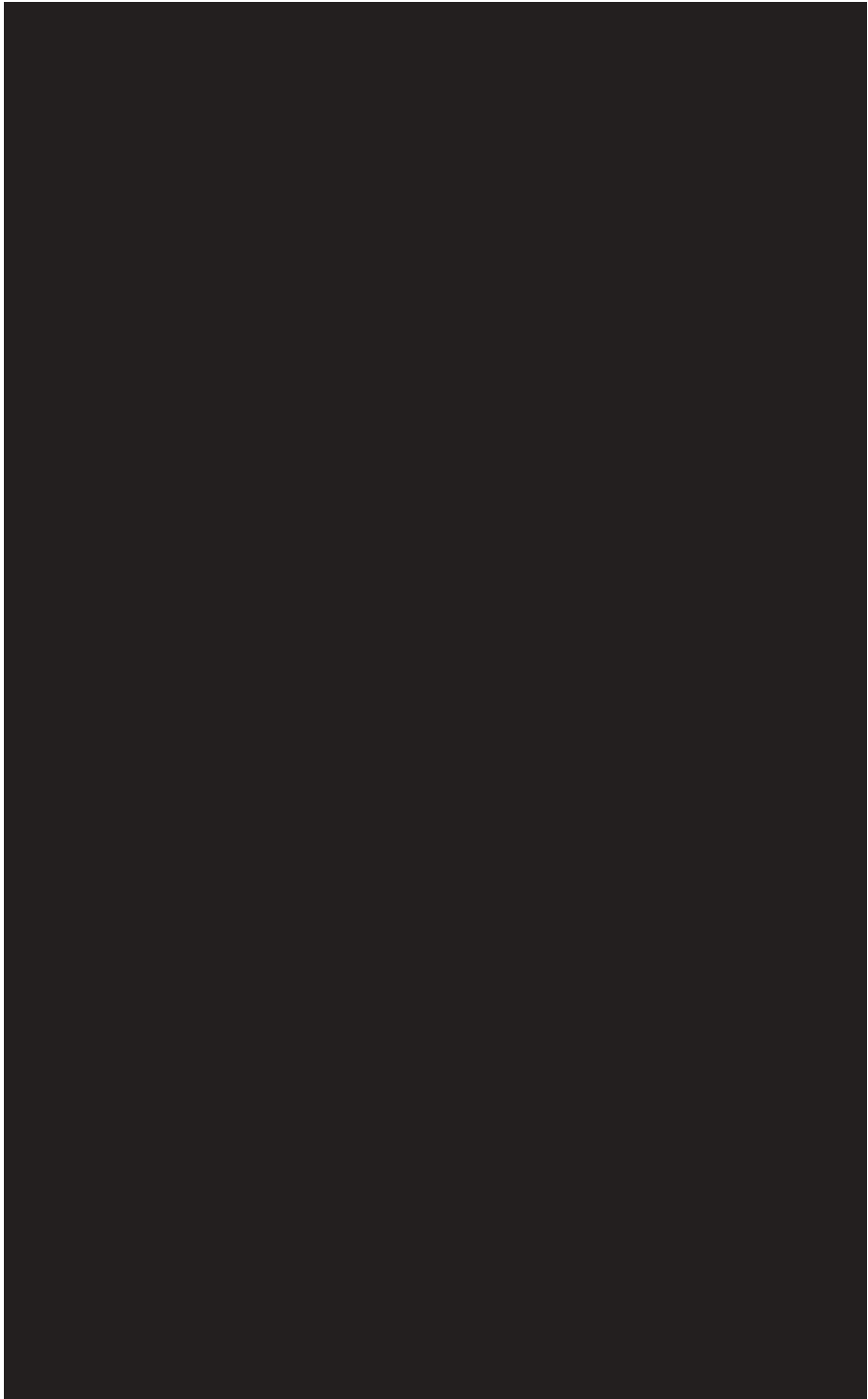


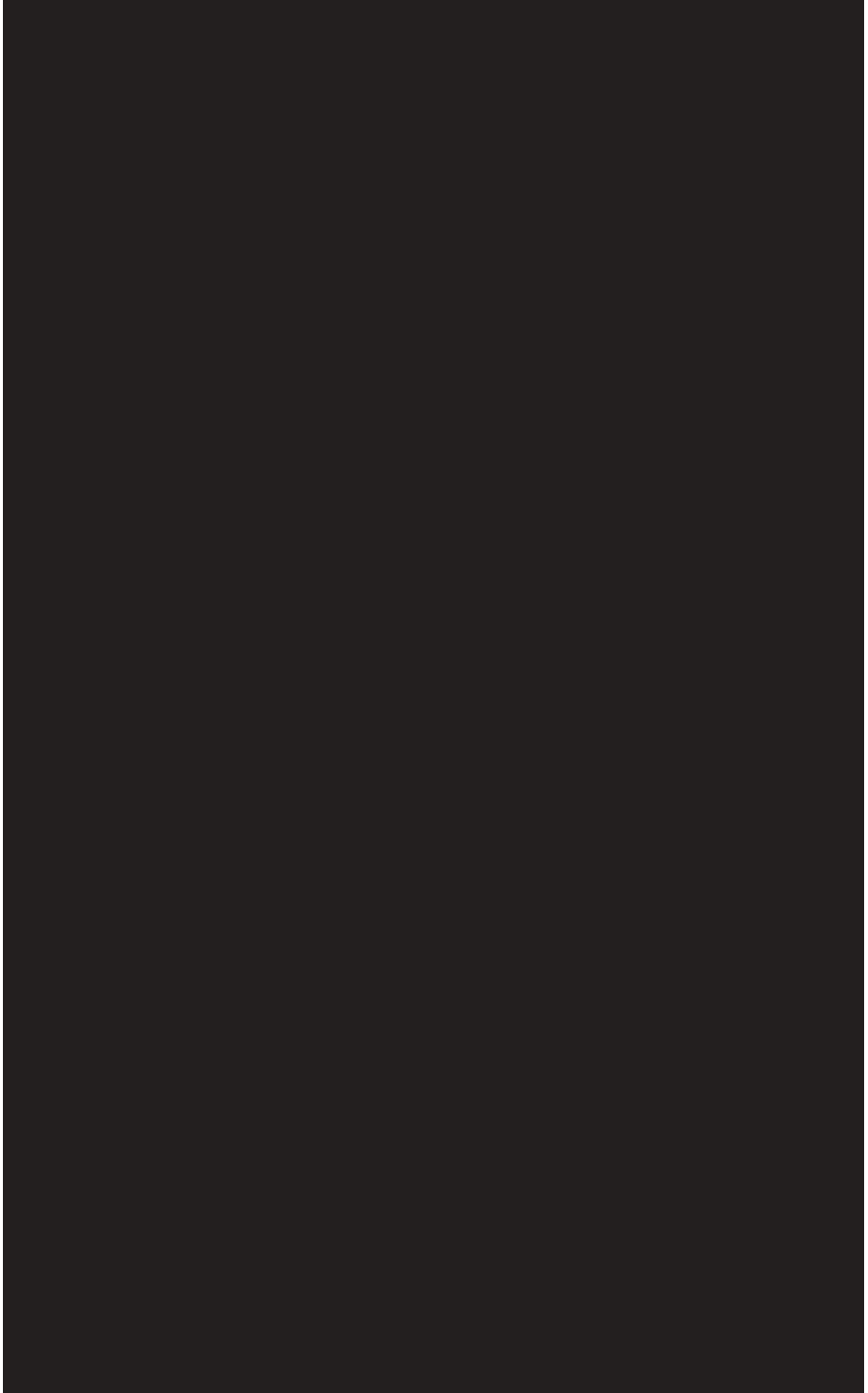


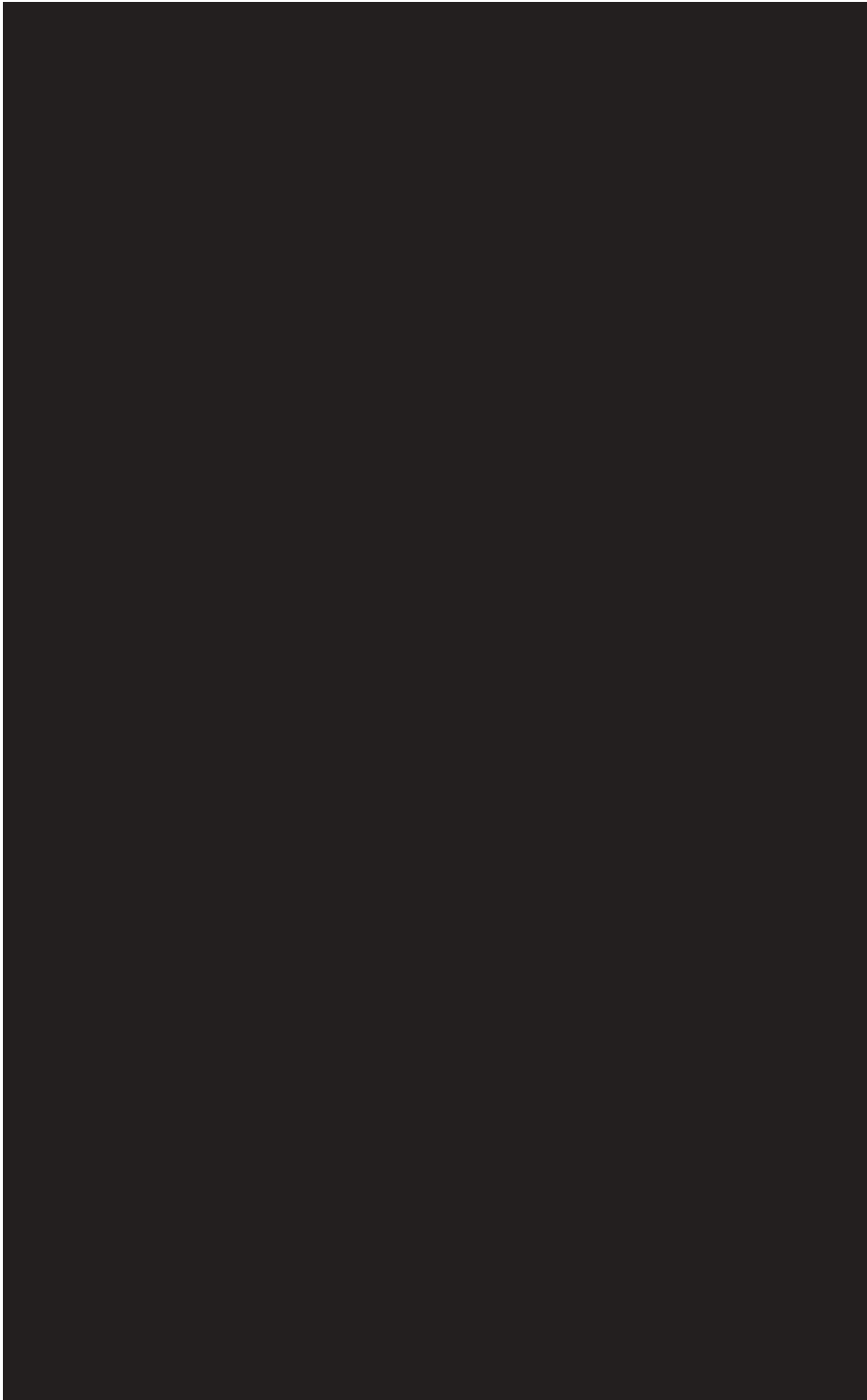






















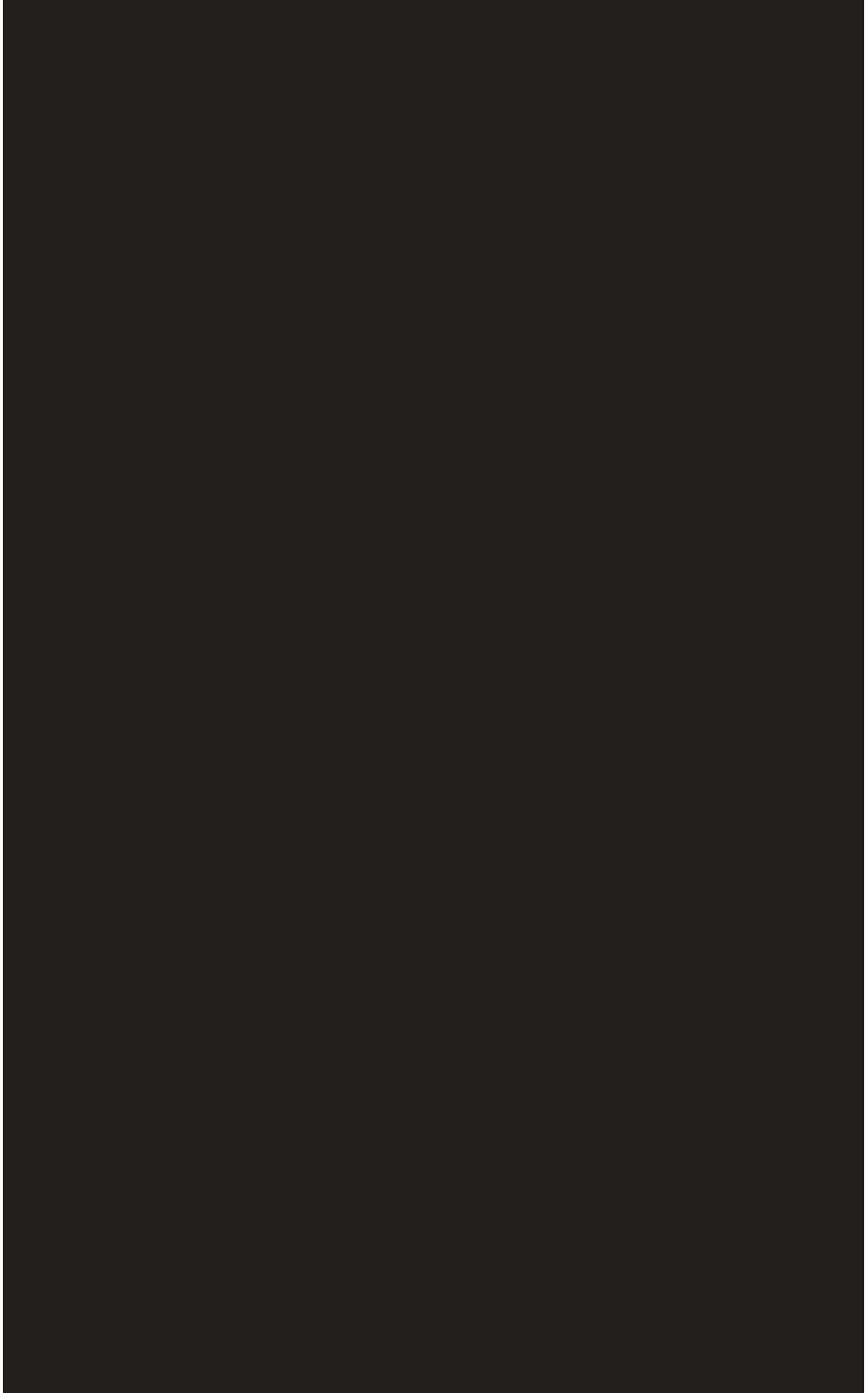




























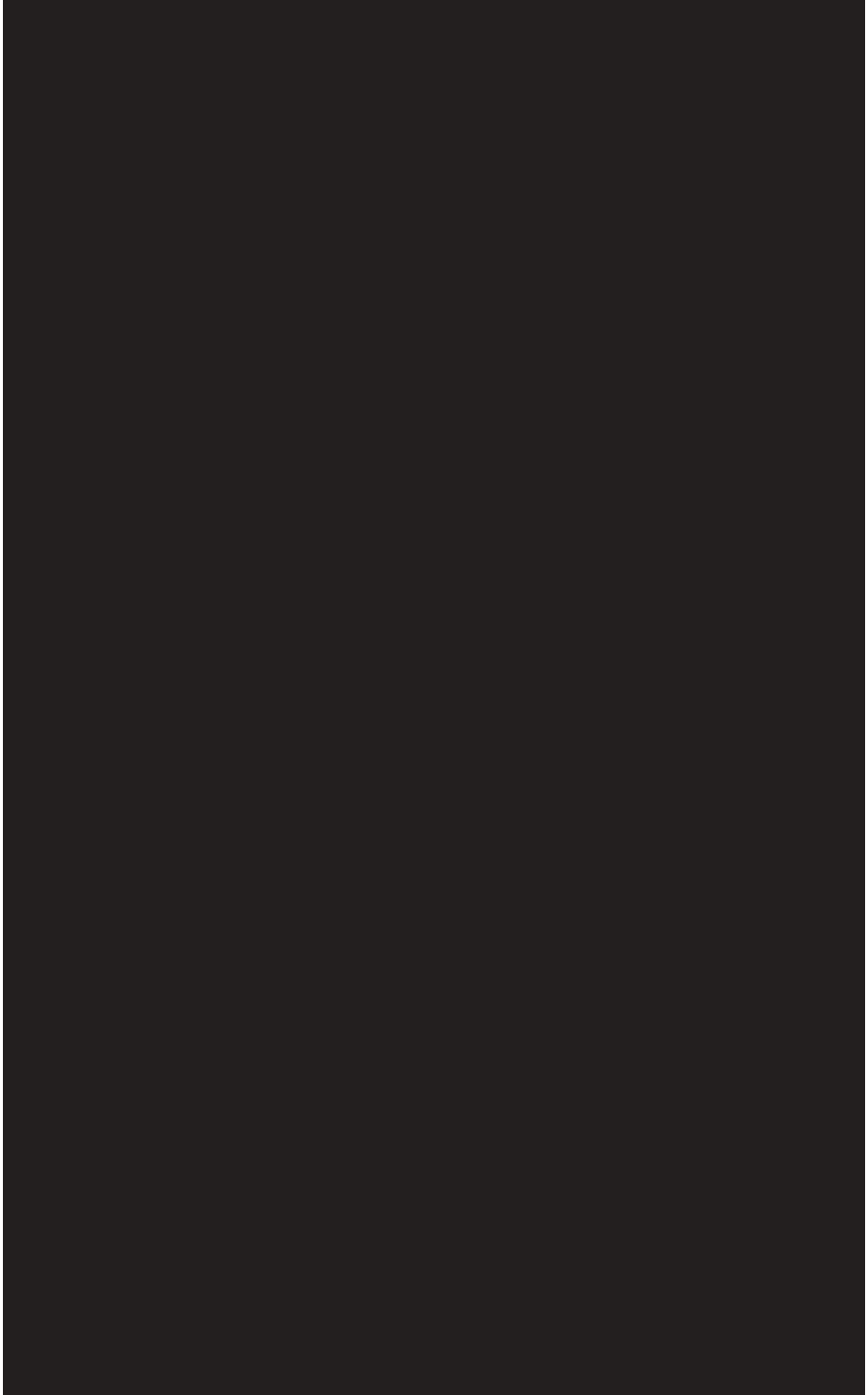


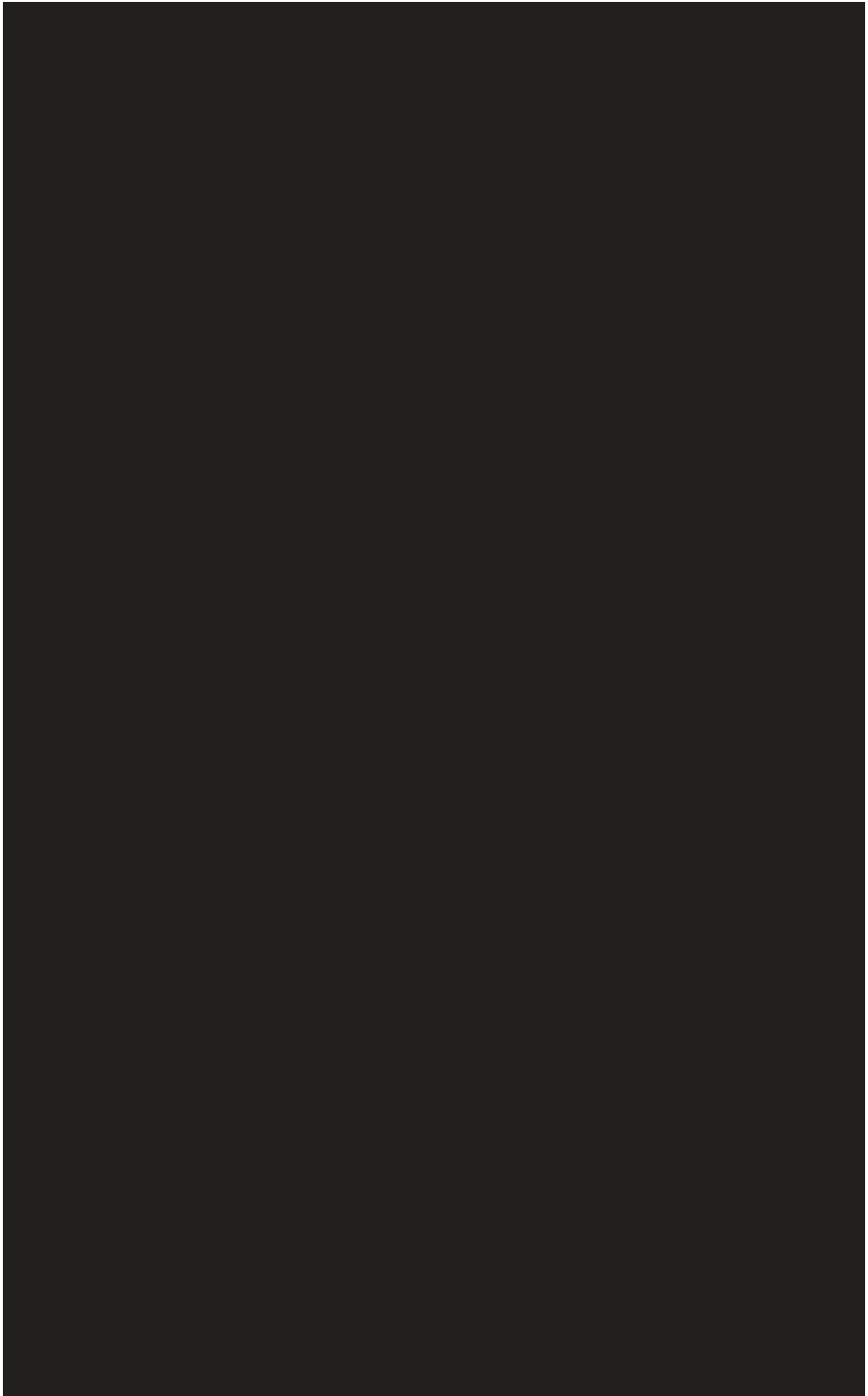


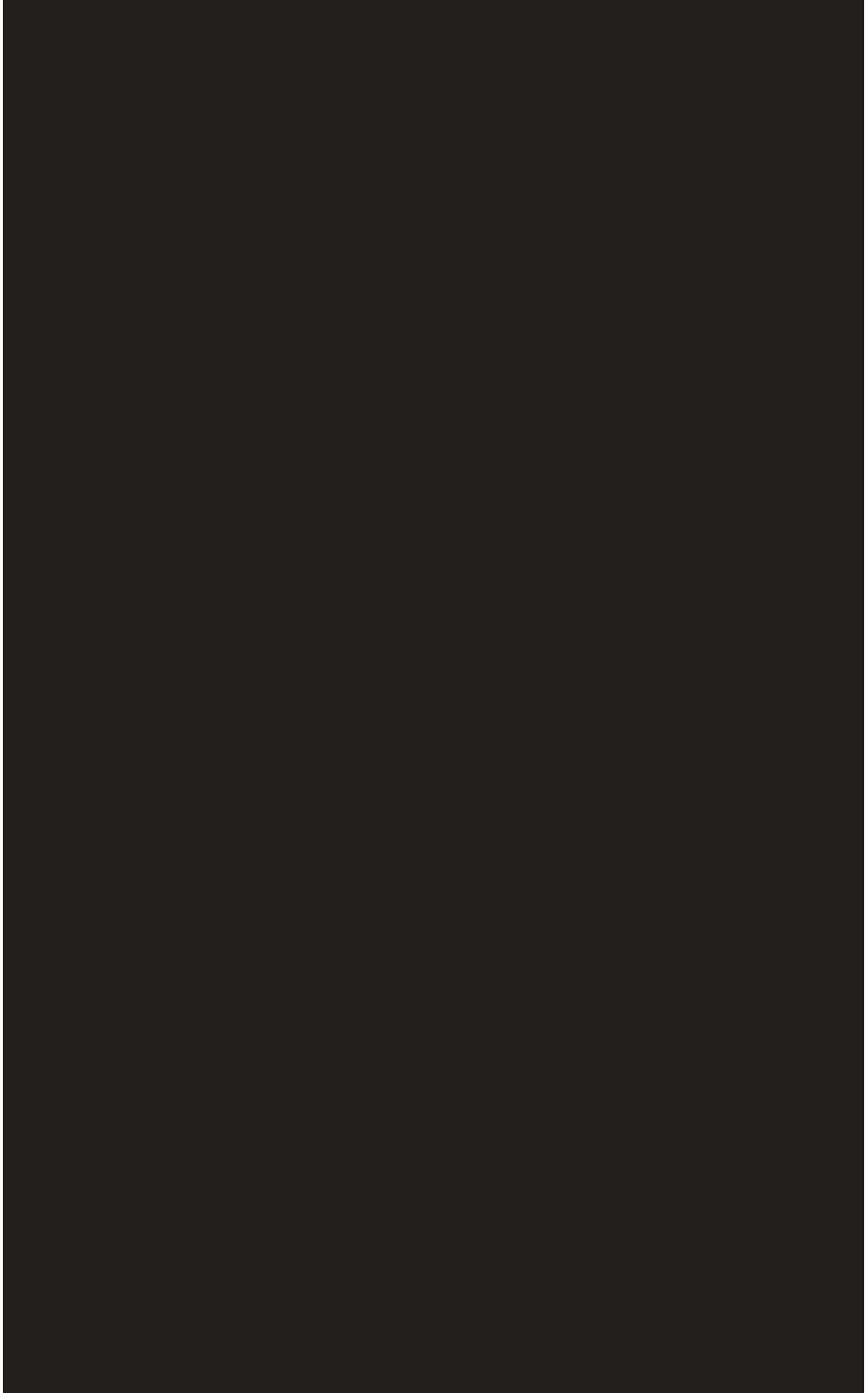


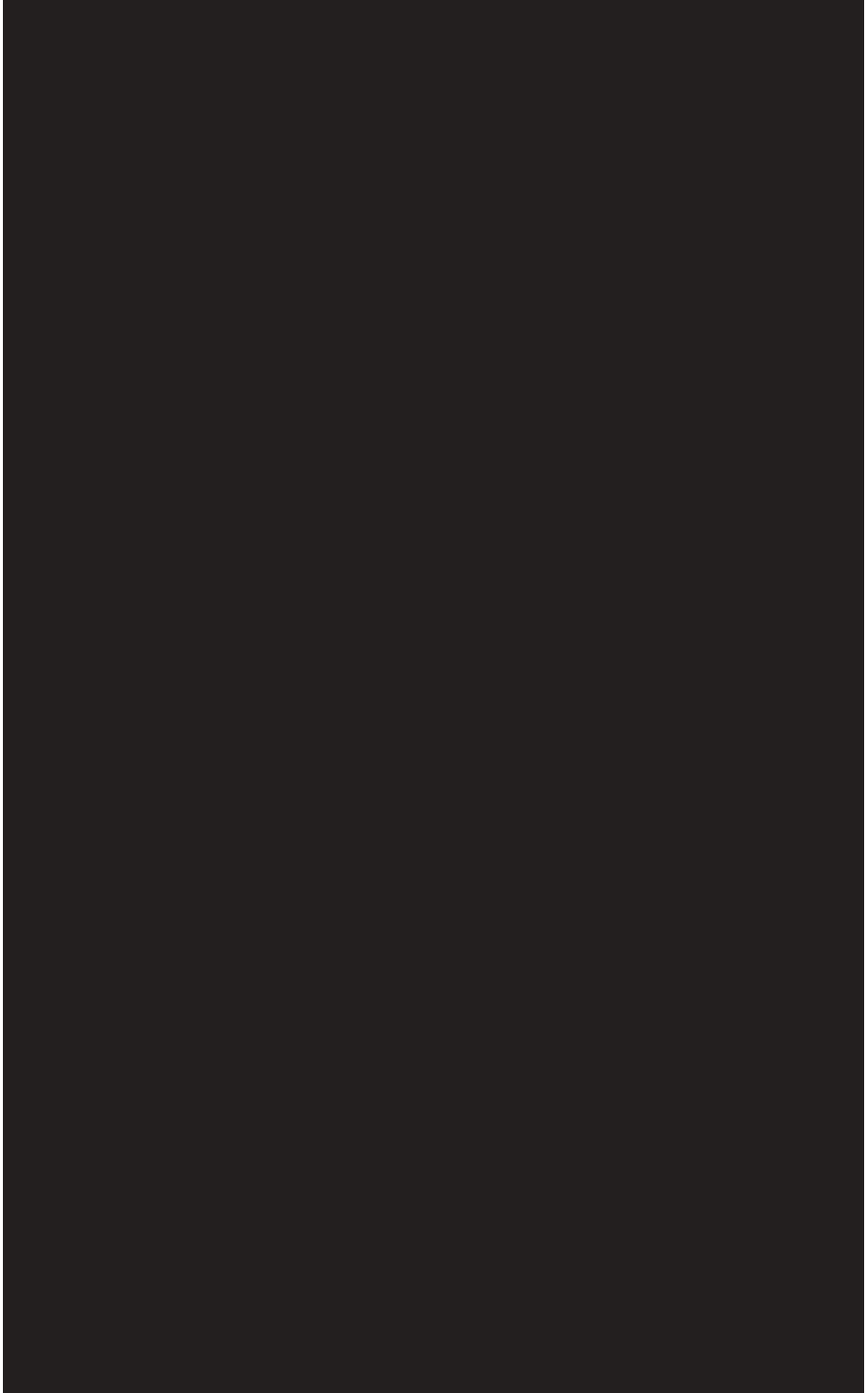




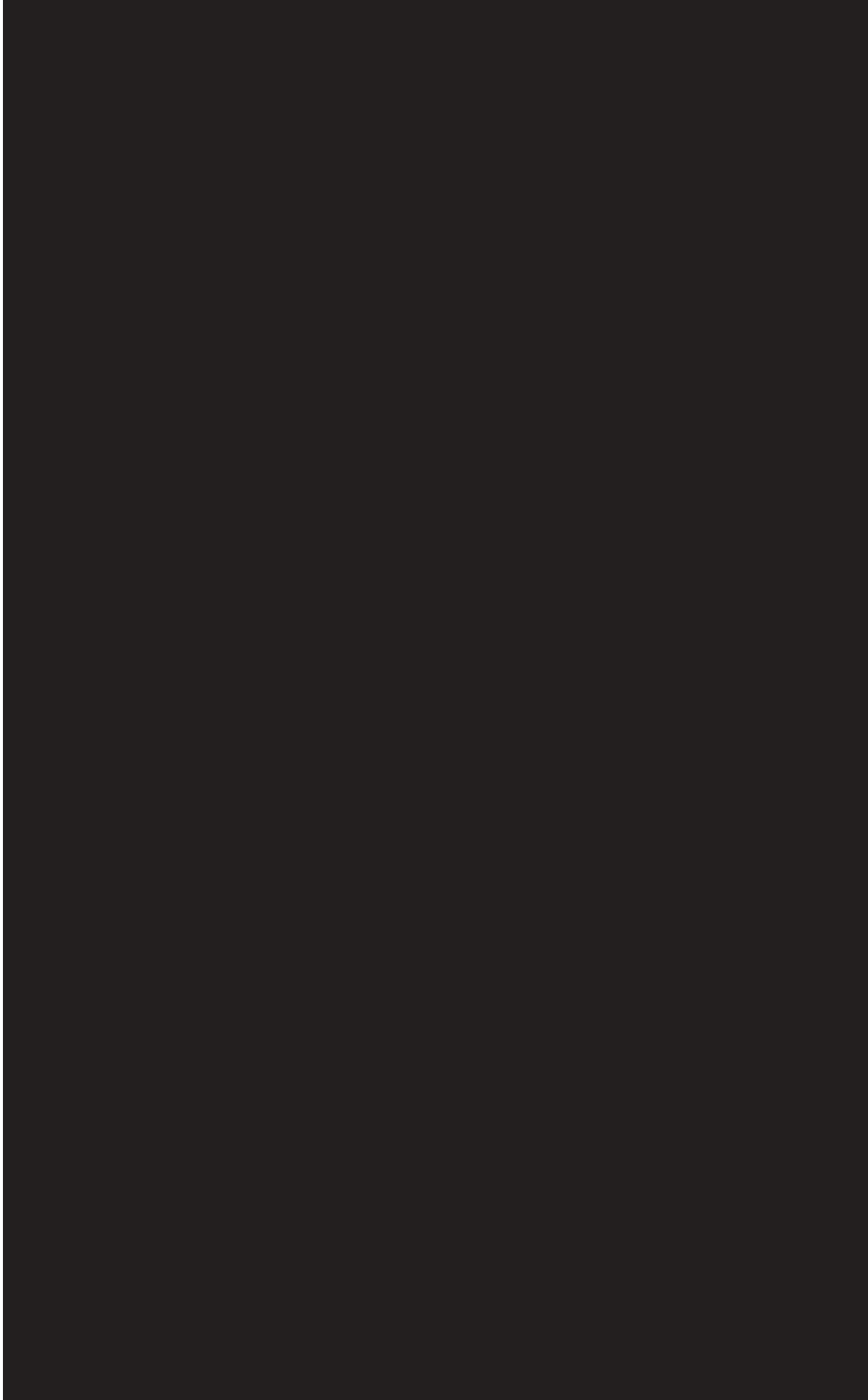










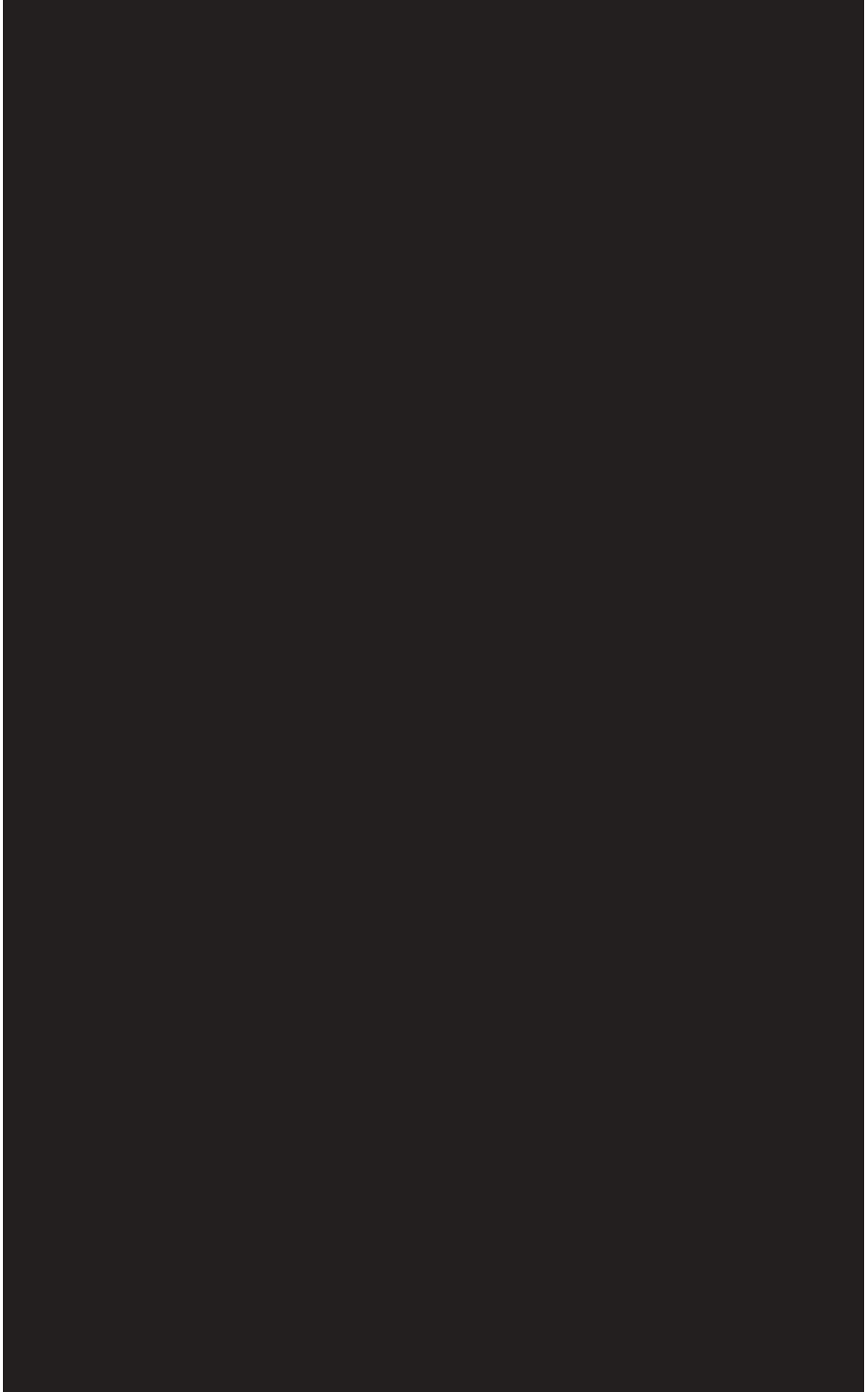


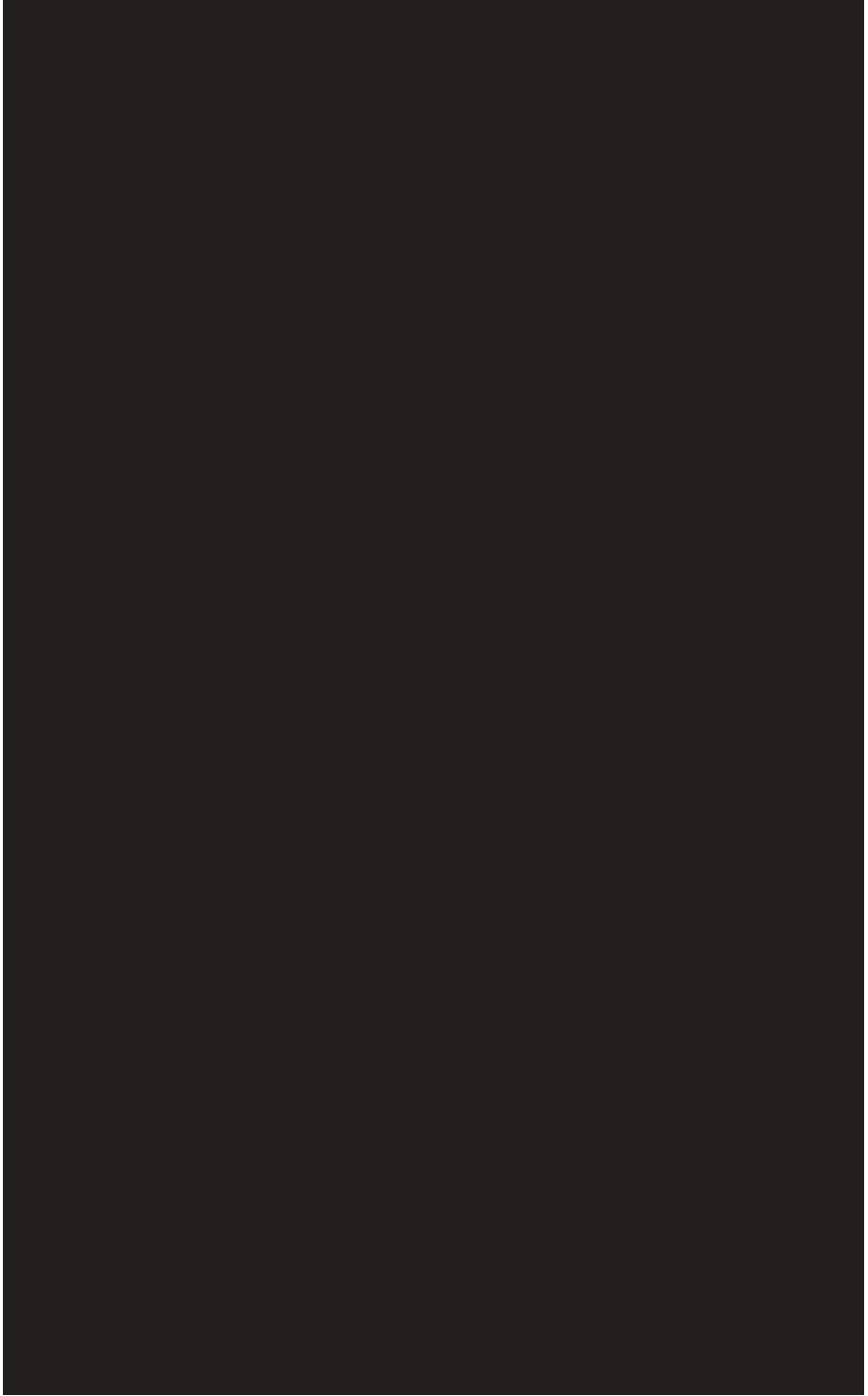














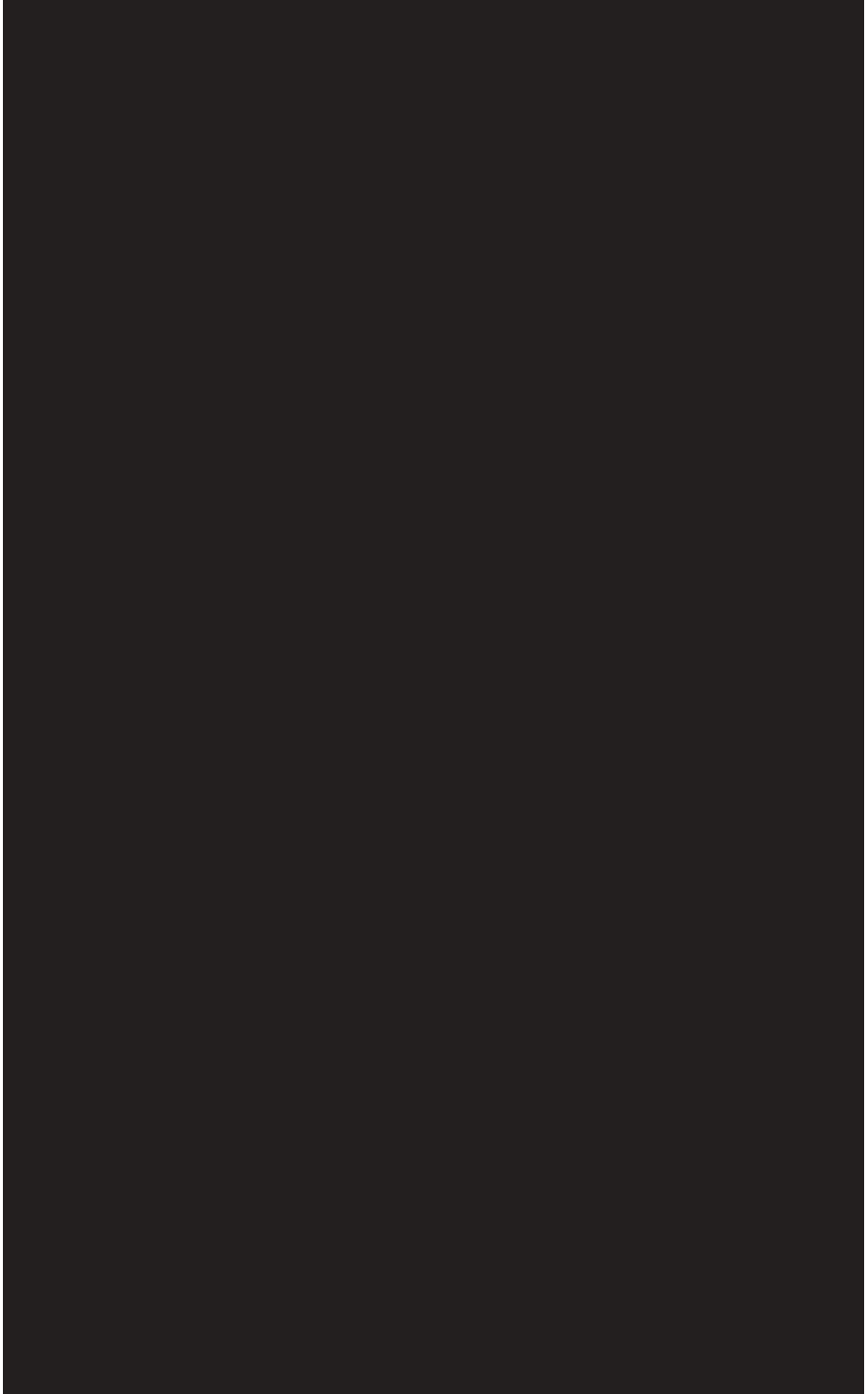


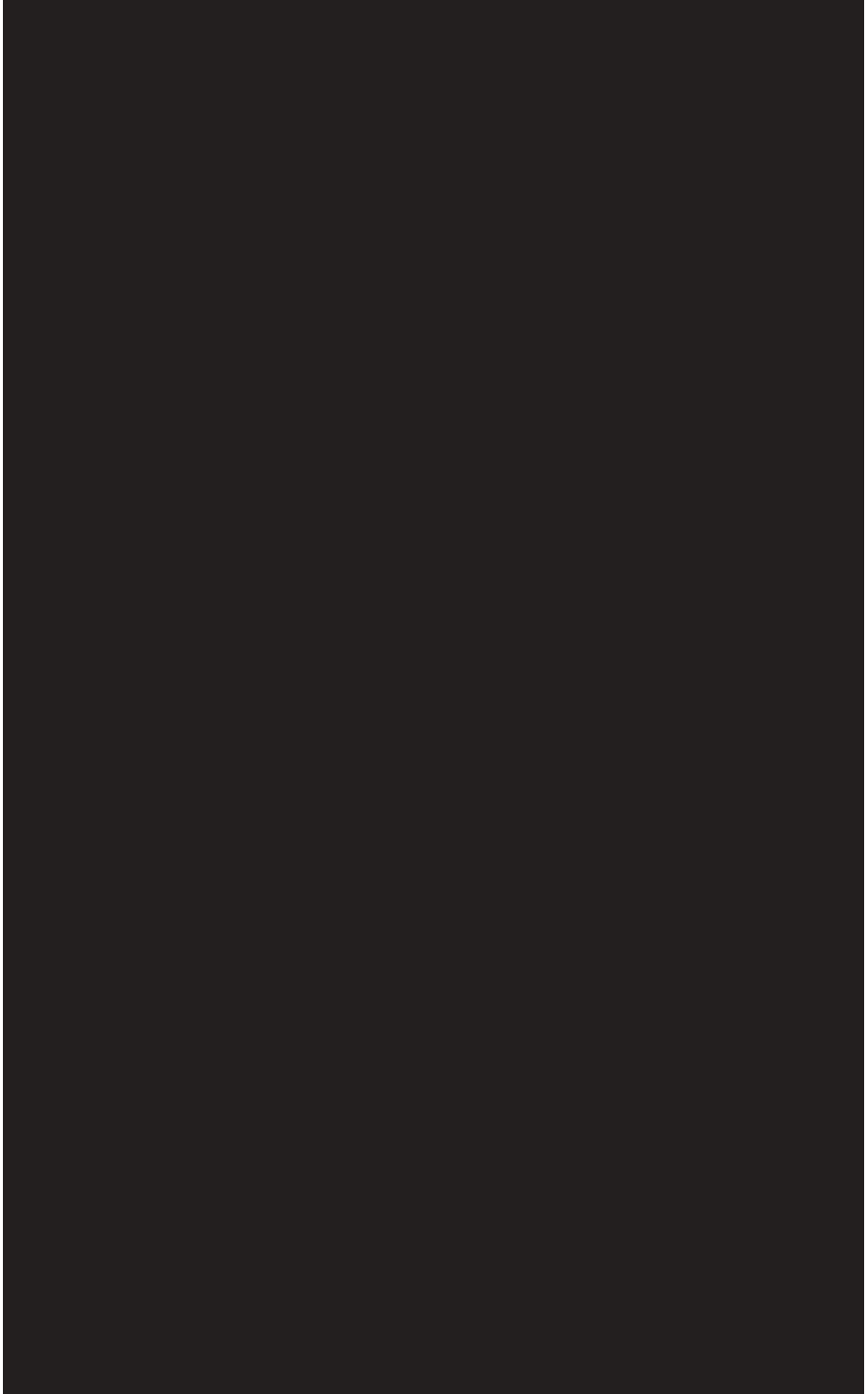


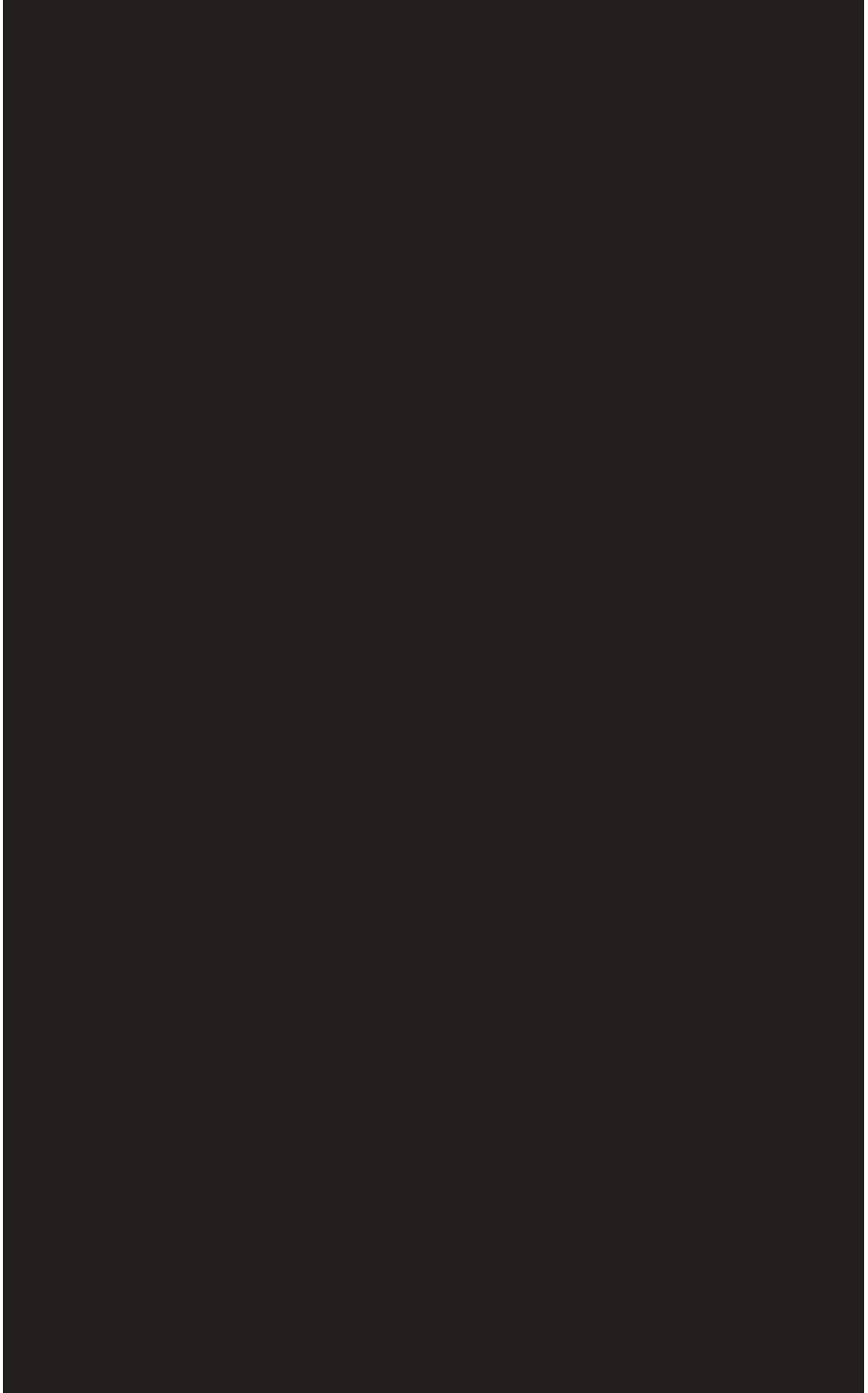












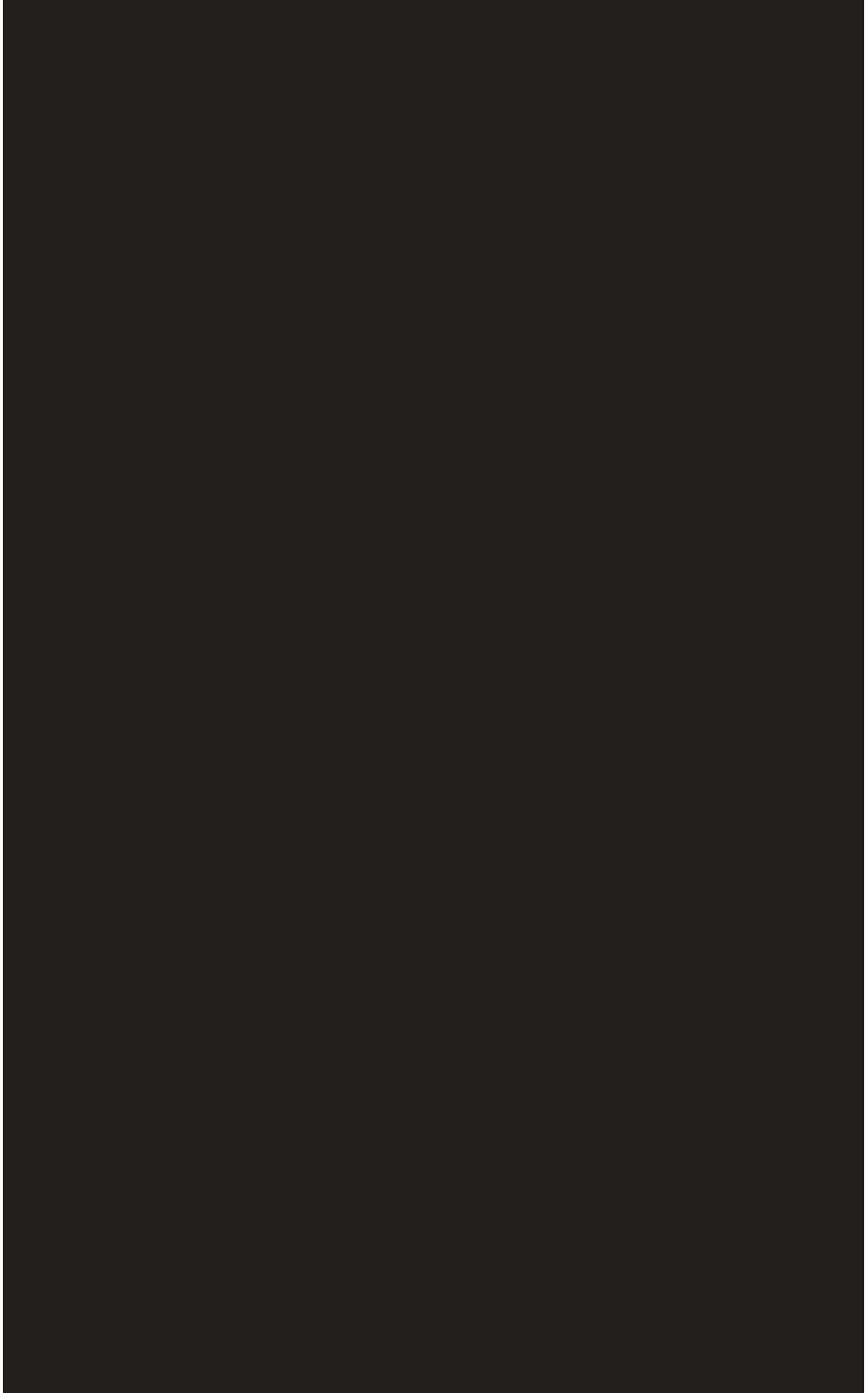












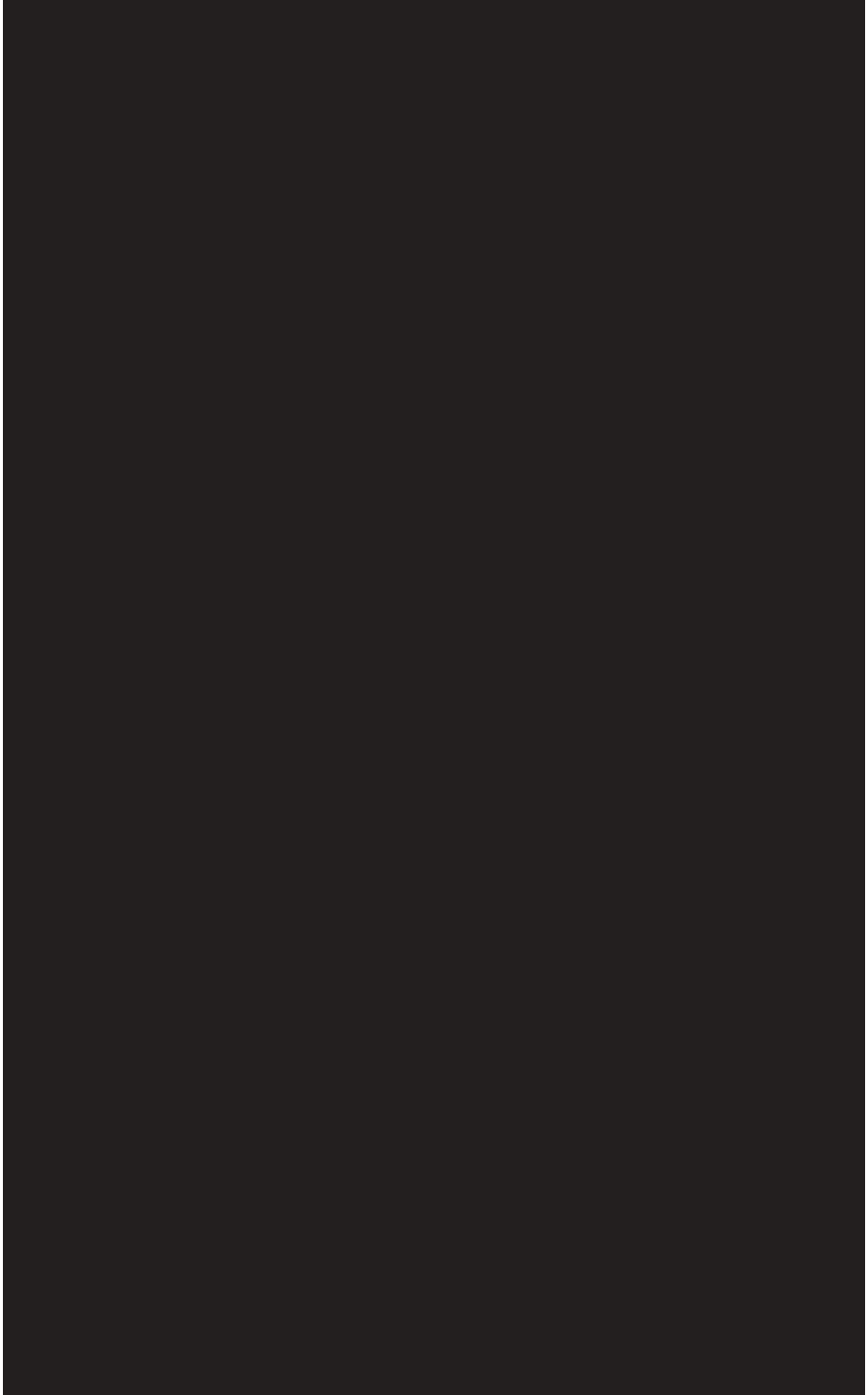






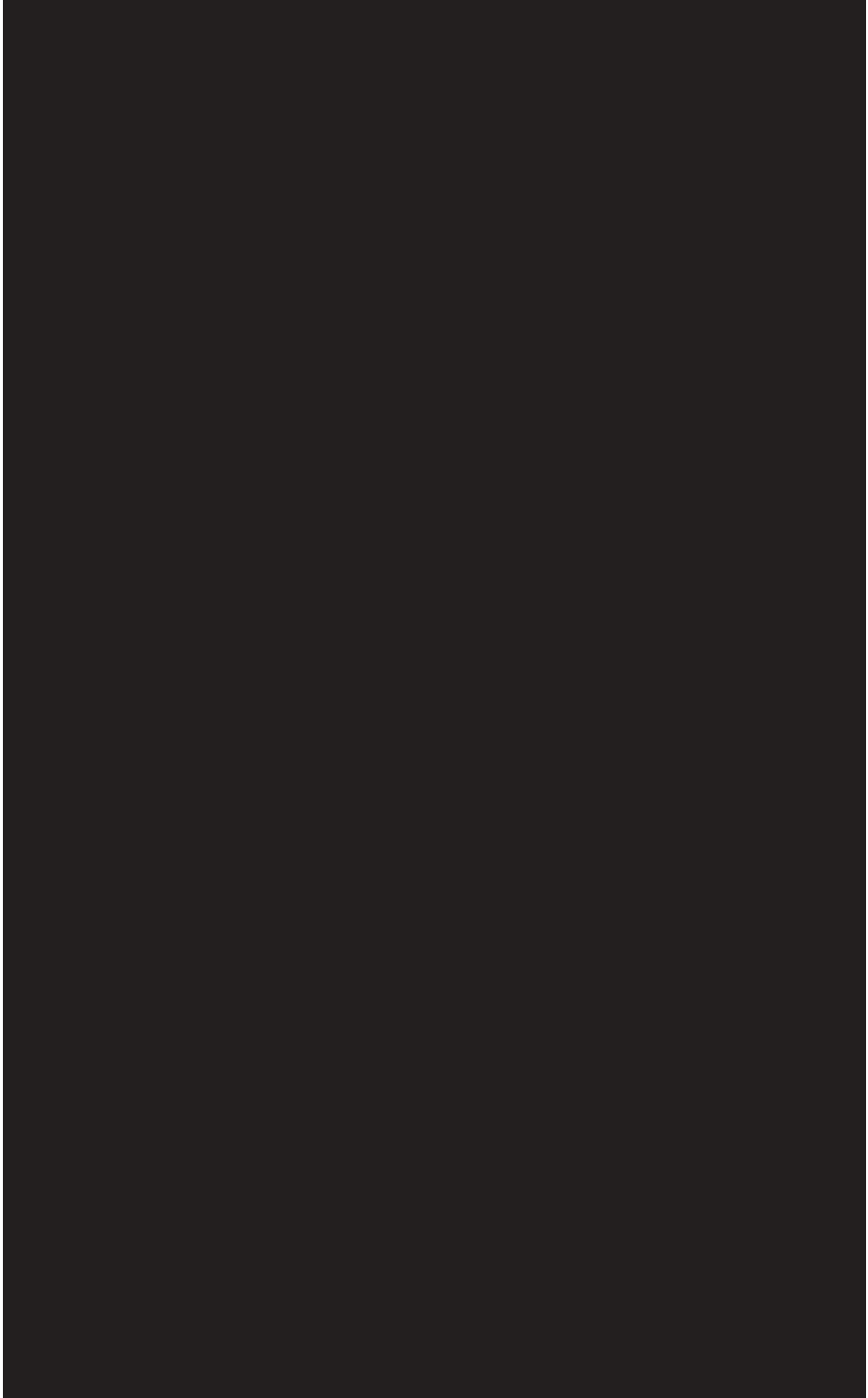


















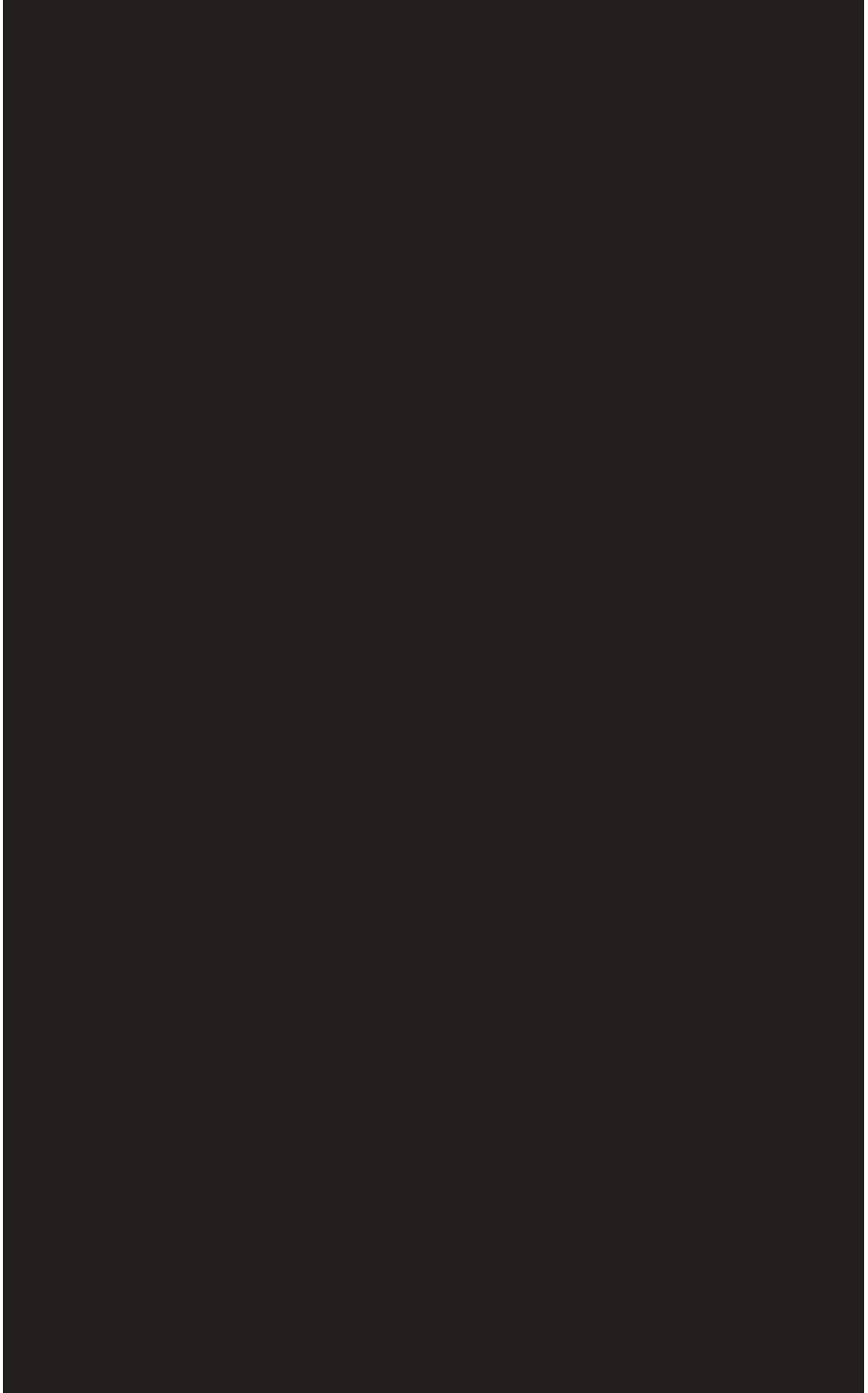






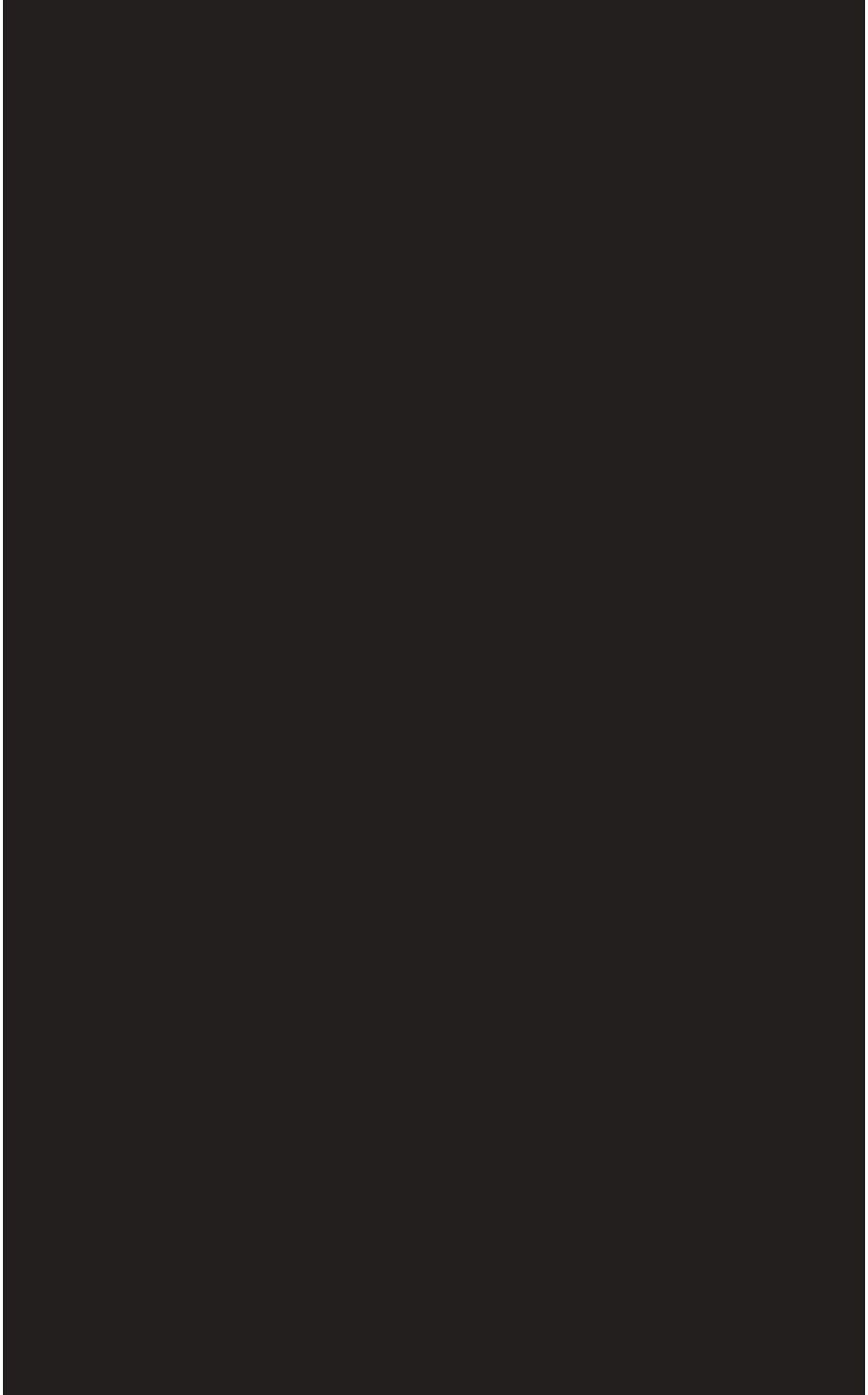


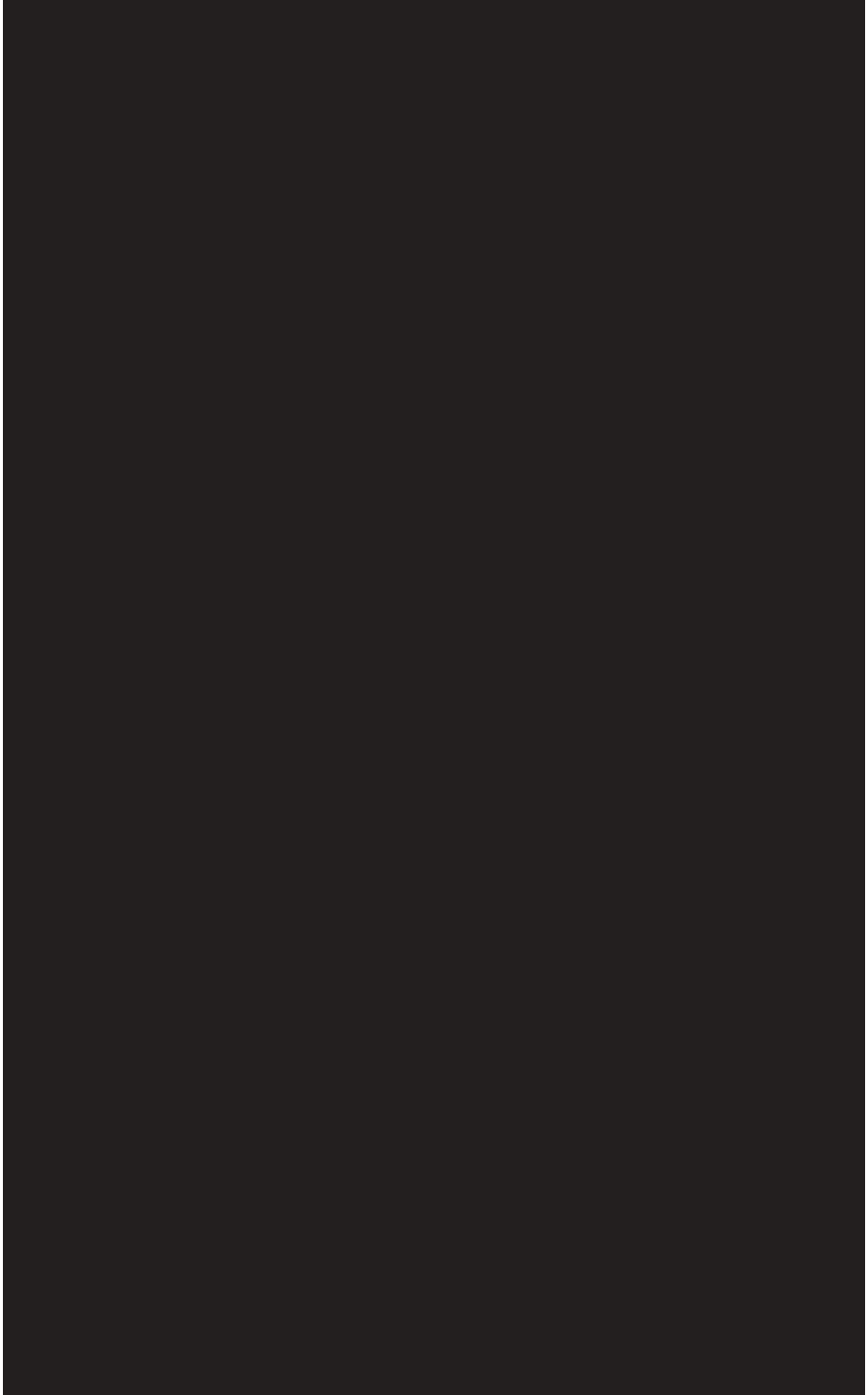










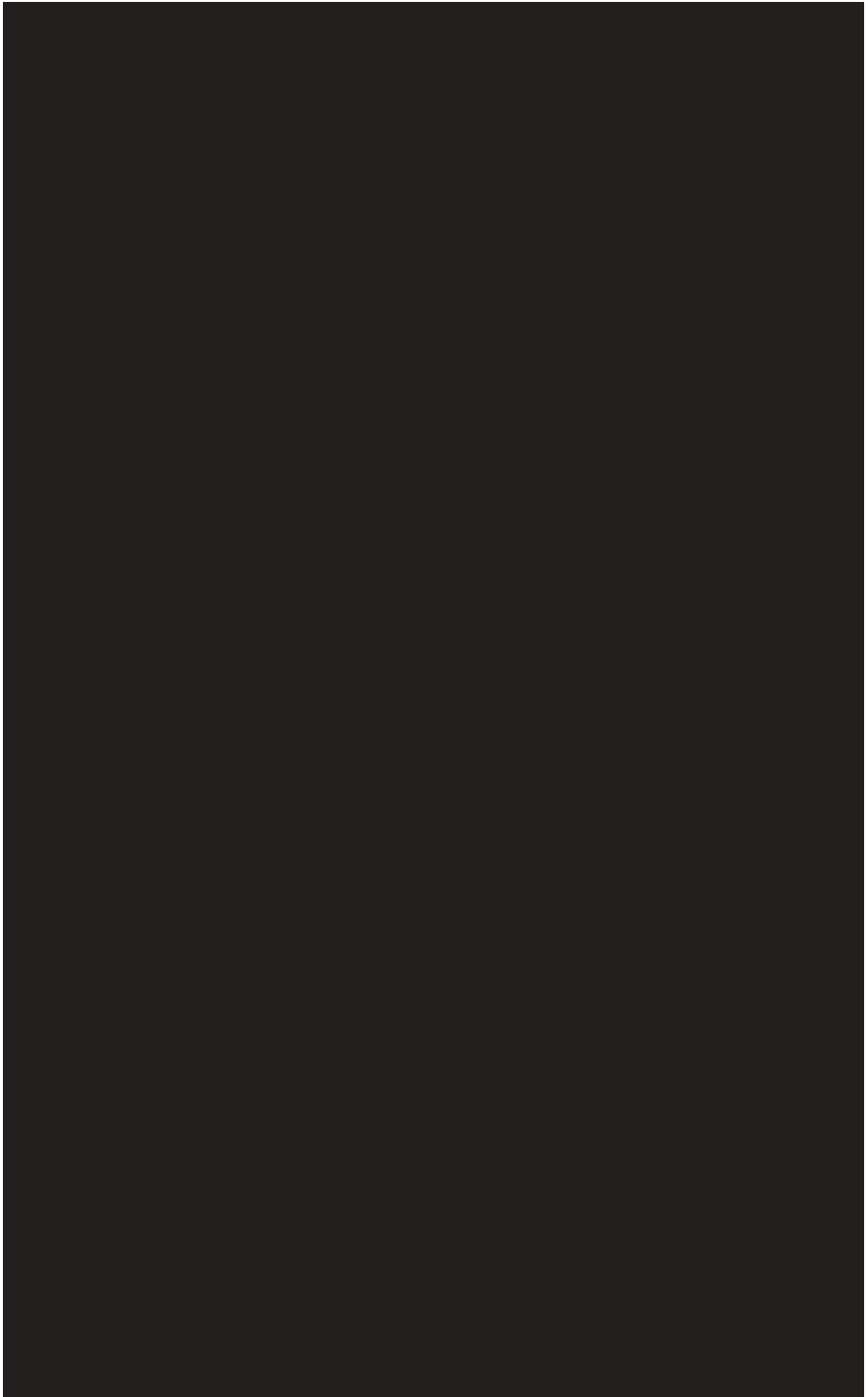


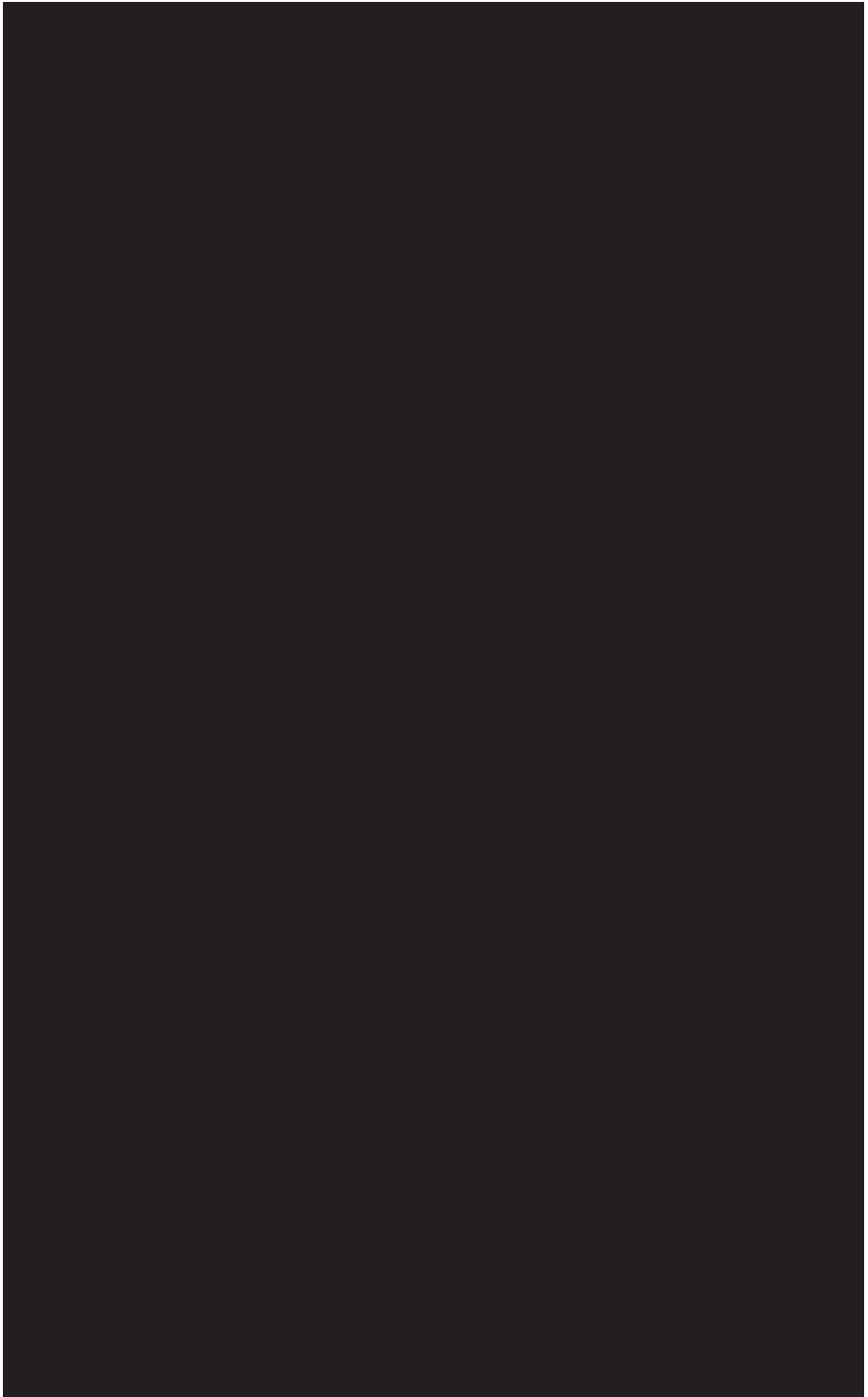


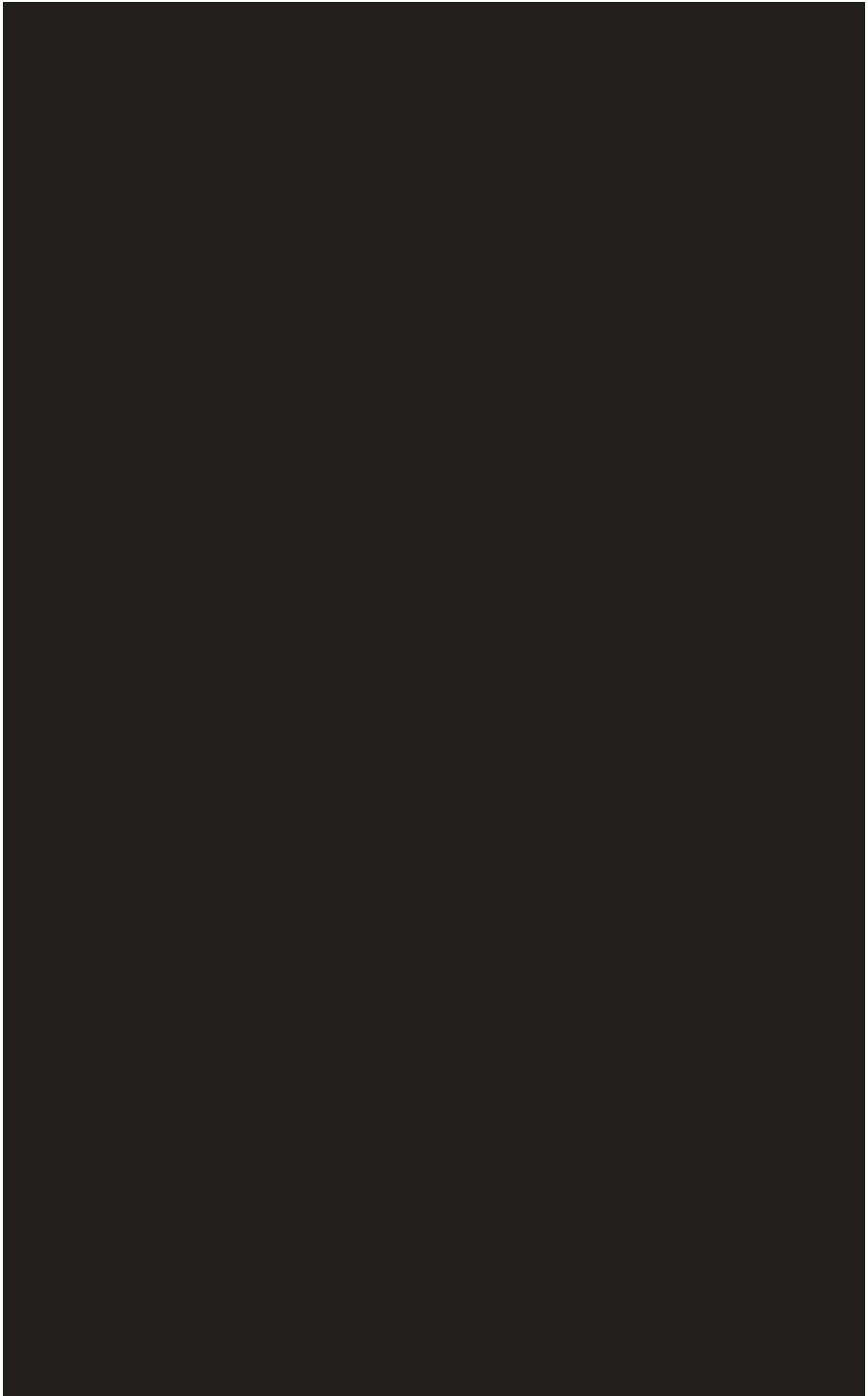


















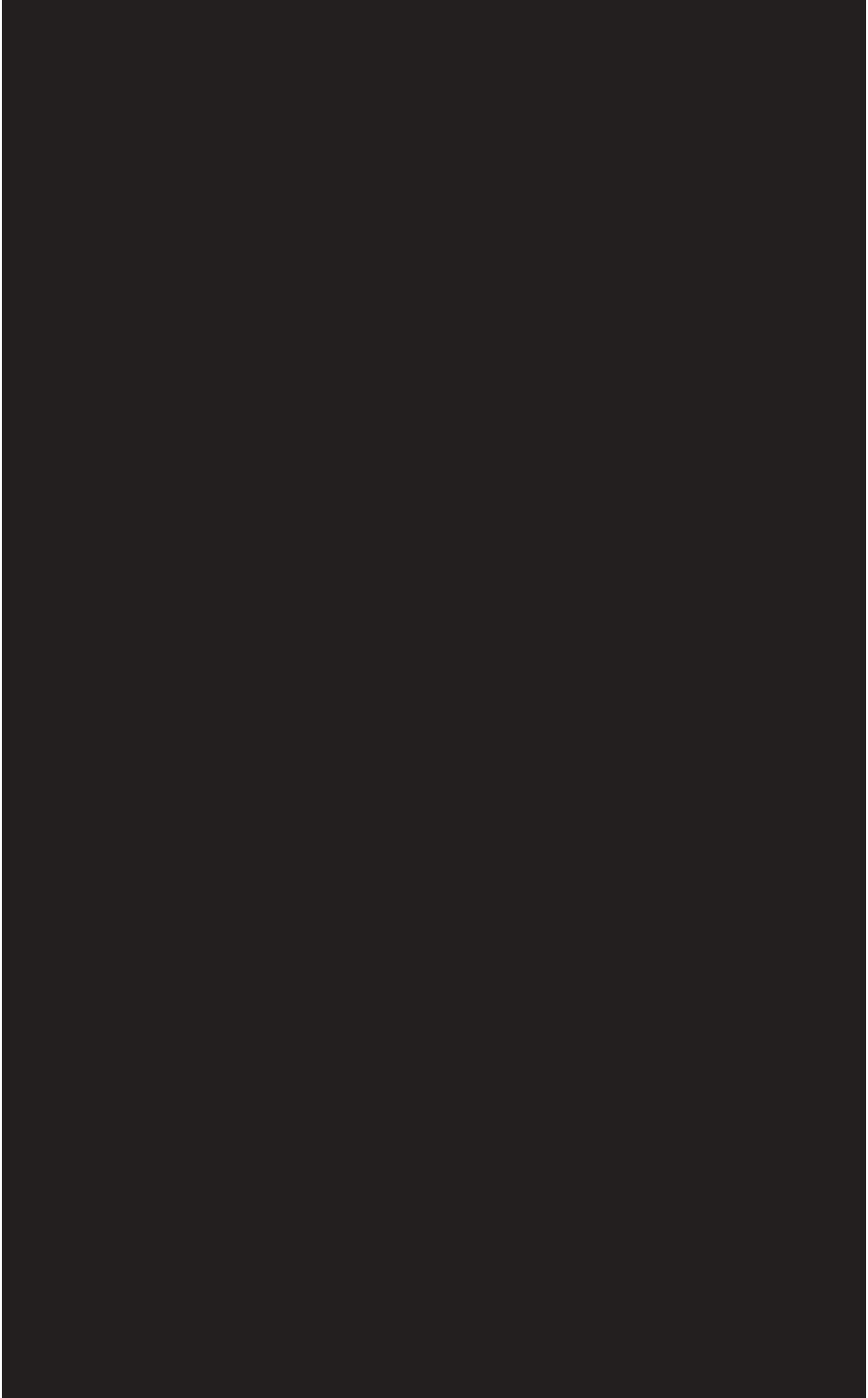


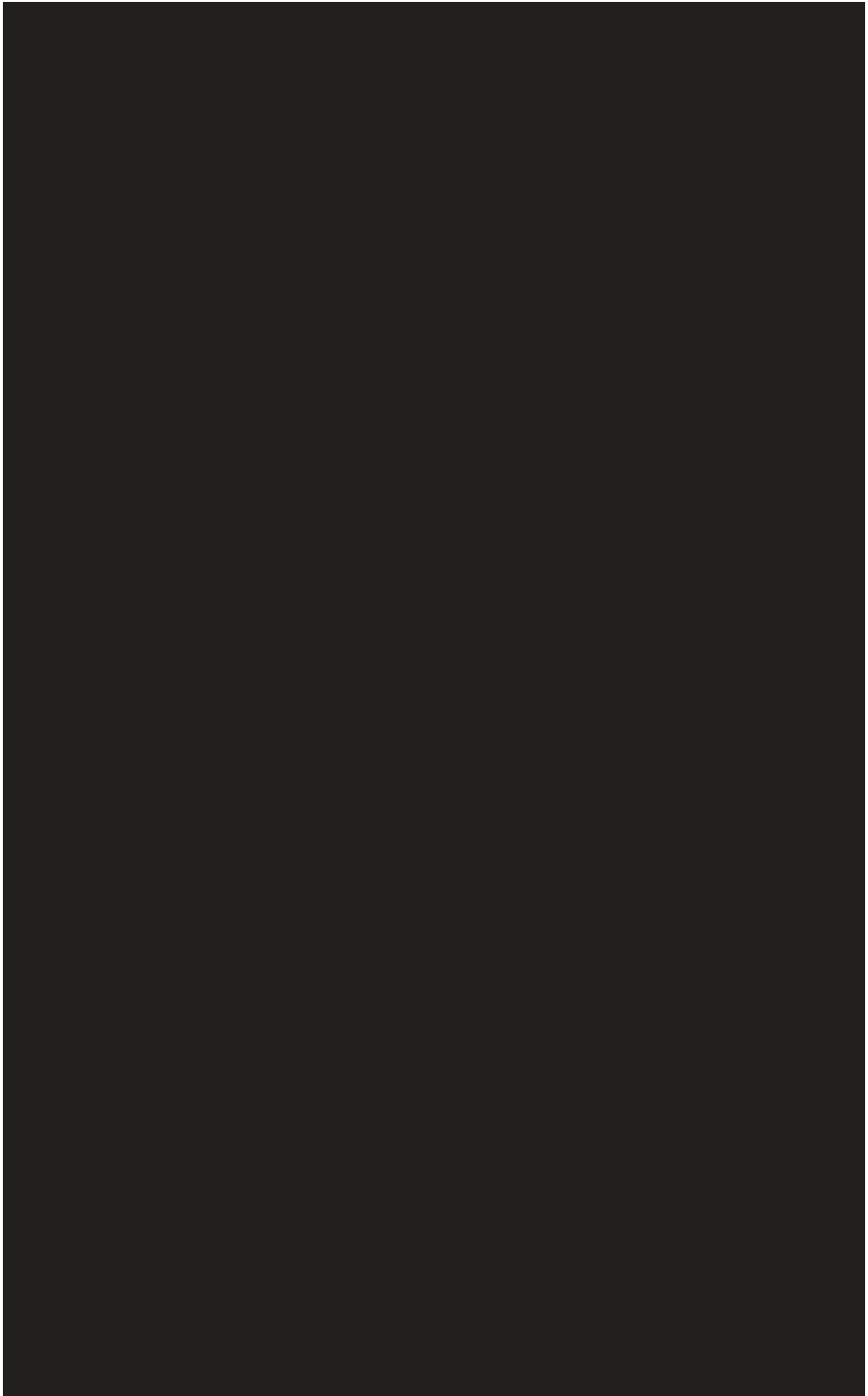


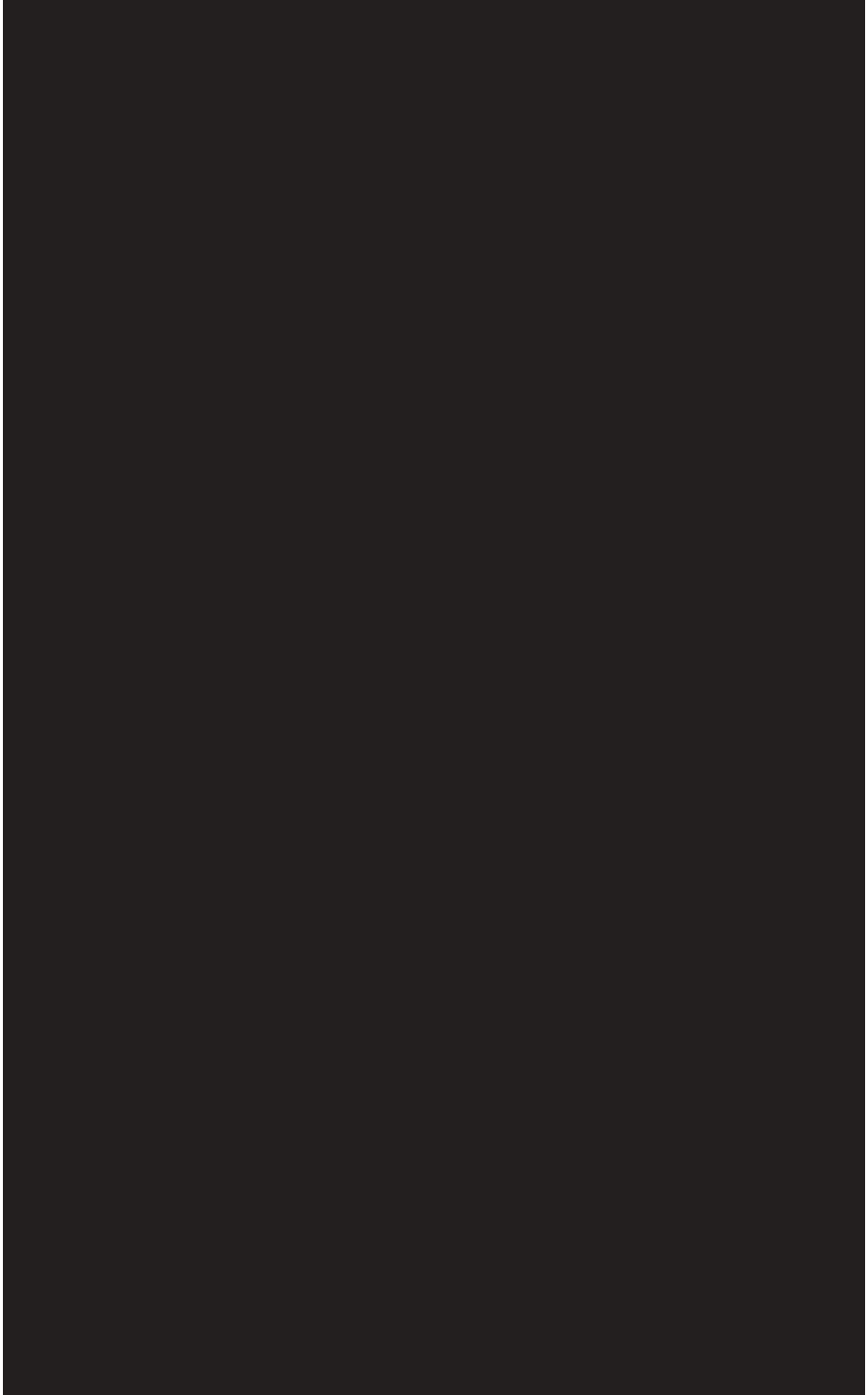






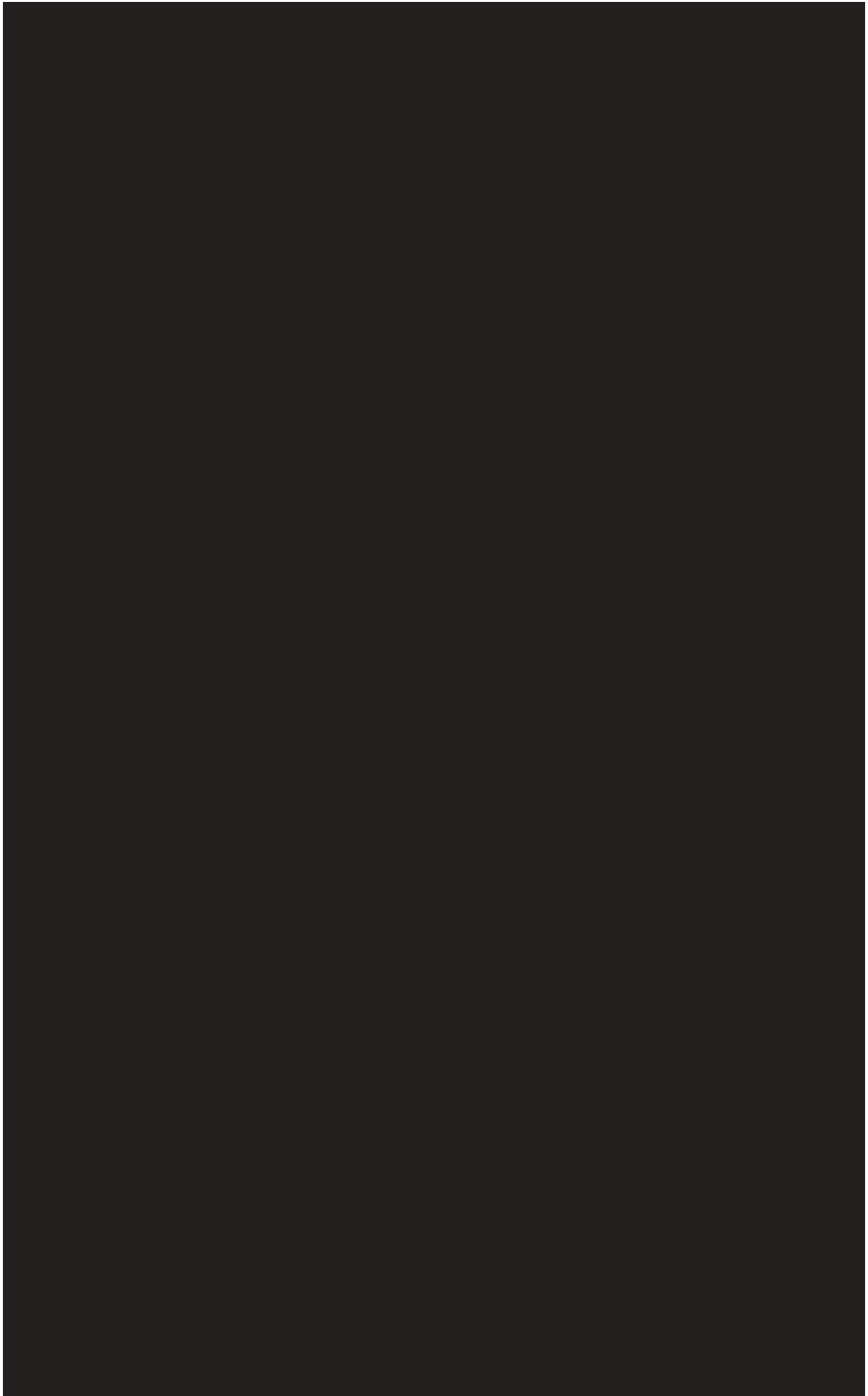


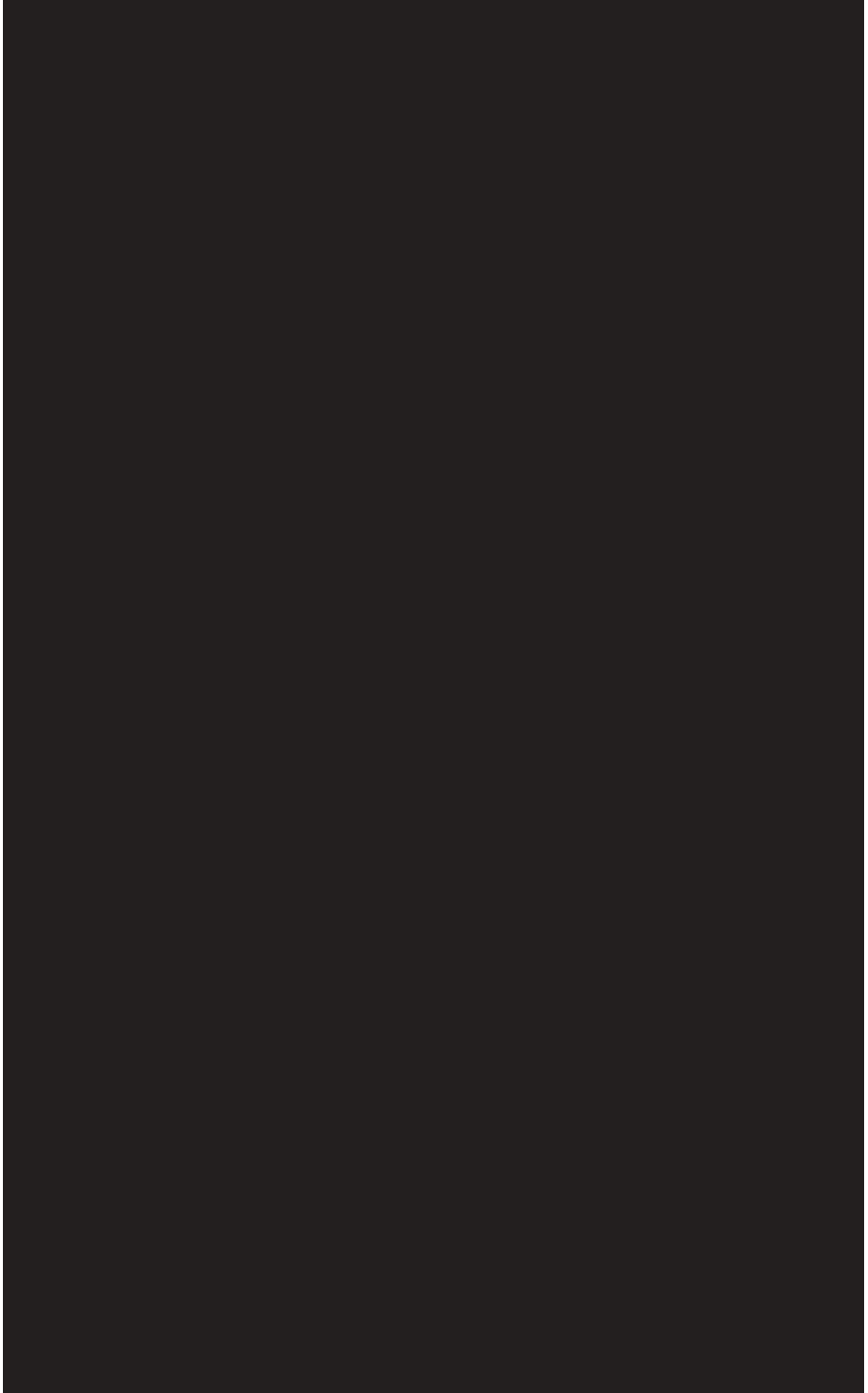










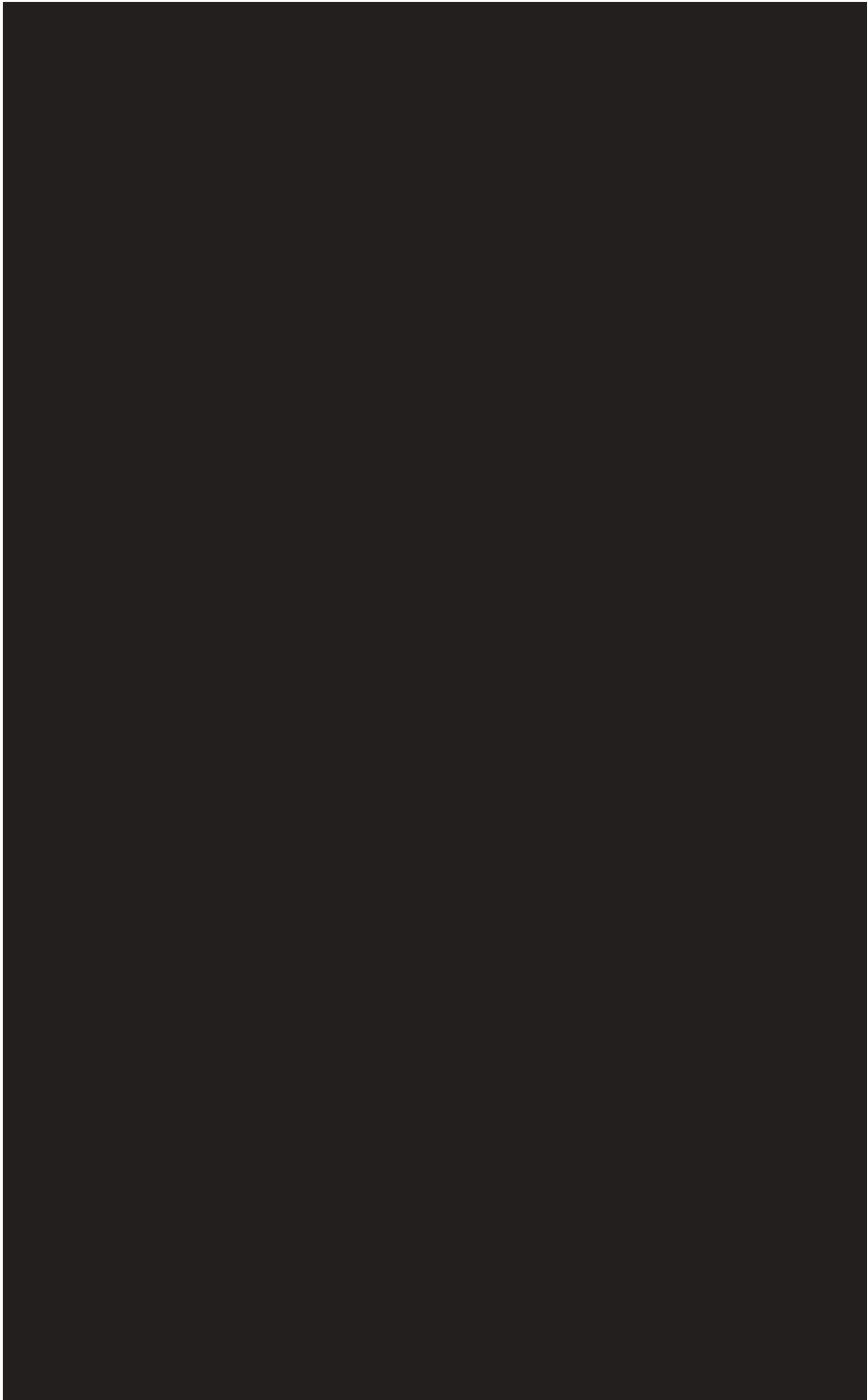


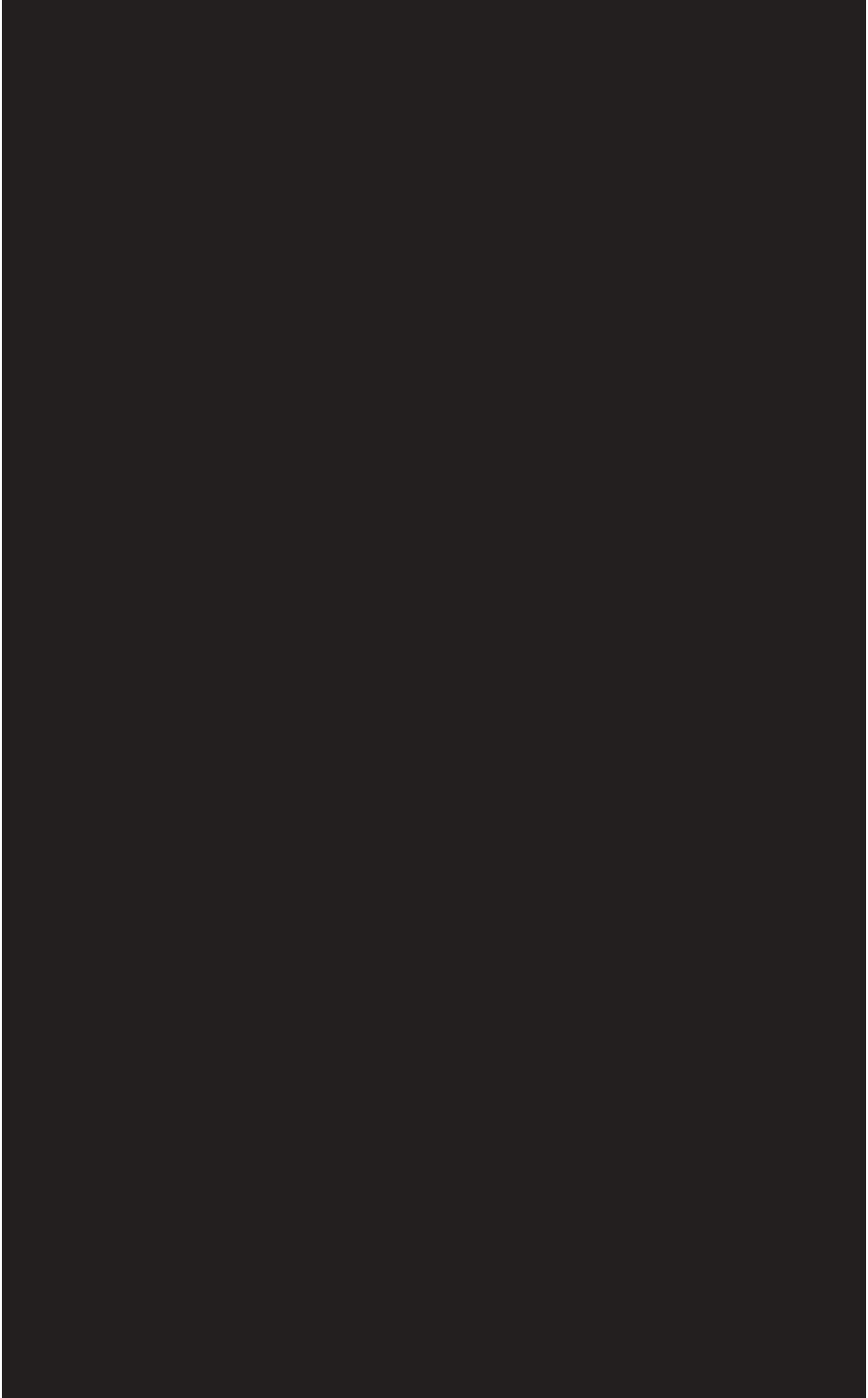




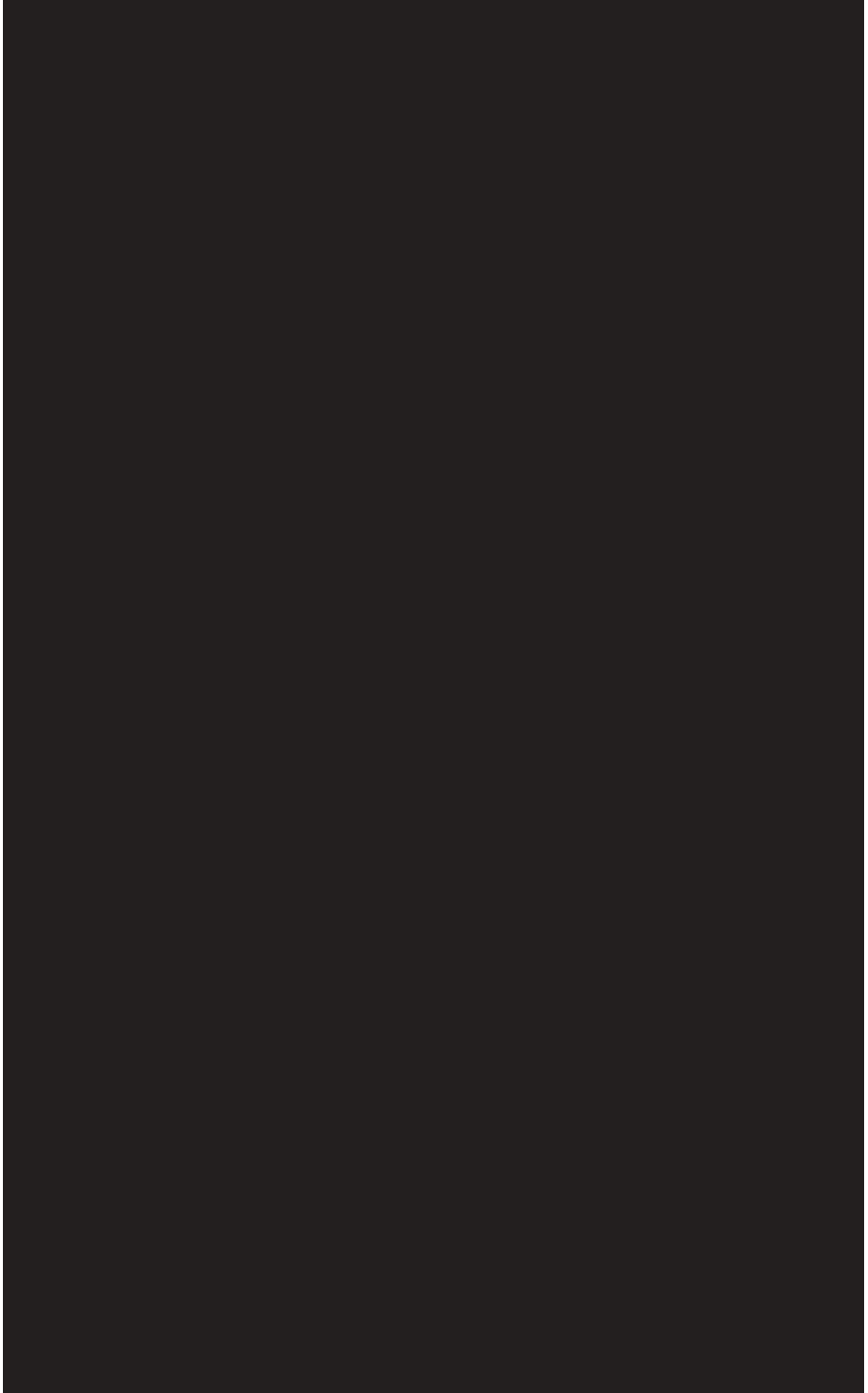
















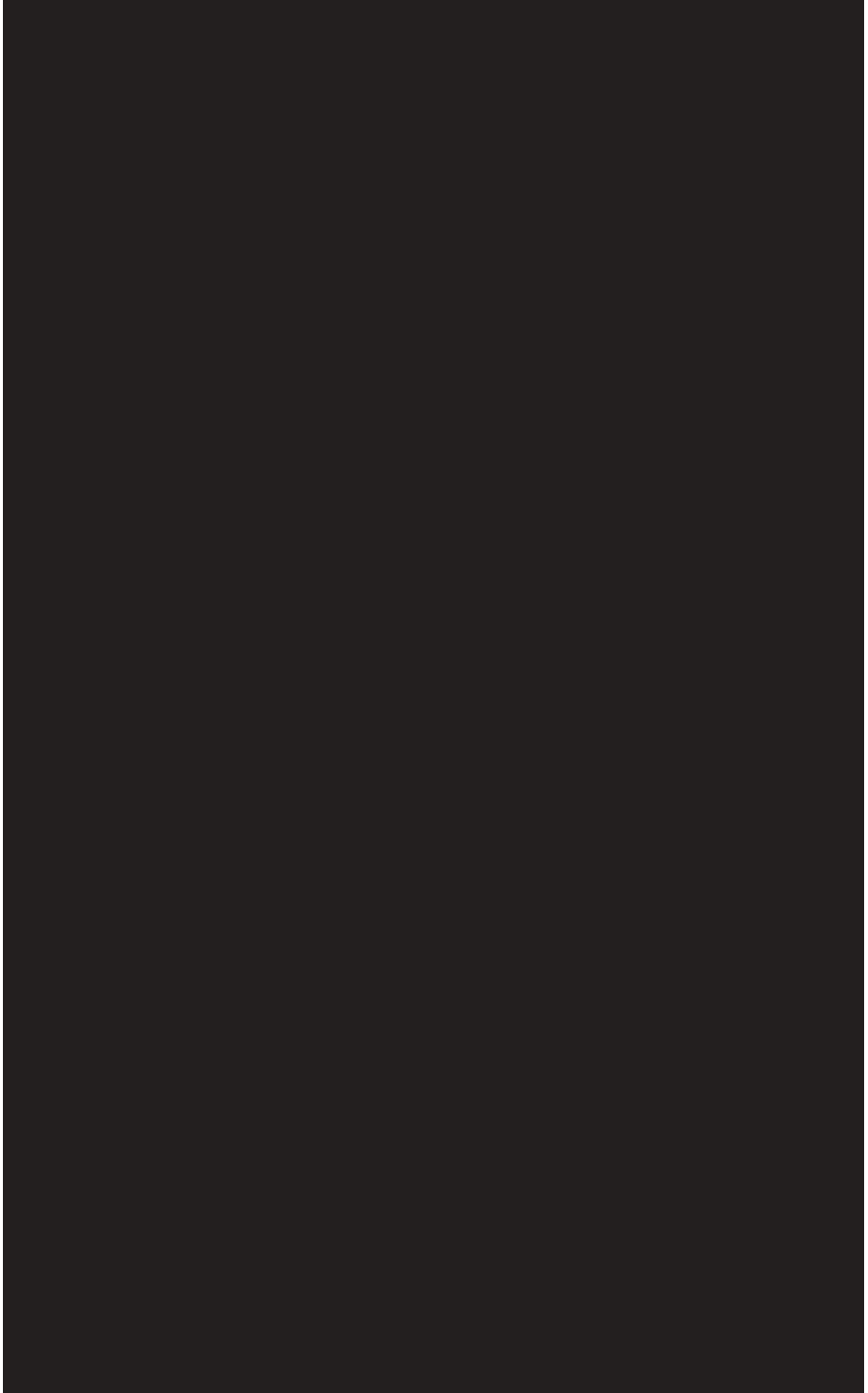










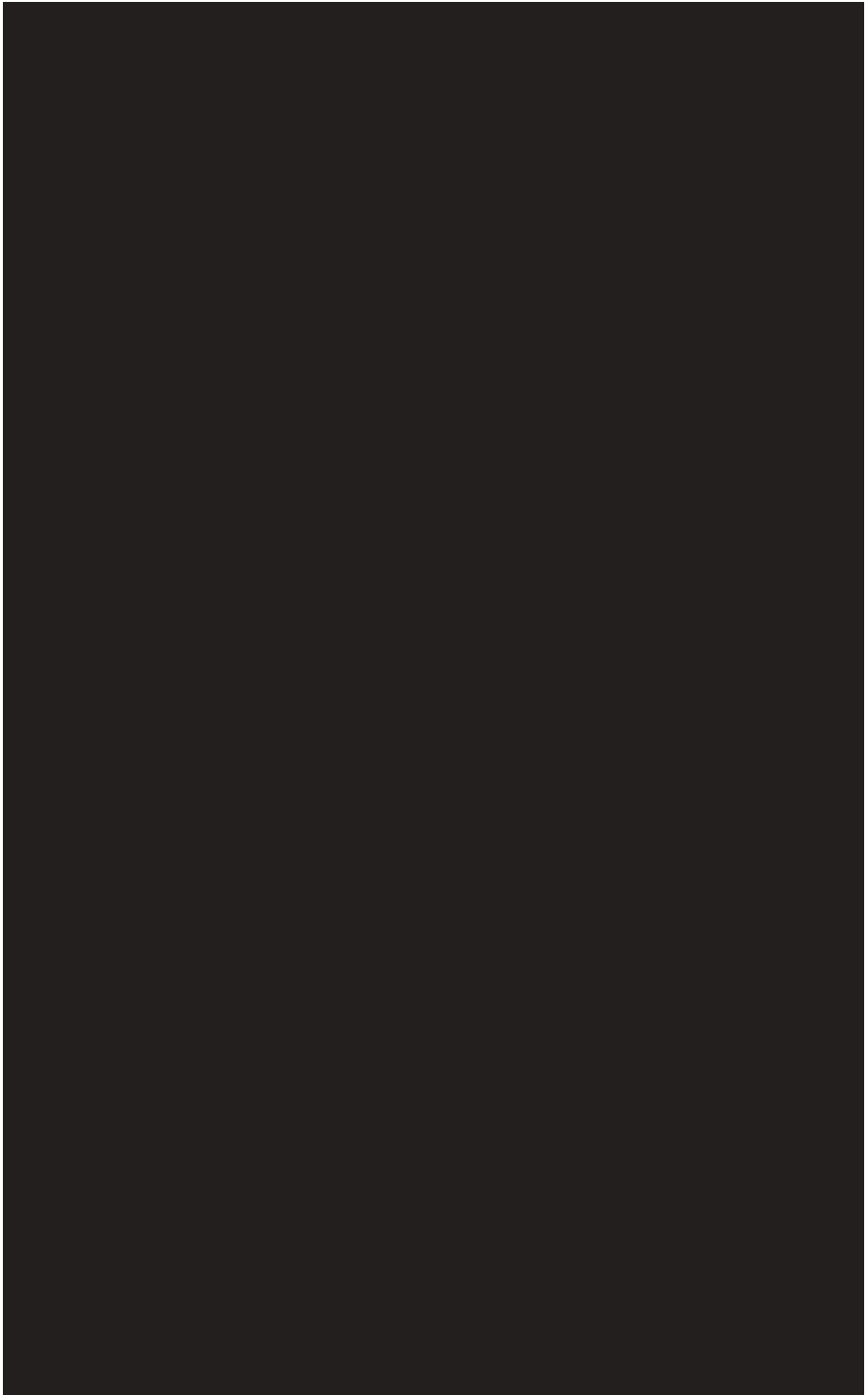


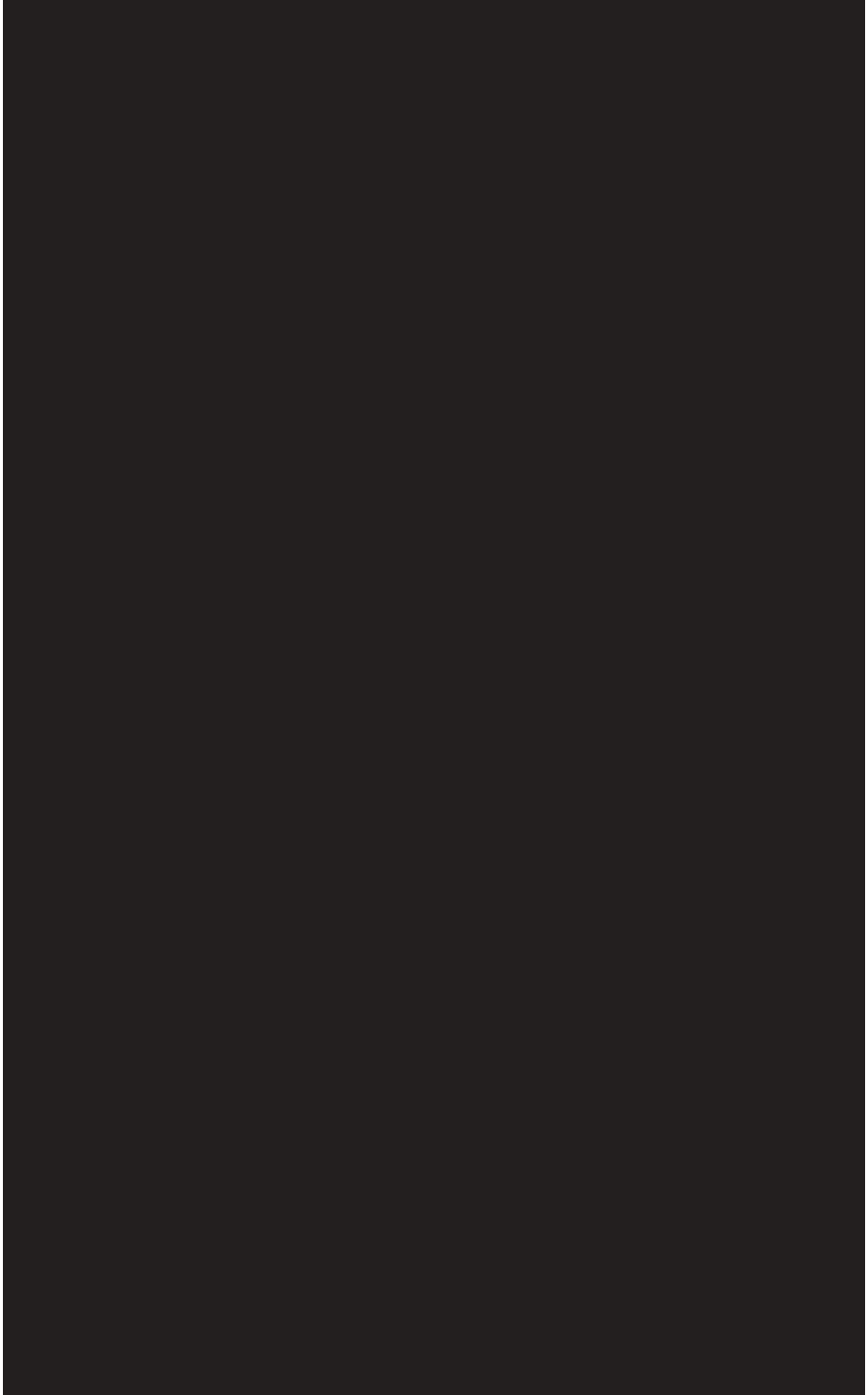




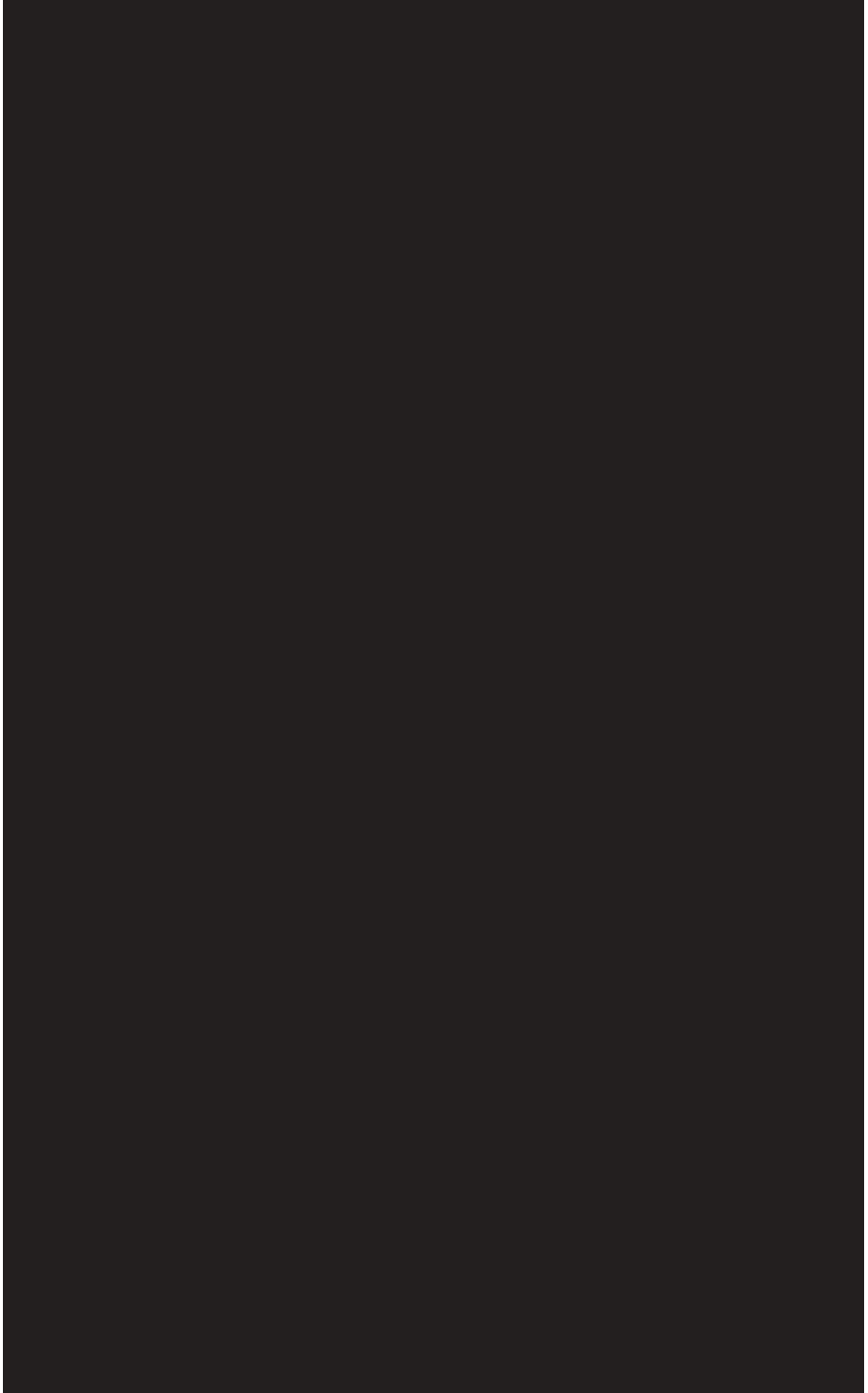








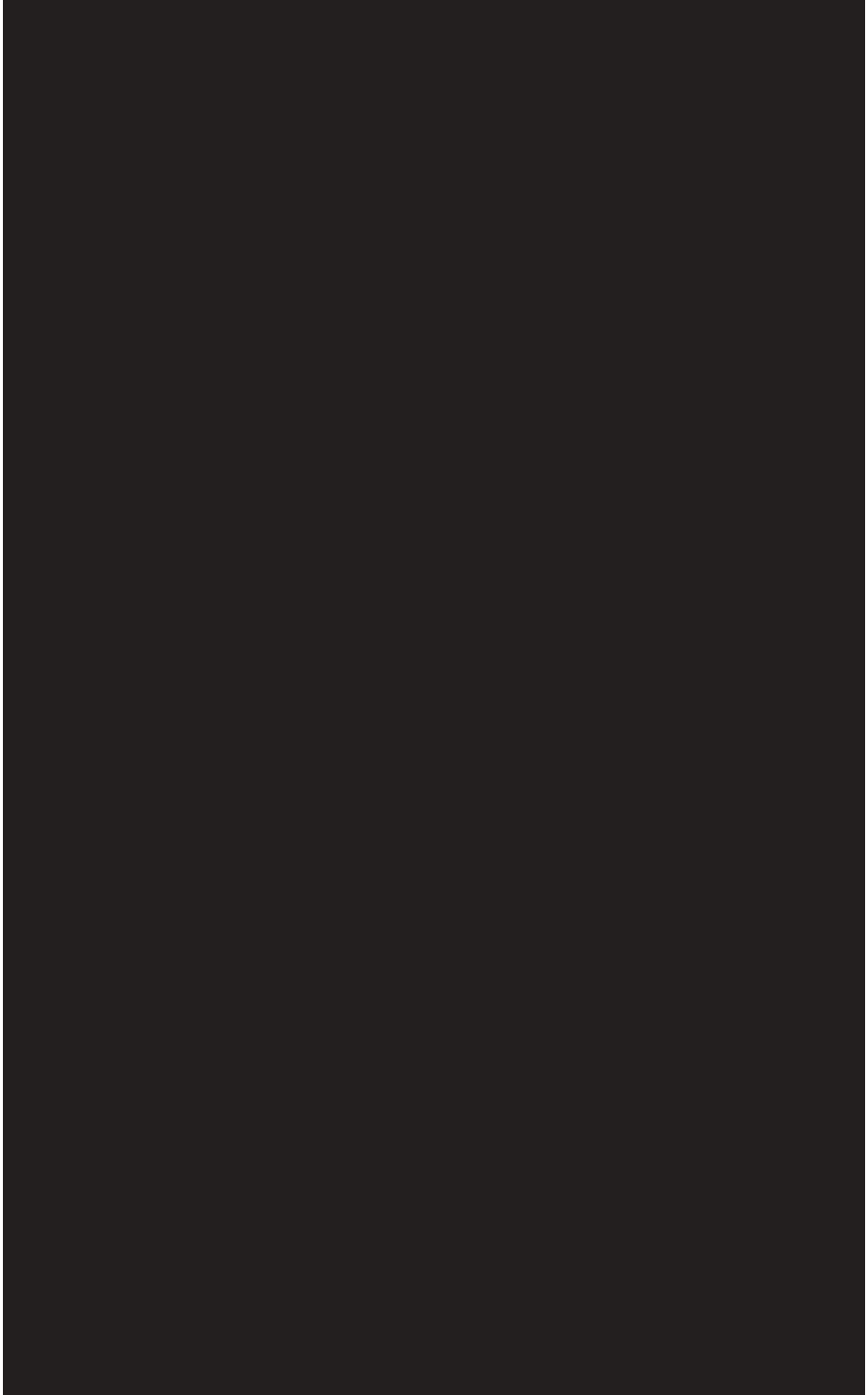






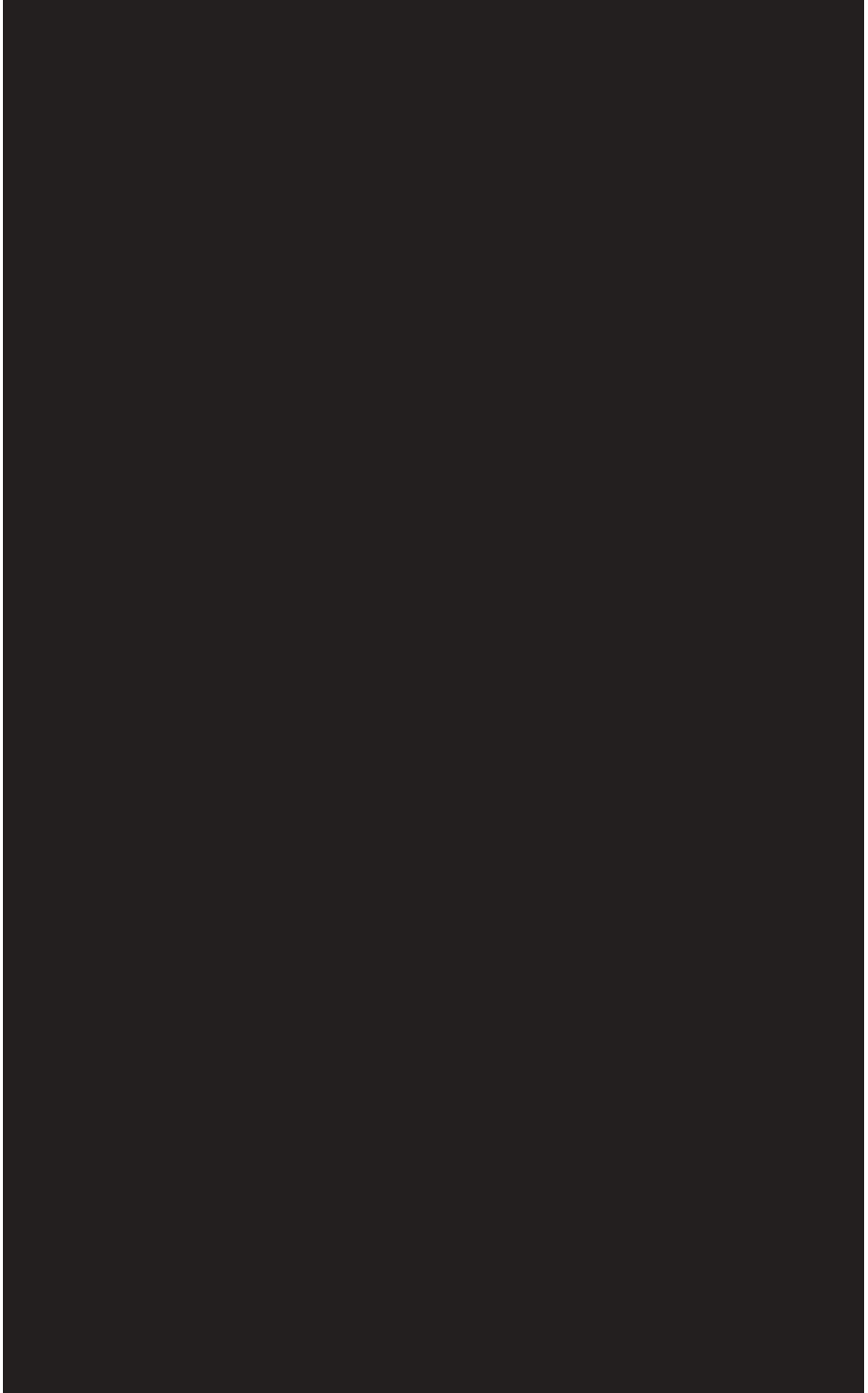


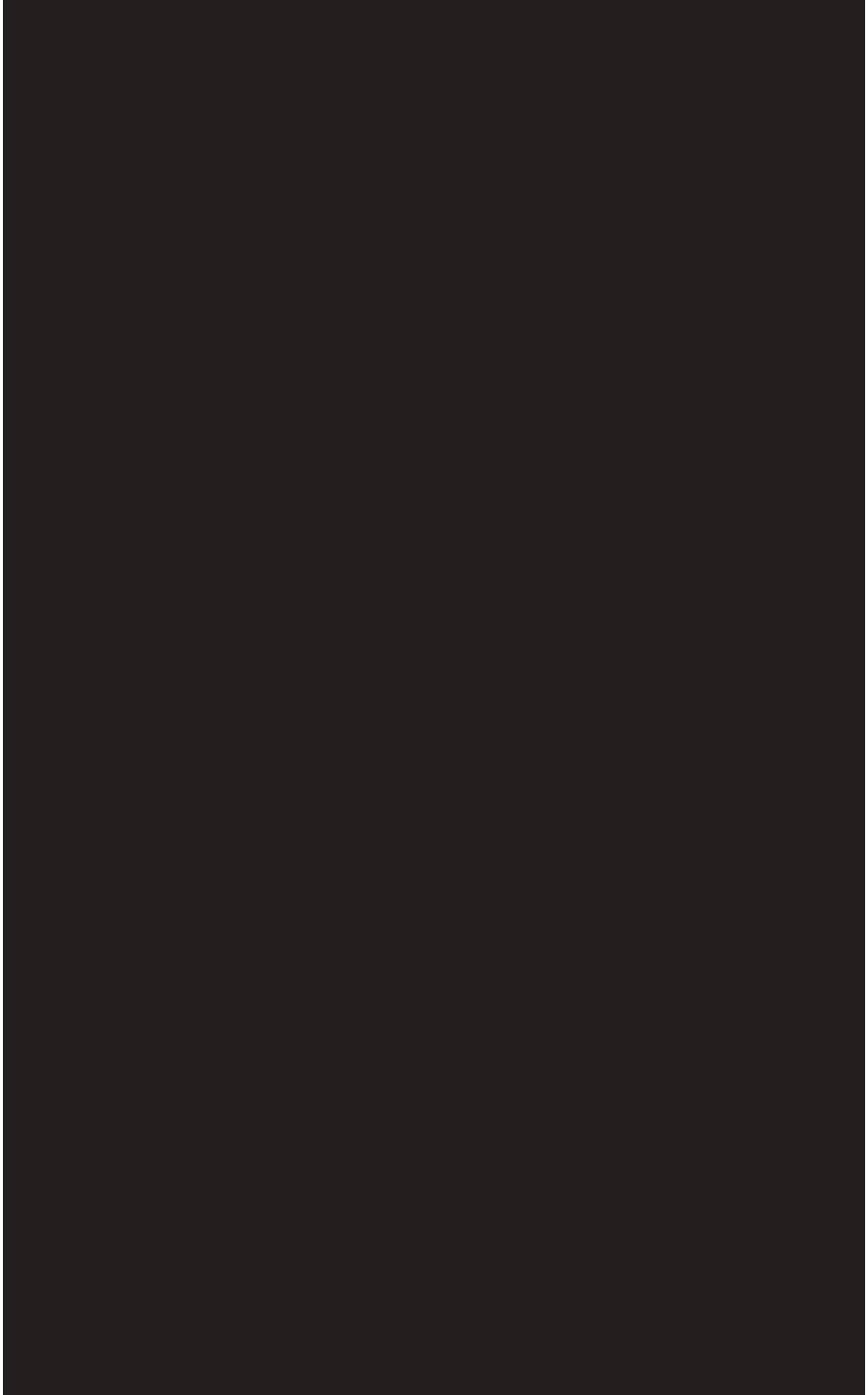


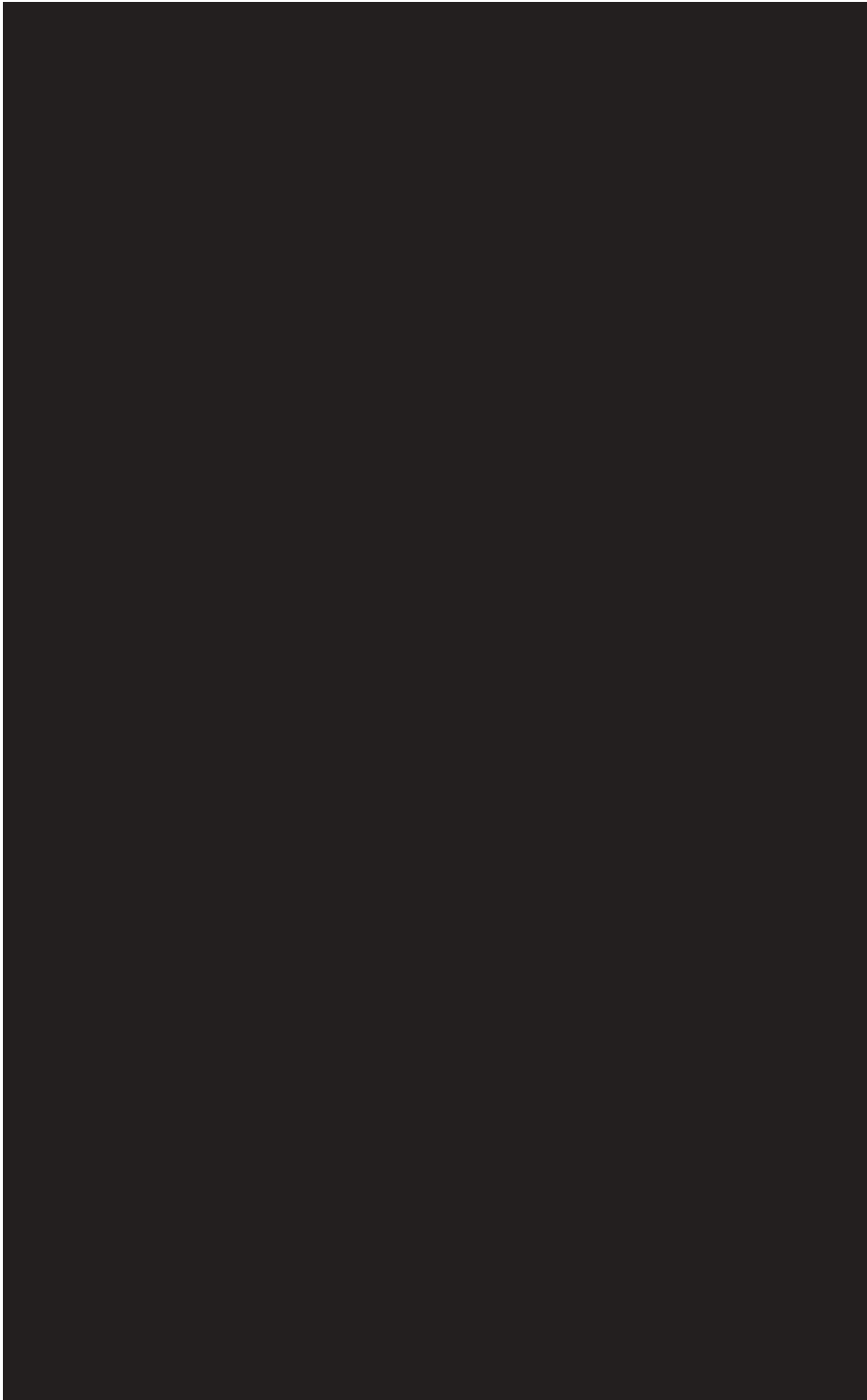


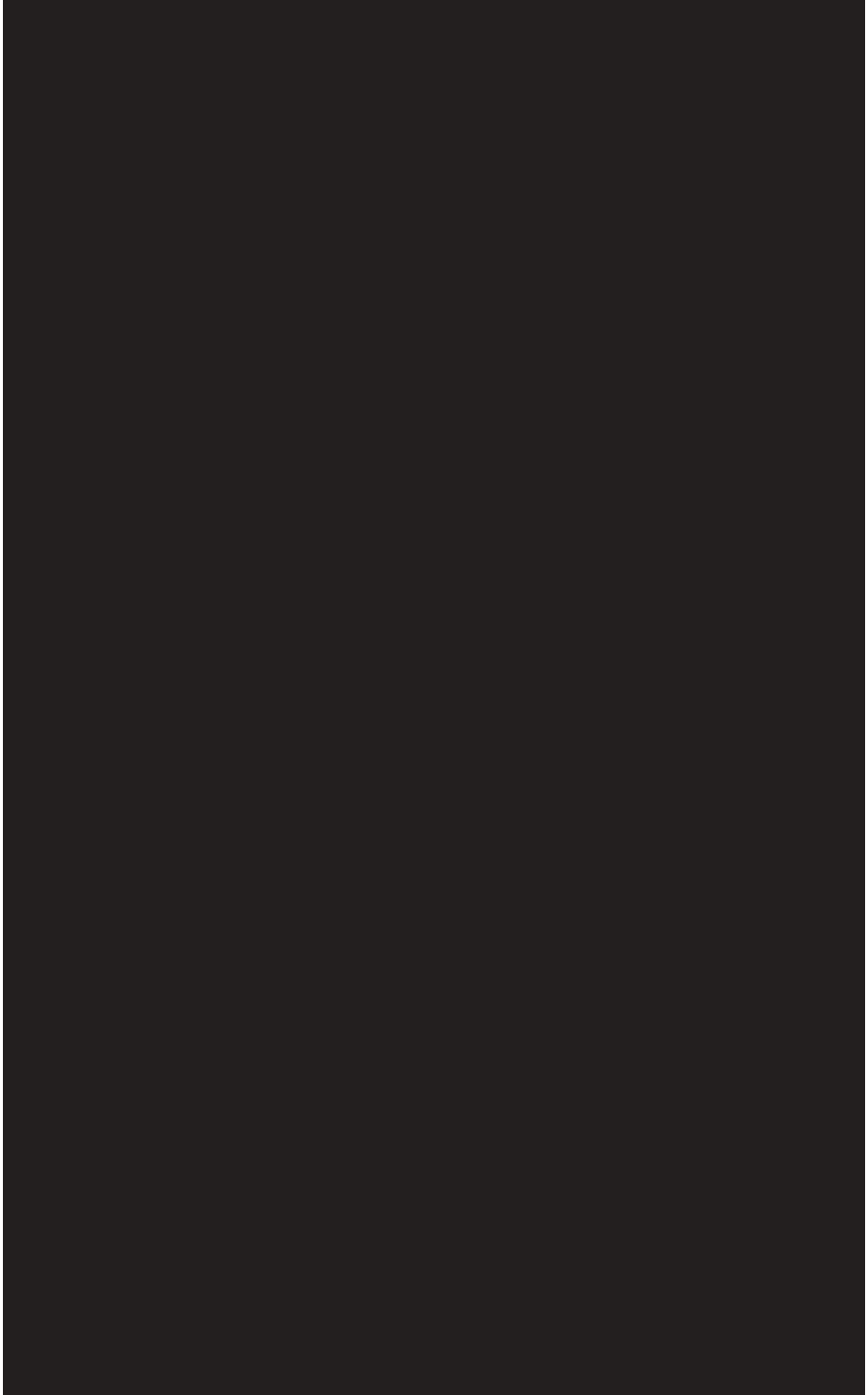




















The resolution was adopted without objection.

HB 1 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Junell submitted the conference committee report on **HB 1**:

Austin, Texas, May 23, 1995

Honorable Bob Bullock
President of the Senate

Honorable Pete Laney
Speaker of the House of Representatives

Sirs: We, your conference committee, appointed to adjust the differences between the Senate and the House of Representatives on **HB 1** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Montford

Brown

Bivins

Truan

Zaffirini

On the part of the Senate

Junell

Delisi

Coleman

Gallego

Ogden

On the part of the House

Representative Junell moved to adopt the conference committee report on **HB 1**.

A record vote was requested.

The motion prevailed by (Record 542): 147 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Alexander; Allen; Alonzo; Alvarado; Averitt; Bailey; Berlanga; Black; Bosse; Brady; Brimer; Carona; Carter; Chisum; Coleman; Combs; Conley; Cook; Corte; Counts; Crabb; Craddick; Cuellar, H.; Cuellar, R.; Culberson; Danburg; Davila; Davis; De La Garza; Dear; 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; Hilbert; 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; Price; Puente; Rabuck; Ramsay; Rangel; Raymond; Reyna; Rhodes; Rodriguez; Romo; Rusling; Sadler; Saunders; Seidlits; Serna; Shields; Siebert; Smithee; Solis; Solomons; Staples; Swinford; Talton; Telford; Thompson; Tillery; Torres; Turner, B.; Turner, S.; Uher; Van de Putte; Walker; West; Williamson; Willis; Wilson; Wohlgemuth; Wolens; Woolley; Yarbrough; Yost; Zbranek.

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

Absent — Clemons.

The speaker stated that **HB 1** was passed subject to the provisions of Article III, Section 49a, of the Texas Constitution.

HB 1 - STATEMENT OF LEGISLATIVE INTENT

As the author of Rider Number 22 to Article III of **CSHB 1** and, after having been intimately involved with negotiations leading to the final language of this Rider, I wish to make clear that the intent of this rider is not to restrict the present nor future service and clinical development plans of the Sisters of Charity of the Incarnate Word or their affiliated hospitals, particularly Santa Rosa Health Care, and their medical staffs.

Berlanga

MESSAGE FROM THE SENATE

Austin, Texas, May 25, 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 1305 by Gray, Black, and Wilson (Sponsor-Armbrister), relating to the continuation and functions of the Texas Racing Commission and to the transfer

of certain commission functions to the Texas Department of Commerce; providing penalties (committee substitute and amended).

SCR 170 by Gallegos, congratulating and commending the Robert E. Lee High School Class of 1995.

Respectfully,
Betty King
Secretary of the Senate

HR 1049 - ADOPTED

The speaker laid before the house the following privileged resolution:

By Goodman,

HR 1049

BE IT RESOLVED by the House of Representatives of the State of Texas, 74th Legislature, Regular Session, 1995, That House Rule 13, Section 9(a), be suspended in part as provided by House Rule 13, Section 9(f), to enable the conference committee appointed to resolve the differences on House Bill No. 327 to consider and take action on the following matters:

(1) House Rule 13, Sections 9(a)(1) and (4), are suspended to permit the committee to amend and add text in Section 51.02, Family Code, to read as follows:

Sec. 51.02. DEFINITIONS. In this title:

(1) "Aggravated controlled substance felony" means an offense under Subchapter D, Chapter 481, Health and Safety Code, that is punishable by:

(A) a minimum term of confinement that is longer than the minimum term of confinement for a felony of the first degree; or

(B) a maximum fine that is greater than the maximum fine for a felony of the first degree.

(2) [~~(1)~~] "Child" means a person who is:

(A) ten years of age or older and under 17 years of age; or

(B) seventeen years of age or older and under 18 years of age who is alleged or found to have engaged in delinquent conduct or conduct indicating a need for supervision as a result of acts committed before becoming 17 years of age.

(3) [~~(4)~~] "Custodian" means the adult with whom the child resides.

(4) [~~(3)~~] "Guardian" means the person who, under court order, is the guardian of the person of the child or the public or private agency with whom the child has been placed by a court.

(5) [~~(6)~~] "Judge" or "juvenile court judge" means the judge of a juvenile court.

(6) [~~(5)~~] "Juvenile court" means a court designated under Section 51.04 of this code to exercise jurisdiction over proceedings under this title.

(7) [~~(8)~~] "Law-enforcement officer" means a peace officer as defined by Article 2.12, [Texas] Code of Criminal Procedure.

(8) "Nonoffender" means a child who:

(A) is subject to jurisdiction of a court under abuse, dependency, or neglect statutes under Title 5 for reasons other than legally prohibited conduct of the child; or

(B) has been taken into custody and is being held solely for deportation out of the United States.

(9) [(2)] "Parent" means the mother, the father whether or not the child is legitimate, or an adoptive parent, but does not include a parent whose parental rights have been terminated.

(10) "Party" means the state, a child who is the subject of proceedings under this subtitle, or the child's parent, spouse, guardian, or guardian ad litem.

(11) [(7)] "Prosecuting attorney" means the county attorney, district attorney, or other attorney who regularly serves in a prosecutory capacity in a juvenile court.

(12) "Referral to juvenile court" means the referral of a child or a child's case to the office or official, including an intake officer or probation officer, designated by the juvenile court to process children within the juvenile justice system.

(13) "Secure correctional facility" means any public or private residential facility, including an alcohol or other drug treatment facility, that:

(A) includes construction fixtures designed to physically restrict the movements and activities of juveniles or other individuals held in lawful custody in the facility; and

(B) is used for the placement of any juvenile who has been adjudicated as having committed an offense, any nonoffender, or any other individual convicted of a criminal offense.

(14) "Secure detention facility" means any public or private residential facility that:

(A) includes construction fixtures designed to physically restrict the movements and activities of juveniles or other individuals held in lawful custody in the facility; and

(B) is used for the temporary placement of any juvenile who is accused of having committed an offense, any nonoffender, or any other individual accused of having committed a criminal offense.

(15) "Status offender" means a child who is accused, adjudicated, or convicted for conduct that would not, under state law, be a crime if committed by an adult, including:

(A) truancy under Section 51.03(b)(2);

(B) running away from home under Section 51.03(b)(3);

(C) a fineable only offense under Section 51.03(b)(1) transferred to the juvenile court under Section 51.08(b), but only if the conduct constituting the offense would not have been criminal if engaged in by an adult;

(D) failure to attend school under Section 4.251, Education

Code;

(E) a violation of standards of student conduct as described by Section 51.03(b)(6);

(F) a violation of a juvenile curfew ordinance or order;

(G) a violation of a provision of the Alcoholic Beverage Code applicable to minors only; or

(H) a violation of any other fineable only offense under Section 8.07(a)(4) or (5), Penal Code, but only if the conduct constituting the offense would not have been criminal if engaged in by an adult.

(16) [~~9~~] "Traffic offense" means:

(A) a violation of a penal statute cognizable under Chapter 302, Acts of the 55th Legislature, Regular Session, 1957, as amended (Article 67011-4 [~~802e~~], Vernon's Texas Civil Statutes [~~Penal Code~~]); or

(B) a violation of a motor vehicle traffic ordinance of an incorporated city or town in this state.

(17) "Valid court order" means a court order entered under Section 54.04 concerning a child adjudicated to have engaged in conduct indicating a need for supervision as a status offender.

Explanation: The change is made to amend all of Section 51.02, Family Code, to alphabetize the definitions for the convenience of the reader, to add a new definition of "Referral to juvenile court" to clarify the meaning of the law, and to add additional language to the definitions to conform them to the operative provisions of the bill.

(2) House Rule 13, Section 9(a)(3), is suspended to permit the committee to add text in Section 51.09(b), Family Code, to read as follows:

(b) Notwithstanding any of the provisions of Subsection (a) of this section, the statement of a child is admissible in evidence in any future proceeding concerning the matter about which the statement was given if:

(1) when the child is in a detention facility or other place of confinement or in the custody of an officer, the statement is made in writing and the statement shows that the child has at some time prior to the making thereof received from a magistrate a warning that:

(A) the child may remain silent and not make any statement at all and that any statement that the child makes may be used in evidence against the child;

(B) the child has the right to have an attorney present to advise the child either prior to any questioning or during the questioning;

(C) if the child is unable to employ an attorney, the child has the right to have an attorney appointed to counsel with the child prior to or during any interviews with peace officers or attorneys representing the state;

(D) the child has the right to terminate the interview at any time;

(E) if the child is 14 [~~15~~] years of age or older at the time of the violation of a penal law of the grade of capital felony, aggravated controlled substance felony, or felony of the first degree, or is 15 years of age or older at the time of the violation of a penal law of the grade of felony of the second or third degree or a state jail felony, the juvenile court may waive its jurisdiction and the child may be tried as an adult, except that if the child has previously been transferred to a district court or criminal district court for criminal proceedings and has violated a penal law of the grade of felony, the juvenile court is required to waive its jurisdiction and the child can be tried as an adult;

(F) the child may be sentenced to commitment in the Texas Youth Commission with a possible transfer to the institutional division or the pardons and paroles division of the Texas Department of Criminal Justice for a maximum term of 40 [~~not to exceed~~] years for a capital felony, felony of the first degree, or aggravated controlled substance felony, 20 years for a felony

of the second degree, or 10 years for a felony of the third degree if the child is found to have engaged in habitual felony conduct by violating a penal law of the grade of felony, other than a state jail felony, if the child has at least two previous adjudications as having engaged in delinquent conduct violating a penal law of the grade of felony and the second previous adjudication is for conduct that occurred after the date the first previous adjudication became final, alleged in a petition approved by a grand jury, or if the child is found to have engaged in delinquent conduct, alleged in a petition approved by a grand jury, that included:

(i) murder;
 (ii) capital murder;
 (iii) aggravated kidnapping;
 (iv) sexual assault or aggravated sexual assault;
 (v) aggravated robbery;
 (vi) aggravated assault [deadly assault on a law enforcement officer, corrections officer, court participant, or probation personnel]; [or]

(vii) injury to a child, elderly individual, or disabled individual that is punishable as a felony, other than a state jail felony, under Section 22.04, Penal Code;

(viii) deadly conduct defined by Section 22.05(b), Penal Code (discharging firearm at persons or certain objects);

(ix) an offense that is a felony of the first degree or an aggravated controlled substance felony under Subchapter D, Chapter 481, Health and Safety Code (certain offenses involving controlled substances);

(x) criminal solicitation;

(xi) indecency with a child that is punishable under Section 21.11(a)(1), Penal Code;

(xii) criminal solicitation of a minor (Section 15.031, Penal Code); or

(xiii) criminal attempt to commit any of the offenses listed in Section 3g(a)(1), Article 42.12, Code of Criminal Procedure, which include murder, capital murder, indecency with a child, aggravated kidnapping, aggravated sexual assault, and aggravated robbery [~~(vi) attempted capital murder~~]; and

(G) the statement must be signed in the presence of a magistrate by the child with no law enforcement officer or prosecuting attorney present, except that a magistrate may require a bailiff or a law enforcement officer if a bailiff is not available to be present if the magistrate determines that the presence of the bailiff or law enforcement officer is necessary for the personal safety of the magistrate or other court personnel, provided that the bailiff or law enforcement officer may not carry a weapon in the presence of the child. The magistrate must be fully convinced that the child understands the nature and contents of the statement and that the child is signing the same voluntarily. If such a statement is taken, the magistrate shall sign a written statement verifying the foregoing requisites have been met.

The child must knowingly, intelligently, and voluntarily waive these rights prior to and during the making of the statement and sign the statement in the

presence of a magistrate who must certify that he has examined the child independent of any law enforcement officer or prosecuting attorney, except as required to ensure the personal safety of the magistrate or other court personnel, and has determined that the child understands the nature and contents of the statement and has knowingly, intelligently, and voluntarily waived these rights.

(2) it be made orally and the child makes a statement of facts or circumstances that are found to be true, which conduct tends to establish his guilt, such as the finding of secreted or stolen property, or the instrument with which he states the offense was committed.

(3) the statement was *res gestae* of the delinquent conduct or the conduct indicating a need for supervision or of the arrest.

Explanation: The changes are made to include a reference to aggravated controlled substance felony in a manner consistent with the other provisions of the bill, to improve the clarity of the section, and to enumerate those offenses included in Section 3g(a)(1), Article 42.12, Code of Criminal Procedure.

(3) House Rule 13, Sections 9(a)(1) and (2), are suspended to permit the committee to amend text in Section 51.09(c), Family Code, to read as follows:

(c) A warning under Subsection (b)(1)(E) or ~~[Subsection] (b)(1)(F) [of this section]~~ is required only when applicable to the facts of the case. A failure to warn a child under Subsection (b)(1)(E) ~~[of this section]~~ does not render a statement made by the child inadmissible unless the child is transferred to a ~~[criminal]~~ district court under Section 54.02 ~~[of this code]~~. A failure to warn a child under Subsection (b)(1)(F) ~~[of this section]~~ does not render a statement made by the child inadmissible unless the state proceeds against the child on a petition approved by a grand jury under Section 53.045 ~~[of this code]~~.

Explanation: The change is to amend the reference to criminal district court by striking "criminal" to conform the text to the other provisions of the bill.

(4) House Rule 13, Section 9(a)(4), is suspended to permit the committee to add text in Section 51.116, Family Code, to read as follows:

Sec. 51.116. RIGHT TO REEMPLOYMENT. (a) An employer may not terminate the employment of a permanent employee because the employee is required under Section 51.115 to attend a hearing.

(b) An employee whose employment is terminated in violation of this section is entitled to return to the same employment that the employee held when notified of the hearing if the employee, as soon as practical after the hearing, gives the employer actual notice that the employee intends to return.

(c) A person who is injured because of a violation of this section is entitled to reinstatement to the person's former position and to damages, but the damages may not exceed an amount equal to six months' compensation at the rate at which the person was compensated when required to attend the hearing.

(d) The injured person is also entitled to reasonable attorney's fees in an amount approved by the court.

(e) It is a defense to an action brought under this section that the employer's circumstances changed while the employee attended the hearing so that reemployment was impossible or unreasonable. To establish a defense under this subsection, an employer must prove that the termination of employment was because of circumstances other than the employee's attendance at the hearing.

Explanation: The change is made to implement the decision of the conference committee to provide sanctions for employers who terminate the employment of their employees for attending certain hearings as required by other provisions of the bill.

(5) House Rule 13, Section 9(a)(3), is suspended to permit the committee to add text in Section 51.12(c), Family Code, to read as follows:

(c) In each county, the judge of the juvenile court and the members of the juvenile board shall personally inspect the detention facilities and any public or private secure correctional facilities used for post-adjudication confinement that are located in the county and operated under authority of the juvenile board at least annually and shall certify in writing to the authorities responsible for operating and giving financial support to the facilities and to the Texas Juvenile Probation Commission that they are suitable or unsuitable for the detention of children in accordance with:

(1) the requirements of Subsections [Subsection] (a), (f), and (g) [of this section]; and

(2) minimum [the requirements of Subchapter A, Chapter 351, Local Government Code, if the detention facility is a county jail; and

[(3) recognized] professional standards for the detention of children in pre-adjudication or post-adjudication secure confinement [deemed appropriate by the board, which may include minimum standards] promulgated by the Texas Juvenile Probation Commission or, at the election of the juvenile board, the current standards promulgated by the American Correctional Association[- The juvenile board shall annually provide to the Texas Juvenile Probation Commission a copy of the standards used under this section].

Explanation: The change is made to add "current" before the reference to "standards promulgated by the American Correctional Association" to ensure that the most recent standards are used.

(6) House Rule 13, Section 9(a)(4), is suspended to permit the committee to add text in Section 52.041, Family Code, to read as follows:

Sec. 52.041. REFERRAL OF CHILD TO JUVENILE COURT AFTER EXPULSION. (a) A school district that expels a child shall refer the child to juvenile court in the county in which the child resides.

(b) The board of the school district or a person designated by the board shall deliver a copy of the order expelling the student and any other information required by Section 52.04 on or before the second working day after the date of the expulsion hearing to the authorized officer of the juvenile court.

Explanation: The change is made to require school boards to refer any child who is expelled to the juvenile court within certain time limits.

(7) House Rule 13, Section 9(a)(3), is suspended to permit the committee to add text in Section 53.012(a), Family Code, to read as follows:

(a) The prosecuting attorney shall promptly review the circumstances and allegations of a referral made under Section 53.01 for legal sufficiency and the desirability of prosecution and may file a petition without regard to whether probable cause was found under Section 53.01.

Explanation: The change is made to conform the text to other provisions of the bill.

(8) House Rule 13, Sections 9(a)(1) and (3), are suspended to permit the

committee to change and add text in Section 53.03(e), Family Code, to read as follows:

(e) A prosecuting attorney may defer prosecution for any child. A probation officer or other designated officer of the court:

(1) may not defer prosecution for a child for a case that is required to be forwarded to the prosecuting attorney under Section 53.01(d); and

(2) may defer prosecution for a child who has previously been adjudicated for conduct that constitutes a felony only if the prosecuting attorney consents in writing.

Explanation: The change is made to conform the text to other provisions of the bill.

(9) House Rule 13, Section 9(a)(1), is suspended to permit the committee to amend text in Section 53.045(e), Family Code, to read as follows:

(e) The prosecuting attorney may not refer a petition that alleges the child engaged in conduct that violated Section 22.011(a)(2), Penal Code, or Sections 22.021(a)(1)(B) and (2)(B), Penal Code, unless the child is more than three [~~two~~] years older than the victim of the conduct.

Explanation: The change is made to conform to Section 22.011(e), Penal Code.

(10) House Rule 13, Section 9(a)(4), is suspended to permit the committee to add text in Section 54.01(o), Family Code, to read as follows:

(o) The court or referee shall find whether there is probable cause to believe that a child taken into custody without an arrest warrant or a directive to apprehend has engaged in delinquent conduct or conduct indicating a need for supervision. The court or referee must make the finding within 48 hours, including weekends and holidays, of the time the child was taken into custody. The court or referee may make the finding on any reasonably reliable information without regard to admissibility of that information under the Texas Rules of Criminal Evidence. A finding of probable cause is required to detain a child after the 48th hour after the time the child was taken into custody. If a court or referee finds probable cause, additional findings of probable cause are not required in the same cause to authorize further detention.

Explanation: The change is made to clarify procedures relating to the detention of certain children.

(11) House Rule 13, Section 9(a)(4), is suspended to permit the committee to add text in Section 54.02(n), Family Code, to read as follows:

(n) A mandatory transfer under Subsection (m) may be made without conducting the study required in discretionary transfer proceedings by Subsection (d). The requirements of Subsection (b) that the summons state that the purpose of the hearing is to consider discretionary transfer to criminal court does not apply to a transfer proceeding under Subsection (m). In a proceeding under Subsection (m), it is sufficient that the summons provide fair notice that the purpose of the hearing is to consider mandatory transfer to criminal court.

Explanation: The change is made to provide consistent procedures relating to mandatory transfer of a child by the juvenile court.

(12) House Rule 13, Sections 9(a)(1) and (3), are suspended to permit the committee to amend and add text in Section 54.021(d), Family Code, to read as follows:

(d) On a finding by the justice or municipal court that the person [child] has engaged in truant conduct and that the conduct is of a recurrent nature, the court has jurisdiction to [may] enter an order that includes one or more of the following provisions requiring that:

(1) the person [child] attend a preparatory class for the high school equivalency examination provided under Section 11.35, Education Code, if the court determines that the person [child] is too old to do well in a formal classroom environment;

(2) the person [child] attend a special program that the court determines to be in the best interests of the person [child], including an alcohol and drug abuse program;

(3) the person [child] and the person's [child's] parents, managing conservator, or guardian attend a class for students at risk of dropping out of school designed for both the person [child] and the person's [child's] parents, managing conservator, or guardian;

(4) the person [child] complete reasonable community service requirements;

(5) the person's [child's] driver's license be suspended in the manner provided by Section 54.042 of this code;

(6) the person [child] attend school without unexcused absences; or

(7) the person [child] participate in a tutorial program provided by the school attended by the person [child] in the academic subjects in which the person [child] is enrolled for a total number of hours ordered by the court.

Explanation: The words "has jurisdiction to" are added to clarify the extent of the jurisdiction of the juvenile court.

(13) House Rule 13, Section 9(a)(3), is suspended to permit the committee to add text in Section 54.022(e), Family Code, to read as follows:

(e) A justice or municipal court shall endorse on the summons issued to a parent, managing conservator, or a guardian an order to appear personally at the hearing with the child.

Explanation: The words "an order" are added to clarify the meaning of the provision.

(14) House Rule 13, Sections 9(a)(1) and (3), are suspended to permit the committee to add text in Sections 54.06(c) and (e), Family Code, to read as follows:

(c) A court may enforce an order for support under this section by ordering garnishment of the wages of the person ordered to pay support or by any other means available to enforce a child support order under Title 5.

(e) The court shall apply the child support guidelines under Subchapter C, Chapter 154, in an order requiring the payment of child support under this section. The court shall also require in an order to pay child support under this section that health insurance be provided for the child. Subchapter D, Chapter 154, applies to an order requiring health insurance for a child under this section.

Explanation: The changes are made to conform the cross references to the proper provisions of Title 5, Family Code.

(15) House Rule 13, Section 9(a)(1), is suspended to permit the committee to change text in Section 55.02(a), Family Code, to read as follows:

(a) ~~The [If it appears to the juvenile court, on suggestion of a party or on the court's own notice, that a child alleged by petition or found to have engaged in delinquent conduct or conduct indicating a need for supervision may be mentally ill, the] court shall initiate proceedings to order temporary or extended mental health services, as provided in Subchapter C, Chapter 574, Health and Safety Code, for a [hospitalization of the] child alleged or found to have engaged in delinquent conduct or conduct indicating a need for supervision, if:~~

~~(1) on motion by a party or the court it is alleged that the child is mentally ill; or~~

~~(2) a child is found or alleged to be unfit to proceed as a result of mental illness under Section 55.04 of this chapter or is found not responsible for the child's conduct as a result of mental illness under Section 55.05 of this chapter [for observation and treatment].~~

Explanation: The reference to "Chapter 574, Subchapter C" is changed to conform to the form of other references in the Family Code.

(16) House Rule 13, Sections 9(a)(1) and (3), are suspended to permit the committee to change and add text in Sections 55.02(f) and (g), Family Code, to read as follows:

(f) The juvenile court shall transfer all pending proceedings from the juvenile court to a criminal court on the 18th birthday of a child for whom the court has ordered mental health services under this section if:

(1) the child is not discharged or furloughed from the residential care facility before reaching 18 years of age; and

(2) the child is alleged to have engaged in delinquent conduct that included a violation of a penal law listed in Section 53.045.

(g) The juvenile court shall send notification of the transfer of a child under Subsection (f) to the residential care facility. The criminal court shall, within 90 days of the transfer, institute proceedings under Article 46.02, Code of Criminal Procedure. If those or any subsequent proceedings result in a determination that the defendant is competent to stand trial, the defendant may not receive a punishment for the delinquent conduct described by Subsection (f)(2) that results in confinement for a period longer than the maximum period of confinement the defendant could have received if the defendant had been adjudicated for the delinquent conduct while still a child and within the jurisdiction of the juvenile court.

Explanation: The changes and additions are made to clarify procedures relating to the disposition of a child for whom a juvenile court has ordered mental health services on the 18th birthday of the child.

(17) House Rule 13, Sections 9(a)(1) and (3), are suspended to permit the committee to change and add text in Sections 55.03(g) and (h), Family Code, to read as follows:

(g) The juvenile court shall transfer all pending proceedings from the juvenile court to a criminal court on the 18th birthday of a child committed to a residential care facility if:

(1) the child is not discharged or furloughed from the residential care facility before reaching 18 years of age; and

(2) the child is alleged to have engaged in delinquent conduct that included a violation of a penal law listed in Section 53.045.

(h) The juvenile court shall send notification of the transfer of a child under Subsection (g) to the residential care facility. The criminal court shall, within 90 days of the transfer, institute proceedings under Article 46.02, Code of Criminal Procedure. If those or any subsequent proceedings result in a determination that the defendant is competent to stand trial, the defendant may not receive a punishment for the delinquent conduct described by Subsection (g)(2) that results in confinement for a period longer than the maximum period of confinement the defendant could have received if the defendant had been adjudicated for the delinquent conduct while still a child and within the jurisdiction of the juvenile court.

Explanation: The changes and additions are made to clarify procedures relating to the disposition of a child committed to a residential care facility on the 18th birthday of the child.

(18) House Rule 13, Section 9(a)(4), is suspended to permit the committee to add text in proposed Section 58.001, Family Code, to read as follows:

(c) A law enforcement agency may forward information, including photographs and fingerprints, relating to a child who has been detained or taken into custody by the agency to the Department of Public Safety of the State of Texas for inclusion in the juvenile justice information system created under Subchapter B only if the child is referred to juvenile court on or before the 10th day after the date the child is detained or taken into custody. If the child is not referred to juvenile court within that time, the law enforcement agency shall destroy all information, including photographs and fingerprints, relating to the child unless the child is placed in a first offender program under Section 52.031 or on informal disposition under Section 52.03. The law enforcement agency may not forward any information to the Department of Public Safety of the State of Texas relating to the child while the child is in a first offender program under Section 52.031 or on informal disposition under Section 52.03. On successful completion by the child of a first offender program under Section 52.031 or informal disposition under Section 52.03, the law enforcement agency shall destroy all information, including photographs and fingerprints, relating to the child.

Explanation: This change is necessary to clarify the procedures for the collection, transfer, and destruction of records pertaining to children who are detained or taken into custody by a law enforcement agency.

(19) House Rule 13, Section 9(a)(4), is suspended to permit the committee to add text in proposed Section 58.002, Family Code, to read as follows:

(b) On or before December 31 of each year, the head of each municipal or county law enforcement agency located in a county shall certify to the juvenile board for that county that the photographs and fingerprints required to be destroyed under Section 58.001 have been destroyed. The juvenile board shall conduct an audit of the records of the law enforcement agency to verify the destruction of the photographs and fingerprints and the law enforcement agency shall make its records available for this purpose. If the audit shows that the certification provided by the head of the law enforcement agency is false, that person is subject to prosecution for perjury under Chapter 37, Penal Code.

Explanation: This change is necessary to clarify the procedures for the collection, transfer, and destruction of records pertaining to children who are

detained or taken into custody by a law enforcement agency and to require each juvenile board in the county to conduct an audit of law enforcement records for verification purposes.

(20) House Rule 13, Sections 9(a)(2) and (3), are suspended to permit the committee to delete text and to add text in Section 58.003(a), Family Code, to read as follows:

(a) Except as provided by Subsections (b) and (c), on the application of a person who has been found to have engaged in delinquent conduct or conduct indicating a need for supervision, or a person taken into custody to determine whether the person engaged in delinquent conduct or conduct indicating a need for supervision, on the juvenile court's own motion or on receipt of a certification from the Department of Public Safety of the State of Texas that the records of a person are eligible for sealing under this section, the court shall order the sealing of the records in the case if the court finds that:

(1) two years have elapsed since final discharge of the person or since the last official action in the person's case if there was no adjudication; and

(2) since the time specified in Subdivision (1), the person has not been convicted of a felony or a misdemeanor involving moral turpitude or found to have engaged in delinquent conduct or conduct indicating a need for supervision and no proceeding is pending seeking conviction or adjudication.

Explanation: These changes are necessary to authorize the automatic sealing of misdemeanor records of certain children and to refer properly to the name of the Department of Public Safety of the State of Texas.

(21) House Rule 13, Section 9(a)(4), is suspended to permit the committee to add text in Section 58.005(a), Family Code, to read as follows:

(a) Information obtained for the purpose of diagnosis, examination, evaluation, or treatment or for making a referral for treatment of a child by a public or private agency or institution providing supervision of a child by arrangement of the juvenile court or having custody of the child under order of the juvenile court may be disclosed only to:

(1) the professional staff or consultants of the agency or institution;

(2) the judge, probation officers, and professional staff or consultants of the juvenile court;

(3) an attorney for the child;

(4) a governmental agency if the disclosure is required or authorized by law;

(5) a person or entity to whom the child is referred for treatment or services if the agency or institution disclosing the information has entered into a written confidentiality agreement with the person or entity regarding the protection of the disclosed information;

(6) the Texas Department of Criminal Justice and the Texas Juvenile Probation Commission for the purpose of maintaining statistical records of recidivism and for diagnosis and classification; or

(7) with leave of the juvenile court, any other person, agency, or institution having a legitimate interest in the proceeding or in the work of the court.

Explanation: This change is necessary to authorize, with leave of the juvenile court, a person, agency, or institution to obtain confidential information pertaining to a juvenile.

(22) House Rule 13, Section 9(a)(1), is suspended to alter text in Section 58.101(8), Family Code, to read as follows:

(8) "Uniform incident fingerprint card" means a multiple-part form containing a unique incident number with space for information relating to the conduct for which a child has been taken into custody, detained, or referred, the child's fingerprints, and other relevant information.

Explanation: This change replaces "multiple part" with "multiple-part" to provide correct wording.

(23) House Rule 13, Section 9(a)(4), is suspended to permit the committee to add text in Sections 58.104(a) and (f), Family Code, to read as follows:

(a) Subject to Subsection (f), the juvenile justice information system shall consist of information relating to delinquent conduct committed by a juvenile offender that, if the conduct had been committed by an adult, would constitute a criminal offense other than an offense punishable by a fine only, including information relating to:

(1) the juvenile offender;

(2) the intake or referral of the juvenile offender into the juvenile justice system;

(3) the detention of the juvenile offender;

(4) the prosecution of the juvenile offender;

(5) the disposition of the juvenile offender's case, including the name and description of any program to which the juvenile offender is referred; and

(6) the probation or commitment of the juvenile offender.

(f) Records maintained by the department in the depository are subject to being sealed under Section 58.003. The department shall send to the appropriate juvenile court its certification of records that are eligible for sealing under Section 58.003(a).

Explanation: This change is necessary to require the Department of Public Safety of the State of Texas to send juvenile courts certification of records maintained in the juvenile justice system that are eligible for sealing.

(24) House Rule 13, Section 9(a)(4), is suspended to permit the committee to add text in Section 58.106(a), Family Code, to read as follows:

(a) Except as provided by Subsection (b), information contained in the juvenile justice information system is confidential information for the use of the department and may not be disseminated by the department except:

(1) with the permission of the juvenile offender, to military personnel of this state or the United States;

(2) to a person or entity to which the department may grant access to adult criminal history records as provided by Section 411.083, Government Code;

(3) a juvenile justice agency; and

(4) to the Criminal Justice Policy Council, the Texas Youth Commission, and the Texas Juvenile Probation Commission for analytical purposes.

Explanation: This change is necessary to authorize a juvenile justice agency to obtain confidential information contained in the juvenile justice information system.

(25) House Rule 13, Section 9(a)(1), is suspended to alter text in Section 58.109(c), Family Code, to read as follows:

(c) The incident cards must:

(1) be serially numbered with an incident number in a manner that allows each incident of referral of a juvenile offender who is the subject of the incident fingerprint card to be readily ascertained; and

(2) be multiple-part forms that can be transmitted with the juvenile offender through the juvenile justice process and that allow each agency to report required data to the department.

Explanation: This change replaces "multiple part" with "multiple-part" to provide correct wording.

(26) House Rule 13, Section 9(a)(4), is suspended to permit the committee to add text in Section 59.003(a), Family Code, to read as follows:

(a) Subject to Subsection (e), after a child's first commission of delinquent conduct or conduct indicating a need for supervision, the probation department may or the juvenile court may, in a disposition hearing under Section 54.04, assign a child one of the following sanction levels according to the child's conduct:

(1) for conduct indicating a need for supervision, other than a Class A or B misdemeanor, the sanction level is one;

(2) for a Class A or B misdemeanor, other than a misdemeanor involving the use or possession of a firearm, or for delinquent conduct under Section 51.03(a)(2) or (3), the sanction level is two;

(3) for a misdemeanor involving the use or possession of a firearm or for a state jail felony or a felony of the third degree, the sanction level is three;

(4) for a felony of the second degree, the sanction level is four;

(5) for a felony of the first degree, other than a felony involving the use of a deadly weapon or causing serious bodily injury, the sanction level is five;

(6) for a felony of the first degree involving the use of a deadly weapon or causing serious bodily injury or for an aggravated controlled substance felony, the sanction level is six or, if the petition has been approved by a grand jury under Section 53.045, seven; or

(7) for a capital felony, the sanction level is seven.

Explanation: This change is necessary to provide for the availability of progressive sanction level six for a child who commits a felony of the first degree involving the use of a deadly weapon or causing serious bodily injury.

(27) House Rule 13, Sections 9(a)(1), (2), and (3), are suspended to permit the committee to amend, delete, and add text in Section 59.007(a), Family Code, to read as follows:

(a) For a child at sanction level four, the juvenile court may:

(1) require the child to participate as a condition of probation for not less than three months in a highly intensive and regimented program that emphasizes discipline, physical fitness, social responsibility, and productive work;

(2) after release from the program described by Subdivision (1), continue the child on probation supervision for not less than six months or more than 12 months;

(3) require the child to make restitution to the victim of the child's conduct or perform community service restitution appropriate to the nature and degree of harm caused and according to the child's ability;

(4) impose highly structured restrictions on the child's activities and requirements for behavior of the child as conditions of probation;

(5) require a probation officer to closely monitor the child;

(6) require the child or the child's parents or guardians to participate in programs or services designed to address their particular needs and circumstances; and

(7) if appropriate, impose additional sanctions.

Explanation: This change is necessary to authorize a juvenile court to impose certain probationary requirements on a child who is at progressive sanction level four.

(28) House Rule 13, Sections 9(a)(1), (2), and (3), are suspended to permit the committee to amend, delete, and add text in Section 59.008(a) to read as follows:

(a) For a child at sanction level five, the juvenile court may:

(1) require the child to participate as a condition of probation for not less than six months or more than nine months in a highly structured residential program that emphasizes discipline, accountability, physical fitness, and productive work;

(2) after release from the program described by Subdivision (1), continue the child on probation supervision for not less than six months or more than 12 months;

(3) require the child to make restitution to the victim of the child's conduct or perform community service restitution appropriate to the nature and degree of harm caused and according to the child's ability;

(4) impose highly structured restrictions on the child's activities and requirements for behavior of the child as conditions of probation;

(5) require a probation officer to closely monitor the child;

(6) require the child or the child's parents or guardians to participate in programs or services designed to address their particular needs and circumstances; and

(7) if appropriate, impose additional sanctions.

Explanation: This change is necessary to authorize a juvenile court to impose certain probationary requirements on a child who is at progressive sanction level five.

(29) House Rule 13, Sections 9(a)(1), (2), and (3), are suspended to permit the committee to amend, delete, and add text in Sections 59.009(a) and (b), Family Code, to read as follows:

(a) For a child at sanction level six, the juvenile court shall commit the child to the custody of the Texas Youth Commission. The commission may:

(1) require the child to participate in a highly structured residential program that emphasizes discipline, accountability, fitness, training, and productive work for not less than nine months or more than 24 months unless the commission extends the period and the reason for an extension is documented;

(2) require the child to make restitution to the victim of the child's conduct or perform community service restitution appropriate to the nature and degree of the harm caused and according to the child's ability, if there is a victim of the child's conduct;

(3) require the child and the child's parents or guardians to participate in programs and services for their particular needs and circumstances; and

(4) if appropriate, impose additional sanctions.

(b) On release of the child under supervision, the Texas Youth Commission parole programs may:

(1) impose highly structured restrictions on the child's activities and requirements for behavior of the child as conditions of release under supervision;

(2) require a parole officer to closely monitor the child for not less than six months; and

(3) if appropriate, impose any other conditions of supervision.

Explanation: This change is necessary to clarify the dispositional authority of the juvenile court over a child who is at progressive sanction level six and to establish guidelines for release of the child on parole by the Texas Youth Commission.

(30) House Rule 13, Section 9(a)(4), is suspended to permit the committee to add text in Section 61.079, Human Resources Code, to read as follows:

(c) If a child is released under supervision, a determination under Section 61.075(4) revoking the child's release under supervision is required before referral of the child to the juvenile court under Subsection (a).

Explanation: This change is necessary to require the Texas Youth Commission to revoke a child's release under supervision before the commission may refer that child to juvenile court for transfer to the institutional division of the Texas Department of Criminal Justice for completion of the child's determinate sentence.

(31) House Rule 13, Section 9(a)(4), is suspended to permit the committee to add text in Section 61.084, Human Resources Code, to read as follows:

(f) The commission shall transfer a person who has been sentenced under a determinate sentence to commitment under Section 54.04(d)(3), 54.04(m), or 54.05(f), Family Code, or who has been returned to the commission under Section 54.11(i)(1), Family Code, to the custody of the pardons and paroles division of the Texas Department of Criminal Justice to serve the remainder of the person's sentence on parole as provided by Section 29, Article 42.18, Code of Criminal Procedure, when the person is released under supervision after becoming 19 years of age.

(g)

Explanation: This change is necessary to provide for the transfer of a person sentenced under a determinate sentence who is released under supervision after becoming 19 years of age to the pardons and paroles division of the Texas Department of Criminal Justice.

(32) House Rule 13, Sections 9(a)(1), (2), and (3), are suspended to amend, delete, and add text in Section 29(a), Article 42.18, Code of Criminal Procedure, to read as follows:

(a) Not later than the 90th day before the date the Texas Youth Commission transfers a person to the custody of the pardons and paroles division for release on parole under Section 61.081(f) or Section 61.084(f) or (g), Human Resources Code, the commission shall submit to the department all pertinent information relating to the person, including:

- (1) the juvenile court judgment;
- (2) the circumstances of the person's offense;
- (3) the person's previous social history and juvenile court records;
- (4) the person's physical and mental health record;
- (5) a record of the person's conduct, employment history, and attitude while committed to the commission;
- (6) a record of the sentence time served by the person at the commission and in a juvenile detention facility in connection with the conduct for which the person was adjudicated; and
- (7) any written comments or information provided by the commission, local officials, or victims of the offense.

Explanation: This change adds a cross reference to Section 61.081(f) and Section 61.084(f), Human Resources Code, to provide for all circumstances for release on adult parole.

(33) House Rule 13, Section 9(a)(2), is suspended to permit the committee to omit text not in disagreement in Sections 21.3011(a), (b), (c), and (g), Education Code. The omitted text reads as follows:

(a) In this section, "expulsion" means suspension of a student from school for more than six school days within a semester and referral to the juvenile court. The term does not include removal of a student to an alternative education program.

(b) A student may be removed from class and expelled with a referral to the juvenile court without resort to an alternative education program under Section 21.301 of this code if the student, on school property or while attending a school-sponsored or school-related activity on or off of school property:

- (1) assaults a teacher or other individual;
- (2) sells, gives, or delivers to another person or possesses or uses or is under the influence of:

(A) marihuana or a controlled substance, as defined by Chapter 481, Health and Safety Code, or by 21 U.S.C. Section 801 et seq.; or

(B) a dangerous drug, as defined by Chapter 483, Health and Safety Code;

(3) sells, gives, or delivers to another person an alcoholic beverage, as defined by Section 1.04, Alcoholic Beverage Code, or commits a serious act or offense while under the influence of alcohol; or on more than one occasion possesses, uses, or is under the influence of an alcoholic beverage;

(4) possesses a firearm as defined by Section 46.01(3), Penal Code, an illegal knife as defined by Section 46.01(6), Penal Code, a club as defined by Section 46.01(1), Penal Code, or a weapon listed as a prohibited weapon under Section 46.06, Penal Code;

(5) engages in conduct that contains the elements of an offense relating to abusable glue or aerosol paint under Sections 485.031 through 485.035, Health and Safety Code, or relating to volatile chemicals under Chapter 484, Health and Safety Code;

(6) engages in conduct that contains the elements of the offense of arson under Section 28.02, Penal Code;

(7) engages in conduct that contains the elements of the offense of criminal mischief under Section 28.03, Penal Code, if the offense is punishable as a felony under that section; or

(8) engages in conduct that contains the elements of the offense of public lewdness under Section 21.07, Penal Code.

(c) A student who, after having been placed in an alternative education program under Section 21.301 of this code, continues to engage in serious or persistent misbehavior that violates the district's previously communicated written standards of student conduct may be removed from class and expelled with a referral to juvenile court.

(g) The board or its designee shall deliver a copy of the order expelling the student to the student and the student's parent or guardian. The board or its designee shall also deliver on or before the second working day after the date of the expulsion hearing a copy of the order and any other information required by Section 52.04, Family Code, to the authorized officer of the juvenile court in the county in which the student resides. The officer shall determine whether:

(1) a petition should be filed alleging that the student is in need of supervision or engaged in delinquent conduct; or

(2) the student should be referred to an appropriate state agency.

Explanation: This change is necessary because the substance of the text not in disagreement was added to the bill in Section 52.041, Family Code.

(34) House Rule 13, Section 9(a)(4), is suspended to permit the committee to add text to the chapter heading of Chapter 370, Local Government Code, to read as follows:

CHAPTER 370. MISCELLANEOUS PROVISIONS RELATING TO
MUNICIPAL AND COUNTY HEALTH AND PUBLIC SAFETY

Explanation: This change is necessary to expand the chapter to include provisions relating to public safety.

(35) House Rule 13, Section 9(a)(4), is suspended to permit the committee to add text in Section 370.002, Local Government Code, to read as follows:

Sec. 370.002. REVIEW OF JUVENILE CURFEW ORDER OR ORDINANCE. (a) Before the third anniversary of the date of adoption of a juvenile curfew ordinance by a general-law municipality or a home-rule municipality or an order of a county commissioners court, and every third year thereafter, the governing body of the general-law municipality or home-rule municipality or the commissioners court of the county shall:

(1) review the ordinance or order's effects on the community and on problems the ordinance or order was intended to remedy;

(2) conduct public hearings on the need to continue the ordinance or order; and

(3) abolish, continue, or modify the ordinance or order.

(b) Failure to act in accordance with Subsections (a)(1)-(3) shall cause the ordinance or order to expire.

Explanation: This change is necessary to provide for the review of a juvenile curfew ordinance or order.

(36) House Rule 13, Section 9(a)(3), is suspended to add text in Section 104(b) of the bill to read as follows:

(b) For purposes of Subsection (a) of this section, conduct violating the penal law of this state occurs before January 1, 1996, only if every element of the violation occurs before that date.

Explanation: A change in Subsection (b) adds a cross reference to Subsection (a) for clarification purposes.

(37) House Rule 13, Section 9(a)(4), is suspended to permit the committee to add text in Sections 105(d) and (e) of the bill to read as follows:

(d) If H.B. No. 466, Acts of the 74th Legislature, Regular Session, 1995, is enacted after the date of enactment of this Act and if H.B. No. 466 becomes law, Section 58.004, Family Code, as included in Chapter 58, Family Code, as added by this Act, does not take effect.

(e) If H.B. No. 466, Acts of the 74th Legislature, Regular Session, 1995, is enacted after the date of enactment of this Act, if H.B. No. 466 becomes law, and if H.B. No. 466 is invalidated by a court judgment that becomes final, effective on the date the judgment becomes final, Subchapter A, Chapter 58, Family Code, as added by this Act, is amended by adding Section 58.004 to read as follows:

Sec. 58.004. COMPILATION OF INFORMATION PERTAINING TO A CRIMINAL COMBINATION. A local criminal justice agency may compile criminal information into a local system for the purpose of investigating or prosecuting the criminal activities of criminal combinations. Criminal information relating to a child associated with a combination, utilizing the meaning assigned by Section 71.01, Penal Code, may be compiled and released to other local, state, or federal criminal justice agencies and any court having jurisdiction over a child, regardless of the age of the child. The information may be compiled on paper, by photographs, by computer, or in any other useful manner.

Explanation: This change is necessary to provide for the compilation of information pertaining to a criminal combination as provided by H.B. No. 466, Acts of the 74th Legislature, Regular Session, 1995, if the bill is enacted after the date of enactment of H.B. No. 327, becomes law, and is not invalidated by a court judgment.

(38) House Rule 13, Section 9(a)(3), is suspended to permit the committee to add text in Sections 105(a), (b), and (c), and Sections 106 and 108 of the bill, to read as follows:

SECTION 105. (a) Except as provided by this section, this Act takes effect January 1, 1996.

(b) Section 99 of this Act takes effect September 1, 1995.

(c) The following take effect immediately:

(1) Section 52.028, Family Code, as added by this Act;

(2) Sections 341.904, 351.903, and 370.002, Local Government Code, as added by this Act;

(3) the chapter heading of Chapter 370, Local Government Code, as amended by this Act;

(4) Chapter 55, Family Code, as amended by this Act; and

(5) Section 61.077, Human Resources Code, as amended by this Act.

SECTION 106. (a) Except as provided by Subsection (b) of this section, this Act applies only to conduct that occurs on or after January 1, 1996. Conduct violating a penal law of this state occurs on or after January 1, 1996, if every element of the violation occurs on or after that date. Conduct that occurs before January 1, 1996, is governed by the law in effect at the time the conduct occurred, and that law is continued in effect for that purpose.

(b) Chapter 55, Family Code, as amended by this Act, applies only to conduct that occurs on or after the effective date of that chapter. Conduct violating a penal law of this state occurs on or after that date if every element of the violation occurs on or after that date. Conduct that occurs before the effective date of that chapter is governed by the law in effect at the time the conduct occurred, and that law is continued in effect for that purpose.

SECTION 108. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force according to its terms, and it is so enacted.

Explanation: This change is necessary to provide for a September 1, 1995, effective date or an immediate effective date for certain amendments made by this Act.

The resolution was adopted without objection.

HR 1114 - ADOPTED

Representative Carter moved to suspend all necessary rules to take up and consider at this time **HR 1114**.

The motion prevailed without objection.

The speaker laid before the house the following resolution:

By Carter,

HR 1114, Congratulating Mary Boyd on receiving the International Disaster Recovery Association's 1995 Achievement Award.

The resolution was read and was adopted without objection.

HB 327 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Goodman submitted the following conference committee report on **HB 327**:

Austin, Texas, May 23, 1995

Honorable Bob Bullock
President of the Senate

Honorable Pete Laney
Speaker of the House of Representatives

Sirs: We, your conference committee, appointed to adjust the differences between the Senate and the House of Representatives on **HB 327** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Harris

West

Madla

Brown

Montford

On the part of the Senate

Goodman

Place

Hightower

Van de Putte

De La Garza

On the part of the House

HB 327, A bill to be entitled An Act relating to the juvenile justice system, including the adjudication and disposition of children; providing for civil and criminal penalties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. The heading to Title 3, Family Code, is amended to read as follows:

TITLE 3. JUVENILE JUSTICE CODE [~~DELINQUENT CHILDREN AND CHILDREN IN NEED OF SUPERVISION~~]

SECTION 2. Section 51.01, Family Code, is amended to read as follows:

Sec. 51.01. PURPOSE AND INTERPRETATION. This title shall be construed to effectuate the following public purposes:

(1) to provide for the protection of the public and public safety;

(2) consistent with the protection of the public and public safety:

(A) to promote the concept of punishment for criminal acts;

(B) to remove, where appropriate, the taint of criminality from children committing certain unlawful acts; and

(C) to provide treatment, training, and rehabilitation that emphasizes the accountability and responsibility of both the parent and the child for the child's conduct;

(3) to provide for the care, the protection, and the wholesome moral, mental, and physical development of children coming within its provisions;

(4) [~~2~~] to protect the welfare of the community and to control the commission of unlawful acts by children;

(5) [~~3~~] consistent with the protection of the public interest, to remove from children committing unlawful acts the taint of criminality and the consequences of criminal behavior and to substitute a program of treatment, training, and rehabilitation;

[~~4~~] to achieve the foregoing purposes in a family environment whenever possible, separating the child from the child's [~~his~~] parents only when necessary for the child's [~~his~~] welfare or in the interest of public safety and when a child is removed from the child's [~~his~~] family, to give the child [~~him~~] the care that should be provided by parents; and

(6) [~~5~~] to provide a simple judicial procedure through which the provisions of this title are executed and enforced and in which the parties are assured a fair hearing and their constitutional and other legal rights recognized and enforced.

SECTION 3. Section 51.02, Family Code, is amended to read as follows:

Sec. 51.02. DEFINITIONS. In this title:

(1) "Aggravated controlled substance felony" means an offense under Subchapter D, Chapter 481, Health and Safety Code, that is punishable by:

(A) a minimum term of confinement that is longer than the minimum term of confinement for a felony of the first degree; or

(B) a maximum fine that is greater than the maximum fine for a felony of the first degree.

(2) [~~1~~] "Child" means a person who is:

(A) ten years of age or older and under 17 years of age; or

(B) seventeen years of age or older and under 18 years of age who is alleged or found to have engaged in delinquent conduct or conduct

indicating a need for supervision as a result of acts committed before becoming 17 years of age.

(3) [~~(4)~~] "Custodian" means the adult with whom the child resides.

(4) [~~(3)~~] "Guardian" means the person who, under court order, is the guardian of the person of the child or the public or private agency with whom the child has been placed by a court.

(5) [~~(6)~~] "Judge" or "juvenile court judge" means the judge of a juvenile court.

(6) [~~(5)~~] "Juvenile court" means a court designated under Section 51.04 of this code to exercise jurisdiction over proceedings under this title.

(7) [~~(8)~~] "Law-enforcement officer" means a peace officer as defined by Article 2.12, [Texas] Code of Criminal Procedure.

(8) "Nonoffender" means a child who:

(A) is subject to jurisdiction of a court under abuse, dependency, or neglect statutes under Title 5 for reasons other than legally prohibited conduct of the child; or

(B) has been taken into custody and is being held solely for deportation out of the United States.

(9) [~~(2)~~] "Parent" means the mother, the father whether or not the child is legitimate, or an adoptive parent, but does not include a parent whose parental rights have been terminated.

(10) "Party" means the state, a child who is the subject of proceedings under this subtitle, or the child's parent, spouse, guardian, or guardian ad litem.

(11) [~~(7)~~] "Prosecuting attorney" means the county attorney, district attorney, or other attorney who regularly serves in a prosecutory capacity in a juvenile court.

(12) "Referral to juvenile court" means the referral of a child or a child's case to the office or official, including an intake officer or probation officer, designated by the juvenile court to process children within the juvenile justice system.

(13) "Secure correctional facility" means any public or private residential facility, including an alcohol or other drug treatment facility, that:

(A) includes construction fixtures designed to physically restrict the movements and activities of juveniles or other individuals held in lawful custody in the facility; and

(B) is used for the placement of any juvenile who has been adjudicated as having committed an offense, any nonoffender, or any other individual convicted of a criminal offense.

(14) "Secure detention facility" means any public or private residential facility that:

(A) includes construction fixtures designed to physically restrict the movements and activities of juveniles or other individuals held in lawful custody in the facility; and

(B) is used for the temporary placement of any juvenile who is accused of having committed an offense, any nonoffender, or any other individual accused of having committed a criminal offense.

(15) "Status offender" means a child who is accused, adjudicated, or convicted for conduct that would not, under state law, be a crime if committed by an adult, including:

(A) truancy under Section 51.03(b)(2);

(B) running away from home under Section 51.03(b)(3);

(C) a fineable only offense under Section 51.03(b)(1) transferred to the juvenile court under Section 51.08(b), but only if the conduct constituting the offense would not have been criminal if engaged in by an adult;

(D) failure to attend school under Section 4.251, Education

Code;

(E) a violation of standards of student conduct as described by Section 51.03(b)(6);

(F) a violation of a juvenile curfew ordinance or order;

(G) a violation of a provision of the Alcoholic Beverage Code applicable to minors only; or

(H) a violation of any other fineable only offense under Section 8.07(a)(4) or (5), Penal Code, but only if the conduct constituting the offense would not have been criminal if engaged in by an adult.

(16) [(9)] "Traffic offense" means:

(A) a violation of a penal statute cognizable under Chapter 302, Acts of the 55th Legislature, Regular Session, 1957, as amended (Article 67011-4 [802e], Vernon's Texas Civil Statutes [Penal Code]); or

(B) a violation of a motor vehicle traffic ordinance of an incorporated city or town in this state.

(17) "Valid court order" means a court order entered under Section 54.04 concerning a child adjudicated to have engaged in conduct indicating a need for supervision as a status offender.

SECTION 4. Sections 51.03(a) and (b), Family Code, are amended to read as follows:

(a) Delinquent conduct is:

(1) conduct, other than a traffic offense, that violates a penal law of this state or of the United States punishable by imprisonment or by confinement in jail;

(2) conduct that violates a reasonable and lawful order of a juvenile court entered under Section 54.04 or 54.05 of this code, except an order prohibiting the following conduct:

(A) a violation of the penal laws of this state of the grade of misdemeanor that is punishable by fine only or a violation of the penal ordinances of any political subdivision of this state;

(B) the unexcused voluntary absence of a child from school;

or

(C) the voluntary absence of a child from his home without the consent of his parent or guardian for a substantial length of time or without intent to return; [or]

(3) conduct that violates a lawful order of a municipal court or justice court under circumstances that would constitute contempt of that court; or

(4) conduct that violates the laws of this state prohibiting driving while intoxicated or under the influence of intoxicating liquor (third or subsequent offense) or driving while under the influence of any narcotic drug or of any other drug to the degree that renders the child incapable of safely driving a vehicle (third or subsequent offense).

(b) Conduct indicating a need for supervision is:

(1) subject to Subsection (f) of this section, conduct, other than a traffic offense, that violates:

(A) the penal laws of this state of the grade of misdemeanor that are punishable by fine only; or

(B) the penal ordinances of any political subdivision of this state;

(2) the unexcused voluntary absence of a child on 10 or more days or parts of days within a six-month period or three or more days or parts of days within a four-week period from school without the consent of his parents;

(3) the voluntary absence of a child from his home without the consent of his parent or guardian for a substantial length of time or without intent to return;

(4) conduct which violates the laws of this state prohibiting driving while intoxicated or under the influence of intoxicating liquor (first or second offense) or driving while under the influence of any narcotic drug or of any other drug to a degree which renders him incapable of safely driving a vehicle (first or second offense); [or]

(5) conduct prohibited by city ordinance or by state law involving the inhalation of the fumes or vapors of paint and other protective coatings or glue and other adhesives and the volatile chemicals itemized in Section 484.002, Health and Safety Code;

(6) an act that violates a school district's previously communicated written standards of student conduct for which the child has been expelled under Section 21.3011, Education Code; or

(7) conduct that violates a reasonable and lawful order of a court entered under Section 264.305.

SECTION 5. Chapter 51, Family Code, is amended by adding Section 51.031 to read as follows:

Sec. 51.031. HABITUAL FELONY CONDUCT. Habitual felony conduct is conduct violating a penal law of the grade of felony, other than a state jail felony, if:

(1) the child who engaged in the conduct has at least two previous adjudications as having engaged in delinquent conduct violating a penal law of the grade of felony; and

(2) the second previous adjudication is for conduct that occurred after the date the first previous adjudication became final.

SECTION 6. Chapter 51, Family Code, is amended by adding Sections 51.041 and 51.042 to read as follows:

Sec. 51.041. JURISDICTION AFTER APPEAL. The court retains jurisdiction over a person, without regard to the age of the person, for conduct engaged in by the person before becoming 17 years of age if, as a result of an appeal by the person under Chapter 56 of an order of the court, the order is reversed or modified and the case remanded to the court by the appellate court.

Sec. 51.042. OBJECTION TO JURISDICTION BECAUSE OF AGE OF THE CHILD. (a) A child who objects to the jurisdiction of the court over the child because of the age of the child must raise the objection at the adjudication hearing or discretionary transfer hearing, if any.

(b) A child who does not object as provided by Subsection (a) waives any right to object to the jurisdiction of the court because of the age of the child at a later hearing or on appeal.

SECTION 7. Section 51.06(b), Family Code, is amended to read as follows:

(b) An application for a writ of habeas corpus brought by or on behalf of a person [child] who has been committed to an institution under the jurisdiction of the Texas Youth Commission and which attacks the validity of the judgment of commitment shall be brought in the county in which the court that entered the judgment of commitment is located.

SECTION 8. Section 51.09(b), Family Code, as amended by Chapters 429 and 593, Acts of the 72nd Legislature, Regular Session, 1991, is conformed to Chapter 557, Acts of the 72nd Legislature, Regular Session, 1991, and amended to read as follows:

(b) Notwithstanding any of the provisions of Subsection (a) of this section, the statement of a child is admissible in evidence in any future proceeding concerning the matter about which the statement was given if:

(1) when the child is in a detention facility or other place of confinement or in the custody of an officer, the statement is made in writing and the statement shows that the child has at some time prior to the making thereof received from a magistrate a warning that:

(A) the child may remain silent and not make any statement at all and that any statement that the child makes may be used in evidence against the child;

(B) the child has the right to have an attorney present to advise the child either prior to any questioning or during the questioning;

(C) if the child is unable to employ an attorney, the child has the right to have an attorney appointed to counsel with the child prior to or during any interviews with peace officers or attorneys representing the state;

(D) the child has the right to terminate the interview at any time;

(E) if the child is 14 [15] years of age or older at the time of the violation of a penal law of the grade of capital felony, aggravated controlled substance felony, or felony of the first degree, or is 15 years of age or older at the time of the violation of a penal law of the grade of felony of the second or third degree or a state jail felony, the juvenile court may waive its jurisdiction and the child may be tried as an adult, except that if the child has previously been transferred to a district court or criminal district court for criminal proceedings and has violated a penal law of the grade of felony, the juvenile court is required to waive its jurisdiction and the child can be tried as an adult;

(F) the child may be sentenced to commitment in the Texas Youth Commission with a possible transfer to the institutional division or the pardons and paroles division of the Texas Department of Criminal Justice for a maximum term of [not to exceed] 40 years for a capital felony, felony of the first degree, or aggravated controlled substance felony, 20 years for a felony of the second degree, or 10 years for a felony of the third degree if the child is found to have engaged in habitual felony conduct by violating a penal law

of the grade of felony, other than a state jail felony, if the child has at least two previous adjudications as having engaged in delinquent conduct violating a penal law of the grade of felony and the second previous adjudication is for conduct that occurred after the date the first previous adjudication became final, alleged in a petition approved by a grand jury, or if the child is found to have engaged in delinquent conduct, alleged in a petition approved by a grand jury, that included:

- (i) murder;
- (ii) capital murder;
- (iii) aggravated kidnapping;
- (iv) sexual assault or aggravated sexual assault;
- (v) aggravated robbery;
- (vi) aggravated assault [~~deadly assault on a law~~

~~enforcement officer, corrections officer, court participant, or probation personnel]; [or]~~

(vii) injury to a child, elderly individual, or disabled individual that is punishable as a felony, other than a state jail felony, under Section 22.04, Penal Code;

(viii) deadly conduct defined by Section 22.05(b), Penal Code (discharging firearm at persons or certain objects);

(ix) an offense that is a felony of the first degree or an aggravated controlled substance felony under Subchapter D, Chapter 481, Health and Safety Code (certain offenses involving controlled substances);

(x) criminal solicitation;

(xi) indecency with a child that is punishable under Section 21.11(a)(1), Penal Code;

(xii) criminal solicitation of a minor (Section 15.031, Penal Code); or

(xiii) criminal attempt to commit any of the offenses listed in Section 3g(a)(1), Article 42.12, Code of Criminal Procedure, which include murder, capital murder, indecency with a child, aggravated kidnapping, aggravated sexual assault, and aggravated robbery [(vi) attempted capital murder]; and

(G) the statement must be signed in the presence of a magistrate by the child with no law enforcement officer or prosecuting attorney present, except that a magistrate may require a bailiff or a law enforcement officer if a bailiff is not available to be present if the magistrate determines that the presence of the bailiff or law enforcement officer is necessary for the personal safety of the magistrate or other court personnel, provided that the bailiff or law enforcement officer may not carry a weapon in the presence of the child. The magistrate must be fully convinced that the child understands the nature and contents of the statement and that the child is signing the same voluntarily. If such a statement is taken, the magistrate shall sign a written statement verifying the foregoing requisites have been met.

The child must knowingly, intelligently, and voluntarily waive these rights prior to and during the making of the statement and sign the statement in the presence of a magistrate who must certify that he has examined the child independent of any law enforcement officer or prosecuting attorney, except as

required to ensure the personal safety of the magistrate or other court personnel, and has determined that the child understands the nature and contents of the statement and has knowingly, intelligently, and voluntarily waived these rights.

(2) it be made orally and the child makes a statement of facts or circumstances that are found to be true, which conduct tends to establish his guilt, such as the finding of secreted or stolen property, or the instrument with which he states the offense was committed.

(3) the statement was res gestae of the delinquent conduct or the conduct indicating a need for supervision or of the arrest.

SECTION 9. Section 51.09(c), Family Code, as amended by Chapters 429 and 557, Acts of the 72nd Legislature, Regular Session, 1991, is reenacted and amended to read as follows:

(c) A warning under Subsection (b)(1)(E) or ~~[Subsection] (b)(1)(F) [of this section]~~ is required only when applicable to the facts of the case. A failure to warn a child under Subsection (b)(1)(E) ~~[of this section]~~ does not render a statement made by the child inadmissible unless the child is transferred to a ~~[criminal]~~ district court under Section 54.02 ~~[of this code]~~. A failure to warn a child under Subsection (b)(1)(F) ~~[of this section]~~ does not render a statement made by the child inadmissible unless the state proceeds against the child on a petition approved by a grand jury under Section 53.045 ~~[of this code]~~.

SECTION 10. Chapter 51, Family Code, is amended by adding Sections 51.115 and 51.116 to read as follows:

Sec. 51.115. ATTENDANCE AT HEARING: PARENT OR OTHER GUARDIAN. (a) Each parent of a child, each managing and possessory conservator of a child, each court-appointed custodian of a child, and a guardian of the person of the child shall attend each hearing affecting the child held under:

(1) Section 54.02 (waiver of jurisdiction and discretionary transfer to criminal court);

(2) Section 54.03 (adjudication hearing);

(3) Section 54.04 (disposition hearing);

(4) Section 54.05 (hearing to modify disposition); and

(5) Section 54.11 (release or transfer hearing).

(b) Subsection (a) does not apply to:

(1) a person for whom, for good cause shown, the court waives attendance;

(2) a person who is not a resident of this state; or

(3) a parent of a child for whom a managing conservator has been appointed and the parent is not a conservator of the child.

(c) A person required under this section to attend a hearing is entitled to reasonable written or oral notice that includes a statement of the place, date, and time of the hearing and that the attendance of the person is required. The notice may be included with or attached to any other notice required by this chapter to be given the person. Separate notice is not required for a disposition hearing that convenes on the adjournment of an adjudication hearing. If a person required under this section fails to attend a hearing, the juvenile court may proceed with the hearing.

(d) A person who is required by Subsection (a) to attend a hearing, who receives the notice of the hearing, and who fails to attend the hearing may be

punished by the court for contempt by a fine of not less than \$100 and not more than \$1,000. In addition to or in lieu of contempt, the court may order the person to receive counseling or to attend an educational course on the duties and responsibilities of parents and skills and techniques in raising children.

Sec. 51.116. RIGHT TO REEMPLOYMENT. (a) An employer may not terminate the employment of a permanent employee because the employee is required under Section 51.115 to attend a hearing.

(b) An employee whose employment is terminated in violation of this section is entitled to return to the same employment that the employee held when notified of the hearing if the employee, as soon as practical after the hearing, gives the employer actual notice that the employee intends to return.

(c) A person who is injured because of a violation of this section is entitled to reinstatement to the person's former position and to damages, but the damages may not exceed an amount equal to six months' compensation at the rate at which the person was compensated when required to attend the hearing.

(d) The injured person is also entitled to reasonable attorney's fees in an amount approved by the court.

(e) It is a defense to an action brought under this section that the employer's circumstances changed while the employee attended the hearing so that reemployment was impossible or unreasonable. To establish a defense under this subsection, an employer must prove that the termination of employment was because of circumstances other than the employee's attendance at the hearing.

SECTION 11. Section 51.10(c), Family Code, is amended to read as follows:

(c) If the child was not represented by an attorney at the detention hearing required by Section 54.01 of this code and a determination was made to detain the child, the child shall immediately be entitled to representation by an attorney. The court shall [~~may~~] order the retention of an attorney according to Subsection (d) [~~Section 51.10(d) of this code~~] or appoint an attorney according to Subsection (f) [~~Section 51.10(f) of this code~~].

SECTION 12. Section 51.12, Family Code, is amended by amending Subsections (a) and (c) and adding Subsections (f), (g), and (h) to read as follows:

(a) Except as provided by Subsection (h) [~~after transfer to criminal court for prosecution under Section 54.02 of this code~~], a child may [~~shall not~~] be detained only in a:

(1) juvenile processing office in compliance with Section 52.025;
 (2) place of nonsecure custody in compliance with Section 52.027; or
 (3) certified juvenile detention facility that complies with the requirements of Subsection (f) [~~in or committed to a compartment of a jail or lockup in which adults arrested for, charged with, or convicted of crime are detained or committed, nor be permitted contact with such persons~~].

(c) In each county, the judge of the juvenile court and the members of the juvenile board shall personally inspect the detention facilities and any public or private secure correctional facilities used for post-adjudication confinement that are located in the county and operated under authority of the juvenile board at least annually and shall certify in writing to the authorities responsible for

operating and giving financial support to the facilities and to the Texas Juvenile Probation Commission that they are suitable or unsuitable for the detention of children in accordance with:

(1) the requirements of Subsections [Subsection] (a), (f), and (g) [of this section]; and

(2) minimum [the requirements of Subchapter A, Chapter 351, Local Government Code, if the detention facility is a county jail; and

[~~(3) recognized~~] professional standards for the detention of children in pre-adjudication or post-adjudication secure confinement [deemed appropriate by the board, which may include minimum standards] promulgated by the Texas Juvenile Probation Commission or, at the election of the juvenile board, the current standards promulgated by the American Correctional Association[. The juvenile board shall annually provide to the Texas Juvenile Probation Commission a copy of the standards used under this section].

(f) A child detained in a building that contains a jail, lockup, or other place of secure confinement, including an alcohol or other drug treatment facility, shall be separated by sight and sound from adults detained in the same building. Children and adults are separated by sight and sound only if they are unable to see each other and conversation between them is not possible. The separation must extend to all areas of the facility, including sally ports and passageways, and those areas used for admission, counseling, sleeping, toileting, showering, dining, recreational, educational, or vocational activities, and health care. The separation may be accomplished through architectural design.

(g) Except for a child detained in a juvenile processing office or a place of nonsecure custody, a child detained in a building that contains a jail or lockup may not have any contact with:

(1) part-time or full-time security staff, including management, who have contact with adults detained in the same building; or

(2) direct-care staff who have contact with adults detained in the same building.

(h) This section does not apply to a person:

(1) after transfer to criminal court for prosecution under Section 54.02;
or

(2) who is at least 18 years of age and who has been taken into custody after having:

(A) escaped from a juvenile facility; or

(B) violated a condition of probation or of release under supervision of the Texas Youth Commission.

SECTION 13. Section 51.13, Family Code, is amended by amending Subsection (a) and adding Subsection (d) to read as follows:

(a) Except as provided by Subsection (d), an [An] order of adjudication or disposition in a proceeding under this title is not a conviction of crime, and does not impose any civil disability ordinarily resulting from a conviction or operate to disqualify the child in any civil service application or appointment.

(d) An adjudication under Section 54.03 that a child engaged in conduct that constitutes a felony offense resulting in commitment to the Texas Youth Commission under Section 54.04(d)(2), (d)(3), or (m) or 54.05(f) is a final felony conviction only for the purposes of Sections 12.42(a)-(c) and (e), Penal Code.

SECTION 14. Section 51.17, Family Code, is amended to read as follows:

Sec. 51.17. PROCEDURE AND EVIDENCE. (a) Except for the burden of proof to be borne by the state in adjudicating a child to be delinquent or in need of supervision under Section 54.03(f) or otherwise when in conflict with a provision of this title, the Texas Rules of Civil Procedure govern proceedings under this title. [Particular reference is made to the burden of proof to be borne by the state in adjudicating a child to be delinquent or in need of supervision [Section 54.03(f)]:]

(b) Discovery in a proceeding under this title is governed by the Code of Criminal Procedure and by case decisions in criminal cases.

(c) Except as otherwise provided by this title, the Texas Rules of Criminal Evidence and Chapter 38, Code of Criminal Procedure, apply in a judicial proceeding under this title.

SECTION 15. Section 52.01(a), Family Code, is amended to read as follows:

(a) A child may be taken into custody:

(1) pursuant to an order of the juvenile court under the provisions of this subtitle;

(2) pursuant to the laws of arrest;

(3) by a law-enforcement officer, including a school district peace officer commissioned under Section 21.483, Education Code, if there is probable cause [~~are reasonable grounds~~] to believe that the child has engaged in:

(A) conduct that violates a penal law of this state or a penal ordinance of any political subdivision of this state; or

(B) delinquent conduct or conduct indicating a need for supervision; [or]

(4) by a probation officer if there is probable cause [~~are reasonable grounds~~] to believe that the child has violated a condition of probation imposed by the juvenile court; or

(5) pursuant to a directive to apprehend issued as provided by Section 52.015.

SECTION 16. Chapter 52, Family Code, is amended by adding Section 52.015 to read as follows:

Sec. 52.015. DIRECTIVE TO APPREHEND. (a) On the request of a law-enforcement or probation officer, a juvenile court may issue a directive to apprehend a child if the court finds there is probable cause to take the child into custody under the provisions of this title.

(b) On the issuance of a directive to apprehend, any law-enforcement or probation officer shall take the child into custody.

(c) An order under this section is not subject to appeal.

SECTION 17. Chapter 52, Family Code, is amended by adding Sections 52.027 and 52.028 to read as follows:

Sec. 52.027. CHILDREN TAKEN INTO CUSTODY FOR TRAFFIC OFFENSES, OTHER FINEABLE ONLY OFFENSES, OR AS A STATUS OFFENDER. (a) A child may be released to the child's parent, guardian, custodian, or other responsible adult as provided in Section 52.02(a)(1) if the child is taken into custody:

(1) for a traffic offense;

(2) for an offense other than public intoxication punishable by fine only; or

(3) as a status offender or nonoffender.

(b) A child described by Subsection (a) must be taken only to a place previously designated by the head of the law enforcement agency with custody of the child as an appropriate place of nonsecure custody for children unless the child:

(1) is released under Section 52.02(a)(1);

(2) is taken before a municipal court or justice court; or

(3) for truancy or running away, is taken to a juvenile detention facility.

(c) A place of nonsecure custody for children must be an unlocked, multipurpose area. A lobby, office, or interrogation room is suitable if the area is not designated, set aside, or used as a secure detention area and is not part of a secure detention area. A place of nonsecure custody may be a juvenile processing office designated under Section 52.025 if the area is not locked when it is used as a place of nonsecure custody.

(d) The following procedures shall be followed in a place of nonsecure custody for children:

(1) a child may not be secured physically to a cuffing rail, chair, desk, or other stationary object;

(2) the child may be held in the nonsecure facility only long enough to accomplish the purpose of identification, investigation, processing, release to parents, or the arranging of transportation to the appropriate juvenile court, juvenile detention facility, municipal court, or justice court;

(3) residential use of the area is prohibited; and

(4) the child shall be under continuous visual supervision by a law enforcement officer or facility staff person during the time the child is in nonsecure custody.

(e) Notwithstanding any other provision of this section, a child may not, under any circumstances, be detained in a place of nonsecure custody for more than six hours.

(f) A child taken into custody for a traffic offense or an offense, other than public intoxication, punishable by fine only may be presented or detained in a detention facility designated by the juvenile court under Section 52.02(a)(3) only if:

(1) the child's non-traffic case is transferred to the juvenile court by a municipal court or justice court under Section 51.08(b); or

(2) the child is referred to the juvenile court by a municipal court or justice court for contempt of court under Subsection (h).

(g) A law enforcement officer may issue a field release citation, as provided by Article 14.06, Code of Criminal Procedure, in place of taking a child into custody for a traffic offense or an offense, other than public intoxication, punishable by fine only.

(h) A municipal court or justice court may not hold a child in contempt for intentionally refusing to obey a lawful order of disposition after an adjudication of guilt of a traffic offense or other offense punishable by fine only. The municipal court or justice court shall instead refer the child to the

appropriate juvenile court for delinquent conduct for contempt of the municipal court or justice court order.

(i) In this section, "child" means a person who is at least 10 years of age and younger than 18 years of age and who:

(1) is charged with or convicted of a traffic offense or an offense, other than public intoxication, punishable by fine only as a result of an act committed before becoming 17 years of age;

(2) is a status offender and was taken into custody as a status offender for conduct engaged in before becoming 17 years of age; or

(3) is a nonoffender and became a nonoffender before becoming 17 years of age.

Sec. 52.028. CHILDREN TAKEN INTO CUSTODY FOR VIOLATION OF JUVENILE CURFEW ORDINANCE OR ORDER. (a) A peace officer taking into custody a person under 17 years of age for violation of a juvenile curfew ordinance of a municipality or order of the commissioners court of a county shall, without unnecessary delay:

(1) release the person to the person's parent, guardian, or custodian;

(2) take the person before a municipal or justice court to answer the charge; or

(3) take the person to a place designated as a juvenile curfew processing office by the head of the law enforcement agency having custody of the person.

(b) A juvenile curfew processing office must observe the following procedures:

(1) the office must be an unlocked, multipurpose area that is not designated, set aside, or used as a secure detention area or part of a secure detention area;

(2) the person may not be secured physically to a cuffing rail, chair, desk, or stationary object;

(3) the person may not be held longer than necessary to accomplish the purposes of identification, investigation, processing, release to parents, guardians, or custodians, and arrangement of transportation to school or court;

(4) a juvenile curfew processing office may not be designated or intended for residential purposes;

(5) the person must be under continuous visual supervision by a peace officer or other person during the time the person is in the juvenile curfew processing office; and

(6) a person may not be held in a juvenile curfew processing office for more than six hours.

(c) A place designated under this section as a juvenile curfew processing office is not subject to the approval of the juvenile board having jurisdiction where the governmental entity is located.

SECTION 18. Sections 52.03(a) and (c), Family Code, are amended to read as follows:

(a) A law-enforcement officer authorized by this title to take a child into custody may dispose of the case of a child taken into custody without referral to juvenile court, if:

(1) guidelines for such disposition have been issued by the law-enforcement agency in which the officer works;

(2) the guidelines have been approved by the juvenile board ~~[court]~~ of the county in which the disposition is made;

(3) the disposition is authorized by the guidelines; and

(4) the officer makes a written report of his disposition to the law-enforcement agency, identifying the child and specifying the grounds for believing that the taking into custody was authorized.

(c) A disposition authorized by this section may involve:

(1) referral of the child to an agency other than the juvenile court; ~~or~~

(2) a brief conference with the child and his parent, guardian, or custodian; or

(3) referral of the child and the child's parent, guardian, or custodian for services under Section 264.302.

SECTION 19. Chapter 52, Family Code, is amended by adding Section 52.031 to read as follows:

Sec. 52.031. FIRST OFFENDER PROGRAM. (a) A juvenile board may establish a first offender program under this section for the referral and disposition of children taken into custody for:

(1) conduct indicating a need for supervision; or

(2) delinquent conduct other than conduct that constitutes:

(A) a felony of the first, second, or third degree, an aggravated controlled substance felony, or a capital felony; or

(B) a state jail felony or misdemeanor involving violence to a person or the use or possession of a firearm, illegal knife, or club, as those terms are defined by Section 46.01, Penal Code, or a prohibited weapon, as described by Section 46.05, Penal Code.

(b) Each juvenile board in the county in which a first offender program is established shall designate one or more law enforcement officers and agencies, which may be law enforcement agencies, to process a child under the first offender program.

(c) The disposition of a child under the first offender program may not take place until:

(1) guidelines for the disposition have been issued by the agency designated under Subsection (b); and

(2) the juvenile board has approved the guidelines.

(d) A law enforcement officer taking a child into custody may refer the child to the law enforcement officer or agency designated under Subsection (b) for disposition under the first offender program and not refer the child to juvenile court only if:

(1) the child has not previously been adjudicated as having engaged in delinquent conduct;

(2) the referral complies with guidelines for disposition under Subsection (c); and

(3) the officer reports in writing the referral to the agency, identifying the child and specifying the grounds for taking the child into custody.

(e) A child referred for disposition under the first offender program may not be detained in law enforcement custody.

(f) The parent, guardian, or other custodian of the child must receive notice that the child has been referred for disposition under the first offender program. The notice must:

(1) state the grounds for taking the child into custody;
(2) identify the law enforcement officer or agency to which the child was referred;

(3) briefly describe the nature of the program; and
(4) state that the child's failure to complete the program will result in the child being referred to the juvenile court.

(g) The child and the parent, guardian, or other custodian of the child must consent to participation by the child in the first offender program.

(h) Disposition under a first offender program may include:

(1) voluntary restitution by the child or the parent, guardian, or other custodian of the child to the victim of the conduct of the child;

(2) voluntary community service restitution by the child;

(3) educational, vocational training, counseling, or other rehabilitative services; and

(4) periodic reporting by the child to the law enforcement officer or agency to which the child has been referred.

(i) The case of a child who successfully completes the first offender program is closed and may not be referred to juvenile court, unless the child is taken into custody under circumstances described by Subsection (j)(3).

(j) The case of a child referred for disposition under the first offender program shall be referred to juvenile court if:

(1) the child fails to complete the program;

(2) the child or the parent, guardian, or other custodian of the child terminates the child's participation in the program before the child completes it; or

(3) the child completes the program but is taken into custody under Section 52.01 before the 90th day after the date the child completes the program for conduct other than the conduct for which the child was referred to the first offender program.

(k) A statement made by a child to a person giving advice or supervision or participating in the first offender program may not be used against the child in any proceeding under this title or any criminal proceeding.

(l) The law enforcement agency must report to the juvenile board in December of each year the following:

(1) the last known address of the child, including the census tract;

(2) the gender and ethnicity of the child referred to the program; and

(3) the offense committed by the child.

SECTION 20. Chapter 52, Family Code, is amended by adding Section 52.041 to read as follows:

Sec. 52.041. REFERRAL OF CHILD TO JUVENILE COURT AFTER EXPULSION. (a) A school district that expels a child shall refer the child to juvenile court in the county in which the child resides.

(b) The board of the school district or a person designated by the board shall deliver a copy of the order expelling the student and any other information required by Section 52.04 on or before the second working day after the date of the expulsion hearing to the authorized officer of the juvenile court.

SECTION 21. Section 53.01, Family Code, is amended by amending Subsections (a) and (b) and adding Subsections (d)-(f) to read as follows:

(a) On referral of a person believed to be a child or on referral of the person's ~~[a child's]~~ case to the office or official designated by the juvenile court, the intake officer, probation officer, or other person authorized by the court shall conduct a preliminary investigation to determine whether:

(1) the person referred to juvenile court is a child within the meaning of this title; and

(2) there is probable cause to believe the person ~~[child]~~ engaged in delinquent conduct or conduct indicating a need for supervision~~;~~ and

~~[(3) further proceedings in the case are in the interest of the child or the public].~~

(b) If it is determined that the person is not a child~~;~~ or there is no probable cause, ~~[or further proceedings are not warranted;]~~ the person ~~[child]~~ shall immediately be released ~~[and proceedings terminated].~~

(d) Unless the juvenile board approves a written procedure proposed by the office of prosecuting attorney and chief juvenile probation officer which provides otherwise, if it is determined that the person is a child and, regardless of a finding of probable cause, or a lack thereof, there is an allegation that the child engaged in delinquent conduct of the grade of felony, or conduct constituting a misdemeanor offense involving violence to a person or the use or possession of a firearm, illegal knife, or club, as those terms are defined by Section 46.01, Penal Code, or prohibited weapon, as described by Section 46.05, Penal Code, the case shall be promptly forwarded to the office of the prosecuting attorney, accompanied by:

(1) all documents that accompanied the current referral; and

(2) a summary of all prior referrals of the child to the juvenile court, juvenile probation department, or juvenile detention facility.

(e) If a juvenile board adopts an alternative referral plan under Subsection (d), the board shall register the plan with the Texas Juvenile Probation Commission.

(f) A juvenile board may not adopt an alternate referral plan that does not require the forwarding of a child's case to the prosecuting attorney as provided by Subsection (d) if probable cause exists to believe that the child engaged in delinquent conduct that violates Section 19.03, Penal Code (capital murder), or Section 19.02, Penal Code (murder).

SECTION 22. Chapter 53, Family Code, is amended by adding Sections 53.012 and 53.013 to read as follows:

Sec. 53.012. REVIEW BY PROSECUTOR. (a) The prosecuting attorney shall promptly review the circumstances and allegations of a referral made under Section 53.01 for legal sufficiency and the desirability of prosecution and may file a petition without regard to whether probable cause was found under Section 53.01.

(b) If the prosecuting attorney does not file a petition requesting the adjudication of the child referred to the prosecuting attorney, the prosecuting attorney shall:

(1) terminate all proceedings, if the reason is for lack of probable cause; or

(2) return the referral to the juvenile probation department for further proceedings.

(c) The juvenile probation department shall promptly refer a child who has been returned to the department under Subsection (b)(2) and who fails or refuses to participate in a program of the department to the prosecuting attorney for review of the child's case and determination of whether to file a petition.

Sec. 53.013. PROGRESSIVE SANCTIONS PROGRAM. Each juvenile board may adopt a progressive sanctions program using the guidelines for progressive sanctions in Chapter 59.

SECTION 23. Section 53.02, Family Code, is amended by amending Subsection (b) and adding Subsection (d) to read as follows:

(b) A child taken into custody may be detained prior to hearing on the petition only if:

(1) he is likely to abscond or be removed from the jurisdiction of the court;

(2) suitable supervision, care, or protection for him is not being provided by a parent, guardian, custodian, or other person;

(3) he has no parent, guardian, custodian, or other person able to return him to the court when required;

(4) he ~~[is accused of committing a felony offense and]~~ may be dangerous to himself or he may threaten the safety of the public ~~[others]~~ if released; or

(5) he has previously been found to be a delinquent child or has previously been convicted of a penal offense punishable by a term in jail or prison and is likely to commit an offense if released.

(d) A release of a child to an adult under Subsection (a) must be conditioned on the agreement of the adult to be subject to the jurisdiction of the juvenile court and to an order of contempt by the court if the adult, after notification, is unable to produce the child at later proceedings.

SECTION 24. Section 53.03, Family Code, is amended to read as follows:

Sec. 53.03. ~~DEFERRED PROSECUTION [INTAKE CONFERENCE AND ADJUSTMENT]~~. (a) Subject to Subsection (e), if [H] the preliminary investigation required by Section 53.01 of this code results in a determination that further proceedings in the case are authorized [and warranted], the probation officer or other designated officer of the court, subject to the direction of the juvenile court, may advise the parties for a reasonable period of time not to exceed six months concerning deferred prosecution ~~[an informal adjustment]~~ and ~~[voluntary]~~ rehabilitation of a child if:

(1) deferred prosecution ~~[advice without a court hearing]~~ would be in the interest of the public and the child;

(2) the child and his parent, guardian, or custodian consent with knowledge that consent is not obligatory; and

(3) the child and his parent, guardian, or custodian are informed that they may terminate the deferred prosecution ~~[adjustment process]~~ at any point and petition the court for a court hearing in the case.

(b) Except as otherwise permitted by this title, the child may not be detained during or as a result of the deferred prosecution ~~[adjustment]~~ process.

(c) An incriminating statement made by a participant to the person giving advice and in the discussions or conferences incident thereto may not be used against the declarant in any court hearing.

(d) ~~[An informal adjustment authorized by this section may involve:~~

~~[(1) voluntary restitution by the child or his parent to the victim of an offense; or~~

~~[(2) voluntary community service restitution by the child.~~

~~[(e)]~~ The court may adopt a fee schedule for deferred prosecution ~~[informal adjustment]~~ services and rules for the waiver of a fee for financial hardship in accordance with guidelines that the Texas Juvenile Probation Commission shall provide. The maximum fee is \$15 a month. If the court adopts a schedule and rules for waiver, the probation officer or other designated officer of the court shall collect the fee authorized by the schedule from the parent, guardian, or custodian of a child for whom a deferred prosecution ~~[an informal adjustment]~~ is authorized under this section or waive the fee in accordance with the rules adopted by the court. The officer shall deposit the fees received under this section in the county treasury to the credit of a special fund that may be used only for juvenile probation or community-based juvenile corrections services or facilities in which a juvenile may be required to live while under court supervision. If the court does not adopt a schedule and rules for waiver, a fee for deferred prosecution ~~[informal adjustment]~~ services may not be imposed.

(e) A prosecuting attorney may defer prosecution for any child. A probation officer or other designated officer of the court:

(1) may not defer prosecution for a child for a case that is required to be forwarded to the prosecuting attorney under Section 53.01(d); and

(2) may defer prosecution for a child who has previously been adjudicated for conduct that constitutes a felony only if the prosecuting attorney consents in writing.

(f) The probation officer or other officer designated by the court supervising a program of deferred prosecution for a child under this section shall report to the juvenile court any violation by the child of the program.

SECTION 25. Section 53.04(d), Family Code, is amended to read as follows:

(d) The petition must state:

(1) with reasonable particularity the time, place, and manner of the acts alleged and the penal law or standard of conduct allegedly violated by the acts;

(2) the name, age, and residence address, if known, of the child who is the subject of the petition;

(3) the names and residence addresses, if known, of the parent, guardian, or custodian of the child and of the child's spouse, if any; ~~and~~

(4) if the child's parent, guardian, or custodian does not reside or cannot be found in the state, or if their places of residence are unknown, the name and residence address of any known adult relative residing in the county or, if there is none, the name and residence address of the known adult relative residing nearest to the location of the court; and

(5) if the child is alleged to have engaged in habitual felony conduct, the previous adjudications in which the child was found to have engaged in conduct violating penal laws of the grade of felony.

SECTION 26. The heading of Section 53.045, Family Code, is amended to read as follows:

Sec. 53.045. VIOLENT OR HABITUAL OFFENDERS [~~REFERRAL TO GRAND JURY~~].

SECTION 27. Sections 53.045(a) and (e), Family Code, are amended to read as follows:

(a) Except as provided by Subsection (e) of this section, the prosecuting attorney may refer the petition to the grand jury of the county in which the court in which the petition is filed presides if the petition alleges that the child engaged in delinquent conduct that constitutes habitual felony conduct as described by Section 51.031 or that included the violation of any of the following provisions [~~of the Penal Code~~]:

(1) Section 19.02, Penal Code (murder);

(2) Section 19.03, Penal Code (capital murder);

(3) Section 20.04, Penal Code (aggravated kidnapping);

(4) Section 22.011, Penal Code (sexual assault) or Section 22.021, Penal Code (aggravated sexual assault);

(5) Section 22.02, Penal Code (aggravated assault) [~~22.03 (deadly assault on a law-enforcement officer, corrections officer, or court participant)~~];
[~~or~~]

(6) Section 29.03, Penal Code (aggravated robbery);

(7) Section 22.04, Penal Code (injury to a child, elderly individual, or disabled individual), if the offense is punishable as a felony, other than a state jail felony;

(8) Section 22.05(b), Penal Code (felony deadly conduct involving discharging a firearm);

(9) Subchapter D, Chapter 481, Health and Safety Code, if the conduct constitutes a felony of the first degree or an aggravated controlled substance felony (certain offenses involving controlled substances);

(10) Section 15.03, Penal Code (criminal solicitation);

(11) Section 21.11(a)(1), Penal Code (indecenty with a child);

(12) Section 15.031, Penal Code (criminal solicitation of a minor); or

(13) Section 15.01, Penal Code (criminal attempt), if the offense attempted was an offense under Section 19.02, Penal Code (murder) or Section 19.03, Penal Code (capital murder), or an offense listed by Section 3g(a)(1), Article 42.12, Code of Criminal Procedure.

(e) The prosecuting attorney may not refer a petition that alleges the child engaged in conduct that violated Section 22.011(a)(2), Penal Code, or Sections 22.021(a)(1)(B) and (2)(B), Penal Code, unless the child is more than three [~~two~~] years older than the victim of the conduct.

SECTION 28. Section 53.05(b), Family Code, is amended to read as follows:

(b) The time set for the hearing shall not be later than 10 working days after the day the petition was filed if:

(1) the child is in detention; or

(2) the child will be taken into custody under Section 53.06(d) of this code.

SECTION 29. Section 53.06(c), Family Code, is amended to read as follows:

(c) The court may endorse on the summons an order [~~directing the parent, guardian, or custodian of the child to appear personally at the hearing and~~]

directing the person having the physical custody or control of the child to bring the child to the hearing. A person who violates an order entered under this subsection may be proceeded against under Section 53.08 or 54.07 of this code.

SECTION 30. Chapter 53, Family Code, is amended by adding Section 53.08 to read as follows:

Sec. 53.08. WRIT OF ATTACHMENT. (a) The juvenile court may issue a writ of attachment for a person who violates an order entered under Section 53.06(c).

(b) A writ of attachment issued under this section is executed in the same manner as in a criminal proceeding as provided by Chapter 24, Code of Criminal Procedure.

SECTION 31. Section 54.01, Family Code, is amended by amending Subsections (h) and (l) and adding Subsections (n) and (o) to read as follows:

(h) A detention order extends to the conclusion of the disposition hearing, if there is one, but in no event for more than 10 working days. Further detention orders may be made following subsequent detention hearings. The initial detention hearing may not be waived but subsequent [Subsequent] detention hearings may be waived in accordance with the requirements of Section 51.09 of this code. Each subsequent[~~, but each~~] detention order shall extend for no more than 10 working days.

(l) The juvenile board or, if there is none, the juvenile court, may appoint a referee to conduct the detention hearing. The referee shall be an attorney licensed to practice law in this state. Such payment or additional payment as may be warranted for referee services shall be provided from county funds. Before commencing the detention hearing, the referee shall inform the parties who have appeared that they are entitled to have the hearing before the juvenile court judge or a substitute judge authorized by Section 51.04(f) of this code. If a party objects to the referee conducting the detention hearing, an authorized judge shall conduct the hearing within 24 hours. At the conclusion of the hearing, the referee shall transmit written findings and recommendations to the juvenile court judge or substitute judge. The juvenile court judge or substitute judge shall adopt, modify, or reject the referee's recommendations not later than the next working day after the day that the judge receives the recommendations [within 24 hours]. Failure to act within that time results in release of the child by operation of law. A recommendation that the child be released operates to secure his immediate release, subject to the power of the juvenile court judge or substitute judge to reject or modify that recommendation. The effect of an order detaining a child shall be computed from the time of the hearing before the referee.

(n) An attorney appointed by the court under Section 51.10(c) because a determination was made under this section to detain a child who was not represented by an attorney may request on behalf of the child and is entitled to a de novo detention hearing under this section. The attorney must make the request not later than the 10th working day after the date the attorney is appointed. The hearing must take place not later than the second working day after the date the attorney filed a formal request with the court for a hearing.

(o) The court or referee shall find whether there is probable cause to believe that a child taken into custody without an arrest warrant or a directive

to apprehend has engaged in delinquent conduct or conduct indicating a need for supervision. The court or referee must make the finding within 48 hours, including weekends and holidays, of the time the child was taken into custody. The court or referee may make the finding on any reasonably reliable information without regard to admissibility of that information under the Texas Rules of Criminal Evidence. A finding of probable cause is required to detain a child after the 48th hour after the time the child was taken into custody. If a court or referee finds probable cause, additional findings of probable cause are not required in the same cause to authorize further detention.

SECTION 32. Chapter 54, Family Code, is amended by adding Section 54.011 to read as follows:

Sec. 54.011. DETENTION HEARINGS FOR STATUS OFFENDERS AND NONOFFENDERS. (a) The detention hearing for a status offender or nonoffender who has not been released administratively under Section 53.02 shall be held before the 24th hour after the time the child arrived at the designated detention facility, excluding hours of a weekend or a holiday. Except as otherwise provided by this section, the judge or referee conducting the detention hearing shall release the status offender or nonoffender from secure detention.

(b) The judge or referee may order a child in detention accused of the violation of a valid court order as defined by Section 51.02 detained not longer than 72 hours after the time the detention order was entered, excluding weekends and holidays, if:

(1) the judge or referee finds at the detention hearing that there is probable cause to believe the child violated the valid court order; and

(2) the detention of the child is justified under Section 54.01(e)(1), (2), or (3).

(c) Except as provided by Subsection (d), a detention order entered under Subsection (b) may be extended for one additional 72-hour period, excluding weekends and holidays, only on a finding of good cause by the juvenile court.

(d) A detention order for a child under this section may be extended on the demand of the child's attorney only to allow the time that is necessary to comply with the requirements of Section 51.10(h), entitling the attorney to 10 days to prepare for an adjudication hearing.

(e) A status offender may be detained for a necessary period, not to exceed five days, to enable the child's return to the child's home in another state under Chapter 60.

SECTION 33. Chapter 54, Family Code, is amended by adding Section 54.012 to read as follows:

Sec. 54.012. INTERACTIVE VIDEO RECORDING OF DETENTION HEARING. (a) A detention hearing under Section 54.01, other than the first detention hearing, may be held using interactive video equipment if:

(1) the child and the child's attorney agree to the video hearing; and

(2) the parties to the proceeding have the opportunity to cross-examine witnesses.

(b) A detention hearing may not be held using video equipment unless the video equipment for the hearing provides for a two-way communication of image and sound among the child, the court, and other parties at the hearing.

(c) A recording of the communications shall be made. The recording shall be preserved until the earlier of:

(1) the 91st day after the date on which the recording is made if the child is alleged to have engaged in conduct constituting a misdemeanor;

(2) the 120th day after the date on which the recording is made if the child is alleged to have engaged in conduct constituting a felony; or

(3) the date on which the adjudication hearing ends.

(d) An attorney for the child may obtain a copy of the recording on payment of the reasonable costs of reproducing the copy.

SECTION 34. Section 54.02, Family Code, is amended by amending Subsections (a), (f), (g), (h), (i), and (j) and adding Subsections (m) and (n) to read as follows:

(a) The juvenile court may waive its exclusive original jurisdiction and transfer a child to the appropriate district court or criminal district court for criminal proceedings if:

(1) the child is alleged to have violated a penal law of the grade of felony;

(2) the child was:

(A) 14 [15] years of age or older at the time he is alleged to have committed the offense, if the offense is a capital felony, an aggravated controlled substance felony, or a felony of the first degree, and no adjudication hearing has been conducted concerning that offense; or

(B) 15 years of age or older at the time the child is alleged to have committed the offense, if the offense is a felony of the second or third degree or a state jail felony, and no adjudication hearing has been conducted concerning that offense; and

(3) after a full investigation and a hearing, the juvenile court determines that there is probable cause to believe that the child before the court committed the offense alleged and that because of the seriousness of the offense alleged or the background of the child the welfare of the community requires criminal proceedings.

(f) In making the determination required by Subsection (a) of this section, the court shall consider, among other matters:

(1) whether the alleged offense was against person or property, with greater weight in favor of transfer given to offenses against the person;

(2) ~~whether the alleged offense was committed in an aggressive and premeditated manner;~~

~~[(3) whether there is evidence on which a grand jury may be expected to return an indictment;~~

~~[(4) the sophistication and maturity of the child;~~

~~(3) [(5)] the record and previous history of the child; and~~

~~(4) [(6)] the prospects of adequate protection of the public and the likelihood of the rehabilitation of the child by use of procedures, services, and facilities currently available to the juvenile court.~~

(g) If the petition alleges multiple offenses that constitute more than one criminal transaction, the juvenile court shall either retain or transfer all offenses relating to a single transaction. A [juvenile court retains jurisdiction, the] child is not subject to criminal prosecution at any time for any offense arising out

~~of a criminal transaction for which the juvenile court retains jurisdiction [alleged in the petition or for any offense within the knowledge of the juvenile court judge as evidenced by anything in the record of the proceedings].~~

(h) If the juvenile court waives jurisdiction, it shall state specifically in the order its reasons for waiver and certify its action, including the written order and findings of the court, and shall transfer the person [child] to the appropriate court for criminal proceedings. On transfer of the person [child] for criminal proceedings, the person [he] shall be dealt with as an adult and in accordance with the Code of Criminal Procedure. The transfer of custody is an arrest. ~~[The court to which the child is transferred shall determine if good cause exists for an examining trial. If there is no good cause for an examining trial, the court shall refer the case to the grand jury. If there is good cause for an examining trial, the court shall conduct an examining trial and may remand the child to the jurisdiction of the juvenile court.]~~

(i) ~~A waiver under this section is a waiver of jurisdiction over the child and the criminal court may not remand the child to the jurisdiction of the juvenile court. [If the child's case is brought to the attention of the grand jury and the grand jury does not indict for the offense charged in the complaint forwarded by the juvenile court, the district court or criminal district court shall certify the grand jury's failure to indict to the juvenile court. On receipt of the certification, the juvenile court may resume jurisdiction of the case.]~~

(j) The juvenile court may waive its exclusive original jurisdiction and transfer a person to the appropriate district court or criminal district court for criminal proceedings if:

(1) the person is 18 years of age or older;

(2) the person was:

(A) 14 [15] years of age or older and under 17 years of age at the time he is alleged to have committed a capital felony, an aggravated controlled substance felony, or a felony of the first degree; or

(B) 15 years of age or older and under 17 years of age at the time the person is alleged to have committed a felony of the second or third degree or a state jail felony;

(3) no adjudication concerning the alleged offense has been made or no adjudication hearing concerning the offense has been conducted;

(4) the juvenile court finds from a preponderance of the evidence that:

(A) for a reason beyond the control of the state it was not practicable to proceed in juvenile court before the 18th birthday of the person; or

(B) after due diligence of the state it was not practicable to proceed in juvenile court before the 18th birthday of the person because:

(i) [(A)] the state did not have probable cause to proceed in juvenile court and new evidence has been found since the 18th birthday of the person; [or]

(ii) [(B)] the person could not be found; or

(iii) a previous transfer order was reversed by an appellate court or set aside by a district court; and

(5) the juvenile court determines that there is probable cause to believe that the child before the court committed the offense alleged.

(m) Notwithstanding any other provision of this section, the juvenile court shall waive its exclusive original jurisdiction and transfer a child to the appropriate district court or criminal court for criminal proceedings if:

(1) the child has previously been transferred to a district court or criminal district court for criminal proceedings under this section, unless:

(A) the child was not indicted in the matter transferred by the grand jury;

(B) the child was found not guilty in the matter transferred;

(C) the matter transferred was dismissed with prejudice; or

(D) the child was convicted in the matter transferred, the conviction was reversed on appeal, and the appeal is final; and

(2) the child is alleged to have violated a penal law of the grade of felony.

(n) A mandatory transfer under Subsection (m) may be made without conducting the study required in discretionary transfer proceedings by Subsection (d). The requirements of Subsection (b) that the summons state that the purpose of the hearing is to consider discretionary transfer to criminal court does not apply to a transfer proceeding under Subsection (m). In a proceeding under Subsection (m), it is sufficient that the summons provide fair notice that the purpose of the hearing is to consider mandatory transfer to criminal court.

SECTION 35. Section 54.021, Family Code, is amended to read as follows:

Sec. 54.021. JUSTICE OR MUNICIPAL COURT: TRUANCY. (a) The juvenile court may waive its exclusive original jurisdiction and transfer a child to an appropriate justice or municipal court, with the permission of the justice or municipal court, for disposition in the manner provided by Subsection (b) of this section if the child is alleged to have engaged in conduct described in Section 51.03(b)(2) of this code. A waiver of jurisdiction under this subsection may be for an individual case or for all cases in which a child is alleged to have engaged in conduct described in Section 51.03(b)(2) of this code. The waiver of a juvenile court's exclusive original jurisdiction for all cases in which a child is alleged to have engaged in conduct described in Section 51.03(b)(2) of this code is effective for a period of one year.

(b) A justice or municipal court may exercise jurisdiction over a person [child] alleged to have engaged in conduct indicating a need for supervision by engaging in conduct described in Section 51.03(b)(2) in a case where the juvenile court has waived its original jurisdiction under this section. A justice or municipal court may exercise jurisdiction under this section without regard to whether the justice of the peace or municipal judge for the court is a licensed attorney or the hearing for a case is before a jury consisting of six persons.

(c) On a finding that a person [child] has engaged in conduct described by Section 51.03(b)(2), the justice or municipal court shall enter an order appropriate to the nature of the conduct.

(d) On a finding by the justice or municipal court that the person [child] has engaged in truant conduct and that the conduct is of a recurrent nature, the court has jurisdiction to [may] enter an order that includes one or more of the following provisions requiring that:

(1) the person [child] attend a preparatory class for the high school equivalency examination provided under Section 11.35, Education Code, if the

court determines that the person [child] is too old to do well in a formal classroom environment;

(2) the person [child] attend a special program that the court determines to be in the best interests of the person [child], including an alcohol and drug abuse program;

(3) the person [child] and the person's [child's] parents, managing conservator, or guardian attend a class for students at risk of dropping out of school designed for both the person [child] and the person's [child's] parents, managing conservator, or guardian;

(4) the person [child] complete reasonable community service requirements;

(5) the person's [child's] driver's license be suspended in the manner provided by Section 54.042 of this code;

(6) the person [child] attend school without unexcused absences; or

(7) the person [child] participate in a tutorial program provided by the school attended by the person [child] in the academic subjects in which the person [child] is enrolled for a total number of hours ordered by the court.

(e) An order under Subsection (d)(3) that requires the parent, managing conservator, or guardian of a person to attend a class for students at risk of dropping out of school [~~(d) of this section~~] is enforceable in the justice court by contempt.

(f) A school attendance officer may refer a person [child] alleged to have engaged in conduct described in Section 51.03(b)(2) of this code to the justice court in the precinct where the person [child] resides or in the precinct where the person's [child's] school is located if the juvenile court having exclusive original jurisdiction has waived its jurisdiction as provided by Subsection (a) of this section for all cases involving conduct described by Section 51.03(b)(2) of this code.

(g) A court having jurisdiction under this section shall endorse on the summons issued to the parent, guardian, or custodian of the person [child] who is the subject of the hearing an order directing the parent, guardian, or custodian to appear personally at the hearing and directing the person having custody of the person [child] to bring the person [child] to the hearing.

(h) A person commits an offense if the person is a parent, guardian, or custodian who fails to attend a hearing under this section after receiving notice under Subsection (g) of this section that the person's attendance was required. An offense under this subsection is a Class C misdemeanor.

SECTION 36. Chapter 54, Family Code, is amended by adding Section 54.022 to read as follows:

Sec. 54.022. JUSTICE OR MUNICIPAL COURT: CERTAIN MISDEMEANORS. (a) On a finding by a justice or municipal court that a child committed a misdemeanor offense punishable by fine only other than a traffic offense or public intoxication or committed a violation of a penal ordinance of a political subdivision other than a traffic offense, the court has jurisdiction to enter an order:

(1) referring the child or the child's parents, managing conservators, or guardians for services under Section 264.302; or

(2) requiring that the child attend a special program that the court determines to be in the best interest of the child and that is approved by the

county commissioners court, including a rehabilitation, counseling, self-esteem and leadership, work and job skills training, job interviewing and work preparation, self-improvement, parenting, manners, violence avoidance, tutoring, sensitivity training, parental responsibility, community service, restitution, advocacy, or mentoring program.

(b) On a finding by a justice or municipal court that a child committed an offense described by Subsection (a) and that the child has previously been convicted of an offense described by Subsection (a), the court has the jurisdiction to enter an order that includes one or more of the following provisions, in addition to the provisions under Subsection (a), requiring that:

(1) the child attend a special program that the court determines to be in the best interest of the child and that is approved by the county commissioners court;

(2) the child's parents, managing conservator, or guardian attend a parenting class or parental responsibility program if the court finds the parent, managing conservator, or guardian, by wilful act or omission, contributed to, caused, or encouraged the child's conduct; or

(3) the child and the child's parents, managing conservator, or guardian attend the child's school classes or functions if the court finds the parent, managing conservator, or guardian, by wilful act or omission, contributed to, caused, or encouraged the child's conduct.

(c) The justice or municipal court may order the parents, managing conservator, or guardian of a child required to attend a program under Subsection (a) or (b) to pay an amount not greater than \$100 to pay for the costs of the program.

(d) A justice or municipal court may require a child, parent, managing conservator, or guardian required to attend a program, class, or function under this section to submit proof of attendance to the court.

(e) A justice or municipal court shall endorse on the summons issued to a parent, managing conservator, or a guardian an order to appear personally at the hearing with the child.

(f) An order under this section involving a child is enforceable under Section 51.03(a)(3) by referral to the juvenile court.

(g) Any other order under this section is enforceable by the justice or municipal court by contempt.

SECTION 37. Section 54.03(d), Family Code, is amended to read as follows:

(d) Except as provided by Section 54.031 of this chapter, only material, relevant, and competent evidence in accordance with the Texas Rules of Criminal Evidence and Chapter 38, Code of Criminal Procedure, [requirements for the trial of civil cases] may be considered in the adjudication hearing. Except in a detention or discretionary transfer hearing, a social history report or social service file shall not be viewed by the court before the adjudication decision and shall not be viewed by the jury at any time.

SECTION 38. Section 54.04, Family Code, is amended by amending Subsections (a), (d), (e), (g), (h), and (k) and adding Subsections (m)-(o) to read as follows:

(a) The disposition hearing shall be separate, distinct, and subsequent to the adjudication hearing. There is no right to a jury at the disposition hearing

unless the child is in jeopardy of a determinate sentence under Subsection (d)(3) or (m) of this section, in which case, the child is entitled to a jury of 12 persons to determine the sentence.

(d) If the court or jury makes the finding specified in Subsection (c) of this section allowing the court to make a disposition in the case:

(1) the court or jury may, in addition to any order required or authorized under Section 54.041 or 54.042 of this code, place the child on probation on such reasonable and lawful terms as the court may determine:

(A) in his own home or in the custody of a relative or other fit person; ~~or~~

(B) subject to the finding under Subsection (c) of this section on the placement of the child outside the child's home, in:

(i) a suitable foster home; or

(ii) a suitable public or private institution or agency, except the Texas Youth Commission; or

(C) after an adjudication that the child engaged in delinquent conduct and subject to the finding under Subsection (c) on the placement of the child outside the child's home, in an intermediate sanction facility operated under Chapter 61, Human Resources Code;

(2) if the court or jury found at the conclusion of the adjudication hearing that the child engaged in delinquent conduct and if the petition was not approved by the grand jury under Section 53.045 of this code, the court may commit the child to the Texas Youth Commission without a determinate sentence; ~~or~~

(3) if the court or jury found at the conclusion of the adjudication hearing that the child engaged in delinquent conduct that included a violation of a penal law listed in Section 53.045(a) of this code and if the petition was approved by the grand jury under Section 53.045 of this code, the court or jury may sentence the child to commitment in the Texas Youth Commission with a possible transfer to the institutional division or the pardons and paroles division of the Texas Department of Criminal Justice for a ~~[any]~~ term of:

~~(A) not more than [years not to exceed] 40 years if the conduct constitutes:~~

~~(i) a capital felony;~~

~~(ii) a felony of the first degree; or~~

~~(iii) an aggravated controlled substance felony;~~

~~(B) not more than 20 years if the conduct constitutes a felony of the second degree; or~~

~~(C) not more than 10 years if the conduct constitutes a felony of the third degree;~~

~~(4) the court may assign the child an appropriate sanction level and sanctions as provided by the assignment guidelines in Section 59.003; or~~

~~(5) if applicable, the court or jury may make a disposition under Subsection (m) of this section.~~

(e) The Texas Youth Commission shall accept a person ~~[child]~~ properly committed to it by a juvenile court even though the person ~~[child]~~ may be 17 years of age or older at the time of commitment.

(g) If the court orders a disposition under Subsection (d)(3) or (m) of this section and there is an affirmative finding that the defendant used or exhibited

a deadly weapon during the commission of the conduct or during immediate flight from commission of the conduct, the court shall enter the finding in the order. If there is an affirmative finding that the deadly weapon was a firearm, the court shall enter that finding in the order.

(h) At the conclusion of the dispositional hearing, the court shall inform the child of:

(1) the child's [his] right to appeal, as required by Section 56.01 of this code; and

(2) the procedures for the sealing of the child's records under Section 58.003 of this code.

(k) Except as provided by Subsection (m), the [The] period to which a court or jury may sentence a person [child] to commitment to the Texas Youth Commission with a transfer to the Texas Department of Criminal Justice under Subsection (d)(3) of this section applies without regard to whether the person [child] has previously been adjudicated as having engaged in delinquent conduct.

(m) The court or jury may sentence a child adjudicated for habitual felony conduct as described by Section 51.031 to a term prescribed by Subsection (d)(3) and applicable to the conduct adjudicated in the pending case if:

(1) a petition was filed and approved by a grand jury under Section 53.045 alleging that the child engaged in habitual felony conduct; and

(2) the court or jury finds beyond a reasonable doubt that the allegation described by Subdivision (1) in the grand jury petition is true.

(n) A court may order a disposition of secure confinement of a status offender adjudicated for violating a valid court order only if:

(1) before the order is issued, the child received the full due process rights guaranteed by the Constitution of the United States or the Texas Constitution; and

(2) the juvenile probation department in a report authorized by Subsection (b):

(A) reviewed the behavior of the child and the circumstances under which the child was brought before the court;

(B) determined the reasons for the behavior that caused the child to be brought before the court; and

(C) determined that all dispositions, including treatment, other than placement in a secure detention facility or secure correctional facility, have been exhausted or are clearly inappropriate.

(o) A status offender may not, under any circumstances, be committed to the Texas Youth Commission for engaging in conduct that would not, under state or local law, be a crime if committed by an adult.

SECTION 39. Section 54.041, Family Code, is amended by amending Subsections (b)-(e) and adding Subsections (f) and (g) to read as follows:

(b) If a child is found to have engaged in delinquent conduct or conduct indicating a need for supervision arising from the commission of an offense in which property damage or loss or personal injury occurred, the juvenile court, on notice to all persons affected and on hearing, may order the child or a parent to make full or partial restitution to the victim of the offense. The program of restitution must promote the rehabilitation of the child, be appropriate to the

age and physical, emotional, and mental abilities of the child, and not conflict with the child's schooling. When practicable and subject to court supervision, the court may approve a restitution program based on a settlement between the child and the victim of the offense. An order under this subsection may provide for periodic payments by the child or a parent of the child for the period specified in the order but that period may not extend past the date of the 18th birthday of the child or past the date the child is no longer enrolled in an accredited secondary school in a program leading toward a high school diploma, whichever date is later. [~~If the child or parent is unable to make full or partial restitution or if a restitution order is not appropriate under the circumstances, the court may order the child to render personal services to a charitable or educational institution in the manner prescribed in the court order in lieu of restitution.~~]

~~(c) Restitution under this section is cumulative of any other remedy allowed by law and may be used in addition to other remedies; except that a victim of an offense is not entitled to receive more than actual damages under a juvenile court order. [A city, town, or county that establishes a program to assist children in rendering personal services to a charitable or educational institution as authorized by this subsection may purchase insurance policies protecting the city, town, or county against claims brought by a person other than the child for a cause of action that arises from an act of the child while rendering those services. The city, town, or county is not liable under this Act to the extent that damages are recoverable under a contract of insurance or under a plan of self-insurance authorized by statute. The liability of the city, town, or county for a cause of action that arises from an action of the child while rendering those services may not exceed \$100,000 to a single person and \$300,000 for a single occurrence in the case of personal injury or death, and \$10,000 for a single occurrence of property damage. Liability may not extend to punitive or exemplary damages. This subsection does not waive a defense, immunity, or jurisdictional bar available to the city, town, or county or its officers or employees, nor shall this Act be construed to waive, repeal, or modify any provision of the Texas Tort Claims Act, as amended (Article 6252-19, Vernon's Texas Civil Statutes).]~~

~~(d) [(e)] A person subject to an order proposed under Subsection (a) of this section is entitled to a hearing on the order before the order is entered by the court.~~

~~(e) [(d)] An order made under this section may be enforced as provided by Section 54.07 of this code.~~

~~(f) [(e)] If a child is found to have engaged in conduct indicating a need for supervision described under Section 51.03(b)(2) of this code, the court may order the child's parents or guardians to attend a class provided under Section 21.035(h), Education Code, if the school district in which the child's parents or guardians reside offers a class under that section.~~

(g) On a finding by the court that a child's parents or guardians have made a reasonable good faith effort to prevent the child from engaging in delinquent conduct or engaging in conduct indicating a need for supervision and that, despite the parents' or guardians' efforts, the child continues to engage in such conduct, the court shall waive any requirement for restitution that may be imposed on a parent under this section.

SECTION 40. Sections 54.042(b), (d), and (e), Family Code, are amended to read as follows:

(b) The order under Subsection (a)(1) of this section shall specify a period of suspension or denial that is[:

~~[(1)]~~ until the child reaches the age of 19 ~~[17]~~ or for a period of 365 days, whichever is longer~~;~~ or

~~[(2) if the court finds that the child has engaged in conduct violating the laws of this state prohibiting driving while intoxicated, by reason of the introduction of alcohol into the body, under Article 67011-1, Revised Statutes, and also determines that the child has previously been found to have engaged in conduct violating the same laws, until the child reaches the age of 19 or for a period of 365 days, whichever is longer].~~

(d) A juvenile court, in a disposition hearing under Section 54.04 of this code, may order the Department of Public Safety to suspend a child's driver's license or permit or, if the child does not have a license or permit, to deny the issuance of a license or permit to the child for a period not to exceed 12 ~~[six]~~ months if the court finds that the child has engaged in conduct in need of supervision or delinquent conduct other than the conduct described by Subsection (a) of this section.

(e) A juvenile court that places a child on probation under Section 54.04 of this code may require as a reasonable condition of the probation that if the child violates the probation, the court may order the Department of Public Safety to suspend the child's driver's license or permit or, if the child does not have a license or permit, to deny the issuance of a license or permit to the child for a period not to exceed 12 ~~[six]~~ months. The court may make this order if a child that is on probation under this condition violates the probation. A suspension under this subsection is cumulative of any other suspension under this section.

SECTION 41. Chapter 54, Family Code, is amended by adding Sections 54.044 and 54.045 to read as follows:

Sec. 54.044. COMMUNITY SERVICE. (a) If the court places a child on probation under Section 54.04(d), the court shall require as a condition of probation that the child work a specified number of hours at a community service project approved by the court and designated by the juvenile board as provided by Subsection (e), unless the court determines and enters a finding on the order placing the child on probation that:

(1) the child is physically or mentally incapable of participating in the project;

(2) participating in the project will be a hardship on the child or the family of the child; or

(3) the child has shown good cause that community service should not be required.

(b) The court may also order under this section that the child's parent perform community service with the child.

(c) The court shall order that the child and the child's parent perform a total of not more than 500 hours of community service under this section.

(d) A municipality or county that establishes a program to assist children and their parents in rendering community service under this section may

purchase insurance policies protecting the municipality or county against claims brought by a person other than the child or the child's parent for a cause of action that arises from an act of the child or parent while rendering community service. The municipality or county is not liable under this section to the extent that damages are recoverable under a contract of insurance or under a plan of self-insurance authorized by statute. The liability of the municipality or county for a cause of action that arises from an action of the child or the child's parent while rendering community service may not exceed \$100,000 to a single person and \$300,000 for a single occurrence in the case of personal injury or death, and \$10,000 for a single occurrence of property damage. Liability may not extend to punitive or exemplary damages. This subsection does not waive a defense, immunity, or jurisdictional bar available to the municipality or county or its officers or employees, nor shall this section be construed to waive, repeal, or modify any provision of Chapter 101, Civil Practice and Remedies Code.

(e) For the purposes of this section, a court may submit to the juvenile probation department a list of organizations or projects approved by the court for community service. The juvenile probation department may:

(1) designate an organization or project for community service only from the list submitted by the court; and

(2) reassign or transfer a child to a different organization or project on the list submitted by the court under this subsection without court approval.

(f) A person subject to an order proposed under Subsection (a) or (b) is entitled to a hearing on the order before the order is entered by the court.

(g) On a finding by the court that a child's parents or guardians have made a reasonable good faith effort to prevent the child from engaging in delinquent conduct or engaging in conduct indicating a need for supervision and that, despite the parents' or guardians' efforts, the child continues to engage in such conduct, the court shall waive any requirement for community service that may be imposed on a parent under this section.

(h) An order made under this section may be enforced as provided by Section 54.07.

Sec. 54.045. ADMISSION OF UNADJUDICATED CONDUCT. (a) During a disposition hearing under Section 54.04, a child may:

(1) admit having engaged in delinquent conduct or conduct indicating a need for supervision for which the child has not been adjudicated; and

(2) request the court to take the admitted conduct into account in the disposition of the child.

(b) If the prosecuting attorney agrees in writing, the court may take the admitted conduct into account in the disposition of the child.

(c) A court may take into account admitted conduct over which exclusive venue lies in another county only if the court obtains the written permission of the prosecuting attorney for that county.

(d) A child may not be adjudicated by any court for having engaged in conduct taken into account under this section, except that, if the conduct taken into account included conduct over which exclusive venue lies in another county and the written permission of the prosecuting attorney of that county was not obtained, the child may be adjudicated for that conduct, but the child's admission under this section may not be used against the child in the adjudication.

SECTION 42. Section 54.05(f), Family Code, is amended to read as follows:

(f) A disposition based on a finding that the child engaged in delinquent conduct may be modified so as to commit the child to the Texas Youth Commission if the court after a hearing to modify disposition finds by a preponderance of the evidence [~~beyond a reasonable doubt~~] that the child violated a reasonable and lawful order of the court. A disposition based on a finding that the child engaged in habitual felony conduct as described by Section 51.031 of this code or in [a] delinquent conduct that included a violation of a penal law listed in Section 53.045(a) of this code may be modified to commit the child to the Texas Youth Commission with a possible transfer to the institutional division or the pardons and paroles division of the Texas Department of Criminal Justice for a definite term prescribed by Section 54.04(d)(3) of this code [~~not to exceed 40 years~~] if the original petition was approved by the grand jury under Section 53.045 of this code and if after a hearing to modify the disposition the court or jury finds that the child violated a reasonable and lawful order of the court.

SECTION 43. Section 54.06, Family Code, as amended by Chapters 798 and 1048, Acts of the 73rd Legislature, Regular Session, 1993, is amended by amending Subsection (c) and adding Subsections (d), (e), and (f) to read as follows:

(c) A court may enforce an order for support under this section by ordering garnishment of the wages of the person ordered to pay support or by any other means available to enforce a child support order under Title 5.

(d) An order [~~(c) Orders~~] for support may be enforced as provided in Section 54.07 of this code.

(e) The court shall apply the child support guidelines under Subchapter C, Chapter 154, in an order requiring the payment of child support under this section. The court shall also require in an order to pay child support under this section that health insurance be provided for the child. Subchapter D, Chapter 154, applies to an order requiring health insurance for a child under this section.

(f) An order under this section prevails over any previous child support order issued with regard to the child to the extent of any conflict between the orders.

SECTION 44. Section 54.061, Family Code, is amended by adding Subsection (d) to read as follows:

(d) If the court finds that a child, parent, or other person responsible for the child's support is financially unable to pay the probation fee required under Subsection (a), the court shall enter into the records of the child's case a statement of that finding. The court may waive a fee under this section only if the court makes the finding under this subsection.

SECTION 45. Section 54.08, Family Code, is amended to read as follows:

Sec. 54.08. PUBLIC ACCESS TO COURT HEARINGS. (a) Except as provided by Subsection (b), the court shall open [~~Except for any hearing on a petition that has been approved by the grand jury under Section 53.045 of this code and in which the child is subject to a determinate sentence, the general public may be excluded from~~] hearings under this title to the public unless the court, for good cause shown, determines that the public should be excluded.

(b) The court may not prohibit a person who is a victim of the conduct of a child from personally attending a hearing under this title relating to the conduct by the child unless the victim is to testify in the hearing or any subsequent hearing relating to the conduct and the court determines that the victim's testimony would be materially affected if the victim hears other testimony at trial [in its discretion may admit such members of the general public as it deems proper].

SECTION 46. Section 54.11, Family Code, is amended to read as follows:

Sec. 54.11. RELEASE OR TRANSFER HEARING. (a) On receipt of a referral [notice required] under Section 61.079(a), Human Resources Code, for [of] the transfer to the institutional division of the Texas Department of Criminal Justice [Corrections] of a person committed to the Texas Youth Commission under Section 54.04(d)(3), 54.04(m), or 54.05(f) [a determinate sentence], or on receipt of a request by the commission under Section 61.081(g) [(f)], Human Resources Code, for approval of the release under supervision of a person committed to the commission under Section 54.04(d)(3), 54.04(m), or 54.05(f) [a determinate sentence], the court shall set a time and place for a hearing on the release of the person.

(b) The court shall notify the following of the time and place of the hearing:

- (1) the person to be transferred or released under supervision;
- (2) the parents of the person;
- (3) any legal custodian of the person, including the Texas Youth Commission;
- (4) the office of the prosecuting attorney that represented the state in the juvenile delinquency proceedings;
- (5) the victim of the offense that was included in the delinquent conduct that was a ground for the disposition, or a member of the victim's family; and
- (6) any other person who has filed a written request with the court to be notified of a release hearing with respect to the person to be transferred or released under supervision.

(c) Except for the person to be transferred or released under supervision and the prosecuting attorney, the failure to notify a person listed in Subsection (b) of this section does not affect the validity of a [release] hearing conducted or [a release] determination made under this section if the record in the case reflects that the whereabouts of the persons who did not receive notice were unknown to the court and a reasonable effort was made by the court to locate those persons.

(d) At a [release] hearing under this section the court may consider written reports from probation officers, professional court employees, or professional consultants, in addition to the testimony of witnesses. At least one day before the [release] hearing, the court shall provide the attorney for the person to be transferred or released under supervision with access to all written matter to be considered by the court.

(e) At the [any release] hearing, the person to be transferred or released under supervision is entitled to an attorney, to examine all witnesses against him, to present evidence and oral argument, and to previous examination of all

reports on and evaluations and examinations of or relating to him that may be used in the hearing.

(f) A ~~[release]~~ hearing under this section is open to the public unless the person to be transferred or released under supervision waives a public hearing with the consent of his attorney and the court.

(g) A ~~[release]~~ hearing under this section must be recorded by a court reporter or by audio or video tape recording, and the record of the hearing must be retained by the court for at least two years after the date of the final determination on the transfer or release of the person by the court.

(h) The ~~[release]~~ hearing on a person who is referred for ~~[the subject of a notice of]~~ transfer under Section 61.079(a), Human Resources Code, shall ~~[must]~~ be held not later than the 60th day after the date the court receives the referral ~~[before 30 days before the person's 18th birthday].~~

(i) On conclusion of the ~~[release]~~ hearing on a person who is referred for ~~[the subject of a notice of]~~ transfer under Section 61.079(a), Human Resources Code, the court may order:

(1) the return ~~[recommitment]~~ of the person to the Texas Youth Commission ~~[without a determinate sentence]; or~~

(2) the transfer of the person to the custody of the institutional division of the Texas Department of Criminal Justice for the completion of the person's ~~[determinate] sentence[; or~~

~~[(3) the final discharge of the person].~~

(j) On conclusion of the hearing on a person who is referred for release under supervision under Section 61.081(f), Human Resources Code, the court may order the return of the person to the Texas Youth Commission:

(1) with approval for the release of the person under supervision; or

(2) without approval for the release of the person under supervision.

(k) In making a determination under this section, the court may consider the experiences and character of the person before and after commitment to the youth commission, the nature of the penal offense that the person was found to have committed and the manner in which the offense was committed, the abilities of the person to contribute to society, the protection of the victim of the offense or any member of the victim's family, the recommendations of the youth commission and prosecuting attorney, the best interests of the person, and any other factor relevant to the issue to be decided.

SECTION 47. Chapter 55, Family Code, is amended to read as follows:

CHAPTER 55. PROCEEDINGS CONCERNING CHILDREN WITH
MENTAL ILLNESS OR MENTAL ~~[;]~~ RETARDATION
~~[- DISEASE, OR DEFECT]~~

Sec. 55.01. PHYSICAL OR MENTAL EXAMINATION. (a) At any stage of the proceedings under this title, the juvenile court may order a ~~[cause the]~~ child alleged by petition or found to have engaged in delinquent conduct or conduct indicating a need for supervision to be examined by appropriate experts, including a physician, psychiatrist, or psychologist.

(b) If an examination ordered under Subsection (a) of this section is to determine whether the child is mentally retarded, the examination must consist of a determination of mental retardation and an interdisciplinary team recommendation, as provided by Chapter 593 ~~[comprehensive diagnosis and~~

evaluation as defined in Subtitle D, Title 7, Health and Safety Code, and shall be conducted at a facility approved or operated by the Texas Department of Mental Health and Mental Retardation or at a community center established in accordance with Chapter 534, Health and Safety Code.

Sec. 55.02. ~~[MENTALLY ILL]~~ CHILD WITH MENTAL ILLNESS. (a) ~~The~~ [If it appears to the juvenile court, on suggestion of a party or on the court's own notice, that a child alleged by petition or found to have engaged in delinquent conduct or conduct indicating a need for supervision may be mentally ill, the] court shall initiate proceedings to order temporary or extended mental health services, as provided in Subchapter C, Chapter 574, Health and Safety Code, for a [hospitalization of the] child alleged or found to have engaged in delinquent conduct or conduct indicating a need for supervision, if:

(1) on motion by a party or the court it is alleged that the child is mentally ill; or

(2) a child is found or alleged to be unfit to proceed as a result of mental illness under Section 55.04 of this chapter or is found not responsible for the child's conduct as a result of mental illness under Section 55.05 of this chapter [for observation and treatment].

(b) Subtitle C, Title 7, Health and Safety Code, governs proceedings for court-ordered mental health services [temporary hospitalization] except that the juvenile court shall conduct the proceedings whether or not the juvenile court is also a county court.

(c) If the juvenile court orders mental health services for [enters an order of temporary hospitalization of] the child, the child shall be cared for, treated, and released in conformity to Subtitle C, Title 7, Health and Safety Code, except:

(1) a juvenile court order for mental health services [of temporary hospitalization] of a child automatically expires on the 120th day after the date [when] the child becomes 18 years of age; and

(2) the administrator [head] of a mental health facility [hospital] shall notify, in writing, the juvenile court that ordered mental health services of the intent to discharge the child [temporary hospitalization] at least 10 days prior to discharge [of the child; and

[3) appeal from juvenile court proceedings under this section shall be to the court of civil appeals as in other proceedings under this title].

(d) If the juvenile court orders mental health services for the [temporary hospitalization of a] child, the proceedings under this title then pending in juvenile court shall be stayed.

(e) If the child is discharged from the mental health facility [hospital] before reaching 18 years of age, the juvenile court may:

(1) dismiss the juvenile court proceedings with prejudice; or

(2) continue with proceedings under this title as though no order of mental health services [temporary hospitalization] had been made.

(f) The juvenile court shall transfer all pending proceedings from the juvenile court to a criminal court on the 18th birthday of a child for whom the court has ordered mental health services under this section if:

(1) the child is not discharged or furloughed from the residential care facility before reaching 18 years of age; and

(2) the child is alleged to have engaged in delinquent conduct that included a violation of a penal law listed in Section 53.045.

(g) The juvenile court shall send notification of the transfer of a child under Subsection (f) to the residential care facility. The criminal court shall, within 90 days of the transfer, institute proceedings under Article 46.02, Code of Criminal Procedure. If those or any subsequent proceedings result in a determination that the defendant is competent to stand trial, the defendant may not receive a punishment for the delinquent conduct described by Subsection (f)(2) that results in confinement for a period longer than the maximum period of confinement the defendant could have received if the defendant had been adjudicated for the delinquent conduct while still a child and within the jurisdiction of the juvenile court.

Sec. 55.03. [~~MENTALLY RETARDED~~] CHILD WITH MENTAL RETARDATION. (a) ~~If [it appears to the juvenile court, on the suggestion of a party or on the court's own notice, that] a child is [alleged or] found or alleged to be unfit to proceed as a result of mental retardation under Section 55.04 of this chapter or is found not responsible for the child's conduct as a result of mental retardation under Section 55.05 of this chapter [have engaged in delinquent conduct or conduct indicating a need for supervision may be mentally retarded], the court shall order a determination of mental retardation and an interdisciplinary team recommendation [comprehensive diagnosis and evaluation] of the child, as provided by Chapter 593, Health and Safety Code, to be performed at a facility approved or operated by the Texas Department of Mental Health and Mental Retardation or at a community center established in accordance with Chapter 534, Health and Safety Code. If the court finds that the results of such determination of mental retardation [comprehensive diagnosis and evaluation] indicate a significantly subaverage general intellectual function of 2.5 or more standard deviations below the age-group mean for the tests used existing concurrently with significantly related deficits in adaptive behavior [of Levels I-IV], the court shall initiate proceedings to order commitment of the child to a residential care facility, as that term is defined by Section 591.003, Health and Safety Code [for the care and treatment of mentally retarded persons].~~

(b) A child alleged or found to have engaged in delinquent conduct or conduct indicating a need for supervision may be committed to a residential care facility if:

(1) the child is found unfit to proceed as a result of mental retardation under Section 55.04 of this chapter or is found not responsible for the child's conduct as a result of mental retardation under Section 55.05 of this chapter; and

(2) the child meets the criteria for commitment as provided in Subchapter C, Chapter 593, Health and Safety Code.

(c) Subtitle D, Title 7, Health and Safety Code, governs proceedings for commitment of a child under [meeting the criteria set forth in Subsection (a) of] this section except that:

(1) the juvenile court shall conduct the proceedings whether or not the juvenile court is also a county court; and

(2) on receipt of the court's order entering the findings required by [set forth in Subsection (a) of this section, together with those findings set forth in]

Subtitle D, Title 7, Health and Safety Code, and Subsection (b)(1) of this section [~~as prerequisites for court commitments~~], the Texas Department of Mental Health and Mental Retardation or the appropriate community center shall [~~thereupon~~] admit the child to a residential care facility [~~for the mentally retarded~~].

(d) [~~(e)~~] If the juvenile court enters an order committing the child to for care and treatment in a residential care facility [~~for mentally retarded persons~~], the child shall be cared for, treated, and released in conformity to Subtitle D, Title 7, Health and Safety Code, except that the administrator of the residential care facility shall notify, in writing, [~~]~~

[~~(1)~~] the juvenile court that ordered commitment of the child of the intent [~~shall be notified at least 10 days prior~~] to discharge [~~of~~] the child from the residential care facility or to furlough the child to an alternative placement at least 20 days prior to the date of the discharge or furlough [~~;~~ and

[~~(2)~~] appeal from juvenile court proceedings under this section shall be to the court of civil appeals as in other proceedings under this title [~~]~~.

(e) [~~(d)~~] If the juvenile court orders commitment of a child to a residential care facility [~~for the care and treatment of mentally retarded persons~~], the proceedings under this title then pending in juvenile court shall be stayed.

(f) [~~(e)~~] If the child committed to a residential care facility is discharged or furloughed from the residential care facility as provided by Subsection (d) of this section and in accordance with Subtitle D, Title 7, Health and Safety Code, [~~for the care and treatment of mentally retarded persons~~] before reaching 18 years of age, the juvenile court may:

(1) dismiss the juvenile court proceedings with prejudice; or

(2) continue with proceedings under this title as though no order of commitment had been made.

(g) The juvenile court shall transfer all pending proceedings from the juvenile court to a criminal court on the 18th birthday of a child committed to a residential care facility if:

(1) the child is not discharged or furloughed from the residential care facility before reaching 18 years of age; and

(2) the child is alleged to have engaged in delinquent conduct that included a violation of a penal law listed in Section 53.045.

(h) The juvenile court shall send notification of the transfer of a child under Subsection (g) to the residential care facility. The criminal court shall, within 90 days of the transfer, institute proceedings under Article 46.02, Code of Criminal Procedure. If those or any subsequent proceedings result in a determination that the defendant is competent to stand trial, the defendant may not receive a punishment for the delinquent conduct described by Subsection (g)(2) that results in confinement for a period longer than the maximum period of confinement the defendant could have received if the defendant had been adjudicated for the delinquent conduct while still a child and within the jurisdiction of the juvenile court.

Sec. 55.04. UNFITNESS [MENTAL DISEASE OR DEFECT EXCLUDING FITNESS] TO PROCEED. (a) A [Nø] child alleged by petition or found to have engaged in delinquent conduct or conduct indicating a need for supervision who as a result of mental illness or mental retardation [disease

~~or defect~~] lacks capacity to understand the proceedings in juvenile court or to assist in his own defense is unfit to proceed and shall not be subjected to discretionary transfer to criminal court, adjudication, disposition, or modification of disposition as long as such incapacity endures.

(b) If on motion by a party or the court it is alleged ~~[appears to the juvenile court, on suggestion of a party or on the court's own notice,]~~ that a child ~~[alleged or found to have engaged in delinquent conduct or conduct indicating a need for supervision]~~ may be unfit to proceed as a result of mental illness or mental retardation, the court shall order appropriate examinations as provided by Section 55.01 of this chapter. The information obtained from the examinations must include expert opinion as to ~~[medical and psychiatric inquiry to assist in determining]~~ whether the child is unfit to proceed as a result ~~[because]~~ of mental illness or mental retardation ~~[disease or defect]~~.

(c) The court or jury shall determine whether the child is unfit to proceed as a result of mental illness or mental retardation ~~[from the psychiatric and other evidence]~~ at a hearing separate from~~[-, but conducted in accordance with the requirements for,]~~ the adjudication hearing ~~[whether the child is fit or unfit to proceed]~~.

(d) Unfitness to proceed as a result of mental illness or mental retardation must be proved by a preponderance of the evidence.

(e) If the court or jury determines that the child is fit to proceed, the juvenile court shall continue with proceedings under this title as though no question of fitness to proceed had been raised.

(f) If the court or jury determines that the child is unfit to proceed as a result of mental illness or mental retardation, the court ~~[or jury]~~ shall initiate proceedings under ~~[determine whether the child should be committed for a period of temporary hospitalization for observation and treatment in accordance with]~~ Section 55.02 or ~~[of this code or committed to a facility for mentally retarded persons for care and treatment in accordance with]~~ Section 55.03 of this chapter ~~[code]~~.

(g) A proceeding ~~[Proceedings]~~ to determine fitness to proceed may be joined with proceedings under Sections 55.02 and 55.03 of this chapter ~~[code]~~.

(h) The fact that the child is unfit to proceed as a result of mental illness or mental retardation does not preclude any legal objection to the juvenile court proceedings which is susceptible of fair determination prior to the adjudication hearing and without the personal participation of the child.

Sec. 55.05. LACK OF RESPONSIBILITY FOR CONDUCT ~~[MENTAL DISEASE OR DEFECT EXCLUDING RESPONSIBILITY]~~. (a) A child alleged by petition to have engaged in ~~[is not responsible for]~~ delinquent conduct or conduct indicating a need for supervision is not responsible for the conduct if at the time of the [such] conduct, as a result of mental illness or mental retardation ~~[disease or defect]~~, he lacks substantial capacity either to appreciate the wrongfulness of his conduct or to conform his conduct to the requirements of law.

(b) If ~~[it appears to the juvenile court,]~~ on motion ~~[suggestion]~~ of a party or ~~[on]~~ the court it is ~~[court's own notice, that a child]~~ alleged that the child ~~[to have engaged in delinquent conduct or conduct indicating a need for supervision]~~ may not be responsible as a result of mental illness or mental

retardation for the child's conduct [disease or defect], the court shall order appropriate examinations as provided by Section 55.01 of this chapter. The information obtained from the examinations must include expert opinion as to [medical and psychiatric inquiry to assist in determining] whether the child is [or is] not responsible for the child's conduct as a result of mental illness or mental retardation.

(c) The issue of whether the child is not responsible for his conduct as a result of mental illness or mental retardation ~~[disease or defect]~~ shall be tried to the court or jury in the adjudication hearing.

(d) Lack of [Mental disease or defect excluding] responsibility for conduct as a result of mental illness or mental retardation must be proved by a preponderance of the evidence.

(e) In its findings or verdict the court or jury must state whether the child is not responsible for his conduct as a result of mental illness or mental retardation ~~[disease or defect]~~.

(f) If the court or jury finds the child is not responsible for his conduct as a result of mental illness or mental retardation, the court shall initiate proceedings under Section 55.02 or 55.03 of this chapter ~~[proceedings shall continue as though no question of mental disease or defect excluding responsibility had been raised]~~.

(g) A [If the court or jury finds that the] child found [is] not responsible for his conduct as a result of mental illness or mental retardation [disease or defect, the court shall dismiss the proceedings with prejudice, and the court] shall not be subject to proceedings under this title with respect to such conduct, other than [initiate] proceedings under Section 55.02 or 55.03 of this chapter [code to determine whether the child should be committed for care and treatment as a mentally ill or mentally retarded child].

~~[(h) A child declared not responsible for his conduct because of mental disease or defect shall not thereafter be subject to proceedings under this title with respect to such conduct, other than proceedings under Section 55.02 or 55.03 of this code.]~~

SECTION 48. Section 56.01, Family Code, is amended by amending Subsections (c) and (i) and adding Subsections (k)-(m) to read as follows:

(c) An appeal may be taken:

(1) by or on behalf of a child from an order entered under:

(A) ~~[Section 54.02 of this code respecting transfer of the child to criminal court for prosecution as an adult;~~

~~[(B)]~~ Section 54.03 of this code with regard to delinquent conduct or conduct indicating a need for supervision;

(B) ~~[(C)]~~ Section 54.04 of this code disposing of the case;

(C) ~~[(D)]~~ Section 54.05 of this code respecting modification of a previous juvenile court disposition; or

(D) ~~[(E)]~~ Chapter 55 of this code committing a child to a facility for the mentally ill or mentally retarded; or

(2) by a person from an order entered under Section 54.11(i)(2) of this code transferring the person to the custody of the institutional division of the Texas Department of Criminal Justice.

(i) The appellate court may affirm, reverse, or modify the judgment or order, including an order of disposition or modified disposition, from which

appeal was taken. It may reverse or modify an order of disposition or modified order of disposition while affirming the juvenile court adjudication that the child engaged in delinquent conduct or conduct indicating a need for supervision. It may remand an order that it reverses or modifies for further proceedings by the juvenile court.

(k) The appellate court shall dismiss an appeal on the state's motion, supported by affidavit showing that the appellant has escaped from custody pending the appeal and, to the affiant's knowledge, has not voluntarily returned to the state's custody on or before the 10th day after the date of the escape. The court may not dismiss an appeal, or if the appeal has been dismissed, shall reinstate the appeal, on the filing of an affidavit of an officer or other credible person showing that the appellant voluntarily returned to custody on or before the 10th day after the date of the escape.

(l) The court may order the child, the child's parent, or other person responsible for support of the child to pay the child's costs of appeal, including the costs of representation by an attorney, unless the court determines the person to be ordered to pay the costs is indigent.

(m) For purposes of determining indigency of the child under this section, the court shall consider the assets and income of the child, the child's parent, and any other person responsible for the support of the child.

SECTION 49. Section 57.001(3), Family Code, is amended to read as follows:

(3) "Victim" means a person who:

(A) is the victim of the delinquent conduct of a child that includes the elements under the penal law of this state of sexual assault, kidnapping, or aggravated robbery; ~~or~~

(B) has suffered bodily injury or death as a result of the conduct of a child that violates a penal law of this state; or

(C) is the owner or lessor of property damaged or lost as a result of the conduct of a child that violates a penal law of this state.

SECTION 50. Section 57.002, Family Code, is amended to read as follows:

Sec. 57.002. VICTIM'S RIGHTS. A victim, guardian of a victim, or close relative of a deceased victim is entitled to the following rights within the juvenile justice system:

(1) the right to receive from law enforcement agencies adequate protection from harm and threats of harm arising from cooperation with prosecution efforts;

(2) the right to have the court or person appointed by the court take the safety of the victim or the victim's family into consideration as an element in determining whether the child should be detained before the child's conduct is adjudicated;

(3) the right, if requested, to be informed of relevant court proceedings, including appellate proceedings, and to be informed in a timely manner if those court proceedings have been canceled or rescheduled;

(4) the right to be informed, when requested, by the court or a person appointed by the court concerning the procedures in the juvenile justice system, including general procedures relating to:

(A) the preliminary investigation and deferred prosecution [~~informal adjustment~~] of a case; and

(B) the appeal of the case;

(5) the right to provide pertinent information to a juvenile court conducting a disposition hearing concerning the impact of the offense on the victim and the victim's family by testimony, written statement, or any other manner before the court renders its disposition;

(6) the right to receive information regarding compensation to victims as provided by Subchapter B, Chapter 56, Code of Criminal Procedure [~~the Crime Victims Compensation Act (Article 8309-1, Vernon's Texas Civil Statutes)~~], including information related to the costs that may be compensated under that Act and the amount of compensation, eligibility for compensation, and procedures for application for compensation under that Act, the payment of medical expenses under Section 56.06, Code of Criminal Procedure [~~Section 1, Chapter 299, Acts of the 63rd Legislature, Regular Session, 1973 (Article 4447m, Vernon's Texas Civil Statutes)~~], for a victim of a sexual assault, and when requested, to referral to available social service agencies that may offer additional assistance;

(7) the right to be informed, upon request, of procedures for release under supervision or transfer of the person to the custody of the pardons and paroles division of the Texas Department of Criminal Justice for parole, to participate in the release or transfer for parole process, to be notified, if requested, of release or transfer for parole proceedings concerning the person [~~child~~], to provide to the Texas Youth Commission for inclusion in the person's [~~child's~~] file information to be considered by the commission before the release under supervision or transfer for parole of the person [~~child~~], and to be notified, if requested, of the person's [~~child's~~] release or transfer for parole;

(8) the right to be provided with a waiting area, separate or secure from other witnesses, including the child alleged to have committed the conduct and relatives of the child, before testifying in any proceeding concerning the child, or, if a separate waiting area is not available, other safeguards should be taken to minimize the victim's contact with the child and the child's relatives and witnesses, before and during court proceedings;

(9) the right to prompt return of any property of the victim that is held by a law enforcement agency or the attorney for the state as evidence when the property is no longer required for that purpose;

(10) the right to have the attorney for the state notify the employer of the victim, if requested, of the necessity of the victim's cooperation and testimony in a proceeding that may necessitate the absence of the victim from work for good cause; and

(11) the right to be present at all public court proceedings related to the conduct of the child as provided by Section 54.08, subject to that section; and

(12) any other right appropriate to the victim that a victim of criminal conduct has under Article 56.02, Code of Criminal Procedure [~~the approval of the court~~].

SECTION 51. Chapter 57, Family Code, is amended by amending Section 57.003 and by adding Section 57.0031 to read as follows:

Sec. 57.003. DUTY OF JUVENILE BOARD. (a) The juvenile board shall ensure to the extent practicable that a victim, guardian of a victim, or close relative of a deceased victim is afforded the rights granted by Section 57.002 [~~of this code~~] and, on request, an explanation of those rights.

(b) The juvenile board may designate a person to serve as victim assistance coordinator in the juvenile board's jurisdiction for victims of juvenile offenders.

(c) The victim assistance coordinator shall ensure that a victim, or close relative of a deceased victim, is afforded the rights granted victims, guardians, and relatives by Section 57.002 and, on request, an explanation of those rights. The victim assistance coordinator shall work closely with appropriate law enforcement agencies, prosecuting attorneys, the Texas Juvenile Probation Commission, and the Texas Youth Commission in carrying out that duty.

(d) The victim assistance coordinator shall ensure that at a minimum, a victim, guardian of a victim, or close relative of a deceased victim receives:

(1) a written notice of the rights outlined in Section 57.002;

(2) an application for compensation under the Crime Victims' Compensation Act (Subchapter B, Chapter 56, Code of Criminal Procedure); and

(3) a victim impact statement with information explaining the possible use and consideration of the victim impact statement at detention, adjudication, and release proceedings involving the juvenile.

(e) The victim assistance coordinator shall, on request, offer to assist a person receiving a form under Subsection (d) to complete the form.

(f) The victim assistance coordinator shall send a copy of the victim impact statement to the court conducting a disposition hearing involving the juvenile.

Sec. 57.0031. NOTIFICATION OF RIGHTS OF VICTIMS OF JUVENILES. At the initial contact or at the earliest possible time after the initial contact between the victim of a reported crime and the juvenile probation office having the responsibility for the disposition of the juvenile, the office shall provide the victim a written notice:

(1) containing information about the availability of emergency and medical services, if applicable;

(2) stating that the victim has the right to receive information regarding compensation to victims of crime as provided by the Crime Victims' Compensation Act (Subchapter B, Chapter 56, Code of Criminal Procedure), including information about:

(A) the costs that may be compensated and the amount of compensation, eligibility for compensation, and procedures for application for compensation;

(B) the payment for a medical examination for a victim of a sexual assault; and

(C) referral to available social service agencies that may offer additional assistance;

(3) stating the name, address, and phone number of the victim assistance coordinator for victims of juveniles;

(4) containing the following statement: "You may call the crime victim assistance coordinator for the status of the case and information about victims' rights.";

(5) stating the rights of victims of crime under Section 57.002;

(6) summarizing each procedural stage in the processing of a juvenile case, including preliminary investigation, detention, informal adjustment of a case, disposition hearings, release proceedings, restitution, and appeals;

(7) suggesting steps the victim may take if the victim is subjected to threats or intimidation;

(8) stating the case number and assigned court for the case; and

(9) stating that the victim has the right to file a victim impact statement and to have it considered in juvenile proceedings.

SECTION 52. Chapter 57, Family Code, is amended by adding Section 57.008 to read as follows:

Sec. 57.008. COURT ORDER FOR PROTECTION FROM JUVENILES.

(a) A court may issue an order for protection from juveniles directed against a child to protect a victim of the child's conduct who, because of the victim's participation in the juvenile justice system, risks further harm by the child.

(b) In the order, the court may prohibit the child from doing specified acts or require the child to do specified acts necessary or appropriate to prevent or reduce the likelihood of further harm to the victim by the child.

SECTION 53. Title 3, Family Code, is amended by adding Chapters 58-60 to read as follows:

CHAPTER 58. RECORDS; JUVENILE JUSTICE INFORMATION
SYSTEM SUBCHAPTER A. RECORDS

Sec. 58.001. COLLECTION OF RECORDS OF CHILDREN. (a) Law enforcement officers and other juvenile justice personnel shall collect information described by Section 58.104 as a part of the juvenile justice information system created under Subchapter B.

(b) The information is available as provided by Subchapter B.

(c) A law enforcement agency may forward information, including photographs and fingerprints, relating to a child who has been detained or taken into custody by the agency to the Department of Public Safety of the State of Texas for inclusion in the juvenile justice information system created under Subchapter B only if the child is referred to juvenile court on or before the 10th day after the date the child is detained or taken into custody. If the child is not referred to juvenile court within that time, the law enforcement agency shall destroy all information, including photographs and fingerprints, relating to the child unless the child is placed in a first offender program under Section 52.031 or on informal disposition under Section 52.03. The law enforcement agency may not forward any information to the Department of Public Safety of the State of Texas relating to the child while the child is in a first offender program under Section 52.031 or on informal disposition under Section 52.03. On successful completion by the child of a first offender program under Section 52.031 or informal disposition under Section 52.03, the law enforcement agency shall destroy all information, including photographs and fingerprints, relating to the child.

Sec. 58.002. PHOTOGRAPHS AND FINGERPRINTS OF CHILDREN.

(a) Except as provided by Chapter 79, Human Resources Code, a child may not be photographed or fingerprinted without the consent of the juvenile court unless the child is taken into custody for conduct that constitutes a felony or a misdemeanor punishable by confinement in jail.

(b) On or before December 31 of each year, the head of each municipal or county law enforcement agency located in a county shall certify to the juvenile board for that county that the photographs and fingerprints required to be destroyed under Section 58.001 have been destroyed. The juvenile board shall conduct an audit of the records of the law enforcement agency to verify the destruction of the photographs and fingerprints and the law enforcement agency shall make its records available for this purpose. If the audit shows that the certification provided by the head of the law enforcement agency is false, that person is subject to prosecution for perjury under Chapter 37, Penal Code.

Sec. 58.003. SEALING OF RECORDS. (a) Except as provided by Subsections (b) and (c), on the application of a person who has been found to have engaged in delinquent conduct or conduct indicating a need for supervision, or a person taken into custody to determine whether the person engaged in delinquent conduct or conduct indicating a need for supervision, on the juvenile court's own motion or on receipt of a certification from the Department of Public Safety of the State of Texas that the records of a person are eligible for sealing under this section, the court shall order the sealing of the records in the case if the court finds that:

(1) two years have elapsed since final discharge of the person or since the last official action in the person's case if there was no adjudication; and

(2) since the time specified in Subdivision (1), the person has not been convicted of a felony or a misdemeanor involving moral turpitude or found to have engaged in delinquent conduct or conduct indicating a need for supervision and no proceeding is pending seeking conviction or adjudication.

(b) A court may not order the sealing of the records of a person who has received a determinate sentence for engaging in delinquent conduct that violated a penal law listed in Section 53.045 or engaging in habitual felony conduct as described by Section 51.031.

(c) Subject to Subsection (b), a court may order the sealing of records concerning a person adjudicated as having engaged in delinquent conduct that violated a penal law of the grade of felony only if:

(1) the person is 21 years of age or older;

(2) the person was not transferred by a juvenile court under Section 54.02 to a criminal court for prosecution;

(3) the records have not been used as evidence in the punishment phase of a criminal proceeding under Section 3(a), Article 37.07, Code of Criminal Procedure; and

(4) the person has not been convicted of a penal law of the grade of felony after becoming age 17.

(d) The court may grant the relief authorized in Subsection (a) at any time after final discharge of the person or after the last official action in the case if there was no adjudication. If the child is referred to the juvenile court for conduct constituting any offense and at the adjudication hearing the child is found to be not guilty of each offense alleged, the court shall immediately order the sealing of all files and records relating to the case.

(e) Reasonable notice of the hearing shall be given to:

(1) the person who made the application or who is the subject of the records named in the motion;

(2) the prosecuting attorney for the juvenile court;

(3) the authority granting the discharge if the final discharge was from an institution or from parole;

(4) the public or private agency or institution having custody of records named in the application or motion; and

(5) the law enforcement agency having custody of files or records named in the application or motion.

(f) A copy of the sealing order shall be sent to each agency or official named in the order.

(g) On entry of the order:

(1) all law enforcement, prosecuting attorney, clerk of court, and juvenile court records ordered sealed shall be sent to the court issuing the order;

(2) all records of a public or private agency or institution ordered sealed shall be sent to the court issuing the order;

(3) all index references to the records ordered sealed shall be deleted;

(4) the juvenile court, clerk of court, prosecuting attorney, public or private agency or institution, and law enforcement officers and agencies shall properly reply that no record exists with respect to the person on inquiry in any matter; and

(5) the adjudication shall be vacated and the proceeding dismissed and treated for all purposes other than a subsequent capital prosecution, including the purpose of showing a prior finding of delinquent conduct, as if it had never occurred.

(h) Inspection of the sealed records may be permitted by an order of the juvenile court on the petition of the person who is the subject of the records and only by those persons named in the order.

(i) On the final discharge of a child or on the last official action in the case if there is no adjudication, the child shall be given a written explanation of the child's rights under this section and a copy of the provisions of this section.

(j) A person whose records have been sealed under this section is not required in any proceeding or in any application for employment, information, or licensing to state that the person has been the subject of a proceeding under this title and any statement that the person has never been found to be a delinquent child shall never be held against the person in any criminal or civil proceeding.

(k) A prosecuting attorney may, on application to the juvenile court, reopen at any time the files and records of a person adjudicated as having engaged in delinquent conduct that violated a penal law of the grade of felony sealed by the court under this section for the purposes of Sections 12.42(a)-(c) and (e), Penal Code.

(l) On the motion of a person in whose name records are kept or on the court's own motion, the court may order the destruction of records that have been sealed under this section if:

(1) the records relate to conduct that did not violate a penal law of the grade of felony or a misdemeanor punishable by confinement in jail;

(2) five years have elapsed since the person's 16th birthday; and

(3) the person has not been convicted of a felony.

Sec. 58.004. COMPILATION OF INFORMATION PERTAINING TO A CRIMINAL COMBINATION. (a) A local criminal justice agency may compile criminal information into a local system for the purpose of investigating or prosecuting the criminal activities of criminal combinations. Criminal information relating to a child associated with a combination, utilizing the meaning assigned by Section 71.01, Penal Code, may be compiled and released to other local, state, or federal criminal justice agencies and any court having jurisdiction over a child, regardless of the age of the child. The information may be compiled on paper, by photographs, by computer, or in any other useful manner.

(b) In this section, "local criminal justice agency" means a municipal or county agency, or school district law enforcement agency, that is engaged in the administration of criminal justice under a statute or executive order.

Sec. 58.005. CONFIDENTIALITY OF RECORDS. (a) Information obtained for the purpose of diagnosis, examination, evaluation, or treatment or for making a referral for treatment of a child by a public or private agency or institution providing supervision of a child by arrangement of the juvenile court or having custody of the child under order of the juvenile court may be disclosed only to:

(1) the professional staff or consultants of the agency or institution;

(2) the judge, probation officers, and professional staff or consultants of the juvenile court;

(3) an attorney for the child;

(4) a governmental agency if the disclosure is required or authorized by law;

(5) a person or entity to whom the child is referred for treatment or services if the agency or institution disclosing the information has entered into a written confidentiality agreement with the person or entity regarding the protection of the disclosed information;

(6) the Texas Department of Criminal Justice and the Texas Juvenile Probation Commission for the purpose of maintaining statistical records of recidivism and for diagnosis and classification; or

(7) with leave of the juvenile court, any other person, agency, or institution having a legitimate interest in the proceeding or in the work of the court.

(b) This section does not apply to information collected under Section 58.104.

Sec. 58.006. DESTRUCTION OF CERTAIN RECORDS. The court shall order the destruction of the records relating to the conduct for which a child is taken into custody, including records contained in the juvenile justice information system, if:

(1) a determination that no probable cause exists to believe the child engaged in the conduct is made under Section 53.01 and the case is not referred to a prosecutor for review under Section 53.012; or

(2) a determination that no probable cause exists to believe the child engaged in the conduct is made by a prosecutor under Section 53.012.

Sec. 58.007. PHYSICAL RECORDS OR FILES. (a) This section applies only to the inspection and maintenance of a physical record or file concerning

a child and does not affect the collection, dissemination, or maintenance of information as provided by Subchapter B. This section does not apply to a record or file relating to a child that is required or authorized to be maintained under the laws regulating the operation of motor vehicles in this state.

(b) Except as provided by Article 15.27, Code of Criminal Procedure, the records and files of a juvenile court, a clerk of court, a juvenile probation department, or a prosecuting attorney relating to a child who is a party to a proceeding under this title are open to inspection only by:

(1) the judge, probation officers, and professional staff or consultants of the juvenile court;

(2) a juvenile justice agency as that term is defined by Section 58.101;

(3) an attorney for a party to the proceeding;

(4) a public or private agency or institution providing supervision of the child by arrangement of the juvenile court, or having custody of the child under juvenile court order; or

(5) with leave of the juvenile court, any other person, agency, or institution having a legitimate interest in the proceeding or in the work of the court.

(c) Except as provided by Subsection (d), law enforcement records and files concerning a child shall:

(1) be kept separate from adult files and records; and

(2) be maintained on a local basis only and not sent to a central state or federal depository.

(d) The law enforcement files and records of a person who is transferred from the Texas Youth Commission to the institutional division or the pardons and paroles division of the Texas Department of Criminal Justice may be transferred to a central state or federal depository for adult records on or after the date of transfer.

(e) Law enforcement records and files concerning a child may be inspected by a juvenile justice agency as that term is defined by Section 58.101 and a criminal justice agency as that term is defined by Section 411.082, Government Code.

(f) If a child has been reported missing by a parent, guardian, or conservator of that child, information about the child may be forwarded to and disseminated by the Texas Crime Information Center and the National Crime Information Center.

[Sections 58.008-58.100 reserved for expansion]

SUBCHAPTER B. JUVENILE JUSTICE INFORMATION SYSTEM

Sec. 58.101. DEFINITIONS. In this subchapter:

(1) "Criminal justice agency" has the meaning assigned by Section 411.082, Government Code.

(2) "Department" means the Department of Public Safety of the State of Texas.

(3) "Disposition" means an action that results in the termination, transfer of jurisdiction, or indeterminate suspension of the prosecution of a juvenile offender.

(4) "Incident number" means a unique number assigned to a child during a specific custodial or detention period or for a specific referral to the

office or official designated by the juvenile court, if the juvenile offender was not taken into custody before the referral.

(5) "Juvenile justice agency" means an agency that has custody or control over juvenile offenders.

(6) "Juvenile offender" means a child who has been assigned an incident number.

(7) "State identification number" means a unique number assigned by the department to a child in the juvenile justice information system.

(8) "Uniform incident fingerprint card" means a multiple-part form containing a unique incident number with space for information relating to the conduct for which a child has been taken into custody, detained, or referred, the child's fingerprints, and other relevant information.

Sec. 58.102. JUVENILE JUSTICE INFORMATION SYSTEM. (a) The department is responsible for recording data and maintaining a database for a computerized juvenile justice information system that serves:

(1) as the record creation point for the juvenile justice information system maintained by the state; and

(2) as the control terminal for entry of records, in accordance with federal law, rule, and policy, into the federal records system maintained by the Federal Bureau of Investigation.

(b) The department shall develop and maintain the system with the cooperation and advice of the:

(1) Texas Youth Commission;

(2) Texas Juvenile Probation Commission;

(3) Criminal Justice Policy Council; and

(4) juvenile courts and clerks of juvenile courts.

(c) The department may not collect or retain information relating to a juvenile if this chapter prohibits or restricts the collection or retention of the information.

(d) The database must contain the information required by this subchapter.

(e) The department shall designate the offense codes and has the sole responsibility for designating the state identification number for each juvenile whose name appears in the juvenile justice system.

Sec. 58.103. PURPOSE OF SYSTEM. The purpose of the juvenile justice information system is to:

(1) provide agencies and personnel within the juvenile justice system accurate information relating to children who come into contact with the juvenile justice system of this state;

(2) provide, where allowed by law, adult criminal justice agencies accurate and easily accessible information relating to children who come into contact with the juvenile justice system;

(3) provide an efficient conversion, where appropriate, of juvenile records to adult criminal records;

(4) improve the quality of data used to conduct impact analyses of proposed legislative changes in the juvenile justice system; and

(5) improve the ability of interested parties to analyze the functioning of the juvenile justice system.

Sec. 58.104. TYPES OF INFORMATION COLLECTED. (a) Subject to Subsection (f), the juvenile justice information system shall consist of

information relating to delinquent conduct committed by a juvenile offender that, if the conduct had been committed by an adult, would constitute a criminal offense other than an offense punishable by a fine only, including information relating to:

(1) the juvenile offender;

(2) the intake or referral of the juvenile offender into the juvenile justice system;

(3) the detention of the juvenile offender;

(4) the prosecution of the juvenile offender;

(5) the disposition of the juvenile offender's case, including the name and description of any program to which the juvenile offender is referred; and

(6) the probation or commitment of the juvenile offender.

(b) To the extent possible and subject to Subsection (a), the department shall include in the juvenile justice information system the following information for each juvenile offender taken into custody, detained, or referred under this title for delinquent conduct:

(1) the juvenile offender's name, including other names by which the juvenile offender is known;

(2) the juvenile offender's date and place of birth;

(3) the juvenile offender's physical description, including sex, weight, height, race, ethnicity, eye color, hair color, scars, marks, and tattoos;

(4) the juvenile offender's state identification number, and other identifying information, as determined by the department;

(5) the juvenile offender's fingerprints;

(6) the juvenile offender's last known residential address, including the census tract number designation for the address;

(7) the name and identifying number of the agency that took into custody or detained the juvenile offender;

(8) the date of detention or custody;

(9) the conduct for which the juvenile offender was taken into custody, detained, or referred, including level and degree of the alleged offense;

(10) the name and identifying number of the juvenile intake agency or juvenile probation office;

(11) each disposition by the juvenile intake agency or juvenile probation office;

(12) the date of disposition by the juvenile intake agency or juvenile probation office;

(13) the name and identifying number of the prosecutor's office;

(14) each disposition by the prosecutor;

(15) the date of disposition by the prosecutor;

(16) the name and identifying number of the court;

(17) each disposition by the court, including information concerning custody of a juvenile offender by a juvenile justice agency or probation;

(18) the date of disposition by the court;

(19) any commitment or release under supervision by the Texas Youth Commission;

(20) the date of any commitment or release under supervision by the Texas Youth Commission; and

(21) a description of each appellate proceeding.

(c) The department may designate codes relating to the information described by Subsection (b).

(d) The department shall designate a state identification number for each juvenile offender.

(e) This subchapter does not apply to a disposition that represents an administrative status notice of an agency described by Section 58.102(b).

(f) Records maintained by the department in the depository are subject to being sealed under Section 58.003. The department shall send to the appropriate juvenile court its certification of records that are eligible for sealing under Section 58.003(a).

Sec. 58.105. DUTIES OF JUVENILE BOARD. Each juvenile board shall provide for:

(1) the compilation and maintenance of records and information needed for reporting information to the department under this subchapter;

(2) the transmittal to the department, in the manner provided by the department, of all records and information required by the department under this subchapter; and

(3) access by the department to inspect records and information to determine the completeness and accuracy of information reported.

Sec. 58.106. CONFIDENTIALITY. (a) Except as provided by Subsection (b), information contained in the juvenile justice information system is confidential information for the use of the department and may not be disseminated by the department except:

(1) with the permission of the juvenile offender, to military personnel of this state or the United States;

(2) to a person or entity to which the department may grant access to adult criminal history records as provided by Section 411.083, Government Code;

(3) a juvenile justice agency; and

(4) to the Criminal Justice Policy Council, the Texas Youth Commission, and the Texas Juvenile Probation Commission for analytical purposes.

(b) Subsection (a) does not apply to a document maintained by a juvenile justice agency that is the source of information collected by the department.

Sec. 58.107. COMPATIBILITY OF DATA. Data supplied to the juvenile justice information system must be compatible with the system and must contain both incident numbers and state identification numbers.

Sec. 58.108. DUTIES OF AGENCIES AND COURTS. (a) A juvenile justice agency and a clerk of a juvenile court shall:

(1) compile and maintain records needed for reporting data required by the department;

(2) transmit to the department in the manner provided by the department data required by the department;

(3) give the department or its accredited agents access to the agency or court for the purpose of inspection to determine the completeness and accuracy of data reported; and

(4) cooperate with the department to enable the department to perform its duties under this chapter.

(b) A juvenile justice agency and clerk of a court shall retain documents described by this section.

Sec. 58.109. UNIFORM INCIDENT FINGERPRINT CARD. (a) The department may provide for the use of a uniform incident fingerprint card in the maintenance of the juvenile justice information system.

(b) The department shall design, print, and distribute to each law enforcement agency and juvenile intake agency uniform incident fingerprint cards.

(c) The incident cards must:

(1) be serially numbered with an incident number in a manner that allows each incident of referral of a juvenile offender who is the subject of the incident fingerprint card to be readily ascertained; and

(2) be multiple-part forms that can be transmitted with the juvenile offender through the juvenile justice process and that allow each agency to report required data to the department.

(d) Subject to available telecommunications capacity, the department shall develop the capability to receive by electronic means from a law enforcement agency the information on the uniform incident fingerprint card. The information must be in a form that is compatible to the form required of data supplied to the juvenile justice information system.

Sec. 58.110. REPORTING. (a) The department by rule shall develop reporting procedures that ensure that the juvenile offender processing data is reported from the time a juvenile offender is initially taken into custody, detained, or referred until the time a juvenile offender is released from the jurisdiction of the juvenile justice system.

(b) The law enforcement agency or the juvenile intake agency that initiates the entry of the juvenile offender into the juvenile justice information system for a specific incident shall prepare a uniform incident fingerprint card and initiate the reporting process for each incident reportable under this subchapter.

(c) The clerk of the court exercising jurisdiction over a juvenile offender's case shall report the disposition of the case to the department. A clerk of the court who violates this subsection commits an offense. An offense under this subsection is a Class C misdemeanor.

(d) In each county, the reporting agencies may make alternative arrangements for reporting the required information, including combined reporting or electronic reporting, if the alternative reporting is approved by the juvenile board and the department.

(e) Except as otherwise required by applicable state laws or regulations, information required by this chapter to be reported to the department shall be reported promptly. The information shall be reported not later than the 30th day after the date the information is received by the agency responsible for reporting the information, except that a juvenile offender's custody, detention, or referral without previous custody shall be reported to the department not later than the seventh day after the date of the custody, detention, or referral.

(f) Subject to available telecommunications capacity, the department shall develop the capability to receive by electronic means the information required under this section to be reported to the department. The information must be in a form that is compatible to the form required of data to be reported under this section.

Sec. 58.111. LOCAL DATA ADVISORY BOARDS. The commissioners court of each county may create a local data advisory board to perform the same duties relating to the juvenile justice information system as the duties performed by a local data advisory board in relation to the criminal history record system under Article 60.09, Code of Criminal Procedure.

Sec. 58.112. REPORT TO LEGISLATURE. Not later than January 15 of each year, the Criminal Justice Policy Council shall submit to the lieutenant governor, the speaker of the house of representatives, and the governor a report that contains the following statistical information relating to children referred to a juvenile court during the preceding year:

(1) the ages, races, and counties of residence of the children transferred to a district court or criminal district court for criminal proceedings; and

(2) the ages, races, and counties of residence of the children committed to the Texas Youth Commission, placed on probation, or discharged without any disposition.

Sec. 58.113. WARRANTS. The department shall maintain in a computerized database that is accessible by the same entities that may access the juvenile justice information system information relating to a warrant of arrest, as that term is defined by Article 15.01, Code of Criminal Procedure, or a directive to apprehend under Section 52.015 for any child, without regard to whether the child has been taken into custody.

CHAPTER 59. PROGRESSIVE SANCTIONS GUIDELINES

Sec. 59.001. PURPOSES. The purposes of the progressive sanctions guidelines are to:

(1) ensure that juvenile offenders face uniform and consistent consequences and punishments that correspond to the seriousness of each offender's current offense, prior delinquent history, special treatment or training needs, and effectiveness of prior interventions;

(2) balance public protection and rehabilitation while holding juvenile offenders accountable;

(3) permit flexibility in the decisions made in relation to the juvenile offender to the extent allowed by law;

(4) consider the juvenile offender's circumstances; and

(5) improve juvenile justice planning and resource allocation by ensuring uniform and consistent reporting of disposition decisions at all levels.

Sec. 59.002. SANCTION LEVEL ASSIGNMENT BY PROBATION DEPARTMENT. (a) The probation department may assign a sanction level of one to a child referred to the probation department under Section 53.012.

(b) The probation department may assign a sanction level of two to a child for whom deferred prosecution is authorized under Section 53.03.

Sec. 59.003. SANCTION LEVEL ASSIGNMENT GUIDELINES. (a) Subject to Subsection (e), after a child's first commission of delinquent conduct or conduct indicating a need for supervision, the probation department may or the juvenile court may, in a disposition hearing under Section 54.04, assign a child one of the following sanction levels according to the child's conduct:

(1) for conduct indicating a need for supervision, other than a Class A or B misdemeanor, the sanction level is one;

(2) for a Class A or B misdemeanor, other than a misdemeanor involving the use or possession of a firearm, or for delinquent conduct under Section 51.03(a)(2) or (3), the sanction level is two;

(3) for a misdemeanor involving the use or possession of a firearm or for a state jail felony or a felony of the third degree, the sanction level is three;

(4) for a felony of the second degree, the sanction level is four;

(5) for a felony of the first degree, other than a felony involving the use of a deadly weapon or causing serious bodily injury, the sanction level is five;

(6) for a felony of the first degree involving the use of a deadly weapon or causing serious bodily injury or for an aggravated controlled substance felony, the sanction level is six or, if the petition has been approved by a grand jury under Section 53.045, seven; or

(7) for a capital felony, the sanction level is seven.

(b) For a child's refusal to comply with the restrictions and standards of behavior established by the parent or guardian and the court, a parent or guardian may notify the court of the child's refusal to comply, and the court may place the child at the next level of sanction. Notification of the court by the parent or guardian of the child's refusal satisfies the requirement of the parent to make a reasonable good faith effort to prevent the child from engaging in delinquent conduct or engaging in conduct indicating a need for supervision.

(c) Subject to Subsection (e), if the child's subsequent commission of delinquent conduct or conduct indicating a need for supervision involves a violation of a penal law of a classification that is the same as or greater than the classification of the child's previous conduct, the juvenile court may assign the child a sanction level that is one level higher than the previously assigned sanction level, unless the child's previously assigned sanction level is seven.

(d) Subject to Subsection (e), if the child's previously assigned sanction level is four or five and the child's subsequent commission of delinquent conduct is of the grade of felony, the juvenile court may assign the child a sanction level that is one level higher than the previously assigned sanction level.

(e) A juvenile court or probation department that deviates from the guidelines under this section shall state in writing its reasons for the deviation and submit the statement to the juvenile board. Nothing in this chapter prohibits the imposition of appropriate sanctions that are different from those provided at any sanction level.

(f) The probation department may extend a period of probation specified under sanction levels one through five if the circumstances of the child warrant the extension and the probation department notifies the juvenile court in writing of the extension and the period of and reason for the extension. The court may on notice to the probation department deny the extension.

Sec. 59.004. SANCTION LEVEL ONE. (a) For a child at sanction level one, the juvenile court or probation department may:

(1) require counseling for the child regarding the child's conduct;

(2) inform the child of the progressive sanctions that may be imposed on the child if the child continues to engage in delinquent conduct or conduct indicating a need for supervision;

(3) inform the child's parents or guardians of the parents' or guardians' responsibility to impose reasonable restrictions on the child to prevent the conduct from recurring;

(4) provide information or other assistance to the child or the child's parents or guardians in securing needed social services;

(5) require the child or the child's parents or guardians to participate in a program for services under Section 264.302;

(6) refer the child to a community-based citizen intervention program approved by the juvenile court; and

(7) release the child to the child's parents or guardians.

(b) The probation department shall discharge the child from the custody of the probation department after the provisions of this section are met.

Sec. 59.005. SANCTION LEVEL TWO. (a) For a child at sanction level two, the juvenile court or the probation department may:

(1) place the child on court-ordered or informal probation for not less than three months or more than six months;

(2) require the child to make restitution to the victim of the child's conduct or perform community service restitution appropriate to the nature and degree of harm caused and according to the child's ability;

(3) require the child's parents or guardians to identify restrictions the parents or guardians will impose on the child's activities and requirements the parents or guardians will set for the child's behavior;

(4) provide the information required under Sections 59.004(a)(2) and (4);

(5) require the child or the child's parents or guardians to participate in a program for services under Section 264.302;

(6) refer the child to a community-based citizen intervention program approved by the juvenile court; and

(7) if appropriate, impose additional conditions of probation.

(b) The juvenile court or the probation department shall discharge the child from the custody of the probation department on the date the provisions of this section are met or on the child's 18th birthday, whichever is earlier.

Sec. 59.006. SANCTION LEVEL THREE. (a) For a child at sanction level three, the juvenile court may:

(1) place the child on probation for not less than six months;

(2) require the child to make restitution to the victim of the child's conduct or perform community service restitution appropriate to the nature and degree of harm caused and according to the child's ability;

(3) impose specific restrictions on the child's activities and requirements for the child's behavior as conditions of probation;

(4) require a probation officer to closely monitor the child's activities and behavior;

(5) require the child or the child's parents or guardians to participate in programs or services designated by the court or probation officer; and

(6) if appropriate, impose additional conditions of probation.

(b) The juvenile court shall discharge the child from the custody of the probation department on the date the provisions of this section are met or on the child's 18th birthday, whichever is earlier.

Sec. 59.007. SANCTION LEVEL FOUR. (a) For a child at sanction level four, the juvenile court may:

(1) require the child to participate as a condition of probation for not less than three months in a highly intensive and regimented program that emphasizes discipline, physical fitness, social responsibility, and productive work;

(2) after release from the program described by Subdivision (1), continue the child on probation supervision for not less than six months or more than 12 months;

(3) require the child to make restitution to the victim of the child's conduct or perform community service restitution appropriate to the nature and degree of harm caused and according to the child's ability;

(4) impose highly structured restrictions on the child's activities and requirements for behavior of the child as conditions of probation;

(5) require a probation officer to closely monitor the child;

(6) require the child or the child's parents or guardians to participate in programs or services designed to address their particular needs and circumstances; and

(7) if appropriate, impose additional sanctions.

(b) The juvenile court shall discharge the child from the custody of the probation department on the date the provisions of this section are met or on the child's 18th birthday, whichever is earlier.

Sec. 59.008. SANCTION LEVEL FIVE. (a) For a child at sanction level five, the juvenile court may:

(1) require the child to participate as a condition of probation for not less than six months or more than nine months in a highly structured residential program that emphasizes discipline, accountability, physical fitness, and productive work;

(2) after release from the program described by Subdivision (1), continue the child on probation supervision for not less than six months or more than 12 months;

(3) require the child to make restitution to the victim of the child's conduct or perform community service restitution appropriate to the nature and degree of harm caused and according to the child's ability;

(4) impose highly structured restrictions on the child's activities and requirements for behavior of the child as conditions of probation;

(5) require a probation officer to closely monitor the child;

(6) require the child or the child's parents or guardians to participate in programs or services designed to address their particular needs and circumstances; and

(7) if appropriate, impose additional sanctions.

(b) The juvenile court shall discharge the child from the custody of the probation department on the date the provisions of this section are met or on the child's 18th birthday, whichever is earlier.

Sec. 59.009. SANCTION LEVEL SIX. (a) For a child at sanction level six, the juvenile court shall commit the child to the custody of the Texas Youth Commission. The commission may:

(1) require the child to participate in a highly structured residential program that emphasizes discipline, accountability, fitness, training, and

productive work for not less than nine months or more than 24 months unless the commission extends the period and the reason for an extension is documented;

(2) require the child to make restitution to the victim of the child's conduct or perform community service restitution appropriate to the nature and degree of the harm caused and according to the child's ability, if there is a victim of the child's conduct;

(3) require the child and the child's parents or guardians to participate in programs and services for their particular needs and circumstances; and

(4) if appropriate, impose additional sanctions.

(b) On release of the child under supervision, the Texas Youth Commission parole programs may:

(1) impose highly structured restrictions on the child's activities and requirements for behavior of the child as conditions of release under supervision;

(2) require a parole officer to closely monitor the child for not less than six months; and

(3) if appropriate, impose any other conditions of supervision.

(c) The Texas Youth Commission may discharge the child from the commission's custody on the date the provisions of this section are met or on the child's 19th birthday, whichever is earlier.

Sec. 59.010. SANCTION LEVEL SEVEN. (a) For a child at sanction level seven, the juvenile court shall sentence the child to commitment to the Texas Youth Commission under Section 54.04(d)(3), 54.04(m), or 54.05(f). The commission may:

(1) require the child to participate in a highly structured residential program that emphasizes discipline, accountability, fitness, training, and productive work for not less than 12 months or more than 10 years unless the commission extends the period and the reason for the extension is documented;

(2) require the child to make restitution to the victim of the child's conduct or perform community service restitution appropriate to the nature and degree of harm caused and according to the child's ability, if there is a victim of the child's conduct;

(3) require the child and the child's parents or guardians to participate in programs and services for their particular needs and circumstances; and

(4) impose any other appropriate sanction.

(b) On release of the child under supervision, the Texas Youth Commission parole programs may:

(1) impose highly structured restrictions on the child's activities and requirements for behavior of the child as conditions of release under supervision;

(2) require a parole officer to monitor the child closely for not less than 12 months; and

(3) impose any other appropriate condition of supervision.

Sec. 59.011. DUTY OF JUVENILE BOARD. A juvenile board shall prepare a report to the Texas Juvenile Probation Commission, at least quarterly on forms provided by the commission, showing the referrals, probation or progressive sanctions violations, and commitments to the Texas Youth

Commission administered under this chapter according to the progressive sanctions guidelines and the reasons for any deviations from the guidelines.

Sec. 59.012. REPORTS BY CRIMINAL JUSTICE POLICY COUNCIL.

(a) The Texas Youth Commission shall compile information, at least quarterly, showing the commitments, placements, parole releases, and revocations administered under this chapter according to the progressive sanctions guidelines and the reasons for any deviation from the guidelines.

(b) The Texas Juvenile Probation Commission and the Texas Youth Commission shall compile the information obtained under this section and Section 59.011 and submit this information to the Criminal Justice Policy Council.

(c) The Criminal Justice Policy Council shall analyze the information compiled by the Texas Juvenile Probation Commission and the Texas Youth Commission under this section and submit the council's findings and recommendations at least annually to the governor and both houses of the legislature showing the primary reasons for any deviation and the effect of the implementation of the sanctions guidelines on recidivism rates.

Sec. 59.013. LIABILITY. The Texas Youth Commission, a juvenile board, a court, a person appointed by a court, an attorney for the state, a peace officer, or a law enforcement agency is not liable for a failure or inability to provide a service listed under Sections 59.004-59.010.

Sec. 59.014. APPEAL. The failure or inability of any person to provide a service listed under Sections 59.004-59.010 or the failure of a court or of any person to make a sanction level assignment as provided in Section 59.002 or 59.003 may not be used by a child as a ground for appeal or for a postconviction writ of habeas corpus.

Sec. 59.015. WAIVER OF SANCTIONS ON PARENTS OR GUARDIANS. On a finding by the juvenile court or probation department that a child's parents or guardians have made a reasonable good faith effort to prevent the child from engaging in delinquent conduct or engaging in conduct indicating a need for supervision and that, despite the parents' or guardians' efforts, the child continues to engage in such conduct, the court or probation department shall waive any sanction that may be imposed on the parents or guardians at any sanction level.

CHAPTER 60. UNIFORM INTERSTATE COMPACT ON JUVENILES

Sec. 60.001. SHORT TITLE. This chapter may be cited as the Uniform Interstate Compact on Juveniles.

Sec. 60.002. EXECUTION OF INTERSTATE COMPACT. The governor shall execute a compact on behalf of the state with any other state or states legally joining in it in substantially the following form:

INTERSTATE COMPACT ON JUVENILES

The contracting states solemnly agree:

Article I

FINDINGS AND PURPOSE

That juveniles who are not under proper supervision and control, or who have absconded, escaped, or run away are likely to endanger their own health, morals, and welfare, and the health, morals, and welfare of others. The cooperation of the states party to this compact is therefore necessary to provide

for the welfare and protection of juveniles and of the public with respect to (1) cooperative supervision of delinquent juveniles on probation or parole; (2) the return, from one state to another, of delinquent juveniles who have escaped or absconded; (3) the return, from one state to another, of nondelinquent juveniles who have run away from home; and (4) additional measures for the protection of juveniles and of the public, which any two or more of the party states may find desirable to undertake cooperatively. In carrying out the provisions of this compact the party states shall be guided by the noncriminal, reformatory, and protective policies which guide their laws concerning delinquent, neglected, or dependent juveniles generally. It shall be the policy of the states party to this compact to cooperate and observe their respective responsibilities for the prompt return and acceptance of juveniles and delinquent juveniles who become subject to the provisions of this compact. The provisions of this compact shall be reasonably and liberally construed to accomplish the foregoing purposes.

Article II

EXISTING RIGHTS AND REMEDIES

That all remedies and procedures provided by this compact shall be in addition to and not in substitution for other rights, remedies, and procedures, and shall not be in derogation of parental rights and responsibilities.

Article III

DEFINITIONS

That, for the purpose of this compact, "delinquent juvenile" means any juvenile who has been adjudged delinquent and who, at the time the provisions of this compact are invoked, is still subject to the jurisdiction of the court that has made such adjudication or to the jurisdiction or supervision of an agency or institution pursuant to an order of such court; "probation or parole" means any kind of conditional release of juveniles authorized under the laws of the states party hereto; "court" means any court having jurisdiction over delinquent, neglected, or dependent children; "state" means any state, territory, or possessions of the United States, the District of Columbia, and the Commonwealth of Puerto Rico; and "residence" or any variant thereof means a place at which a home or regular place of abode is maintained.

Article IV

RETURN OF RUNAWAYS

(a) That the parent, guardian, person, or agency entitled to legal custody of a juvenile who has not been adjudged delinquent but who has run away without the consent of such parent, guardian, person, or agency may petition the appropriate court in the demanding state for the issuance of a requisition for his return. The petition shall state the name and age of the juvenile, the name of the petitioner, and the basis of entitlement to the juvenile's custody, the circumstances of his running away, his location if known at the time application is made, and such other facts as may tend to show that the juvenile who has run away is endangering his own welfare or the welfare of others and is not an emancipated minor. The petition shall be verified by affidavit, shall be executed in duplicate, and shall be accompanied by two certified copies of the document or documents on which the petitioner's entitlement to the juvenile's custody is based, such as birth certificates, letters of guardianship, or

custody decrees. Such further affidavits and other documents as may be deemed proper may be submitted with such petition. The judge of the court to which this application is made may hold a hearing thereon to determine whether for the purposes of this compact the petitioner is entitled to the legal custody of the juvenile, whether or not it appears that the juvenile has in fact run away without consent, whether or not he is an emancipated minor, and whether or not it is in the best interest of the juvenile to compel his return to the state. If the judge determines, either with or without a hearing, that the juvenile should be returned, he shall present to the appropriate court or to the executive authority of the state where the juvenile is alleged to be located a written requisition for the return of such juvenile. Such requisition shall set forth the name and age of the juvenile, the determination of the court that the juvenile has run away without the consent of a parent, guardian, person, or agency entitled to his legal custody, and that it is in the best interest and for the protection of such juvenile that he be returned. In the event that a proceeding for the adjudication of the juvenile as a delinquent, neglected, or dependent juvenile is pending in the court at the time when such juvenile runs away, the court may issue a requisition for the return of such juvenile upon its own motion, regardless of the consent of the parent, guardian, person, or agency entitled to legal custody, reciting therein the nature and circumstances of the pending proceeding. The requisition shall in every case be executed in duplicate and shall be signed by the judge. One copy of the requisition shall be filed with the compact administrator of the demanding state, there to remain on file subject to the provisions of law governing records of such court. Upon the receipt of a requisition demanding the return of a juvenile who has run away, the court or the executive authority to whom the requisition is addressed shall issue an order to any peace officer or other appropriate person directing him to take into custody and detain such juvenile. Such detention order must substantially recite the facts necessary to the validity of its issuance hereunder. No juvenile detained upon such order shall be delivered over to the officer whom the court demanding him shall have appointed to receive him unless he shall first be taken forthwith before a judge of a court in the state, who shall inform him of the demand made for his return, and who may appoint counsel or guardian ad litem for him. If the judge of such court shall find that the requisition is in order, he shall deliver such juvenile over to the officer whom the court demanding him shall have appointed to receive him. The judge, however, may fix a reasonable time to be allowed for the purpose of testing the legality of the proceeding.

Upon reasonable information that a person is a juvenile who has run away from another state party to this compact without the consent of a parent, guardian, person, or agency entitled to his legal custody, such juvenile may be taken into custody without a requisition and brought forthwith before a judge of the appropriate court who may appoint counsel or guardian ad litem for such juvenile and who shall determine after a hearing whether sufficient cause exists to hold the person, subject to the order of the court, for his own protection and welfare, for such a time not exceeding 90 days as will enable his return to another state party to this compact pursuant to a requisition for his return from a court of that state. If, at the time when a state seeks the return of a juvenile

who has run away, there is pending in the state wherein he is found any criminal charge, or any proceeding to have him adjudicated a delinquent juvenile for an act committed in such state, or if he is suspected of having committed within such state a criminal offense or an act of juvenile delinquency, he shall not be returned without the consent of such state until discharged from prosecution or other form of proceeding, imprisonment, detention, or supervision for such offense of juvenile delinquency. The duly accredited officers of any state party to this compact, upon the establishment of their authority and the identity of the juvenile being returned, shall be permitted to transport such juvenile through any and all states party to this compact, without interference. Upon his return to the state from which he ran away, the juvenile shall be subject to such further proceedings as may be appropriate under the laws of that state.

(b) That the state to which a juvenile is returned under this article shall be responsible for payment of the transportation costs of such return.

(c) That "juvenile" as used in this article means any person who is a minor under the law of the state of residence of the parent, guardian, person, or agency entitled to the legal custody of such minor.

Article V

RETURN OF ESCAPEES AND ABSCONDERS

(a) That the appropriate person or authority from whose probation or parole supervision a delinquent juvenile has absconded or from whose institutional custody he has escaped shall present to the appropriate court or to the executive authority of the state where the delinquent juvenile is alleged to be located a written requisition for the return of such delinquent juvenile. Such requisition shall state the name and age of the delinquent juvenile, the particulars of his adjudication as a delinquent juvenile, the circumstances of the breach of the terms of his probation or parole or of his escape from an institution or agency vested with his legal custody or supervision, and the location of such delinquent juvenile, if known, at the time the requisition is made. The requisition shall be verified by affidavit, shall be executed in duplicate, and shall be accompanied by two certified copies of the judgment, formal adjudication, or order of commitment which subjects such delinquent juvenile to probation or parole or to the legal custody of the institution or agency concerned. Such further affidavits and other documents as may be deemed proper may be submitted with such requisition. One copy of the requisition shall be filed with the compact administrator of the demanding state, there to remain on file subject to the provisions of law governing records of the appropriate court. Upon the receipt of a requisition demanding the return of a delinquent juvenile who has absconded or escaped, the court or the executive authority to whom the requisition is addressed shall issue an order to any peace officer or other appropriate person directing him to take into custody and detain such delinquent juvenile. Such detention order must substantially recite the facts necessary to the validity of its issuance hereunder. No delinquent juvenile detained upon such order shall be delivered over to the officer whom the appropriate person or authority demanding him shall have appointed to receive him unless he shall first be taken forthwith before a judge of an appropriate court in the state, who shall inform him of the demand made for his return and who may appoint

counsel or guardian ad litem for him. If the judge of such court shall find that the requisition is in order, he shall deliver such delinquent juvenile over to the officer whom the appropriate person or authority demanding him shall have appointed to receive him. The judge, however, may fix a reasonable time to be allowed for the purpose of testing the legality of the proceeding.

Upon reasonable information that a person is a delinquent juvenile who has absconded while on probation or parole, or escaped from an institution or agency vested with this legal custody or supervision in any state party to this compact, such person may be taken into custody in any other state party to this compact without a requisition. But in such event, he must be taken forthwith before a judge of the appropriate court, who may appoint counsel or guardian ad litem for such person and who shall determine, after a hearing, whether sufficient cause exists to hold the person subject to the order of the court for such a time, not exceeding 90 days, as will enable his detention under a detention order issued on a requisition pursuant to this article. If, at the time when a state seeks the return of a delinquent juvenile who has either absconded while on probation or parole or escaped from an institution or agency vested with his legal custody or supervision, there is pending in the state wherein he is detained any criminal charge or any proceeding to have him adjudicated a delinquent juvenile for an act committed in such state, or if he is suspected of having committed within such state a criminal offense or an act of juvenile delinquency, he shall not be returned without the consent of such state until discharged from prosecution or other form of proceeding, imprisonment, detention, or supervision for such offense of juvenile delinquency. The duly accredited officers of any state party to this compact, upon the establishment of their authority and the identity of the delinquent juvenile being returned, shall be permitted to transport such delinquent juvenile through any and all states party to this compact, without interference. Upon his return to the state from which he escaped or absconded, the delinquent juvenile shall be subject to such further proceedings as may be appropriate under the laws of that state.

(b) That the state to which a delinquent juvenile is returned under this article shall be responsible for the payment of the transportation costs of such return.

Article VI

VOLUNTARY RETURN PROCEDURE

That any delinquent juvenile who has absconded while on probation or parole, or escaped from an institution or agency vested with his legal custody or supervision in any state party to this compact, and any juvenile who has run away from any state party to this compact, who is taken into custody without a requisition in another state party to this compact under the provisions of Article IV(a) or of Article V(a), may consent to his immediate return to the state from which he absconded, escaped, or ran away. Such consent shall be given by the juvenile or delinquent juvenile and his counsel or guardian ad litem, if any, by executing or subscribing in writing, in the presence of a judge of the appropriate court, which states that the juvenile or delinquent juvenile and his counsel or guardian ad litem, if any, consent to his return to the demanding state. Before such consent shall be executed or subscribed, however, the judge, in the presence of counsel or guardian ad litem, if any, shall inform

the juvenile or delinquent juvenile of his rights under this compact. When the consent has been duly executed, it shall be forwarded to and filed with the compact administrator of the state in which the court is located and the judge shall direct the officer having the juvenile or delinquent juvenile in custody to deliver him to the duly accredited officer or officers of the state demanding his return, and shall cause to be delivered to such officer or officers a copy of the consent. The court may, however, upon the request of the state to which the juvenile or delinquent juvenile is being returned, order him to return unaccompanied to such state and shall provide him with a copy of such court order; in such event a copy of the consent shall be forwarded to the compact administrator of the state to which said juvenile or delinquent juvenile is ordered to return.

Article VII

COOPERATIVE SUPERVISION OF PROBATIONERS AND PAROLEES

(a) That the duly constituted judicial and administrative authorities of a state party to this compact (herein called "sending state") may permit any delinquent juvenile within such state, placed on probation or parole, to reside in any other state party to this compact (herein called "receiving state") while on probation or parole, and the receiving state shall accept such delinquent juvenile, if the parent, guardian, or person entitled to the legal custody of such delinquent juvenile is residing or undertakes to reside within the receiving state. Before granting such permission, opportunity shall be given to the receiving state to make such investigations as it deems necessary. The authorities of the sending state shall send to the authorities of the receiving state copies of pertinent court orders, social case studies, and all other available information which may be of value to and assist the receiving state in supervising a probationer or parolee under this compact. A receiving state, in its discretion, may agree to accept supervision of a probationer or parolee in cases where the parent, guardian, or person entitled to the legal custody of the delinquent juvenile is not a resident of the receiving state, and if so accepted the sending state may transfer supervision accordingly.

(b) That each receiving state will assume the duties of visitation and of supervision over any such delinquent juvenile and in the exercise of those duties will be governed by the same standards of visitation and supervision that prevail for its own delinquent juveniles released on probation or parole.

(c) That, after consultation between the appropriate authorities of the sending state and of the receiving state as to the desirability and necessity of returning such a delinquent juvenile, the duly accredited officers of a sending state may enter a receiving state and there apprehend and retake any such delinquent juvenile on probation or parole. For that purpose, no formalities will be required, other than establishing the authority of the officer and the identity of the delinquent juvenile to be retaken and returned. The decision of the sending state to retake a delinquent juvenile on probation or parole shall be conclusive upon and not reviewable within the receiving state, but if, at the time the sending state seeks to retake a delinquent juvenile on probation or parole, there is pending against him within the receiving state any criminal charge or any proceedings to have him adjudicated a delinquent juvenile for any act committed in such state or if he is suspected of having committed within such

state a criminal offense or an act of juvenile delinquency, he shall not be returned without the consent of the receiving state until discharged from prosecution or other form of proceeding, imprisonment, detention, or supervision for such offense of juvenile delinquency. The duly accredited officers of the sending state shall be permitted to transport delinquent juveniles being so returned through any and all states party to this compact, without interference.

(d) That the sending state shall be responsible under this article for paying the costs of transporting any delinquent juvenile to the receiving state or of returning any delinquent juvenile to the sending state.

Article VIII RESPONSIBILITY FOR COSTS

(a) That the provisions of Articles IV(b), V(b), and VII(d) of this compact shall not be construed to alter or affect any internal relationship among the departments, agencies, and officers of and in the government of a party state, or between a party state and its subdivisions, as to the payment of costs, or responsibilities therefor.

(b) That nothing in this compact shall be construed to prevent any party state or subdivision thereof from asserting any right against any person, agency, or other entity in regard to costs for which such party state or subdivision thereof may be responsible pursuant to Articles IV(b), V(b), or VII(d) of this compact.

Article IX DETENTION PRACTICES

That, to every extent possible, it shall be the policy of states party to this compact that no juvenile or delinquent juvenile shall be placed or detained in any prison, jail, or lockup nor be detained or transported in association with criminal, vicious, or dissolute persons.

Article X SUPPLEMENTARY AGREEMENTS

That the duly constituted administrative authorities of a state party to this compact may enter into supplementary agreements with any other state or states party hereto for the cooperative care, treatment, and rehabilitation of delinquent juveniles whenever they shall find that such agreements will improve the facilities or programs available for such care, treatment, and rehabilitation. Such care, treatment, and rehabilitation may be provided in an institution located within any state entering into such supplementary agreement. Such supplementary agreements shall (1) provide the rates to be paid for the care, treatment, and custody of such delinquent juveniles, taking into consideration the character of facilities, services, and subsistence furnished; (2) provide that the delinquent juvenile shall be given a court hearing prior to his being sent to another state for care, treatment, and custody; (3) provide that the state receiving such a delinquent juvenile in one of its institutions shall act solely as agent for the state sending such delinquent juvenile; (4) provide that the sending state shall at all times retain jurisdiction over delinquent juveniles sent to an institution in another state; (5) provide for reasonable inspection of such institutions by the sending state; (6) provide that the consent of the parent, guardian, person, or agency entitled to the legal custody of said delinquent juvenile shall be secured prior to his being sent to another state; and (7) make

provision for such other matters and details as shall be necessary to protect the rights and equities of such delinquent juveniles and of the cooperating states.

Article XI

ACCEPTANCE OF FEDERAL AND OTHER AID

That any state party to this compact may accept any and all donations, gifts, and grants of money, equipment, and services from the federal or any local government, or any agency thereof and from any person, firm, or corporation, for any of the purposes and functions of this compact, and may receive and utilize the same, subject to the terms, conditions, and regulations governing such donations, gifts, and grants.

Article XII

COMPACT ADMINISTRATORS

That the governor of each state party to this compact shall designate an officer who, acting jointly with like officers of other party states, shall promulgate rules and regulations to carry out more effectively the terms and provisions of this compact.

Article XIII

EXECUTION OF COMPACT

That this compact shall become operative immediately upon its execution by any state as between it and any other state or states so executing. When executed it shall have the full force and effect of law within such state, the form or execution to be in accordance with the laws of the executing state.

Article XIV

RENUNCIATION

That this compact shall continue in force and remain binding upon each executing state until renounced by it. Renunciation of this compact shall be by the same authority which executed it, by sending six months notice in writing of its intention to withdraw from the compact to the other states party hereto. The duties and obligations of a renouncing state under Article VII hereof shall continue as to parolees and probationers residing therein at the time of withdrawal until retaken or finally discharged. Supplementary agreements entered into under Article X hereof shall be subject to renunciation as provided by such supplementary agreements, and shall not be subject to the six months renunciation notice of the present article.

Article XV

SEVERABILITY

That the provisions of this compact shall be severable and if any phrase, clause, sentence, or provision of this compact is declared to be contrary to the constitution of any participating state or of the United States or the applicability thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person, or circumstances shall not be affected thereby. If this compact shall be held contrary to the constitution of any state participating therein, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters.

Sec. 60.003. EXECUTION OF ADDITIONAL ARTICLE. The governor shall also execute on the behalf of the state with any other state or states legally

joining in it, an additional article to the Interstate Compact on Juveniles in substantially the following form:

Article XVI

ADDITIONAL ARTICLE

That this article shall provide additional remedies, and shall be binding only as among and between those party states which specifically execute the same.

For the purposes of this article, "child," as used herein, means any minor within the jurisdictional age limits of any court in the home state.

When any child is brought before a court of a state of which such child is not a resident, and such state is willing to permit such child's return to the home state of such child, such home state, upon being so advised by the state in which such proceeding is pending, shall immediately institute proceedings to determine the residence and jurisdictional facts as to such child in such home state, and upon finding that such child is in fact a resident of said state and subject to the jurisdiction of the court thereof shall within five days authorize the return of such child to the home state, and to the parent or custodial agency legally authorized to accept such custody in such home state, and at the expense of such home state, to be paid from such funds as such home state may procure, designate, or provide, prompt action being of the essence.

Sec. 60.004. EXECUTION OF AMENDMENT. The governor shall also execute on the behalf of the state with any other state or states legally joining in it, an amendment to the Interstate Compact on Juveniles in substantially the following form:

RENDITION AMENDMENT

(a) This amendment shall provide additional remedies, and shall be binding only as among and between those party states which specifically execute the same.

(b) All provisions and procedures of Articles V and VI of the Interstate Compact on Juveniles shall be construed to apply to any juvenile charged with being a delinquent by reason of a violation of any criminal law. Any juvenile charged with being a delinquent by reason of violating any criminal law shall be returned to the requesting state upon a requisition to the state where the juvenile may be found. A petition in such case shall be filed in a court of competent jurisdiction in the requesting state where the violation of criminal law is alleged to have been committed. The petition may be filed regardless of whether the juvenile has left the state before or after the filing of the petition. The requisition described in Article V of the compact shall be forwarded by the judge of the court in which the petition has been filed.

Sec. 60.005. JUVENILE COMPACT ADMINISTRATOR. Under the compact, the governor may designate an officer as the compact administrator. The administrator, acting jointly with like officers of other party states, shall adopt regulations to carry out more effectively the terms of the compact. The compact administrator serves at the pleasure of the governor. The compact administrator shall cooperate with all departments, agencies, and officers of and in the government of this state and its subdivisions in facilitating the proper administration of the compact or of a supplementary agreement entered into by this state.

Sec. 60.006. SUPPLEMENTARY AGREEMENTS. A compact administrator may make supplementary agreements with appropriate officials of

other states pursuant to the compact. If a supplementary agreement requires or contemplates the use of an institution or facility of this state or requires or contemplates the provision of a service of this state, the supplementary agreement has no force or effect until approved by the head of the department or agency under whose jurisdiction the institution is operated, or whose department or agency is charged with performing the service.

Sec. 60.007. FINANCIAL ARRANGEMENTS. The compact administrator may make or arrange for the payments necessary to discharge the financial obligations imposed upon this state by the compact or by a supplementary agreement made under the compact, subject to legislative appropriations.

Sec. 60.008. ENFORCEMENT. The courts, departments, agencies, and officers of this state and its subdivisions shall enforce this compact and shall do all things appropriate to effectuate its purposes and intent which are within their respective jurisdictions.

Sec. 60.009. ADDITIONAL PROCEDURES NOT PRECLUDED. In addition to the procedures provided in Articles IV and VI of the compact for the return of a runaway juvenile, the particular states, the juvenile, or his parents, the courts, or other legal custodian involved may agree upon and adopt any plan or procedure legally authorized under the laws of this state and the other respective party states for the return of the runaway juvenile.

SECTION 54. Section 42.041(b), Human Resources Code, is amended to read as follows:

(b) This section does not apply to:

- (1) a state-operated facility;
- (2) an agency home;
- (3) a facility that is operated in connection with a shopping center, business, religious organization, or establishment where children are cared for during short periods while parents or persons responsible for the children are attending religious services, shopping, or engaging in other activities on or near the premises, including but not limited to retreats or classes for religious instruction;
- (4) a school or class for religious instruction that does not last longer than two weeks and is conducted by a religious organization during the summer months;
- (5) a youth camp licensed by the Texas Department of Health;
- (6) a hospital licensed by the Texas Department of Mental Health and Mental Retardation or the Texas Department of Health;
- (7) an educational facility accredited by the Central Education Agency or the Southern Association of Colleges and Schools that operates primarily for educational purposes in grades kindergarten and above;
- (8) an educational facility that operates solely for educational purposes in grades kindergarten through at least grade two, that does not provide custodial care for more than one hour during the hours before or after the customary school day, and that is a member of an organization that promulgates, publishes, and requires compliance with health, safety, fire, and sanitation standards equal to standards required by state, municipal, and county codes;
- (9) a kindergarten or preschool educational program that is operated as part of a public school or a private school accredited by the Central

Education Agency, that offers educational programs through grade six, and that does not provide custodial care during the hours before or after the customary school day;

(10) a family home, whether registered or not;

(11) an educational facility that is integral to and inseparable from its sponsoring religious organization or an educational facility both of which do not provide custodial care for more than two hours maximum per day, and that offers educational programs for children age five and above in one or more of the following: kindergarten through at least grade three, elementary, or secondary grades; ~~or~~

(12) an agency group home; ~~[-]~~

(13) ~~[(12)]~~ an emergency shelter facility providing shelter to minor mothers who are the sole support of their natural children under Section 35.05, Family Code, unless the facility would otherwise require a license as a child-care facility under this section; or

(14) a juvenile detention facility certified under Section 51.12, Family Code, or Section 141.042(d) or a juvenile facility providing services solely for the Texas Youth Commission.

SECTION 55. Section 42.052, Human Resources Code, is amended by adding Subsection (g) to read as follows:

(g) The certification requirements of this section do not apply to a juvenile detention facility certified under Section 51.12, Family Code, or Section 141.042(d).

SECTION 56. Subchapter C, Chapter 61, Human Resources Code, is amended by adding Section 61.0315 to read as follows:

Sec. 61.0315. REVIEW OF TREATMENT PROGRAMS. (a) The commission shall annually review the effectiveness of the commission's programs for the rehabilitation and reestablishment in society of children committed to the commission, including programs for sex offenders, capital offenders, children who are chemically dependent, and emotionally disturbed children.

(b) On or before December 31 of each year, the commission shall make a report on the effectiveness of the programs to the Legislative Budget Board.

SECTION 57. Section 61.073, Human Resources Code, is amended to read as follows:

Sec. 61.073. RECORDS OF EXAMINATIONS AND TREATMENT. The commission shall keep written records of all examinations and conclusions based on them and of all orders concerning the disposition or treatment of each child subject to its control. These records are not public and are available only according to the provisions of Section 58.005 ~~[51.14(b)]~~, Family Code.

SECTION 58. Subchapter D, Chapter 264, Family Code, as added by H.B. 655, Acts of the 74th Legislature, Regular Session, 1995, is amended to read as follows:

SUBCHAPTER D. SERVICES TO AT-RISK YOUTH

Sec. 264.301. SERVICES FOR ~~[RUNAWAY AND]~~ AT-RISK YOUTH.

(a) The department shall operate a program to provide services for ~~[runaway and other]~~ children in at-risk situations and for the families of those children.

(b) The services under this section may include:

- (1) crisis family intervention;
- (2) emergency short-term residential care;
- (3) family counseling;
- (4) parenting skills training; [and]
- (5) youth coping skills training;
- (6) mentoring; and
- (7) advocacy training.

Sec. 264.302. EARLY YOUTH INTERVENTION SERVICES. (a) This section applies to a child who:

(1) is seven years of age or older and under 17 years of age; and

(2) has not had the disabilities of minority for general purposes removed under Chapter 31.

(b) The department shall operate a program under this section to provide services for children in at-risk situations and for the families of those children.

(c) The department may not provide services under this section to a child who has at any time been referred to juvenile court for engaging in conduct that violates a penal law of this state of the grade of felony other than a state jail felony.

(d) The department may provide services under this section to a child who engages in conduct for which the child may be found by a court to be an at-risk child, without regard to whether the conduct violates a penal law of this state of the grade of felony other than a state jail felony, if the child was younger than 10 years of age at the time the child engaged in the conduct.

(e) The department shall provide services, directly or by contract, for a child and the child's family if the child is referred to the department as an at-risk child by:

(1) a court under Section 264.304;

(2) a juvenile court or probation department as part of a progressive sanctions program under Chapter 59;

(3) a law enforcement officer or agency under Section 52.03; or

(4) a justice or municipal court under Section 54.022.

(f) The services under this section may include:

(1) crisis family intervention;

(2) emergency short-term residential care for children 10 years of age or older;

(3) family counseling;

(4) parenting skills training;

(5) youth coping skills training;

(6) advocacy training; and

(7) mentoring.

Sec. 264.303. COMMENCEMENT OF CIVIL ACTION FOR DETERMINATION OF AT-RISK CHILDREN. (a) The department may file a civil action to request any district court or county court, other than a juvenile court, to determine that a child is an at-risk child. A person with whom the department contracts to provide services under Section 264.302 may file an action under this section if the department has approved the filing.

(b) Notice of the action must be provided to:

(1) the child;

(2) the parent, managing conservator, or guardian of the child; and

(3) any other member of the child's household who may be affected by an order of the court if the court finds that the child is an at-risk child.

(c) A person served with notice of the action may, but is not required, to file a written answer. Any answer must be filed before the hearing on the action begins.

Sec. 264.304. HEARING; DETERMINATION OF AT-RISK CHILD. (a) Unless a later date is requested by the department, the court shall set a date and time for the hearing not later than 30 days after the date the action is filed.

(b) The court is the trier of fact at the hearing.

(c) The court shall determine that the child is an at-risk child if the court finds that the child has engaged in the following conduct:

(1) conduct, other than a traffic offense and except as provided by Subsection (d), that violates:

(A) the penal laws of this state; or

(B) the penal ordinances of any political subdivision of this state;

(2) the unexcused voluntary absence of the child on 10 or more days or parts of days within a six-month period or three or more days or parts of days within a four-week period from school without the consent of the child's parent, managing conservator, or guardian;

(3) the voluntary absence of the child from the child's home without the consent of the child's parent, managing conservator, or guardian for a substantial length of time or without intent to return;

(4) conduct that violates the laws of this state prohibiting driving while intoxicated or under the influence of intoxicating liquor (first or second offense) or driving while under the influence of any narcotic drug or of any other drug to a degree that renders the child incapable of safely driving a vehicle (first or second offense); or

(5) conduct that evidences a clear and substantial intent to engage in any behavior described by Subdivisions (1)-(4).

(d) The court may not determine that a child is an at-risk child if the court finds that the child engaged in conduct violating the penal laws of this state of the grade of felony other than a state jail felony when the child was 10 years of age or older.

Sec. 264.305. COURT ORDER FOR SERVICES. (a) Except as provided by Subsection (b), if the court finds that the child is an at-risk child under Section 264.304, the court may order the child, the child's parent, managing conservator, or guardian or any other member of the child's household to participate in services provided by the department under Section 264.302 and contained in a plan approved by the court.

(b) The court may order an at-risk child to participate in services involving emergency short-term residential care only if the court finds that the child engaged in conduct described by Section 264.304(c)(1), (2), (3), or (4).

(c) An order rendered by a court under this section expires not later than six months after the date the order was rendered.

Sec. 264.306. SANCTIONS. (a) A child who violates a court order under Section 264.305 by failing to participate in services provided by the department engages in conduct indicating a need for supervision and the department shall

refer the child to an appropriate juvenile authority for proceedings under Title 3 for that conduct.

(b) A parent, managing conservator, guardian, or other member of the child's household who violates a court order under Section 264.305 by failing to participate in services provided by the department is subject to contempt of court. The court may under its contempt powers impose a community service requirement.

SECTION 59. Subchapter B, Chapter 61, Human Resources Code, is amended by adding Section 61.0386 to read as follows:

Sec. 61.0386. INTERMEDIATE SANCTION FACILITIES. (a) The commission may establish, or contract with another person to establish, one or more intermediate sanction facilities that provide secure residential care for children.

(b) The commission may refuse to accept a child proposed to be placed in an intermediate sanction facility under Section 54.04(d)(1)(C), Family Code, if:

(1) the commission determines that the services and level of security at the facility are not appropriate for the child; or

(2) space for the child is not available.

(c) In determining whether space is available in an intermediate sanction facility for a child on probation, the commission shall consider the extent the county from which the child is to be placed, in comparison to other counties, has exceeded targeted levels for annual commitments to the commission without relying on placements in an intermediate sanction facility.

(d) The commission may return to the juvenile court a child on probation in an intermediate sanction facility at any time the commission determines that:

(1) the services and level of security at the facility are not appropriate for the child; or

(2) the child's return is necessary to prevent overcrowding of the facility.

(e) The placement of a child in an intermediate sanction facility under Section 54.04(d)(1), Family Code, is not a commitment to the commission, and the child may not be transferred by the commission to, or be a resident of, any other type of commission facility other than a medical facility.

SECTION 60. Section 61.077, Human Resources Code, is amended to read as follows:

Sec. 61.077. MENTALLY ILL OR RETARDED CHILD. (a) If the commission determines that a child committed to it is mentally ill [~~or retarded~~], the commission, without delay, shall return the child to the court of original jurisdiction for appropriate disposition or shall request that the court in the county where the child is located take any action required by the condition of the child.

(b) The commission shall accept a child committed to the commission who is mentally retarded.

SECTION 61. Section 61.079, Human Resources Code, is amended to read as follows:

Sec. 61.079. REFERRAL OF VIOLENT AND HABITUAL OFFENDERS FOR TRANSFER [REVIEW]. (a) After a child sentenced to commitment

under Section 54.04(d)(3), 54.04(m), or 54.05(f), Family Code, becomes 16 years of age but before the child becomes 21 years of age, the commission may refer the child to the juvenile court that entered the order of commitment for approval of the child's transfer to the institutional division of the Texas Department of Criminal Justice if:

(1) the child has not completed the sentence; and

(2) the child's conduct, regardless of whether the child was released under supervision under Section 61.081, indicates that the welfare of the community requires the transfer [During the sixth month before the month in which a person committed to the commission under a determinate sentence becomes 18 years old, the commission shall send to the juvenile court that entered the order of commitment a notice of the person's transfer to the Texas Department of Corrections if:

[(1) the person will not have completed the sentence before the person's 18th birthday; and

[(2) the person has not been finally released by the commission with the approval of the juvenile court that entered the order of commitment].

(b) The commission shall cooperate with the court on any proceeding on the transfer [release] of the child [a person].

(c) If a child is released under supervision, a determination under Section 61.075(4) revoking the child's release under supervision is required before referral of the child to the juvenile court under Subsection (a).

SECTION 62. Section 61.081, Human Resources Code, is amended by amending Subsections (f) and (g) and adding Subsection (h) to read as follows:

(f) If a child [~~under the age of 18~~] is committed to the commission under a determinate sentence under Section 54.04(d)(3), Section 54.04(m), or Section 54.05(f), Family Code, the commission may not release the child under supervision without approval of the juvenile court that entered the order of commitment unless the child has served at least:

(1) 10 years, if the child was sentenced to commitment for conduct constituting capital murder;

(2) 3 years, if the child was sentenced to commitment for conduct constituting an aggravated controlled substance felony or a felony of the first degree;

(3) 2 years, if the child was sentenced to commitment for conduct constituting a felony of the second degree; or

(4) 1 year, if the child was sentenced to commitment for conduct constituting a felony of the third degree.

(g) The commission may request the approval of the court under this section at any time.

(h) [~~(g)~~] If the commission finds that a child has violated an order under which the child is released under supervision, on notice by any reasonable method to all persons affected, the commission may order the child:

(1) to return to an institution;

(2) if the violation resulted in property damage or personal injury:

(A) to make full or partial restitution to the victim of the offense; or

(B) if the child is financially unable to make full or partial restitution, to perform services for a charitable or educational institution; or

(3) to comply with any other conditions the commission considers appropriate.

SECTION 63. Subchapter F, Chapter 61, Human Resources Code, is amended by adding Section 61.0812 to read as follows:

Sec. 61.0812. TREATMENT FOR SUBSTANCE ABUSE. Subject to an express appropriation to fund the treatment programs required by this section, the commission may not release a child under supervision or parole a child if:

(1) the child has a substance abuse problem, including the use of a controlled substance, hazardous inhalable substances, or alcohol habitually; and

(2) the child has not completed a treatment program for the problem.

SECTION 64. Section 61.084, Human Resources Code, is amended to read as follows:

Sec. 61.084. TERMINATION OF CONTROL. (a) Except as provided by Subsections (b) and (c), if a person is committed to the commission under a determinate sentence under Section 54.04(d)(3), Section 54.04(m), or Section 54.05(f), Family Code, the commission may not discharge the person from its custody [~~before the person's 18th birthday without the approval of the juvenile court that entered the order of commitment~~].

(b) The commission shall discharge without a court hearing a person committed to it for a determinate sentence under Section 54.04(d)(3), Section 54.04(m), or Section 54.05(f), Family Code, who has not been transferred to the institutional division of the Texas Department of Criminal Justice [~~or discharged~~] under a court order on the date that the time spent by the person in detention in connection with the committing case plus the time spent at the Texas Youth Commission under the order of commitment equals the period of the [~~determinate~~] sentence.

(c) The commission shall transfer to the institutional division of the Texas Department of Criminal Justice a person who is the subject of an order under Section 54.11(i)(2), Family Code, transferring the person to the custody of the institutional division of the Texas Department of Criminal Justice for the completion of the person's [~~determinate~~] sentence.

(d) The commission shall transfer a person sentenced under a determinate sentence to commitment under Section 54.04(d)(3), 54.04(m), or 54.05(f), Family Code, for delinquent conduct constituting the offense of capital murder to the institutional division of the Texas Department of Criminal Justice on the person's 21st birthday to serve the remainder of the sentence if the person has not:

(1) served at least 10 years of the person's sentence; or

(2) been transferred or released under supervision by court order.

(e) Except as provided by Subsection (d), (f), or (g), the [~~The~~] commission shall discharge from its custody a person not already discharged [~~or transferred~~] on the person's 21st birthday.

(f) The commission shall transfer a person who has been sentenced under a determinate sentence to commitment under Section 54.04(d)(3), 54.04(m), or 54.05(f), Family Code, or who has been returned to the commission under Section 54.11(i)(1), Family Code, to the custody of the pardons and paroles division of the Texas Department of Criminal Justice to serve the remainder of the person's sentence on parole as provided by Section 29, Article 42.18,

Code of Criminal Procedure, when the person is released under supervision after becoming 19 years of age.

(g) The commission shall transfer a person who has been sentenced under a determinate sentence to commitment under Section 54.04(d)(3), 54.04(m), or 54.05(f), Family Code, or who has been returned to the commission under Section 54.11(i)(1), Family Code, to the custody of the pardons and paroles division of the Texas Department of Criminal Justice on the person's 21st birthday, if the person has not already been discharged or transferred, to serve the remainder of the person's sentence on parole as provided by Section 29, Article 42.18, Code of Criminal Procedure.

SECTION 65. Subchapter G, Chapter 61, Human Resources Code, is amended by adding Section 61.0911 to read as follows:

Sec. 61.0911. COORDINATED STRATEGIC PLAN. The Texas Youth Commission shall biennially develop with the Texas Juvenile Probation Commission a coordinated strategic plan as required by Section 141.0471.

SECTION 66. Chapter 61, Human Resources Code, is amended by adding Subchapter H to read as follows:

SUBCHAPTER H. YOUTH BOOT CAMP PROGRAMS

Sec. 61.101. YOUTH BOOT CAMP PROGRAMS. (a) The commission may establish a youth boot camp program and may employ necessary personnel to operate the youth boot camps.

(b) The commission, in consultation with the Texas Juvenile Probation Commission, may develop a program of moral, academic, vocational, physical, and correctional training and activities in which a child placed in a youth boot camp as an intermediate sanction under Section 54.04(d)(1)(C), Family Code, is required to participate, including programs to educate the child as to the conditions under which children committed to the Texas Youth Commission and the institutional division of the Texas Department of Criminal Justice live and follow-up programs to aid successful community reintegration.

(c) The commission may refuse to accept a child in a youth boot camp as an intermediate sanction under Section 54.04(d)(1)(C), Family Code, and may return the child to the juvenile court in the same manner and under the same conditions provided under Section 61.0386.

(d) The placement of a child in a youth boot camp as an intermediate sanction under Section 54.04(d)(1)(C), Family Code, is not a commitment to the commission, and the child may not be transferred by the commission, or be a resident of, any other type of commission facility other than a medical facility.

(e) The commission, in consultation with the Texas Juvenile Probation Commission, shall develop guidelines for a program of physical and correctional training and military-style discipline for children placed in youth boot camps operated by local probation departments for violating the conditions of release under supervision or parole under Section 61.081.

(f) The commission shall develop a program of physical and correctional training and military-style discipline for children committed to the commission who are placed in youth boot camps or other commission facilities.

(g) The commission shall adopt rules of conduct for children participating in the program under this section.

Sec. 61.102. CONTRACTS WITH PRIVATE VENDORS. The commission may contract with a private vendor for the financing, construction, operation, maintenance, or management of a youth boot camp. The commission may not award a contract under this section unless the commission requests proposals and receives a proposal that meets or exceeds, in addition to requirements specified in the request for proposals, the requirements specified in Section 61.103.

Sec. 61.103. ADDITIONAL REQUIREMENTS FOR CONTRACTS WITH PRIVATE VENDORS. (a) Any contract entered into by the commission with a private vendor for the financing, construction, operation, maintenance, or management of a youth boot camp under Section 61.102 must comply with the following requirements:

(1) a person proposing to enter into a contract with the commission under this section must demonstrate the qualifications and the operations and management experience to carry out the terms of the contract; and

(2) in addition to meeting the requirements specified in the requests for proposals, a proposal must:

(A) provide for regular, on-site monitoring by the commission;

(B) offer a level and quality of programs at least equal to those provided by any other state-run youth boot camp;

(C) permit the commission to terminate the contract for cause, including as cause the failure of the private vendor to meet the conditions required by this section and other conditions required by the contract;

(D) if the proposal includes construction of a facility, contain a performance bond approved by the commission that is adequate and appropriate for the proposed contract;

(E) provide for assumption of liability by the private vendor for all claims arising from the services performed under the contract by the private vendor;

(F) provide for an adequate plan of insurance for the private vendor and its officers, guards, employees, and agents against all claims, including claims based on violations of civil rights arising from the services performed under the contract by the private vendor; and

(G) provide for an adequate plan of insurance to protect the commission against all claims arising from the services performed under the contract by the private vendor and to protect the commission from actions by a third party against the private vendor and its officers, guards, employees, and agents as a result of the contract.

(b) A private vendor operating under a contract authorized by this subchapter may not claim sovereign immunity in a suit arising from the services performed under the contract by the private vendor. This subsection does not deprive the private vendor or the commission of the benefit of any law limiting exposure to liability, setting a limit on damages, or establishing a defense to liability.

SECTION 67. Chapter 61, Human Resources Code, is amended by adding Subchapter I to read as follows:

SUBCHAPTER I. INDUSTRIES PROGRAM

Sec. 61.121. PURPOSE; IMPLEMENTATION. The purposes of the commission industries program are:

(1) to provide adequate employment and vocational training for children; and

(2) to develop and expand public and private commission industries.

Sec. 61.122. ADVISORY COMMITTEE. (a) A commission industries advisory committee is created consisting of nine members appointed by the commission.

(b) Members serve staggered three-year terms, with the terms of three members expiring February 1 of each odd-numbered year.

(c) In making appointments under this section, the commission shall endeavor to include representatives of industries appropriate for hiring children committed to the commission.

Sec. 61.123. PAY AND DISTRIBUTION OF PAY. The commission shall apportion wages earned by a child working under the industries program in amounts determined at the discretion of the commission, in the following priority:

(1) a person to whom the child has been ordered by a court or to whom the child has agreed to pay restitution;

(2) a person to whom the child has been ordered by a court to pay child support; and

(3) the child's student account.

Sec. 61.124. INDUSTRIES FUND. (a) A Texas Youth Commission industries program fund is created in the state treasury.

(b) Proceeds from the operation of the industries program shall be deposited in the fund.

(c) Money from the fund may be appropriated only for use by the commission for the administration of this subchapter.

(d) Sections 403.094 and 403.095, Government Code, do not apply to the fund.

Sec. 61.125. CONTRACTS. To encourage the development and expansion of the industries program, the commission may enter into necessary contracts related to the program.

Sec. 61.126. DONATIONS. The industries program may be financed through contributions donated for this purpose by private businesses contracting with the commission.

Sec. 61.127. GRANTS. (a) The commission may accept a grant for the vocational rehabilitation of children.

(b) The commission shall maintain a record of the receipt and disbursement of a grant and shall annually report to the lieutenant governor and the speaker of the house of representatives on the administration of grant funds.

Sec. 61.128. LEASE OF LAND. (a) The commission may lease land owned by the commission to a private business to expand and develop the industries program.

(b) The term of the lease may not exceed 20 years.

(c) The business must lease the land at fair market value.

(d) The business may construct a new facility on the land or convert an existing facility.

Sec. 61.129. CERTIFICATION FOR FRANCHISE CREDIT. The commission shall prepare and issue a certification that a corporation requires for the franchise tax credit for wages paid as provided by Subchapter M, Chapter 171, Tax Code.

Sec. 61.130. OPTIONAL AD VALOREM TAX ABATEMENT. (a) A business contracting with the commission may enter into an ad valorem tax abatement agreement under Subchapters B and C, Chapter 312, Tax Code, with the governing body of the municipality and county in which the business is located.

(b) If an area in which businesses contracting with the commission under this subchapter is designated as a reinvestment zone under Chapter 312, Tax Code, the area satisfies Section 312.202(a)(6), Tax Code, in that the area would be reasonably likely as a result of the designation to contribute to the retention or expansion of primary employment or to attract major investment in the zone that would be a benefit to the property and that would contribute to the economic development of the entity designating the area as a reinvestment zone.

SECTION 68. Section 141.042, Human Resources Code, is amended to read as follows:

Sec. 141.042. RULES GOVERNING JUVENILE BOARDS, PROBATION DEPARTMENTS, PROBATION OFFICERS, PROGRAMS, AND FACILITIES. (a) The commission shall adopt reasonable rules that provide:

(1) minimum standards for personnel, staffing, case loads, programs, facilities, record keeping, equipment, and other aspects of the operation of a juvenile board that are necessary to provide adequate and effective probation services;

(2) a code of ethics for probation officers and for the enforcement of that code;

(3) appropriate educational, preservice and in-service training, and certification standards for probation officers or court-supervised community-based program personnel; and

(4) minimum standards for juvenile detention facilities, public post-adjudication juvenile secure correctional facilities that are operated under the authority of a juvenile board, and private post-adjudication juvenile secure correctional facilities, except those facilities exempt from certification by Section 42.052(e).

(b) In adopting the rules, the commission shall consider local information and evidence gathered through public review and comment.

(c) The commission shall annually monitor compliance with the standards established under Subsection (a)(4) if the juvenile board has elected to comply with those standards or shall annually ensure that the facility is certified by the American Correctional Association if the juvenile board has elected to comply with those standards.

(d) The commission shall annually inspect any private, post-adjudication juvenile secure correctional facility if the juvenile board of the county in which the facility is located has not inspected it during the previous year, except a facility exempt from certification by Section 42.052(e).

(e) The commission shall develop for voluntary use by juvenile probation departments a standard assessment tool for the initial assessment of children

under the jurisdiction of probation departments. The commission shall give priority to training in the use of this tool in any preservice or in-service training that the commission provides for probation officers. The assessment tool shall:

(1) facilitate assessment of a child's mental health, family background, and level of education; and

(2) assist juvenile probation departments in determining when a child in the department's jurisdiction is in need of comprehensive psychological or other evaluation.

(f) The commission shall monitor compliance with alternative referral programs adopted by juvenile boards under Section 53.01, Family Code.

SECTION 69. Subchapter C, Chapter 141, Human Resources Code, is amended by adding Sections 141.0432, 141.0433, and 141.0434 to read as follows:

Sec. 141.0432. YOUTH BOOT CAMP PROGRAMS. (a) The commission shall work with local juvenile boards and local juvenile probation departments to establish policies and guidelines for youth boot camp programs for children.

(b) The commission, local juvenile boards, and local juvenile probation departments may work together to develop a program of moral, academic, vocational, physical, and correctional training and military-style discipline for children placed in youth boot camps on probation under Section 54.04(d)(1)(B), Family Code, or for violating the conditions of probation as determined under Section 54.05(f), Family Code, including follow-up programs to aid successful community reintegration.

(c) The commission, local juvenile boards, and local juvenile probation departments shall adopt rules of conduct for children participating in the program under this section.

(d) Local juvenile boards and local juvenile probation departments may enter into agreements with each other to jointly establish regional youth boot camps.

(e) Local juvenile probation departments may contract with the Texas Youth Commission to provide services to persons who violate conditions of parole as determined under Section 61.075.

Sec. 141.0433. CONTRACTS WITH PRIVATE VENDORS. The commission may contract with a private vendor for the financing, construction, operation, maintenance, or management of a youth boot camp. The commission may not award a contract under this section unless the commission requests proposals and receives a proposal that meets or exceeds, in addition to requirements specified in the request for proposals, the requirements specified in Section 141.0434.

Sec. 141.0434. ADDITIONAL REQUIREMENTS FOR CONTRACTS WITH PRIVATE VENDORS. (a) Any contract entered into by the commission with a private vendor for the financing, construction, operation, maintenance, or management of a youth boot camp under Section 141.0433 must comply with the following requirements:

(1) a person proposing to enter into a contract with the commission under that section must demonstrate the qualifications and the operations and management experience to carry out the terms of the contract; and

(2) in addition to meeting the requirements specified in the requests for proposals, a proposal must:

(A) provide for regular, on-site monitoring by the commission;

(B) offer a level and quality of programs at least equal to those provided by any other state-run youth boot camp;

(C) permit the commission to terminate the contract for cause, including as cause the failure of the private vendor to meet the conditions required by this section and other conditions required by the contract;

(D) if the proposal includes construction of a facility, contain a performance bond approved by the commission that is adequate and appropriate for the proposed contract;

(E) provide for assumption of liability by the private vendor for all claims arising from the services performed under the contract by the private vendor;

(F) provide for an adequate plan of insurance for the private vendor and its officers, guards, employees, and agents against all claims, including claims based on violations of civil rights arising from the services performed under the contract by the private vendor; and

(G) provide for an adequate plan of insurance to protect the commission against all claims arising from the services performed under the contract by the private vendor and to protect the commission from actions by a third party against the private vendor and its officers, guards, employees, and agents as a result of the contract.

(b) A private vendor operating under a contract authorized by this subchapter may not claim sovereign immunity in a suit arising from the services performed under the contract by the private vendor. This subsection does not deprive the private vendor or the commission of the benefit of any law limiting exposure to liability, setting a limit on damages, or establishing a defense to liability.

SECTION 70. Subchapter C, Chapter 141, Human Resources Code, is amended by adding Section 141.0471 to read as follows:

Sec. 141.0471. COORDINATED STRATEGIC PLAN FOR JUVENILE JUSTICE SYSTEM. (a) The commission and the Texas Youth Commission shall biennially develop a coordinated strategic plan which shall guide, but not substitute for, the strategic plans developed individually by the agencies.

(b) The plan shall:

(1) identify short-term and long-term policy goals;

(2) identify time frames and strategies for meeting the goals identified under Subdivision (1);

(3) estimate population projections, including projections of population characteristics;

(4) estimate short-term and long-term capacity, programmatic, and funding needs;

(5) describe intensive service and surveillance parole pilot programs to be jointly developed;

(6) include an evaluation of aftercare services emphasizing concrete outcome measures, including recidivism and educational progress;

(7) identify objective criteria for the various decision points throughout the continuum of juvenile justice services and sanctions to guard against disparate treatment of minority youth; and

(8) identify cross-agency outcome measures by which to evaluate the effectiveness of the system generally.

(c) Each agency shall by rule adopt the coordinated strategic plan on or before December 1st of each odd-numbered year, or before the adoption of the agency's individual strategic plan, whichever is earlier.

SECTION 71. Section 141.085(a), Human Resources Code, is amended to read as follows:

(a) The commission shall refuse, reduce, or suspend payment of state aid to:

(1) a juvenile board that fails to comply with the commission's rules or fails to maintain local financial support; or

(2) a county that fails to comply with the minimum standards provided under Section 141.042(a)(4).

SECTION 72. Subchapter E, Chapter 141, Human Resources Code, is amended by adding Section 141.086 to read as follows:

Sec. 141.086. FUNDING AND CONSTRUCTION OF POST-ADJUDICATION FACILITIES. (a) The commission may provide state aid to a county to acquire, construct, and equip post-adjudication residential or day-treatment centers from money appropriated for those purposes. The facilities may be used for children who are placed on probation by a juvenile court under Section 54.04, Family Code, as an alternative to commitment to the facilities of the Texas Youth Commission.

(b) State funds provided to counties under Subsection (a) must be matched by local funds equal to at least one-fourth of the state funds.

(c) From money appropriated for construction of the facilities described by Subsection (a), the commission shall contract with the Texas Department of Criminal Justice for construction management services, including:

(1) evaluation of project plans and specifications; and

(2) review and comment on the selection of architects and engineers, change orders, and sufficiency of project inspection.

(d) On completion of the review of project plans and specifications under Subsection (c), the Texas Department of Criminal Justice shall issue a comprehensive report that states in detail the proposed cost of the project. The commission shall use the report in making a comparative evaluation of proposed projects and shall give priority to the projects the commission finds are the most effective and economical.

(e) The commission may not award money for a capital construction project for a facility under this section unless the commission receives from the commissioners court of the county intending to use the facility a written commitment that the commissioners court has reviewed and accepted the conditions of the award. If more than one county intends to use the facility, the commission must receive from each county a written commitment that the county will agree with the other counties to an interlocal contract to operate the facility in accordance with the conditions of the award.

(f) A county receiving state aid under this section shall adhere to

commission standards for the construction and operation of a post-adjudication secure residential facility.

(g) For a facility constructed under this section, the following amounts may be appropriated:

(1) not more than 50 percent of the operating costs of the facility during the 1997 fiscal year; and

(2) not more than 25 percent of the operating costs of the facility during each of the 1998 and 1999 fiscal years.

(h) It is the intent of the legislature to appropriate the full amount of money authorized under Subsection (g)(2).

(i) On and after September 1, 1999, a facility constructed under this section must be operated entirely by the county using the facility.

(j) The commission shall conduct an annual audit of the operating costs for a fiscal year of a facility constructed under this section for each fiscal year through fiscal year 1999. The commission shall submit a report on the results of the audit to the Legislative Budget Board and the governor not later than the 60th day after the last day of the fiscal year covered by the audit.

(k) In this section, "operating costs" means the operating costs of a facility at an 80-percent occupancy rate.

SECTION 73. Section 152.0007, Human Resources Code, is amended to read as follows:

Sec. 152.0007. DUTIES. (a) The juvenile board shall:

(1) establish a juvenile probation department and employ personnel to conduct probation services, including a chief probation officer and, if more than one officer is necessary, assistant officers, who meet the standards set by the Texas Juvenile Probation Commission; and

(2) operate or supervise juvenile services in the county and make recommendations as to the need for and purchase of services.

(b) The board may establish guidelines for the initial assessment of a child by the juvenile probation department. The guidelines shall provide a means for assessing a child's mental health status, family background, and level of education. The guidelines shall assist the probation department in determining whether a comprehensive psychological evaluation of the child should be conducted. The board shall require that probation department personnel use assessment information compiled by the child's school, if the information is available, before conducting a comprehensive psychological evaluation of the child. The board may adopt all or part of the Texas Juvenile Probation Commission's minimum standards for assessment under Section 141.042 in complying with this subsection.

SECTION 74. Section 152.0010(a), Human Resources Code, is amended to read as follows:

(a) Each juvenile board shall appoint an advisory council consisting of not more than nine citizen members, including:

(1) a prosecuting attorney as defined by Section 51.02, Family Code;

(2) a mental health professional;

(3) a medical health professional; and

(4) a representative of the education community.

SECTION 75. Subchapter A, Chapter 152, Human Resources Code, is amended by adding Section 152.0011 to read as follows:

Sec. 152.0011. LOCAL YOUTH BOOT CAMPS; CONTRACTS WITH PRIVATE VENDORS. (a) The juvenile board or local probation department may establish a youth boot camp and employ necessary personnel to operate the camp.

(b) The juvenile board or local probation department may contract with a private vendor for the financing, construction, operation, maintenance, or management of a youth boot camp in the same manner as the state. The juvenile board may not award a contract under this subsection unless the board requests proposals and receives a proposal that meets or exceeds, in addition to requirements specified in the request for proposals, the requirements specified in Section 141.0434.

(c) A juvenile board youth boot camp must offer a program that complies with the requirements of the youth boot camps set forth in Section 141.0432.

(d) If a juvenile board or its designee determines that a child is not complying with the rules of conduct promulgated by the commission or is medically or psychologically unsuitable for the program, the board shall terminate the child's participation in the program and request the sentencing court to reassume custody of the child.

SECTION 76. Subchapter A, Chapter 152, Human Resources Code, is amended by adding Section 152.0012 to read as follows:

Sec. 152.0012. BUDGET. The juvenile board shall prepare a budget for the juvenile probation department and the other facilities and programs under the jurisdiction of the juvenile board. The commissioners court shall review and consider only the amount of county funds derived from county taxes, fees, and other county sources in the budget. The commissioners court may not review any part of the budget derived from state funds.

SECTION 77. Section 8.07, Penal Code, is amended to read as follows:

Sec. 8.07. AGE AFFECTING CRIMINAL RESPONSIBILITY. (a) A person may not be prosecuted for or convicted of any offense that he committed when younger than 15 years of age except:

(1) perjury and aggravated perjury when it appears by proof that he had sufficient discretion to understand the nature and obligation of an oath;

(2) a violation of a penal statute cognizable under Chapter 302, Acts of the 55th Legislature, Regular Session, 1957 (Article 67011-4, Vernon's Texas Civil Statutes); ~~except conduct which violates the laws of this state prohibiting driving while intoxicated or under the influence of intoxicating liquor (first or subsequent offense) or driving while under the influence of any narcotic drug or of any other drug to a degree which renders him incapable of safely driving a vehicle (first or subsequent offense)];~~

(3) a violation of a motor vehicle traffic ordinance of an incorporated city or town in this state;

(4) a misdemeanor punishable by fine only other than public intoxication; [or]

(5) a violation of a penal ordinance of a political subdivision; or

(6) a violation of a penal statute that is, or is a lesser included offense of, a capital felony, an aggravated controlled substance felony, or a felony of the first degree for which the person is transferred to the court under Section 54.02, Family Code, for prosecution if the person committed the offense when 14 years of age or older.

(b) Unless the juvenile court waives jurisdiction under Section 54.02, Family Code, and certifies the individual for criminal prosecution or the juvenile court has previously waived jurisdiction under that section and certified the individual for criminal prosecution, a person may not be prosecuted for or convicted of any offense committed before reaching 17 years of age except an offense described by Subsections (a)(1)-(5):

[~~(1) perjury and aggravated perjury when it appears by proof that he had sufficient discretion to understand the nature and obligation of an oath;~~

[~~(2) a violation of a penal statute cognizable under Chapter 302, Acts of the 55th Legislature, Regular Session, 1957, as amended (Article 67011-4, Vernon's Texas Civil Statutes), except conduct which violates the laws of this state prohibiting driving while intoxicated or under the influence of intoxicating liquor (first or subsequent offense) or driving while under the influence of any narcotic drug or of any other drug to a degree which renders him incapable of safely driving a vehicle (first or subsequent offense);~~

[~~(3) a violation of a motor vehicle traffic ordinance of an incorporated city or town in this state;~~

[~~(4) a misdemeanor punishable by fine only other than public intoxication; or~~

[~~(5) a violation of a penal ordinance of a political subdivision].~~

(c) [~~Unless the juvenile court waives jurisdiction and certifies the individual for criminal prosecution, a person who has been alleged in a petition for an adjudication hearing to have engaged in delinquent conduct or conduct indicating a need for supervision may not be prosecuted for or convicted of any offense alleged in the juvenile court petition or any offense within the knowledge of the juvenile court judge as evidenced by anything in the record of the juvenile court proceedings:~~

[~~(d)~~] No person may, in any case, be punished by death for an offense committed while he was younger than 17 years.

SECTION 78. Section 12.42, Penal Code, is amended by adding Subsection (f) to read as follows:

(f) For the purposes of Subsections (a)-(c) and (e), an adjudication by a juvenile court under Section 54.03, Family Code, that a child engaged in delinquent conduct constituting a felony offense for which the child is committed to the Texas Youth Commission under Section 54.04(d)(2), (d)(3), or (m), Family Code, or Section 54.05(f), Family Code, is a final felony conviction.

SECTION 79. Chapter 15, Penal Code, is amended by adding Section 15.031 to read as follows:

Sec. 15.031. CRIMINAL SOLICITATION OF A MINOR. (a) A person commits an offense if, with intent that an offense listed by Section 3g(a)(1), Article 42.12, Code of Criminal Procedure, be committed, the person requests, commands, or attempts to induce a minor to engage in specific conduct that, under the circumstances surrounding the actor's conduct as the actor believes them to be, would constitute an offense listed by Section 3g(a)(1), Article 42.12, or make the minor a party to the commission of an offense listed by Section 3g(a)(1), Article 42.12.

(b) A person may not be convicted under this section on the

uncorroborated testimony of the minor allegedly solicited unless the solicitation is made under circumstances strongly corroborative of both the solicitation itself and the actor's intent that the minor act on the solicitation.

(c) It is no defense to prosecution under this section that:

(1) the minor solicited is not criminally responsible for the offense solicited;

(2) the minor solicited has been acquitted, has not been prosecuted or convicted, has been convicted of a different offense or of a different type or class of offense, or is immune from prosecution;

(3) the actor belongs to a class of persons that by definition of the offense solicited is legally incapable of committing the offense in an individual capacity; or

(4) the offense solicited was actually committed.

(d) An offense under this section is one category lower than the solicited offense.

(e) In this section, "minor" means an individual younger than 17 years of age.

SECTION 80. Chapter 4, Code of Criminal Procedure, is amended by adding Article 4.18 to read as follows:

Art. 4.18. TRANSFER OF JURISDICTION FROM JUVENILE COURT.

(a) A claim that a district court or criminal district court does not have jurisdiction over a person because jurisdiction is exclusively in the juvenile court and that the juvenile court could not waive jurisdiction under Section 8.07(a), Penal Code, or did not waive jurisdiction under Section 8.07(b), Penal Code, must be made by written motion in bar of prosecution filed with the court in which criminal charges against the person are filed.

(b) The motion must be filed and presented to the presiding judge of the court:

(1) if the defendant enters a plea of guilty or no contest, before the plea;

(2) if the defendant's guilt or punishment is tried or determined by a jury, before selection of the jury begins; or

(3) if the defendant's guilt is tried by the court, before the first witness is sworn.

(c) Unless the motion is not contested, the presiding judge shall promptly conduct a hearing without a jury and rule on the motion. The party making the motion has the burden of establishing by a preponderance of the evidence those facts necessary for the motion to prevail.

(d) A person may not contest the jurisdiction of the court on the ground that the juvenile court has exclusive jurisdiction if:

(1) the person does not file a motion within the time requirements of this article; or

(2) the presiding judge finds under Subsection (c) that a motion made under this article does not prevail.

(e) An appellate court may review a trial court's determination under this article, if otherwise authorized by law, only after conviction in the trial court.

(f) A court that finds that it lacks jurisdiction over a case because exclusive jurisdiction is in the juvenile court shall transfer the case to the juvenile court as provided by Section 51.08, Family Code.

SECTION 81. Article 14.06(b), Code of Criminal Procedure, is amended to read as follows:

(b) A peace officer who is charging a person, including a child, with committing an offense that is a Class C misdemeanor, other than an offense under Section 49.02, Penal Code, may, instead of taking the person before a magistrate, issue a citation to the person that contains written notice of the time and place the person must appear before a magistrate, the name and address of the person charged, and the offense charged.

SECTION 82. Section 3(a), Article 37.07, Code of Criminal Procedure, is amended to read as follows:

(a) Regardless of the plea and whether the punishment be assessed by the judge or the jury, evidence may be offered by the state and the defendant as to any matter the court deems relevant to sentencing, including but not limited to the prior criminal record of the defendant, his general reputation, his character, an opinion regarding his character, the circumstances of the offense for which he is being tried, and, notwithstanding Rules 404 and 405, Texas Rules of Criminal Evidence, any other evidence of an extraneous crime or bad act that is shown beyond a reasonable doubt by evidence to have been committed by the defendant or for which he could be held criminally responsible, regardless of whether he has previously been charged with or finally convicted of the crime or act. A court may consider as a factor in mitigating punishment the conduct of a defendant while participating in a program under Chapter 17 of this code as a condition of release on bail. Additionally, notwithstanding Rule 609(d), Texas Rules of Criminal Evidence, evidence may be offered by the state and the defendant of an adjudication of delinquency based on a violation by the defendant of a penal law of the grade of:

(1) a felony; or

(2) a misdemeanor punishable by confinement in jail ~~[unless:~~

~~[(1) the adjudication is based on conduct committed more than five years before the commission of the offense for which the person is being tried; and~~

~~[(2) in the five years preceding the date of the commission of the offense for which the person is being tried, the person did not engage in conduct for which the person has been adjudicated as a delinquent child or a child in need of supervision and did not commit an offense for which the person has been convicted].~~

SECTION 83. Section 20, Article 42.18, Code of Criminal Procedure, is amended to read as follows:

Sec. 20. INAPPLICABLE TO JUVENILES. (a) Except as provided by Subsection (b) of this section, the [The] provisions of this article shall not apply to parole from institutions for juveniles or to temporary furloughs granted to an inmate by the institutional division under Section 500.006, Government Code.

(b) The provisions of this article not in conflict with Section 29 of this article apply to parole of a person from the Texas Youth Commission under that section.

SECTION 84. Article 42.18, Code of Criminal Procedure, is amended by adding Section 29 to read as follows:

Sec. 29. DETERMINATE SENTENCE PAROLE. (a) Not later than the 90th day before the date the Texas Youth Commission transfers a person to the custody of the pardons and paroles division for release on parole under Section 61.081(f) or Section 61.084(f) or (g), Human Resources Code, the commission shall submit to the department all pertinent information relating to the person, including:

- (1) the juvenile court judgment;
- (2) the circumstances of the person's offense;
- (3) the person's previous social history and juvenile court records;
- (4) the person's physical and mental health record;
- (5) a record of the person's conduct, employment history, and attitude while committed to the commission;
- (6) a record of the sentence time served by the person at the commission and in a juvenile detention facility in connection with the conduct for which the person was adjudicated; and
- (7) any written comments or information provided by the commission, local officials, or victims of the offense.

(b) Before the release of the person on parole, a parole panel shall review the person's records and may interview the person or any other person the panel deems is necessary to determine the conditions of parole. The panel may impose any reasonable condition of parole on the person that the panel may impose on an adult prisoner under this article.

(c) The panel shall furnish the person with a written statement clearly describing the conditions and rules of parole. The person must accept and sign the written statement as a precondition to release on parole.

(d) While on parole, the person remains in the legal custody of the state and shall comply with the conditions of parole ordered by a panel under this section.

(e) The period of parole for a person released to parole under this section is the maximum term for which the person was sentenced less calendar time actually served at the Texas Youth Commission and in a juvenile detention facility in connection with the conduct for which the person was adjudicated.

(f) If a parole panel revokes the person's parole, the panel may require the person to serve the portion remaining of the person's sentence in the institutional division. The remaining portion of the person's sentence is calculated without credit for the time from the date of the person's release to the date of revocation. The panel may not recommit the person to the Texas Youth Commission.

(g) For purposes of this article, a person released from the Texas Youth Commission on parole under this section is deemed to have been convicted of the offense for which the person has been adjudicated.

(h) The Texas Youth Commission shall provide instruction for parole officers relating to juvenile programs at the commission. The Texas Youth Commission and the pardons and paroles division shall enter into a memorandum of understanding relating to the administration of this subsection.

SECTION 85. Chapter 44, Code of Criminal Procedure, is amended by adding Article 44.47 to read as follows:

Art. 44.47. APPEAL OF TRANSFER FROM JUVENILE COURT. (a) A defendant may appeal an order of a juvenile court certifying the defendant to

stand trial as an adult and transferring the defendant to a criminal court under Section 54.02, Family Code.

(b) A defendant may appeal a transfer under Subsection (a) only in conjunction with the appeal of a conviction of the offense for which the defendant was transferred to criminal court.

(c) An appeal under this section is a criminal matter and is governed by this code and the Texas Rules of Appellate Procedure that apply to a criminal case.

(d) An appeal under this article may include any claims under the law that existed before January 1, 1996, that could have been raised on direct appeal of a transfer under Section 54.02, Family Code.

SECTION 86. Chapter 45, Code of Criminal Procedure, is amended by adding Article 45.522 to read as follows:

Art. 45.522. FAILURE TO PAY FINE; CONTEMPT: JUVENILES. (a) A justice court or municipal court may not order the confinement of a person who is a child for the purposes of Title 3, Family Code, for the failure to pay all or any part of a fine or costs imposed for the conviction of an offense punishable by fine only.

(b) Section 51.03(a)(3), Family Code, and the procedures for the adjudication of a child for delinquent conduct apply to a child who fails to obey an order of a justice or municipal court under circumstances that would constitute contempt of court.

SECTION 87. Section 21.002, Government Code, is amended by amending Subsection (a) and adding Subsection (h) to read as follows:

(a) Except as provided by Subsections [Subsection] (g) and (h), a court may punish for contempt.

(h) A justice or municipal court may not punish by contempt a person who engages in conduct that violates an order of the court if the conduct of the person is delinquent conduct under Section 51.03(a)(3), Family Code. The justice or municipal court shall refer the person to the juvenile court for engaging in the delinquent conduct.

SECTION 88. Section 413.009, Government Code, is amended to read as follows:

Sec. 413.009. DUTIES OF POLICY COUNCIL. (a) To accomplish its duties the policy council shall:

- (1) conduct an in-depth analysis of the criminal justice system;
- (2) determine the long-range needs of the criminal justice system and recommend policy priorities for the system;
- (3) identify critical problems in the criminal justice system and recommend strategies to solve those problems;
- (4) assess the cost-effectiveness of the use of state and local funds in the criminal justice system;
- (5) recommend means to improve the deterrent and rehabilitative capabilities of the criminal justice system;
- (6) advise and assist the legislature in developing plans, programs, and proposed legislation for improving the effectiveness of the criminal justice system;
- (7) make computations of daily costs and compare interagency costs on services provided by agencies that are a part of the criminal justice system;

(8) make population computations for use in planning for the long-range needs of the criminal justice system;

(9) determine long-range information needs of the criminal justice system and acquire that information; and

(10) engage in other activities consistent with the responsibilities of the policy council.

(b) In addition to the policy council's duties under Section 413.008 and Subsection (a) of this section, the policy council may perform any function described in Subsection (a) to promote an effective and cohesive juvenile justice system.

SECTION 89. Section 511.009(a), Government Code, is amended to read as follows:

(a) The commission shall:

(1) adopt reasonable rules and procedures establishing minimum standards for the construction, equipment, maintenance, and operation of county jails;

(2) adopt reasonable rules and procedures establishing minimum standards for the custody, care, and treatment of prisoners;

(3) adopt reasonable rules establishing minimum standards for the number of jail supervisory personnel and for programs and services to meet the needs of prisoners;

(4) adopt reasonable rules and procedures establishing minimum requirements for programs of rehabilitation, education, and recreation in county jails;

(5) revise, amend, or change rules and procedures if necessary;

(6) provide to local government officials consultation on and technical assistance for county jails;

(7) review and comment on plans for the construction and major modification or renovation of county jails;

(8) require that the sheriff and commissioners of each county submit to the commission, on a form prescribed by the commission, an annual report on the conditions in each county jail within their jurisdiction, including all information necessary to determine compliance with state law, commission orders, and the rules adopted under this chapter;

(9) review the reports submitted under Subdivision (8) and require commission employees to inspect county jails regularly to ensure compliance with state law, commission orders, and rules and procedures adopted under this chapter; ~~and~~

(10) at least annually determine whether each county jail is in compliance with the rules and procedures adopted under this chapter;

(11) require that the chief jailer of each municipal lockup submit to the commission, on a form prescribed by the commission, an annual report of persons under 17 years of age securely detained in the lockup, including all information necessary to determine compliance with state law concerning secure confinement of children in municipal lockups; and

(12) require that the sheriff and commissioners court of each county submit to the commission, on a form prescribed by the commission, an annual report of persons under 17 years of age securely detained in the county jail,

including all information necessary to determine compliance with state law concerning secure confinement of children in county jails.

SECTION 90. Section 659.062(a), Government Code, is amended to read as follows:

(a) An eligible employee is entitled to hazardous duty pay of \$7 a month for each year of service as an employee of this state in a position that requires the performance of hazardous duty, not to exceed 30 years of such service. Except as provided by Subsection (c) or Section 659.063(b)(1), this hazardous duty pay is instead of other hazardous duty or longevity pay.

SECTION 91. (a) Subchapter E, Chapter 659, Government Code, is amended to conform to Section 1, Chapter 85, Acts of the 73rd Legislature, Regular Session, 1993, by adding Section 659.063 and is amended to read as follows:

Sec. 659.063. HAZARDOUS DUTY PAY: TEXAS YOUTH COMMISSION EMPLOYEES. (a) An employee of the Texas Youth Commission who has routine direct contact with youth placed in a residential facility of the Texas Youth Commission or with youth released under the commission's supervision may receive hazardous duty pay in an amount that does not exceed the amount authorized by Section 659.062(a).

(b) Hazardous duty pay under this section:

(1) is subject to the conditions and limitations in the General Appropriations Act, except that during periods when Texas Youth Commission employees do not receive the full amount of the hazardous duty pay for which they are eligible, they are entitled to receive longevity pay for time accrued in a hazardous duty position, but only until hazardous duty payments resume; and

(2) may not be made:

(A) from funds authorized for payment of an across-the-board employee salary increase; or

(B) to an employee who works at the central office of the commission or an employee whose work for the commission involves only occasional contact with youth.

(c) The receipt of a payment under this section by an employee does not qualify the employee for retirement benefits from the law enforcement and custodial officer supplemental retirement fund.

(b) Section 1, Chapter 85, Acts of the 73rd Legislature, Regular Session, 1993, is repealed.

SECTION 92. Chapter 217, Labor Code, is amended to read as follows:

CHAPTER 217. PROJECT RIO (REINTEGRATION OF OFFENDERS)

Sec. 217.001. DEFINITIONS. In this chapter:

(1) "Department" means the Texas Department of Criminal Justice.

(2) "Institutional division" means the institutional division of the department.

(3) "Project RIO" means the project for reintegration of offenders.

Sec. 217.002. PROJECT RIO. The project for reintegration of offenders is a statewide employment referral program designed to reintegrate into the labor force persons formerly confined in the institutional division and persons committed to the Texas Youth Commission.

Sec. 217.003. ADMINISTRATION. The department, the Texas Youth

Commission, and the commission shall cooperate to maximize the effectiveness of Project RIO. For that purpose, the commission shall administer the project.

Sec. 217.004. MEMORANDUM OF UNDERSTANDING—ADOPTION.

(a) The department, ~~and~~ the commission, and the Texas Youth Commission shall each adopt a memorandum of understanding that establishes the respective responsibilities of each agency and of the divisions within the department.

(b) The commission shall coordinate the development of the memoranda [~~memorandum~~] of understanding. The department and the Texas Youth Commission shall adopt rules as necessary to implement their respective memoranda [~~the memorandum~~] and may amend the memorandum and those rules as necessary.

Sec. 217.005. MEMORANDUM OF UNDERSTANDING—CONTENTS.

(a) The memorandum of understanding between the department and the commission must establish the role of:

(1) the institutional division in ascertaining and encouraging an inmate's chances for employment by:

(A) providing vocational and educational assessment for the person while incarcerated in the division;

(B) developing a skills enhancement program for the person while incarcerated, in cooperation with other governmental, educational, and private entities, using available public or private financial resources authorized by statute; and

(C) referring the person on release to the project through the person's parole officer;

(2) the community justice assistance division and the pardons and paroles division of the department in:

(A) encouraging and referring persons to the project; and

(B) ensuring that those persons participate in the project and avail themselves of its services; and

(3) the commission in developing and maintaining a statewide network for finding positions of employment that require the skills possessed by project participants and in helping those participants to secure employment.

(b) The memorandum also must establish the methods by which the commission shall coordinate its efforts under this chapter with the operations of service providers operating under Chapter 301 (Texas Job-Training Partnership Act).

(c) The memorandum of understanding between the Texas Youth Commission and the commission must establish the roles of the institutional and community services division in the Texas Youth Commission and the role of the commission in the same manner the roles of the department and commission are established under Subsections (a) and (b).

Sec. 217.006. PROJECT DIRECTOR. (a) The administrator of the commission shall designate the director of Project RIO to coordinate the efforts of the affected state agencies and expedite the delivery of services to participants in the project, including prospective employers.

(b) The project director shall:

(1) propose, for adoption by the commission, standards and guidelines for the operation of the project;

- (2) obtain information from appropriate state agencies and offices affiliated with the project to determine any necessary changes in the project;
- (3) disseminate information statewide about the project; and
- (4) train commission staff to assist in the operation of affiliated services.

SECTION 93. Subchapter Z, Chapter 341, Local Government Code, is amended by adding Section 341.904 to read as follows:

Sec. 341.904. JUVENILE CURFEW IN GENERAL-LAW MUNICIPALITY. (a) To provide for the public safety, the governing body of a general-law municipality has the same authority to adopt a juvenile curfew ordinance that a county has under Section 351.903.

(b) The governing body of a general-law municipality may adopt by ordinance a juvenile curfew order adopted by the commissioners court of the county in which any part of the municipality is located and may adapt the order to fit the needs of the municipality.

(c) If the governing body of a general-law municipality adopts an ordinance under this section, a person commits an offense if the person violates a restriction or prohibition imposed by the ordinance.

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

SECTION 94. Chapter 351, Local Government Code, is amended by adding Section 351.903 to read as follows:

Sec. 351.903. COUNTY JUVENILE CURFEW. (a) To provide for the public safety, the commissioners court of a county by order may adopt a curfew to regulate the movements or actions of persons under 17 years of age during the period beginning one-half hour after sunset and extending until one-half hour before sunrise or during school hours, or both. The order applies only to the unincorporated area of the county.

(b) This authority includes the authority to:

(1) establish the hours of the curfew, including different hours for different days of the week;

(2) apply different curfew hours to different age groups of juveniles;

(3) describe the kinds of conduct subject to the curfew;

(4) determine the locations to which the curfew applies;

(5) determine which persons incur liability if a violation of the curfew occurs;

(6) prescribe procedures, in compliance with Section 52.028, Family Code, a police officer must follow in enforcing the curfew; and

(7) establish exemptions to the curfew, including but not limited to exemptions for times when there are no classes being conducted, for holidays, and for persons going to or from work.

(c) If the commissioners court adopts an order under this section, a person commits an offense if the person violates a restriction or prohibition imposed by the order.

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

SECTION 95. The chapter heading of Chapter 370, Local Government Code, is amended to read as follows:

CHAPTER 370. MISCELLANEOUS PROVISIONS RELATING TO MUNICIPAL AND COUNTY HEALTH AND PUBLIC SAFETY

SECTION 96. Chapter 370, Local Government Code, is amended by adding Section 370.002 to read as follows:

Sec. 370.002. REVIEW OF JUVENILE CURFEW ORDER OR ORDINANCE. (a) Before the third anniversary of the date of adoption of a juvenile curfew ordinance by a general-law municipality or a home-rule municipality or an order of a county commissioners court, and every third year thereafter, the governing body of the general-law municipality or home-rule municipality or the commissioners court of the county shall:

(1) review the ordinance or order's effects on the community and on problems the ordinance or order was intended to remedy;

(2) conduct public hearings on the need to continue the ordinance or order; and

(3) abolish, continue, or modify the ordinance or order.

(b) Failure to act in accordance with Subsections (a)(1)-(3) shall cause the ordinance or order to expire.

SECTION 97. Chapter 171, Tax Code, is amended by adding Subchapter M to read as follows:

SUBCHAPTER M. TAX CREDIT FOR WAGES PAID TO CERTAIN CHILDREN COMMITTED TO TEXAS YOUTH COMMISSION

Sec. 171.681. DEFINITIONS. In this subchapter:

(1) "Commission" means the Texas Youth Commission.

(2) "Eligible child" means a person who:

(A) is committed to the commission under Title 3, Family Code, other than a commitment under a determinate sentence under Section 54.04(d)(3), 54.04(m), or 54.05(f), Family Code; and

(B) resides at a facility of the commission.

Sec. 171.682. CREDIT. A corporation that meets the eligibility requirements under this subchapter is entitled to a credit in the amount allowed by this subchapter against the tax imposed under this chapter.

Sec. 171.683. CREDIT FOR WAGES PAID TO ELIGIBLE CHILD. (a) The amount of the credit for wages paid by a corporation to an eligible child is equal to 10 percent of that portion of the wages the corporation paid to the eligible child or the commission for the benefit of the child.

(b) A corporation is eligible for the credit under this section only if it files, on or before the due date of its franchise tax report for the privilege period for which the credit is claimed, a written certification issued by the commission stating the amount of the wages that the corporation paid to an eligible child or to the commission for the benefit of the child during:

(1) the privilege period; and

(2) not more than six months of the preceding privilege period for wages for which a credit has not previously been claimed.

(c) A corporation is eligible for the credit under this section only if the eligible child to whom or for whose benefit it pays wages has been continuously employed by the corporation for not less than six months.

Sec. 171.684. CREDIT FOR WAGES PAID TO EMPLOYEE WHO WAS AN ELIGIBLE CHILD. (a) The amount of the credit for wages paid by a corporation to an employee who was first employed by the corporation when the employee was an eligible child is equal to 10 percent of the wages paid the employee.

(b) A corporation is eligible for the credit under this section only if:

(1) the employee who was formerly an eligible child was continuously employed for not less than six months while an eligible child and has been continuously employed by the corporation for at least one year after the date that the employee was released from commitment to the commission or released under supervision by the commission; and

(2) the nature of the employment is substantially similar to the employment the employee had with the corporation when the employee was an eligible child or the employment requires more skills or provides greater opportunities for the employee.

(c) A corporation may claim a credit under this section only for:

(1) wages paid an employee after the employee has been employed by the corporation for more than one year after the earlier of the date of the employee's release from commitment to the commission or release under supervision by the commission; and

(2) wages paid the employee for not longer than one year.

Sec. 171.685. LIMITATION. The total credits claimed under this subchapter for a privilege period may not exceed 50 percent of the amount of net franchise tax due for the privilege period after any other applicable tax credits.

Sec. 171.686. APPLICATION FOR CREDIT. (a) A corporation must apply for a credit under this subchapter on or with the tax report for the period for which the credit is claimed.

(b) The comptroller shall promulgate a form for the application for the credit. A corporation must use this form in applying for the credit.

Sec. 171.687. PERIOD FOR WHICH CREDIT MAY BE CLAIMED. A corporation may claim a credit under this subchapter for wages paid during an accounting period only against the tax owed for the corresponding privilege period.

SECTION 98. Article 4413(503), Revised Statutes, is amended by adding Section 16 to read as follows:

Sec. 16. COMMUNITY YOUTH DEVELOPMENT GRANTS. Subject to available funding, the department shall award community youth development grants to identified communities by incidence of crime. These grants are for the purpose of assisting communities in alleviating family and community conditions that lead to juvenile crime. The department shall give priority in awarding grants under this section to areas of the state in which there is a high incidence of crime committed by children.

SECTION 99. The Texas Juvenile Probation Commission, in collaboration with the Texas Department of Mental Health and Mental Retardation, shall develop a model protocol by which juvenile probation departments shall refer children with mental impairments to local community management teams of the Children's Mental Health Plan. The protocol is to be distributed to all juvenile boards, chief probation officers, and community management teams no later than January 1, 1996.

SECTION 100. (a) Sections 51.14, 51.15, and 51.16, Family Code, are repealed.

(b) Section 264.204, Family Code, as added by H.B. No. 655, Acts of the 74th Legislature, Regular Session, 1995, is repealed.

SECTION 101. Not later than April 30, 1996, the Texas Youth Commission and the pardons and paroles division of the Texas Department of Criminal Justice shall enter into a memorandum of understanding in accordance with Section 29(h), Article 42.18, Code of Criminal Procedure, as added by this Act.

SECTION 102. A corporation may claim the credit under Subchapter M, Chapter 171, Tax Code, as added by this Act, only for any wages paid or incurred on or after the effective date of this Act and only on a franchise tax report due under Chapter 171, Tax Code, on or after January 1, 1996.

SECTION 103. (a) The Texas Juvenile Probation Commission shall promulgate rules to ensure that funds appropriated to the commission by the General Appropriations Act, 74th Legislature, Regular Session, 1995, for the purpose of implementing progressive sanctions or basic state aid not be used by local juvenile probation departments to supplant local contributions for juvenile justice and corrections programs.

(b) The Texas Juvenile Probation Commission shall review the financial records of juvenile probation departments for evidence of supplantation as part of regular and periodic fiscal or program audits and, on a finding of supplantation by a department, shall reduce the next scheduled grant to the department by the amount of funds supplanted.

(c) Supplantation includes a finding by the Texas Juvenile Probation Commission that a juvenile probation department's per employee average compensation and benefit package has increased without a corresponding increase in total local funding.

(d) A juvenile board is eligible to receive basic and diversion services funding only if the board demonstrates to the satisfaction of the Texas Juvenile Probation Commission that the amount of local or county money budgeted for juvenile services for the county fiscal year, excluding construction and capital outlay expenses, equals or is greater than the amount spent for those services in the 1994 county fiscal year.

SECTION 104. (a) An amendment to any provision of Title 3, Family Code, made by another Act of the 74th Legislature, Regular Session, 1995, applies only to conduct that occurs on or after the effective date of the other Act and before January 1, 1996. The amendment made by the other Act continues in effect only for the limited purpose of the prosecution of the conduct committed before January 1, 1996.

(b) For purposes of Subsection (a) of this section, conduct violating the penal law of this state occurs before January 1, 1996, only if every element of the violation occurs before that date.

SECTION 105. (a) Except as provided by this section, this Act takes effect January 1, 1996.

(b) Section 99 of this Act takes effect September 1, 1995.

(c) The following take effect immediately:

(1) Section 52.028, Family Code, as added by this Act;

(2) Sections 341.904, 351.903, and 370.002, Local Government Code, as added by this Act;

(3) the chapter heading of Chapter 370, Local Government Code, as amended by this Act;

(4) Chapter 55, Family Code, as amended by this Act; and

(5) Section 61.077, Human Resources Code, as amended by this Act.

(d) If H.B. No. 466, Acts of the 74th Legislature, Regular Session, 1995, is enacted after the date of enactment of this Act and if H.B. No. 466 becomes law, Section 58.004, Family Code, as included in Chapter 58, Family Code, as added by this Act, does not take effect.

(e) If H.B. No. 466, Acts of the 74th Legislature, Regular Session, 1995, is enacted after the date of enactment of this Act, if H.B. No. 466 becomes law, and if H.B. No. 466 is invalidated by a court judgment that becomes final, effective on the date the judgment becomes final, Subchapter A, Chapter 58, Family Code, as added by this Act, is amended by adding Section 58.004 to read as follows:

Sec. 58.004. COMPILATION OF INFORMATION PERTAINING TO A CRIMINAL COMBINATION. (a) A local criminal justice agency may compile criminal information into a local system for the purpose of investigating or prosecuting the criminal activities of criminal combinations. Criminal information relating to a child associated with a combination, utilizing the meaning assigned by Section 71.01, Penal Code, may be compiled and released to other local, state, or federal criminal justice agencies and any court having jurisdiction over a child, regardless of the age of the child. The information may be compiled on paper, by photographs, by computer, or in any other useful manner.

(b) In this section, "local criminal justice agency" means a municipal or county agency, or school district law enforcement agency, that is engaged in the administration of criminal justice under a statute or executive order.

SECTION 106. (a) Except as provided by Subsection (b) of this section, this Act applies only to conduct that occurs on or after January 1, 1996. Conduct violating a penal law of this state occurs on or after January 1, 1996, if every element of the violation occurs on or after that date. Conduct that occurs before January 1, 1996, is governed by the law in effect at the time the conduct occurred, and that law is continued in effect for that purpose.

(b) Chapter 55, Family Code, as amended by this Act, applies only to conduct that occurs on or after the effective date of that chapter. Conduct violating a penal law of this state occurs on or after that date if every element of the violation occurs on or after that date. Conduct that occurs before the effective date of that chapter is governed by the law in effect at the time the conduct occurred, and that law is continued in effect for that purpose.

SECTION 107. A designation by a municipality or a county of a juvenile curfew processing office for the detention of a person who is alleged to have violated a curfew ordinance or order made before Section 52.028, Family Code, as added by this Act, takes effect if the processing office otherwise meets the requirements of that section.

SECTION 108. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force according to its terms, and it is so enacted.

Representative Goodman moved to adopt the conference committee report on **HB 327**.

A record vote was requested.

The motion prevailed by (Record 543): 137 Yeas, 10 Nays, 1 Present, not voting.

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

Nays — Alonzo; Conley; Davila; Dutton; Edwards; Farrar; Jones, J.; Longoria; Moreno; Rangel.

Present, not voting — Mr. Speaker(C).

Absent — Clemons; Delisi.

STATEMENT OF VOTE

When Record No. 543 was taken, I pressed the voting button to vote yes but the vote did not register. I would have voted yes.

Delisi

HR 1117 - ADOPTED

Representative Driver moved to suspend all necessary rules to take up and consider at this time **HR 1117**.

The motion prevailed without objection.

The speaker laid before the house the following resolution:

By Driver,

HR 1117, Honoring Eric Browning on winning the "O'Banion's Best" award.

The resolution was read and was adopted without objection.

On motion of Representative Siebert, the names of all the members of the house were added to **HR 1117** as signers thereof.

HB 677 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Craddick submitted the following conference committee report on **HB 677**:

Austin, Texas, May 18, 1995

Honorable Bob Bullock
President of the Senate

Honorable Pete Laney
Speaker of the House of Representatives

Sirs: We, your conference committee, appointed to adjust the differences between the Senate and the House of Representatives on **HB 677** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Ellis	Hamric
Nelson	Wolens
Wentworth	Horn
Armbrister	McCall
Bivins	Craddick
On the part of the Senate	On the part of the House

HB 677, A bill to be entitled An Act relating to the validity of certain documents to which certain notaries public fail to attach an official seal.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 121.004, Civil Practice and Remedies Code, is amended by adding Subsection (c) to read as follows:

(c) The failure of a notary public to attach an official seal to a certificate of an acknowledgement or proof of a written instrument made outside this state but inside the United States or its territories renders the acknowledgement or proof invalid only if the jurisdiction in which the certificate is made requires the notary public to attach the seal.

SECTION 2. Section 12.001, Property Code, is amended by adding Subsection (d) to read as follows:

(d) The failure of a notary public to attach an official seal to an acknowledgment, a jurat, or other proof taken outside this state but inside the United States or its territories renders the acknowledgment, jurat, or other proof invalid only if the jurisdiction in which the acknowledgment, jurat, or other proof is taken requires the notary public to attach the seal.

SECTION 3. Subchapter B, Chapter 405, Government Code, is amended by adding Section 405.019 to read as follows:

Sec. 405.019. LIST OF STATES REQUIRING AN OFFICIAL SEAL FOR CERTAIN DOCUMENTS. (a) The secretary of state annually shall compile a list of those states or territories within the United States that require a notary public to validate a certificate of an acknowledgement, proof of a written instrument, or a jurat by attaching an official seal.

(b) The secretary of state shall send the list to each of the county clerks of this state before January 1 of each year.

(c) The secretary of state shall amend the list and immediately send the amended list to the county clerks of this state if the secretary learns that a state or territory has changed its requirements relating to a notary public in a manner that requires it to be added to or deleted from the list.

SECTION 4. This Act applies to the validity of an instrument on or after the effective date of this Act, without regard to whether:

(1) the instrument was created before, on, or after the effective date of this Act; or

(2) an action taken by a notary public in relation to the instrument occurred before, on, or after that date.

SECTION 5. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

Representative Craddick moved to adopt the conference committee report on **HB 677**.

A record vote was requested.

The motion prevailed by (Record 544): 146 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Alexander; Allen; Alonzo; Alvarado; Averitt; Bailey; Berlanga; Black; Bosse; Brady; Brimer; Carona; Carter; Chisum; Clemons; Coleman; Conley; Cook; Corte; Counts; Crabb; Craddick; Cuellar, H.; Cuellar, R.; Culberston; Danburg; Davila; Davis; De La Garza; Dear; 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; Hilbert; 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.; Longoria; Luna; Madden; Marchant; Maxey; McCall; McCoulskey; McDonald; Moffat; Moreno; Mowery; Munoz; Naishtat; Nixon; Oakley; Ogden; Oliveira; Park; Patterson; Pickett; Pitts; Place; Price; 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, B.; Turner, S.; Uher; Van de Putte; Walker; West; Willis; Wilson; Wohlgenuth; Wolens; Woolley; Yarbrough; Yost; Zbranek.

Present, not voting — Mr. Speaker(C).

Absent — Combs; Lewis, R.; Williamson.

HB 815 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Goolsby submitted the following conference committee report on **HB 815**:

Austin, Texas, May 12, 1995

Honorable Bob Bullock
President of the Senate

Honorable Pete Laney
Speaker of the House of Representatives

Sirs: We, your conference committee, appointed to adjust the differences between the Senate and the House of Representatives on **HB 815** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Cain	Goolsby
Bivins	Junell
Montford	S. Turner
Shapiro	Ogden
Barrientos	Rangel
On the part of the Senate	On the part of the House

HB 815, A bill to be entitled An Act relating to certain fees charged and bonds issued by certain public institutions of higher education.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 54.507, Education Code, is amended by amending Subsection (a) and by adding Subsections (d)-(f) to read as follows:

(a) The Board of Regents of The Texas A&M University System may levy and collect from each student at any institution of higher education which is a part of The Texas A&M University System a compulsory group hospital and medical services fee [of] not to exceed \$75 [~~\$25~~] for each regular semester and not to exceed \$25 [~~\$12.50~~] for each term of each summer session. The compulsory group hospital and medical services fee may not be levied unless the levy of the fee has been approved by a majority vote of those students at the affected institution participating in a general student election called for that purpose.

(d) If, in an academic year, the total compulsory fee charged under this section is more than 10 percent higher than the compulsory fee charged under this section for the previous academic year, the increase does not take effect unless the increase is approved by a majority vote of the students voting in an election held for that purpose.

(e) If, in an academic year, the total compulsory fee charged under this section is proposed to be increased by an amount less than 10 percent over that charged in the previous academic year, the Board of Regents of The Texas A&M University System may, in lieu of an election, hold a public meeting on the increase prior to its taking effect in which students have the opportunity to comment.

(f) An election under this section must also permit the students to vote on whether hospital and medical services should be provided to students at the institution by the institution or by a private entity. The vote by the students on the responsibility for provision of hospital and medical services to students at the institution is not binding on the institution.

SECTION 2. Subchapter E, Chapter 54, Education Code, is amended by adding Section 54.5133 to read as follows:

Sec. 54.5133. MARTIN LUTHER KING, JR., STATUE FEE; THE UNIVERSITY OF TEXAS AT AUSTIN. (a) The board of regents of The University of Texas System may charge and collect from students registered at The University of Texas at Austin a fee of \$1 for any semester or summer session. The fee shall be used for funding the construction of a Martin Luther King, Jr., statue on the campus of The University of Texas at Austin and to establish Martin Luther King, Jr., student scholarships.

(b) Any funds raised in excess of the cost of the construction of the Martin Luther King, Jr., statue shall be used to establish Martin Luther King, Jr., student scholarships.

(c) The fees collected shall be deposited into the Martin Luther King, Jr., statue fee account for the purposes outlined in Subsections (a) and (b).

(d) A fee may not be charged under this section after August 31, 1999.

SECTION 3. Section 54.524(a), Education Code, is amended to read as follows:

(a) The board of regents of Texas Tech University may levy a regular fixed student fee not to exceed \$50 [~~\$20~~] per student for each semester of the long session and not to exceed \$25 [~~\$10~~] per student for each term of the summer session, or any fractional part thereof, as may in their discretion be just and necessary for the sole purpose of operating, maintaining, and improving the University Center. The amount of the fee may be changed at any time within the limits specified in order to provide sufficient funds to support the center, but any increase in the [~~initial~~] fee of more than 10 percent from one academic year to the next must be approved by a majority vote of those students participating in a general election called for that purpose or by a majority vote of the student government.

SECTION 4. Sections 54.538(a), (b), and (c), Education Code, are amended to read as follows:

(a) If approved by student vote at a system institution, the Board of Regents, Texas State University System, may charge each student enrolled at such institution a recreational sports fee not to exceed \$50 [~~\$35~~] per semester or 10-week summer session or \$25 [~~\$17.50~~] per five-week summer session. The fee may be used to purchase equipment for and to construct, operate, and maintain recreational sports facilities and programs at the designated institution [~~university~~].

(b) The recreation fee authorized by this section may not be [~~levied or~~] increased more than 10 percent from one academic year to the next unless the [~~levy of the fee or the~~] increase has been approved by a majority vote of those students at the affected institution participating in a general student election called for that purpose. The fee may not exceed the amounts provided by Subsection (a).

(c) Each system institution [~~university~~] shall collect any student recreational sports fee imposed under this section and shall deposit the money collected in an account to be known as the student recreational sports account.

SECTION 5. Subchapter E, Chapter 54, Education Code, is amended by adding Section 54.545 to read as follows:

Sec. 54.545. FEES FOR CONTINUING EDUCATION COURSES. (a) The governing board of an institution of higher education shall charge a reasonable fee to each person registered in a continuing education course at the institution. The board shall set the fee in an amount sufficient to permit the institution to recover the costs to the institution of providing the course.

(b) This section applies only to a course for which an institution does not collect tuition or receive formula funding, including an extension course, correspondence course, or other self-supporting course.

(c) Subchapters B and D do not apply to a fee charged under this section.

SECTION 6. Subchapter E, Chapter 54, Education Code, is amended by adding Section 54.544 to read as follows:

Sec. 54.544. RECREATIONAL FACILITY FEE; THE UNIVERSITY OF TEXAS AT DALLAS. (a) The board of regents of The University of Texas System may charge each student enrolled at The University of Texas at Dallas a recreational facility fee to finance, construct, equip, operate, maintain, or improve student recreational facilities or programs at the university.

(b) A recreational facility fee may not exceed:

(1) \$40 for each student for a semester of the regular term or a 12-week summer session; and

(2) \$26.67 for each student for an eight-week summer session.

(b-1) Before the fall semester of 1998, a recreational facility fee may not exceed:

(1) \$25 for each student for a semester of the regular term or a 12-week summer session; and

(2) \$16.67 for each student for an eight-week summer session.

(b-2) Subsection (b-1) and this subsection expire January 1, 1999.

(c) A recreational facility fee may not be charged or increased unless charging or increasing the fee is approved by a majority vote of the students participating in a general student election called for that purpose.

(d) The board of regents shall collect a fee charged under this section and deposit the fee in an account known as the recreational facility account.

(e) The board of regents may pledge a fee charged under this section to pay an obligation issued under the revenue financing system of The University of Texas System.

(f) A fee charged under this section may not be counted in determining the maximum amount of student services fees that may be charged under Section 54.503(b).

(g) A recreational facility fee may not be collected after the 20th anniversary of the date it is first collected or after all bonded indebtedness for the recreational facility for which the fee receipts are pledged is paid, whichever is later.

SECTION 7. Section 55.16, Education Code, is amended to read as follows:

Sec. 55.16. RENTALS, RATES, CHARGES, AND FEES. (a) Each board shall be authorized to fix and collect rentals, rates, charges, and [and/or] fees from students and others for the occupancy, services, use, and/or availability of all or any of its property, buildings, structures, activities, operations, or other facilities, in such amounts and in such manner as may be determined by the

board; provided, however, that all student use fees shall be fixed and collected in proportion to the number of semester credit hours for which a student registers, and shall not exceed the amount permitted by Subsection (b) [\$12 per semester hour], except that those schools charging more than \$6 per semester hour as of May 1, 1975, shall not exceed the amount being charged as of that date. The board may waive all or any part of any such student use fees in the case of any student for whom the payment of such student use fee would cause an undue economic hardship, except that the number of such students for whom such waivers are granted shall not exceed 5% of the total enrollment; and further provided that nothing in this section shall affect, limit, or impair any pledge, covenant, or option made or reserved by the board with respect to any revenue bonds outstanding as of the 1975 amendment to this section, issued by the board pursuant to this chapter; and provided that hereafter if bonds are issued pursuant to Section 55.17 of this code, to be secured by a pledge of a limited or unlimited use fee, and if, at the time of authorizing the issuance of the bonds, (1) the estimated maximum amount per semester hour of such pledged use fee (based on then current enrollment and conditions) during any future semester necessary to provide for the payment of the principal of and interest on the bonds when due, together with (2) the aggregate amount of all use fees which were levied on a semester hour basis for the then current semester to pay the principal of and interest on all previously issued bonds, do not exceed the amount permitted by Subsection (b) [\$12 per semester hour], then such limited or unlimited use fee shall be levied and collected when and to the extent required by the resolution authorizing the issuance of the bonds in any amount required to provide for the payment of the principal of and interest on the bonds, regardless of any other provision of this section or the limitations contained herein.

(b) A board may not charge rentals, rates, charges, and fees under this section in a total amount per semester credit hour that exceeds the tuition rate per semester credit hour for a resident student at a general academic teaching institution under Subchapter B, Chapter 54, for the academic year in which the rentals, rates, charges, and fees are charged. A board is not required to charge students enrolled in different degree programs at the institution the same rentals, rates, charges, and fees under this section.

(c) A board that charges a rental, rate, charge, or fee under this section may use the revenue for any purpose at the institution at which the revenue is collected, subject to the laws governing the institution and the board. This subsection does not decrease the authority of a board of regents to enter into pledges or covenants with respect to bonds, notes, or other obligations under law existing before the effective date of this subsection.

(d) Before a board increases a rental, rate, charge, or fee collected under this section at an institution under the direction, management, and control of the board, the board or, if the board directs, the chief executive officer of the institution must hold a public hearing at the institution on the increase.

SECTION 8. Section 55.17, Education Code, is amended by adding a new Subsection (g) and relettering and amending existing Subsection (g) to read as follows:

(g) The board of regents of The University of Texas System, The Texas A&M University System, or Texas Tech University may not issue bonds under

this section pursuant to its systemwide revenue financing program for the benefit of an institution under its governance unless the board determines before issuing the bonds that the institution is reasonably expected to have the financial resources necessary to meet its obligations with respect to the bonds without using the resources of any other institution under the governance of the board. This subsection does not decrease the authority of a board of regents to enter into pledges or covenants with respect to bonds, notes, or other obligations under law existing before the effective date of this subsection.

(h) [(g)] Subsections (a) through (g) [(f)] of this section are cumulative of all other laws on the subject, but they shall be wholly sufficient authority for the issuance of the bonds and the performance of the acts and procedures, and the exercise of the powers granted and authorized thereby, regardless of any restrictions or limitations contained in any other laws; and when any bonds are being issued or any acts or procedures are being undertaken, or any powers being exercised pursuant to those subsections, then to the extent of any conflict or inconsistency between any provisions of those subsections, and any provision of any other law, the provisions of those subsections shall prevail and control.

SECTION 9. This Act applies beginning with fees and other charges for the fall semester of 1995.

SECTION 10. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

Representative Goolsby moved to adopt the conference committee report on **HB 815**.

A record vote was requested.

The motion prevailed by (Record 545): 136 Yeas, 7 Nays, 1 Present, not voting.

Yeas — Alexander; Allen; Alonzo; Alvarado; Averitt; Bailey; Berlanga; Black; Bosse; Brimer; Carona; Carter; Chisum; Coleman; Combs; Conley; Cook; Corte; Counts; Crabb; Craddick; Cuellar, H.; Cuellar, R.; Culberson; Danburg; Davila; Davis; De La Garza; Dear; Delisi; Denny; Driver; Dukes; Duncan; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Farrar; Gallego; Giddings; Glaze; Goodman; Goolsby; Gray; Greenberg; Grusendorf; Gutierrez; Haggerty; Hamric; Hawley; Heflin; Hernandez; Hilbert; Hill; Hirschi; Hochberg; Holzhauser; 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; Maxey; McCall; McCoulskey; McDonald; Moffat; Moreno; 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; Siebert; Solis; Solomons; Staples; Stiles; Telford; Thompson; Tillery; Torres; Turner, B.; Turner, S.; Uher; Van de Putte; Walker; West; Williamson; Willis; Wilson; Wohlgemuth; Wolens; Woolley; Yarbrough; Yost; Zbranek.

Nays — Finnell; Hartnett; Hilderbran; Shields; Smithee; Swinford; Talton.
Present, not voting — Mr. Speaker(C).

Absent — Brady; Clemons; Harris; Hightower; Marchant; Mowery.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 545. I intended to vote no.

Averitt

I was shown voting yes on Record No. 545. I intended to vote no.

Black

I was shown voting yes on Record No. 545. I intended to vote no.

Horn

I was shown voting yes on Record No. 545. I intended to vote no.

Reyna

I was shown voting no on Record No. 545. I intended to vote yes.

Shields

HB 1127 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Hamric submitted the following conference committee report on **HB 1127**:

Austin, Texas, May 22, 1995

Honorable Bob Bullock
President of the Senate

Honorable Pete Laney
Speaker of the House of Representatives

Sirs: We, your conference committee, appointed to adjust the differences between the Senate and the House of Representatives on **HB 1127** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Henderson

Hamric

Harris

Romo

Gallegos

Holzheuser

Brown

Howard

Lucio

Heflin

On the part of the Senate

On the part of the House

HB 1127, A bill to be entitled An Act relating to the exemption from ad valorem taxation of the residence homestead of the surviving spouse of an elderly person.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 11.13, Tax Code, is amended by adding Subsections (q) and (r) to read as follows:

(q) The surviving spouse of an individual who received an exemption under Subsection (d) for the residence homestead of a person 65 or older is entitled to an exemption for the same property from the same taxing unit in an amount equal to that of the exemption received by the deceased spouse if:

(1) the deceased spouse died in a year in which the deceased spouse received the exemption;

(2) the surviving spouse was 55 or older when the deceased spouse died; and

(3) the property was the residence homestead of the surviving spouse when the deceased spouse died and remains the residence homestead of the surviving spouse.

(r) An individual who receives an exemption under Subsection (d) is not entitled to an exemption under Subsection (q).

SECTION 2. This Act takes effect January 1, 1996, and applies only to taxes imposed for tax years beginning on or after that date, but only if the constitutional amendment proposed by the 74th Legislature, Regular Session, 1995, exempting from ad valorem taxation the residence homestead of the surviving spouse of an elderly person is approved by the voters. If that amendment is not approved by the voters, this Act has no effect.

SECTION 3. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Representative Hamric moved to adopt the conference committee report on **HB 1127**.

The motion prevailed.

SB 45 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Wolens submitted the conference committee report on **SB 45**.

Representative Wolens moved to adopt the conference committee report on **SB 45**.

The motion prevailed.

COMMITTEE MEETING ANNOUNCEMENT

The following committee meeting was announced:

Calendars, 4 p.m. today, speakers committee room.

SB 68 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Hochberg submitted the conference committee report on **SB 68**.

Representative Hochberg moved to adopt the conference committee report on **SB 68**.

The motion prevailed.

SB 626 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Yost submitted the conference committee report on **SB 626**.

Representative Yost moved to adopt the conference committee report on **SB 626**.

The motion prevailed.

SB 707 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Serna submitted the conference committee report on **SB 707**.

LEAVE OF ABSENCE GRANTED

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

Telford on motion of Uher.

SB 707 - (consideration continued)

Representative Serna moved to adopt the conference committee report on **SB 707**.

A record vote was requested.

The motion prevailed by (Record 546): 97 Yeas, 42 Nays, 1 Present, not voting.

Yeas — Alonzo; Alvarado; Bailey; Berlanga; Bosse; Brady; Brimer; Carter; Coleman; Conley; Corte; Crabb; Craddick; Cuellar, H.; Cuellar, R.; Culberson; Danburg; Davila; Davis; De La Garza; Dear; Denny; Dukes; Duncan; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Farrar; Gallego; Giddings; Glaze; Goolsby; Gray; Greenberg; Gutierrez; Haggerty; Hamric; Hawley; Heflin; Hernandez; Hilderbran; Hirschi; Hochberg; Howard; Hudson; Hunter, B.; Janek; Jones, D.; Junell; Kamel; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Maxey; McCall; McCoulskey; McDonald; Moreno; Munoz; Naishtat; Nixon; Oakley; Oliveira; Park; Pickett; Price; Puente; Rangel; Raymond; Reyna; Rhodes; Rodriguez; Romo; Rusling; Sadler; Saunders; Seidlits; Serna; Solis; Thompson; Tillery; Torres; Turner, S.; Van de Putte; Walker; West; Willis; Wohlgemuth; Wolens; Woolley; Yarbrough; Yost; Zbranek.

Nays — Alexander; Allen; Averitt; Black; Carona; Chisum; Cook; Counts; Delisi; Driver; Finnell; Grusendorf; Harris; Hartnett; Hilbert; Hill; Holzheuser; Horn; Hunter, T.; Jackson; Johnson; King; Krusee; Kubiak; Kuempel; Marchant; Moffat; Mowery; Ogden; Patterson; Pitts; Rabuck; Shields; Siebert; Smithee; Staples; Swinford; Talton; Turner, B.; Uher; Williamson; Wilson.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Telford.

Absent — Clemons; Combs; Goodman; Hightower; Jones, J.; Place; Ramsay; Solomons; Stiles.

HB 238 - WITH SENATE AMENDMENTS

Representative Driver called up with senate amendments for consideration at this time,

HB 238, A bill to be entitled An Act relating to the use of assistance dogs for persons with disabilities; providing an offense.

On motion of Representative Driver, the house concurred in the senate amendments to **HB 238**.

HB 238 - TEXT OF SENATE AMENDMENTS

Senate Amendment No. 1 (Senate Committee Amendment No. 1)

Amend **HB 238** as follows:

In SECTION 1 of the bill, Section 121.002, Human Resources Code, strike proposed Subsection (6), and renumber subsequent subsections accordingly.

In SECTION 2 of the bill, Section 121.003, Human Resources Code, strike proposed Subsection (1), and renumber subsequent subsections accordingly.

Senate Amendment No. 2 (Senate Committee Amendment No. 2)

Amend SECTION 2 of **HB 238**, Section 121.003, Human Resources Code, as follows:

In Proposed Subsection (m) of Chapter 121.003, Human Resources Code, after the word "harass," insert "interfere with,".

HB 369 - WITH SENATE AMENDMENTS

Representative Averitt called up with senate amendments for consideration at this time,

HB 369, A bill to be entitled An Act relating to the operation and funding of small employer health benefit plans.

Representative Averitt moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on the bill.

The motion prevailed without objection.

HB 369 - APPOINTMENT OF CONFERENCE COMMITTEE

The speaker announced the appointment of the following conference committee, on the part of the house, on **HB 369**: Averitt, chair, Smithee, Brady, G. Lewis, and Siebert.

HB 398 - WITH SENATE AMENDMENT

Representative Counts called up with a senate amendment for consideration at this time,

HB 398, A bill to be entitled An Act relating to the temporary exemption of certain high-cost gas from gas production tax.

On motion of Representative Counts, the house concurred in the senate amendment to **HB 398**. (Finnell recorded present, not voting)

HB 398 - TEXT OF SENATE AMENDMENT

CSHB 398, A bill to be entitled An Act, relating to the eligibility of certain high-cost gas for a reduction of the gas production tax.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 201.057, Tax Code, is amended to read as follows:

Sec. 201.057. TEMPORARY EXEMPTION OR TAX REDUCTION FOR
[ØF] CERTAIN HIGH-COST GAS. (a) In this section:

- (1) "Commission" means the Railroad Commission of Texas.
- (2) "High-cost gas" means:

(A) high-cost natural gas as described by Section 107, Natural Gas Policy Act of 1978 (15 U.S.C. Section 3317), as that section exists on January 1, 1989, without regard to whether that section is in effect or whether a determination has been made that the gas is high-cost natural gas for purposes of that Act; or

(B) all gas produced from oil wells or gas wells within a commission approved co-production project.

(3) "Commission approved co-production project" means a reservoir development project in which the commission has recognized that water withdrawals from an oil or gas reservoir in excess of specified minimum volumes will result in recovery of additional oil and/or gas from the reservoir that would not be produced by conventional production methods and where operators of wells completed in the reservoir have begun to implement commission requirements to withdraw such volumes of water and dispose of such water outside the subject reservoir. Reservoirs potentially eligible for this designation shall be limited to those reservoirs in which oil and/or gas has been bypassed by water encroachment caused by production from the reservoir and such bypassed oil and/or gas may be produced as a result of reservoir-wide high-volume water withdrawals of natural formation water.

(4) "High-volume water withdrawals" means the withdrawal of water from a reservoir in an amount sufficient to dewater portions of the reservoir containing oil and/or gas previously bypassed by water encroachment.

(5) "Co-production" means the permanent removal of water from an oil and/or gas reservoir in an effort to lower the gas-water contact or oil-water contact in the reservoir or to reduce reservoir pressure to recover entrained hydrocarbons from the reservoir that would not be produced by conventional primary or secondary production methods.

(6) "Operator" means the person responsible for the actual physical operation of an oil or gas well.

(7) "Consecutive months" means months in consecutive order, regardless of whether or not a well produces oil or gas during any or all such months.

(b) High-cost gas as defined in Subsection (a)(2)(A) of this section produced from a well that is spudded or completed between May 24, 1989, and September 1, 1996, is exempt from the tax imposed by this chapter during the period beginning September 1, 1991, and ending August 31, 2001. High-cost gas as defined in Subsection (a)(2)(B) of this section produced from any well regardless of spud date or completion date is eligible for refunds of tax paid and exemption from the tax imposed by this chapter for production occurring during the period beginning the first day of the month after commission approval of a co-production project and ending August 31, 2001; provided, however, in the event co-production ceases, the exemption shall also cease on the first day of the first calendar month that begins on or after the 91st day following the date of termination or co-production operations. Tax must be

paid when due at the rate provided in Section 201.052 of this code for all high-cost gas, as defined in Subsection (a)(2)(B) of this section, produced on or before July 31, 1995. On or after September 1, 1995, the operator may apply to the comptroller for a refund and shall be entitled to receive a refund of all taxes paid on such high-cost gas produced on or after the first day of the calendar month after commission approval of the co-production project from which such gas was produced and that is otherwise eligible for the tax exemption.

(c) High-cost gas as defined in Subsection (a)(2)(A) produced from a well that is spudded or completed after August 31, 1996, and before September 1, 2002, is entitled to a reduction of the tax imposed by this chapter for the first 120 consecutive calendar months beginning on the first day of production, or until the cumulative value of the tax reduction equals 50 percent of the drilling and completion costs incurred for the well, whichever occurs first. The amount of tax reduction shall be computed by subtracting from the tax rate imposed by Section 201.052 the product of that tax rate times the ratio of drilling and completion costs incurred for the well to twice the median drilling and completion costs for high-cost wells as defined in Subsection (a)(2)(A) spudded or completed during the previous state fiscal year, except that the effective rate of tax may not be reduced below zero.

(d) Taxes must be paid when due at the rate provided in Section 201.052 of this code on all high-cost gas, as defined in Subsection (a)(2)(A) of this section, for wells spudded or completed between September 1, 1996, and August 31, 1997. On or after September 1, 1997, the operator of a well that was spudded or completed and that produced high-cost gas between September 1, 1996, and August 31, 1997, may apply to the comptroller for a refund and shall be entitled to receive a refund of taxes paid in excess of the taxes that would have been due if calculated under Subsection (c). Wells spudded or completed between September 1, 1996, and August 31, 1997, shall also be eligible for the reduced tax under this section for a 120-consecutive-calendar-month period as provided for other wells qualifying under this section. The time period for which an operator is entitled to a refund under this section shall be included for purposes of the calculation of this 120-month period. The period of entitlement for reduced taxation and refund for any qualifying well shall not exceed 120 consecutive calendar months.

(e) The operator of a proposed or existing gas well, including a gas well that has not been completed, or the operator of any proposed or existing oil or gas well within a commission approved co-production project, may apply to the commission for certification that the well produces or will produce high-cost gas. Such application, if seeking certification as high-cost gas according to Subsection (a)(2)(A), must be made in writing no later than the 180th day after the first day of production. The application may be made but is not required to be made concurrently with a request for a determination that gas produced from the well is high-cost natural gas for purposes of the Natural Gas Policy Act of 1978 (15 U.S.C. Section 3301 et seq.) or with a request for commission approval of a co-production project. The commission may require an applicant to provide the commission with any relevant information required to administer this section. For purposes of this section, a determination that

gas is high-cost natural gas according to Subsection (a)(2)(A) [for purposes of the Natural Gas Policy Act of 1978 made according to the definition of high-cost natural gas provided by Section 107, Natural Gas Policy Act of 1978 (15 U.S.C. Section 3317), as that section exists on January 1, 1989;] or a determination that gas is produced from within a commission approved co-production project is a certification that the gas is high-cost gas for purposes of this section, and in that event additional certification is not required to qualify for the exemption or tax reduction provided by this section.

(f) ~~(f)~~ To qualify for the exemption or tax reduction provided by this section, the person responsible for paying the tax must apply to the comptroller. The application must contain the certification of the commission that the well produces high-cost gas and, if the application is for a well spudded or completed after September 1, 1995, must contain a report of drilling and completion costs incurred for each well on a form and in the detail as determined by the comptroller. An application to the comptroller for certification according to Subsection (a)(2)(A) may not be filed after the 180th day after the first day of production. An application to the comptroller for certification according to Subsection (a)(2)(B) may not be filed before January 1, 1990, or after December 31, 1998. The comptroller shall approve the application of a person who demonstrates that the gas is eligible for the exemption or tax reduction. The comptroller may require a person applying for the exemption or tax reduction to provide any relevant information in the person's monthly report that the comptroller considers necessary to administer this section. The commission shall notify the comptroller in writing immediately if it determines that an oil or gas well previously certified as producing high-cost gas does not produce high-cost gas or if it takes any action or discovers any information that affects the eligibility of gas for an exemption or tax reduction under this section.

(g) As soon as practicable after March 1 of each year, the comptroller shall determine from reports containing drilling and completion cost data as required on applications to the comptroller under Subsection (f), the median drilling and completion cost for all high-cost wells as defined in Subsection (a)(2)(A) for which application for exemption or reduced tax was made during the previous state fiscal year. Those median drilling and completion costs shall be used to compute the reduced tax under Subsection (c).

(h) Information regarding drilling and completion costs included on an application under Subsection (f) is confidential and may not be disclosed, except to the extent aggregated with other similar information to produce industry averages. Unauthorized disclosure is an offense subject to the same penalty as provided by Section 111.007 for unauthorized disclosure of federal tax return information.

(i) ~~(i)~~ If, before the commission certifies that a well produces high-cost gas or before the comptroller approves an application for an exemption or tax reduction under this section, the tax imposed by this chapter is paid on high-cost gas that otherwise qualifies for the exemption or tax reduction provided by this section, the producer or producers of the gas are entitled to a credit against other taxes imposed by this chapter in an amount equal to the amount of the tax paid on the gas that otherwise qualified for the exemption or tax

reduction on or after the first day of the next month after the month in which the application for certification under this section was filed with the commission. The credit is allocated to each producer according to the producer's proportionate share in the gas. To receive a credit, one or more of the producers must apply to the comptroller for the credit not later than the first anniversary after the date the comptroller approves the application for an exemption or tax reduction under this section. If a producer demonstrates that the producer does not have sufficient tax liability under this chapter to claim the credit within five years from the date the application for the credit is made, the producer is entitled to a refund in the amount of any credit the comptroller determines may not be claimed within that five years. Nothing in this subsection shall relieve the obligation imposed by Subsection (b) to pay tax when due on high-cost gas produced from co-production projects on or before July 31, 1995.

(j) [(f)] An applicant for commission approval of a co-production project shall submit a written application for approval to the commission. Such application must be filed before January 1, 1994. The applicant shall provide the commission with any relevant information required to administer this section, including evidence demonstrating that the reservoir is eligible for the designation and demonstrating the minimum volumes of high-volume water withdrawal required to recover oil and/or gas from the reservoir that would not be produced by conventional production methods. A commission representative may administratively approve the application. If the commission representative denies administrative approval, the applicant shall have the right to a hearing upon the request.

SECTION 2. (a) The Railroad Commission of Texas shall file with the Legislative Budget Board such information as the Legislative Budget Board may request to assess the impact of the exemption or tax reduction authorized by this Act, including:

- (1) the number of approved applications;
- (2) the level of drilling activity;
- (3) natural gas production; and
- (4) any other related information and projections as requested by the Legislative Budget Board.

(b) Reports required by this section shall be filed for the following time periods no later than the date indicated:

- (1) for the period beginning September 1, 1996, through August 31, 1997, the report shall be filed no later than November 1, 1997; and
- (2) for the period beginning September 1, 1996, through February 28, 1997, the report shall be filed no later than April 1, 1997.

(c) The Railroad Commission of Texas shall, if requested by the Legislative Budget Board, provide quarterly reports containing the information required by Subsection (a) of this section.

SECTION 3. This Act takes effect September 1, 1995.

SECTION 4. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

HB 553 - WITH SENATE AMENDMENT

Representative B. Hunter called up with a senate amendment for consideration at this time,

HB 553, A bill to be entitled An Act relating to the operation of community mental health and mental retardation centers and of psychiatric centers created through contract by a community mental health center.

On motion of Representative B. Hunter, the house concurred in the senate amendment to **HB 553**.

HB 553 - TEXT OF SENATE AMENDMENT**Senate Amendment No. 1**

Amend **HB 553** as follows:

1. In SECTION 1, subsection (f), before the word "governmental" and "a", and after governmental, add the following: "function if the function is required or affirmatively approved by any statute of this state or of the United States or by a regulatory agency of this state or of the United States duly acting under any constitutional or statutory authority vesting the agency with such power."

2. After SECTION 2, add a new SECTION 3 as follows, and renumber the subsequent sections accordingly: "SECTION 3. Nothing in SECTION 2 of this act shall exempt or exclude a community center operating under Subchapter A, Chapter 534, Health and Safety Code from being a "person" for purposes of Chapter 15, Business and Commerce Code, except to the extent the community center's actions are required or affirmatively approved by any statute of this state or of the United States or by a regulatory agency of this state or of the United States duly acting under any constitutional or statutory authority vesting the agency with such power."

HB 735 - WITH SENATE AMENDMENT

Representative Craddick called up with a senate amendment for consideration at this time,

HB 735, A bill to be entitled An Act relating to uses of balances in the inaugural fund and to restrictions on contributions made to or accepted by an inaugural committee or endowment fund committee; making appropriations.

On motion of Representative Craddick, the house concurred in the senate amendment to **HB 735** by (Record 547): 132 Yeas, 0 Nays, 3 Present, not voting.

Yeas — Alexander; Allen; Alonzo; Alvarado; Averitt; Bailey; Black; Bosse; Brady; Brimer; Carona; Carter; Chisum; Combs; Cook; Corte; Counts; Crabb; Craddick; Cuellar, H.; Cuellar, R.; Culberson; Danburg; Davila; Davis; De La Garza; Dear; Delisi; Denny; Driver; Dukes; Duncan; Ehrhardt; Eiland; Elkins; Farrar; Finnell; Gallego; Giddings; Glaze; Goodman; Goolsby; Gray; Greenberg; Grusendorf; Gutierrez; Haggerty; Hamric; Harris; Hartnett; Hawley; Heflin; Hernandez; Hilbert; Hilderbran; Hill; Hirschi; Holzheuser; Horn; Howard; Hudson; Hunter, B.; Hunter, T.; Jackson; Janek; Johnson; Jones, D.; Jones, J.; Junell; Kamel; King; Krusee; Kubiak; Kuempel; Lewis, G.; Longoria;

Luna; Madden; Maxey; McCall; McCoulskey; McDonald; Moffat; Mowery; Munoz; Naishtat; Nixon; Oakley; Ogden; Oliveira; Patterson; Pickett; Pitts; Place; Price; Puente; Rabuck; Rangel; Raymond; Reyna; Rhodes; Rodriguez; Romo; Rusling; Sadler; Saunders; Seidlits; Serna; Shields; Siebert; Smithee; Solis; Solomons; Staples; Stiles; Swinford; Talton; Thompson; Tillery; Turner, B.; Turner, S.; Uher; Van de Putte; Walker; West; Willis; Wilson; Wohlgemuth; Wolens; Woolley; Yost; Zbranek.

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

Absent, Excused — Telford.

Absent — Berlanga; Clemons; Coleman; Edwards; Hightower; Hochberg; Lewis, R.; Marchant; Moreno; Park; Ramsay; Torres; Williamson; Yarbrough.

The speaker stated that **HB 735** was passed subject to the provisions of Article III, Section 49a, of the Texas Constitution.

HB 735 - TEXT OF SENATE AMENDMENT

CSHB 735, A bill to be entitled An Act relating to uses of balances in the inaugural fund; making an appropriation.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter A, Chapter 401, Government Code, is amended by adding Section 401.011 to read as follows:

Sec. 401.011. INAUGURAL ENDOWMENT FUND. (a) To the extent that the balance of the inaugural fund exceeds \$100,000 plus the amount necessary to cover fund obligations, on the date the inaugural committee is dissolved that balance shall be transferred to an account in the general revenue fund to be known as the inaugural endowment fund. The fund shall be administered and expended in accordance with this section.

(b) The fund may be expended for decorating, furnishing, preserving, or improving the Capitol, the Governor's Mansion, or other state property of historical significance or for grants in support of public schools or public libraries at the discretion of the inaugural endowment fund committee.

(c) The inaugural endowment fund committee is composed of the chair of the Texas Historical Commission, a person appointed by the governor, a person appointed by the lieutenant governor, and a person appointed by the speaker of the house of representatives. Notwithstanding other law, the spouse of the governor, of a member of the legislature, or of another state officer may be appointed to the committee. The governor shall designate the chair of the committee from among the members.

(d) Appointed members of the committee serve for terms of two years, expiring on the third Tuesday in January in odd-numbered years. Committee members serve without compensation or reimbursement for travel or personal expenses incurred in carrying out committee duties, except that the service of the chair of the Texas Historical Commission is considered an additional duty of that office and expenses for that person shall be reimbursed by the commission to the same extent as for performance of other commission duties.

(e) Operations of the committee may not be conducted at state expense.

and committee functions may not be carried out through the use of state personnel or equipment.

(f) Not later than October 1 of each year, the committee shall file a report with the secretary of state detailing expenditures made during the 12 months ending on the September 1 preceding the report. The secretary shall publish the report in the Texas Register.

(g) The committee is a governmental body for purposes of Chapters 551 and 552 but is not subject to Chapter 2001.

(h) Sections 403.094 and 403.095 do not apply to the inaugural endowment fund.

(i) This section expires September 1, 1999.

SECTION 2. For the biennium ending August 31, 1995, the balance of the inaugural endowment fund is appropriated to the committee established pursuant to Section 401.011, Government Code, as added by this Act, for the purposes provided by that section.

SECTION 3. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

HB 768 - WITH SENATE AMENDMENT

Representative Craddick called up with a senate amendment for consideration at this time,

HB 768, A bill to be entitled An Act relating to statutory court judges and district judges exchanging benches and transferring cases.

On motion of Representative Craddick, the house concurred in the senate amendments to **HB 768**.

HB 768 - TEXT OF SENATE AMENDMENT

Senate Amendment No. 1

Amend **HB 768**, SECTION 1, to read as follows:

SECTION 1. Section 74.121(b), Government Code is amended to read as follows:

(b)(1) The judge of a statutory county court may transfer a case to the docket of the district court, except that a case may not be transferred without the consent of the judge of the court to which it is being transferred and may not be transferred unless it is within the jurisdiction of the courts to which it is transferred.

(2) Notwithstanding subsection (1), in matters of concurrent jurisdiction, a judge of a statutory county court in Midland County and a judge of a district court in Midland County may exchange benches and courtrooms with each other and may transfer cases between their dockets in the same manner that judges of district courts exchange benches and transfer cases under Section 24.303.

HB 788 - WITH SENATE AMENDMENTS

Representative Brimer called up with senate amendments for consideration at this time,

HB 788, A bill to be entitled An Act relating to the authority of a municipality to create an industrial development corporation and to levy a sales and use tax to carry out the projects of the corporation.

Representative Brimer moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on the bill.

The motion prevailed without objection.

HB 788 - APPOINTMENT OF CONFERENCE COMMITTEE

The speaker announced the appointment of the following conference committee, on the part of the house, on **HB 788**: Brimer, chair, Oliveira, Moffat, Shields, and Ramsay.

MESSAGE FROM THE SENATE

Austin, Texas, May 25, 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 205 by Kubiak, designating September as State Noodle Cook-Off Month in Lee County.

HB 433 by Goodman, Thompson, Combs, McCall, et al. (Sponsor-Harris, Chris), relating to the parent-child relationship, suits affecting the parent-child relationship, and the protection of children (committee substitute).

HB 1988 by Duncan (Sponsor-Shapiro), relating to the insurance rates and policy forms for certain lines of insurance and to certain administrative hearings conducted regarding those rates (committee substitute and amended).

HB 3111 by Berlanga (Sponsor-Sibley), relating to the delivery of health care by certain nonprofit health corporations (committee substitute and amended).

I am directed by the Senate to inform the House that the Senate has concurred in House Amendments to the following: **SB 1261** 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 the following and requests the appointment of a Conference Committee to adjust the differences between the two Houses:

SB 1502 Senate Conferees: Lucio, Chair, Harris, Madla, Brown, and Gallegos.

SB 1646 Senate Conferees: Madla, Chair, Lucio, Luna, Ellis, and West.

I am directed by the Senate to inform the House that the Senate has adopted the Conference Committee Report on the following: **SB 45** by viva voce vote; **SB 707** by viva voce vote; and **HB 677** by 31 Yeas, 0 Nays.

Respectfully,
Betty King
Secretary of the Senate

HB 943 - WITH SENATE AMENDMENTS

Representative Conley called up with senate amendments for consideration at this time,

HB 943, A bill to be entitled An Act relating to performance audits of certain metropolitan transit authorities.

Representative Conley moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on the bill.

The motion prevailed without objection.

HB 943 - APPOINTMENT OF CONFERENCE COMMITTEE

The speaker announced the appointment of the following conference committee, on the part of the house, on **HB 943**: S. Turner, chair, Conley, Bosse, Davila, and Davis.

HB 994 - WITH SENATE AMENDMENT

Representative Delisi called up with a senate amendment for consideration at this time,

HB 994, A bill to be entitled An Act relating to the employment of children in certain activities.

On motion of Representative Delisi, the house concurred in the senate amendment to **HB 994**.

HB 994 - TEXT OF SENATE AMENDMENT

Senate Amendment No. 1

Amend **HB 994**, committee printing, as follows:

- (1) On page 1, line 24, insert "and" after the semicolon;
- (2) On page 1, line 26, strike ": or" and insert a period; and
- (3) On page 1, strike lines 27 and 28.

HB 1001 - WITH SENATE AMENDMENTS

Representative Haggerty called up with senate amendments for consideration at this time,

HB 1001, A bill to be entitled An Act relating to the regulation of subdivisions in economically distressed areas and the delivery of water and sewer services to economically distressed subdivisions; providing civil and criminal penalties.

Representative H. Cuellar moved that the house concur in the senate amendments to **HB 1001**.

(Speaker pro tempore in the chair)

Representative Haggerty offered a substitute motion that the house not concur and that a conference committee be requested to adjust the differences between the two houses on the bill.

A record vote was requested.

The motion was lost by (Record 548): 9 Yeas, 123 Nays, 2 Present, not voting.

Yeas — Combs; Cook; Goolsby; Haggerty; Horn; Lewis, R.; Shields; Staples; Williamson.

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

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

Absent, Excused — Telford.

Absent — Averitt; Carona; Clemons; Counts; Delisi; Dukes; Hudson; Johnson; Jones, D.; Moffat; Place; Ramsay; Saunders; Smithee; Wilson.

The motion to concur in the senate amendments to **HB 1001** prevailed by (Record 549): 137 Yeas, 7 Nays, 2 Present, not voting.

Yeas — Alexander; Allen; Alonzo; Alvarado; Averitt; Bailey; Berlanga; Black; Bosse; Brady; Brimer; Carter; Chisum; Coleman; Conley; Corte; Counts; Crabb; Craddick; Cuellar, H.; Cuellar, R.; Culberson; Danburg; Davila; Davis; De La Garza; Dear; Delisi; Denny; Driver; Dukes; Duncan; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Farrar; Finnell; Giddings; Glaze; Goodman; Gray; Greenberg; Grusendorf; Gutierrez; Hamric; Harris; Hartnett; Hawley; Heflin; Hernandez; Hightower; Hilbert; 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.; Longoria; Luna; Madden; Marchant; Maxey; McCall; McCoulskey; McDonald; Moffat; Moreno; Mowery; Munoz; Naishtat; Nixon; Oakley; Ogden; Oliveira; Park;

Patterson; Pickett; Pitts; Place; Price; Puente; Rabuck; Ramsay; Rangel; Raymond; Reyna; Rhodes; Rodriguez; Romo; Rusling; Sadler; Saunders; Seidlits; Serna; Shields; Siebert; Smithee; Solis; Solomons; Stiles; Swinford; Talton; Thompson; Tillery; Torres; Turner, B.; Turner, S.; Van de Putte; Walker; West; Williamson; Willis; Wilson; Wohlgemuth; Wolens; Woolley; Yarbrough; Yost; Zbranek.

Nays — Combs; Cook; Goolsby; Haggerty; Hilderbran; Lewis, R.; Staples.

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

Absent, Excused — Telford.

Absent — Carona; Clemons; Gallego.

STATEMENT OF VOTE

When Record No. 549 was taken, I was with constituents from Presidio County. I would have voted yes.

Gallego

HB 1001 - TEXT OF SENATE AMENDMENTS

CSHB 1001, A bill to be entitled An Act relating to the regulation of subdivisions in economically distressed areas and the delivery of water and sewer services to economically distressed subdivisions; providing civil and criminal penalties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. LEGISLATIVE FINDINGS. The legislature finds that:

(1) economically distressed subdivisions commonly called "colonias" are found throughout the affected counties;

(2) in recent years, the number of people living in these economically distressed subdivisions in the affected counties has increased;

(3) due to the implementation of the North American Free Trade Agreement (NAFTA), the General Agreement on Tariffs and Trade (GATT), other economic incentives, and the increasingly robust economic development along the Texas-Mexico border, the population in economically distressed subdivisions in the affected counties will continue to increase;

(4) the residents of the economically distressed subdivisions in the affected counties constitute an unusually mobile population, moving to all parts of the state and beyond the state to seek employment;

(5) these conditions allow unscrupulous individuals, through the use of executory contracts, to take advantage of the residents of economically distressed subdivisions by charging usurious rates of interest as well as allowing unbridled discretion to evict;

(6) the vast majority of housing units in these economically distressed subdivisions lack an adequate potable water supply and concomitant wastewater or sewer services;

(7) the lack of an adequate potable water supply and concomitant wastewater or sewer services creates a serious and unacceptable health hazard from third world illnesses for the residents of the economically distressed subdivisions in the affected counties;

(8) many of the housing units in these economically distressed subdivisions are located in isolated rural segments in the affected counties where the land is inexpensive, located in floodplains, and subject to flooding after rains, leading to the overflow of pit privies and thus to the spreading of bacteria onto the land and into the water table;

(9) the location, proliferation, and conditions in these economically distressed subdivisions pose a clear and substantial threat to the environment of the border region, as well as to all Texas;

(10) the lack of an adequate potable water supply and concomitant wastewater or sewer services, coupled with the location of these subdivisions, erodes the economic stability of the affected counties, which are dependent upon a healthy public and a safe environment;

(11) the lack of an adequate potable water supply and concomitant wastewater or sewer services erodes the economic stability of the affected counties, which is required for the mutual development of trade, transportation, and commerce, affecting not only the border region, but all regions of the state where the trade, transportation, and commerce reach;

(12) the health risk created along the border in the affected counties, the expected increase in population during the next decade, and the mobility of the residents of these economically distressed subdivisions, coupled with the fact that the trade, transportation, and commerce along the border is the most intense in the United States, create the very substantial risk of third world epidemics spreading to the residents of this state and beyond;

(13) unless adequate remedial steps are taken immediately to alleviate the health risks to all Texans that are caused by the lack of basic services in the affected counties, the costs of containing an epidemic will be astronomical; and

(14) the need to address this public health and safety hazard is a compelling crisis that must be addressed through this legislation.

SECTION 2. Sections 232.001 through 232.010, Local Government Code, are designated as Subchapter A of Chapter 232, Local Government Code, and Chapter 232 is amended by adding a heading to Subchapter A to read as follows:

SUBCHAPTER A. SUBDIVISION PLATTING
REQUIREMENTS IN GENERAL

SECTION 3. Section 232.0015, Local Government Code, is amended to read as follows:

Sec. 232.0015. EXCEPTIONS [~~EXCEPTION~~] TO PLAT REQUIREMENT[~~:-COUNTY DETERMINATION~~]. (a) To determine whether specific divisions of land are required to be platted, a county may define and classify the divisions. A county need not require platting for every division of land otherwise within the scope of this subchapter [~~chapter~~].

(b) This subchapter does not apply to a subdivision of land to which Subchapter B applies.

SECTION 4. Chapter 232, Local Government Code, is amended by adding Subchapter B to read as follows:

SUBCHAPTER B. SUBDIVISION PLATTING REQUIREMENTS IN
ECONOMICALLY DISTRESSED COUNTIES

Sec. 232.021. DEFINITIONS. In this subchapter:

(1) "Affected county" means a county:

(A) that has a per capita income that averaged 25 percent below the state average for the most recent three consecutive years for which statistics are available and an unemployment rate that averaged 25 percent above the state average for the most recent three consecutive years for which statistics are available; and

(B) any part of which is within 50 miles of an international border.

(2) "Board" means the Texas Water Development Board.

(3) "Common promotional plan" means any plan or scheme of operation undertaken by a single subdivider or a group of subdividers acting in concert, either personally or through an agent, to offer for sale or lease lots when the land is:

(A) contiguous or part of the same area of land; or

(B) known, designated, or advertised as a common unit or by a common name.

(4) "Executive administrator" means the executive administrator of the Texas Water Development Board.

(5) "Floodplain" means any area in the 100-year floodplain that is susceptible to being inundated by water from any source and that is identified by the Federal Emergency Management Agency under the National Flood Insurance Act of 1968 (42 U.S.C. Sections 4001 through 4127).

(6) "Lease" includes an offer to lease.

(7) "Lot" means a parcel into which land that is intended for residential use is divided.

(8) "Minimum state standards" means the minimum standards set out for:

(A) adequate drinking water by or under Section 16.343(b)(1), Water Code;

(B) adequate sewer facilities by or under Section 16.343(c)(1), Water Code; or

(C) the treatment, disposal, and management of solid waste by or under Chapters 361 and 364, Health and Safety Code.

(9) "Plat" means a map, chart, survey, plan, or replat containing a description of the subdivided land with ties to permanent landmarks or monuments.

(10) "Sell" includes an offer to sell.

(11) "Sewer," "sewer services," or "sewer facilities" means treatment works as defined by Section 17.001, Water Code, or individual, on-site, or cluster treatment systems such as septic tanks and includes drainage facilities and other improvements for proper functioning of septic tank systems.

(12) "Subdivide" means to divide the surface area of land into lots intended primarily for residential use.

(13) "Subdivider" means an individual, firm, corporation, or other legal entity that owns any interest in land and that directly or indirectly subdivides land into lots as part of a common promotional plan in the ordinary course of business.

(14) "Subdivision" means an area of land that has been subdivided into lots for sale or lease.

(15) "Utility" means a person, including a legal entity or political subdivision, that provides the services of:

(A) an electric utility, as defined by Section 3(c)(1), Public Utility Regulatory Act (Article 1446c, Vernon's Texas Civil Statutes);

(B) a gas utility, as defined by Section 1.03, Gas Utility Regulatory Act (Article 1446e, Vernon's Texas Civil Statutes); and

(C) a water and sewer utility, as defined by Section 13.002, Water Code.

Sec. 232.022. APPLICABILITY. (a) This subchapter applies only to land that is subdivided into four or more lots that are intended primarily for residential use in the jurisdiction of an affected county. A lot is presumed to be intended for residential use if the lot is five acres or less. This subchapter does not apply if the subdivision is incident to the conveyance of the land as a gift.

(b) For purposes of this section, land is considered to be in the jurisdiction of a county if the land is located in the county, outside the corporate limits of municipalities, and outside the extraterritorial jurisdiction of municipalities, as determined under Chapter 42.

Sec. 232.023. PLAT REQUIRED. (a) A subdivider of land in an affected county must have a plat of the subdivision prepared. A subdivision of a tract under this subsection includes a subdivision of real property by any method of conveyance, including a contract for deed, oral contract, contract of sale, or other type of executory contract, regardless of whether the subdivision is made by using a metes and bounds description.

(b) A plat required under this section must:

(1) be certified by a surveyor or engineer registered to practice in this state;

(2) define the subdivision by metes and bounds;

(3) locate the subdivision with respect to an original corner of the original survey of which it is a part;

(4) describe each lot, number each lot in progression, and give the dimensions of each lot;

(5) state the dimensions of and accurately describe each lot, street, alley, square, park, or other part of the tract intended to be dedicated to public use or for the use of purchasers or owners of lots fronting on or adjacent to the street, alley, square, park, or other part;

(6) include or have attached a document containing a description in English and Spanish of the water and sewer facilities and roadways and easements dedicated for the provision of water and sewer facilities that will be constructed or installed to service the subdivision and a statement specifying the date by which the facilities will be fully operable;

(7) have attached a document prepared by an engineer registered to practice in this state certifying that the water and sewer service facilities proposed under Subdivision (6) are in compliance with the model rules adopted under Section 16.343, Water Code, and a certified estimate of the cost to install water and sewer service facilities;

(8) provide for drainage in the subdivision to:

(A) avoid concentration of storm drainage water from each lot to adjacent lots;

(B) provide positive drainage away from all buildings; and
(C) coordinate individual lot drainage with the general storm drainage pattern for the area;

(9) include a description of the drainage requirements as provided in Subdivision (8);

(10) identify the topography of the area;

(11) include a certification by a surveyor or engineer registered to practice in this state describing any area of the subdivision that is in a floodplain or stating that no area is in a floodplain; and

(12) include certification that the subdivider has complied with the requirements of Section 232.032 and that:

(A) the water quality and connections to the lots meet, or will meet, the minimum state standards;

(B) sewer connections to the lots or septic tanks meet, or will meet, the minimum requirements of state standards;

(C) electrical connections provided to the lot meet, or will meet, the minimum state standards; and

(D) gas connections, if available, provided to the lot meet, or will meet, the minimum state standards.

(c) A subdivider may meet the requirements of Subsection (b)(12)(B) through the use of a certificate issued by the appropriate county or state official having jurisdiction over the approval of septic systems stating that lots in the subdivision can be adequately and legally served by septic systems.

(d) The subdivider of the tract must acknowledge the plat by signing the plat and attached documents and attest to the veracity and completeness of the matters asserted in the attached documents and in the plat.

(e) The plat must be filed and recorded with the county clerk of the county in which the tract is located. The plat is subject to the filing and recording provisions of Section 12.002, Property Code.

Sec. 232.024. APPROVAL BY COUNTY REQUIRED. (a) A plat filed under Section 232.023 is not valid unless the commissioners court of the county in which the land is located approves the plat by an order entered in the minutes of the court. The commissioners court shall refuse to approve a plat if it does not meet the requirements prescribed by or under this subchapter or if any bond required under this subchapter is not filed with the county clerk.

(b) If any part of a plat applies to land intended for residential housing and any part of that land lies in a floodplain, the commissioners court shall not approve the plat unless the plat evidences a restrictive covenant as required by this subsection. The restrictive covenant shall prohibit the construction of residential housing in any area of the subdivision that is in a floodplain unless the housing qualifies for insurance under the National Flood Insurance Act of 1968 (42 U.S.C. Sections 4001 through 4127).

(c) On request, the county clerk shall provide the attorney general or the Texas Water Development Board:

(1) a copy of each plat that is approved under this subchapter; or

(2) the reasons in writing and any documentation that support a variance granted under Section 232.042.

Sec. 232.025. SUBDIVISION REQUIREMENTS. By an order adopted and entered in the minutes of the commissioners court, and after a notice is

published in English and Spanish in a newspaper of general circulation in the county, the commissioners court shall for each subdivision:

(1) require a right-of-way on a street or road that functions as a main artery in a subdivision, of a width of not less than 50 feet or more than 100 feet;

(2) require a right-of-way on any other street or road in a subdivision of not less than 40 feet or more than 70 feet;

(3) require that the shoulder-to-shoulder width on collectors or main arteries within the right-of-way be not less than 32 feet or more than 56 feet, and that the shoulder-to-shoulder width on any other street or road be not less than 25 feet or more than 35 feet;

(4) adopt, based on the amount and kind of travel over each street or road in a subdivision, reasonable specifications relating to the construction of each street or road;

(5) adopt reasonable specifications to provide adequate drainage for each street or road in a subdivision in accordance with standard engineering practices;

(6) require that each purchase contract made between a subdivider and a purchaser of land in the subdivision contain a statement describing how and when water, sewer, electricity, and gas services will be made available to the subdivision; and

(7) require that the subdivider of the tract execute a bond in the manner provided by Section 232.027.

Sec. 232.026. WATER AND SEWER SERVICE EXTENSION. (a) The commissioners court may extend, beyond the date specified on the plat or on the document attached to the plat, the date by which the water and sewer service facilities must be fully operable if the commissioners court finds the extension is reasonable and not contrary to the public interest.

(b) The commissioners court may not grant an extension under Subsection (a) if it would allow an occupied residence to be without water or sewer services.

(c) If the commissioners court provides an extension, the commissioners court shall notify the attorney general of the extension and the reason for the extension. The attorney general shall notify all other state agencies having enforcement power over subdivisions in affected counties of the extension.

Sec. 232.027. BOND REQUIREMENTS. (a) Unless a person has completed the installation of all water and sewer service facilities required by this subchapter on the date that person applies for final approval of a plat under Section 232.024, the commissioners court shall require the subdivider of the tract to execute and maintain in effect a bond or, in the alternative, a person may make a cash deposit in an amount the commissioners court determines will ensure compliance with this subchapter. A person may not meet the requirements of this subsection through the use of a letter of credit unless that letter of credit is irrevocable and issued by an institution guaranteed by the FDIC. The subdivider must comply with the requirement before subdividing the tract.

(b) The bond must be conditioned on the construction or installation of water and sewer service facilities that will be in compliance with the model rules adopted under Section 16.343, Water Code.

Sec. 232.028. CERTIFICATION REGARDING COMPLIANCE WITH PLAT REQUIREMENTS. (a) On the approval of a plat by the commissioners court, the commissioners court shall issue to the person applying for the approval a certificate stating that the plat has been reviewed and approved by the commissioners court.

(b) On the written request of a subdivider, an owner or resident of a lot in a subdivision, or an entity that provides a utility service, the commissioners court shall make the following determinations regarding the land in which the entity or commissioners court is interested that is located within the jurisdiction of the county:

(1) whether a plat has been prepared and whether it has been reviewed and approved by the commissioners court;

(2) whether water service facilities have been constructed or installed to service the subdivision under Section 232.023 and are fully operable;

(3) whether sewer service facilities have been constructed or installed to service the subdivision under Section 232.023 and are fully operable, or if septic systems are used, whether lots in the subdivision can be adequately and legally served by septic systems under Section 232.023; and

(4) whether electrical and gas facilities, if available, have been constructed or installed to service the subdivision under Section 232.023.

(c) The request made under Subsection (b) must identify the land that is the subject of the request.

(d) Whenever a request is made under Subsection (b), the commissioners court shall issue the requesting party a written certification of its determinations under that subsection.

(e) The commissioners court shall make its determinations within 20 days after the date it receives the request under Subsection (b) and shall issue the certificate, if appropriate, within 10 days after the date the determinations are made.

(f) The commissioners court may adopt rules it considers necessary to administer its duties under this section.

Sec. 232.029. CONNECTION OF UTILITIES. (a) Except as provided by Section 232.037(c), a utility may not serve or connect any subdivided land with water or sewer services unless the utility receives a certificate issued by the commissioners court under Section 232.028(a) or receives a determination from the commissioners court under Section 232.028(b)(1) that the plat has been reviewed and approved by the commissioners court.

(b) Except as provided by Section 232.037(c), a utility may not serve or connect any subdivided land with electricity or gas unless the entity receives a determination from the county commissioners court under Section 232.028(b)(2) that adequate water and sewer services have been installed to service the subdivision.

(c) The prohibition established by this section shall not prohibit an electric or gas utility from providing electric or gas utility connection or service to a lot being sold, conveyed or purchased through a contract for deed or executory contract or other device by a subdivider prior to July 1, 1995, which is located within a subdivision where the utility has previously established service and was subdivided by a plat approved prior to September 1, 1989.

Sec. 232.030. SUBDIVISION REGULATION; COUNTY AUTHORITY.

(a) The commissioners court for each county shall adopt and enforce the model rules developed under Section 16.343, Water Code.

(b) Except as provided by Section 16.350(d), Water Code, or Section 232.042, the commissioners court may not grant a variance or adopt regulations that waive any requirements of this subchapter.

(c) The commissioners court shall adopt regulations setting forth requirements for:

(1) potable water sufficient in quality and quantity to meet minimum state standards;

(2) solid waste disposal meeting minimum state standards and rules adopted by the county under Chapter 364, Health and Safety Code;

(3) sufficient and adequate roads that satisfy the standards adopted by the county;

(4) sewer facilities meeting minimum state standards;

(5) electric service and gas service; and

(6) standards for flood management meeting the minimum standards set forth by the Federal Emergency Management Agency under the National Flood Insurance Act of 1968 (42 U.S.C. Sections 4001 through 4127).

(d) In adopting regulations under Subsection (c)(2), the commissioners court may allow one or more commercial providers to provide solid waste disposal services as an alternative to having the service provided by the county if the commercial provider is more efficient or is a more cost-effective alternative to county provision of the service.

Sec. 232.031. REQUIREMENTS PRIOR TO SALE OR LEASE. (a) A subdivider may not sell or lease land in a subdivision first platted or replatted after July 1, 1995, unless the subdivision plat is approved by the commissioners court in accordance with Section 232.024.

(b) Not later than the 30th day after the date a lot is sold, a subdivider shall record with the county clerk all sales contracts, including the attached disclosure statement required by Section 232.033, leases, and any other documents that convey an interest in the subdivided land.

(c) A document filed under Subsection (b) is a public record.

Sec. 232.032. SERVICES PROVIDED BY SUBDIVIDER. A subdivider having an approved plat for a subdivision shall:

(1) furnish a certified letter from the utility provider stating that water is available to the subdivision sufficient in quality and quantity to meet minimum state standards required by Section 16.343, Water Code, and consistent with the certification in the letter, and that water of that quality and quantity will be made available to the point of delivery to all lots in the subdivision;

(2) furnish sewage treatment facilities that meet minimum state standards to fulfill the wastewater requirements of the subdivision or furnish certification by the appropriate county or state official having jurisdiction over the approval of the septic systems indicating that lots in the subdivision can be adequately and legally served by septic systems as provided under Chapter 366, Health and Safety Code;

(3) furnish roads satisfying minimum standards as adopted by the county;

(4) furnish adequate drainage meeting standard engineering practices;
and

(5) make a reasonable effort to have electric utility service and gas utility service installed by a utility.

Sec. 232.033. ADVERTISING STANDARDS AND OTHER REQUIREMENTS BEFORE SALE; OFFENSE. (a) Brochures, publications, and advertising of any form relating to subdivided land:

(1) may not contain any misrepresentation; and

(2) except for a for-sale sign posted on the property that is no larger than three feet by three feet, must accurately describe the availability of water and sewer service facilities and electric and gas utilities.

(b) The subdivider shall provide a copy in Spanish of all written documents relating to the sale of subdivided land under an executory contract, including the contract, disclosure notice, and annual statement required by this section and a notice of default required by Subchapter D, Chapter 5, Property Code, if:

(1) negotiations that precede the execution of the executory contract are conducted primarily in Spanish; or

(2) the purchaser requests the written documents to be provided in Spanish.

(c) Before an executory contract is signed by the purchaser, the subdivider shall provide the purchaser with a written notice, which must be attached to the executory contract, informing the purchaser of the condition of the property that must, at a minimum, be executed by the subdivider and purchaser, be acknowledged, and read substantially similar to the following:

WARNING

IF ANY OF THE ITEMS BELOW HAVE NOT BEEN CHECKED, YOU MAY NOT BE ABLE TO LIVE ON THE PROPERTY.

CONCERNING THE PROPERTY AT (street address or legal description and city)

THIS DOCUMENT STATES THE TRUE FACTS ABOUT THE LAND YOU ARE

CONSIDERING PURCHASING.

CHECK OFF THE ITEMS THAT ARE TRUE:

_____ The property is in a recorded subdivision.

_____ The property has water service that provides potable water.

_____ The property has sewer service or a septic system.

_____ The property has electric service.

_____ The property is not in a flood-prone area.

_____ The roads are paved.

_____ No person other than the subdivider:

(1) owns the property;

(2) has a claim of ownership to the property; or

(3) has an interest in the property.

_____ No person has a lien filed against the property.

_____ There are no back taxes owed on the property.

NOTICE

SELLER ADVISES PURCHASER TO:

- (1) OBTAIN A TITLE ABSTRACT OR TITLE COMMITMENT REVIEWED BY AN ATTORNEY BEFORE SIGNING A CONTRACT OF THIS TYPE; AND
- (2) PURCHASE AN OWNER'S POLICY OF TITLE INSURANCE COVERING THE PROPERTY.

(Date)

(Signature of Subdivider)

(Date)

(Signature of Purchaser)

(d) The subdivider shall provide any purchaser who is sold a lot under an executory contract with an annual statement in January of each year for the term of the executory contract. If the subdivider mails the statement to the purchaser, the statement must be postmarked not later than January 31.

(e) The statement under Subsection (d) must include the following information:

- (1) the amount paid under the contract;
- (2) the remaining amount owed under the contract;
- (3) the annual interest rate charged under the contract during the preceding 12-month period; and
- (4) the number of payments remaining under the contract.

(f) If the subdivider fails to comply with Subsections (d) and (e), the purchaser may:

(1) notify the subdivider that the purchaser has not received the statement and will deduct 15 percent of each monthly payment due until the statement is received; and

(2) not earlier than the 25th day after the date the purchaser provides the subdivider notice under this subsection, deduct 15 percent of each monthly payment due until the statement is received by the purchaser.

(g) A purchaser who makes a deduction under Subsection (f) is not required to reimburse the subdivider for the amount deducted.

(h) A person who is a seller of lots in a subdivision, or a subdivider or an agent of a seller or subdivider, commits an offense if the person knowingly authorizes or assists in the publication, advertising, distribution, or circulation of any statement or representation that the person knows is false concerning any subdivided land offered for sale or lease. An offense under this section is a Class A misdemeanor.

Sec. 232.034. CONFLICT OF INTEREST; PENALTY. (a) In this section, "subdivided tract" means a tract of land, as a whole, that is subdivided into tracts or lots. The term does not mean an individual lot in a subdivided tract of land.

(b) A person has an interest in a subdivided tract if the person:

- (1) has an equitable or legal ownership interest in the tract;
- (2) acts as a developer of the tract;
- (3) owns voting stock or shares of a business entity that:

(A) has an equitable or legal ownership interest in the tract;

or

(B) acts as a developer of the tract; or

(4) receives in a calendar year money or any thing of value from a business entity described by Subdivision (3).

(c) A person also is considered to have an interest in a subdivided tract if the person is related in the second degree by consanguinity or affinity, as determined under Chapter 573, Government Code, to a person who, under Subsection (b), has an interest in the tract.

(d) If a member of the commissioners court has an interest in a subdivided tract, the member shall file, before a vote or decision regarding the approval of a plat for the tract, an affidavit with the county clerk stating the nature and extent of the interest and shall abstain from further participation in the matter. The affidavit must be filed with the county clerk.

(e) A member of the commissioners court of a county commits an offense if the member violates Subsection (d). An offense under this subsection is a Class A misdemeanor.

(f) The finding by a court of a violation of this section does not render voidable an action of the commissioners court unless the measure would not have passed the commissioners court but for the vote of the member who violated this section.

(g) A conviction under Subsection (e) constitutes official misconduct by the member and is grounds for removal from office.

Sec. 232.035. CIVIL PENALTIES. (a) A subdivider or an agent of a subdivider may not cause, suffer, allow, or permit a lot to be sold in a subdivision if the subdivision has not been platted as required by this subchapter.

(b) A subdivider or an agent of a subdivider may not cause, suffer, allow, or permit a subdivision or any part of a subdivision in an affected county to become a public health nuisance as defined by Section 341.011, Health and Safety Code. This subsection does not apply to a lot for which a subdivider has conveyed title to a purchaser.

(c) A subdivider who fails to provide, in the time and manner described in the plat, for the construction or installation of water or sewer service facilities described on the plat or on the document attached to the plat or who otherwise violates this subchapter or a rule or requirement adopted by the commissioners court under this subchapter is subject to a civil penalty of not less than \$500 or more than \$1,000 for each violation and for each day of a continuing violation but not to exceed \$5,000 each day and shall also pay court costs, investigative costs, and attorney's fees for the governmental entity bringing the suit.

(d) Except as provided by Subsection (e), a person who violates Subsection (a) or (b) is subject to a civil penalty of not less than \$10,000 or more than \$15,000 for each lot conveyed or each subdivision that becomes a nuisance. The person must also pay court costs, investigative costs, and attorney's fees for the governmental entity bringing the suit.

(e) A person who violates Subsection (b) is not subject to a fine under Subsection (d) if the person corrects the nuisance not later than the 30th day after the date the person receives notice from the attorney general or a local health authority of the nuisance.

(f) Venue for an action under this section is in a district court of Travis

County, a district court in the county in which the defendant resides, or a district court in the county in which the violation or threat of violation occurs.

Sec. 232.036. CRIMINAL PENALTIES. (a) A subdivider commits an offense if the subdivider knowingly fails to file a plat required by this subchapter. An offense under this subsection is a Class A misdemeanor.

(b) A subdivider who owns a subdivision commits an offense if the subdivider knowingly fails to timely provide for the construction or installation of water or sewer service as required by Section 232.032 or fails to make a reasonable effort to have electric utility service and gas utility service installed by a utility as required by Section 232.032. An offense under this subsection is a Class A misdemeanor.

(c) If it is shown at the trial of an offense under Subsection (a) that the defendant caused five or more residences in the subdivision to be inhabited, the offense is a state jail felony.

(d) A subdivider commits an offense if the subdivider allows the conveyance of a lot in the subdivision without the appropriate water and sewer utilities as required by Section 232.032 or without having made a reasonable effort to have electric utility service and gas utility service installed by a utility as required by Section 232.032. An offense under this section is a Class A misdemeanor. Each lot conveyed constitutes a separate offense.

(e) Venue for prosecution for a violation under this section is in the county in which any element of the violation is alleged to have occurred or in Travis County.

Sec. 232.037. ENFORCEMENT. (a) The attorney general, or the district attorney, criminal district attorney, county attorney with felony responsibilities, or county attorney of an affected county may take any action necessary in a court of competent jurisdiction on behalf of the state or on behalf of residents to:

(1) enjoin the violation or threatened violation of the model rules adopted under Section 16.343, Water Code;

(2) enjoin the violation or threatened violation of a requirement of this subchapter or a rule adopted by the commissioners court under this subchapter;

(3) recover civil or criminal penalties, attorney's fees, litigation costs, and investigation costs; and

(4) require platting or replatting under Section 232.040.

(b) The attorney general, at the request of the district or county attorney with jurisdiction, may conduct a criminal prosecution under Section 232.033(h) or 232.036.

(c) During the pendency of any enforcement action brought, any resident of the affected subdivision, or the attorney general, district attorney, or county attorney on behalf of a resident, may file a motion against the provider of utilities to halt termination of pre-existing utility services. The services may not be terminated if the court makes an affirmative finding after hearing the motion that termination poses a threat to public health, safety, or welfare of the residents.

Sec. 232.038. SUIT BY PRIVATE PERSON IN ECONOMICALLY DISTRESSED AREA. A person who has purchased or is purchasing a lot after July 1, 1995, in a subdivision for residential purposes that does not have water

and sewer services as required by this subchapter and is located in an economically distressed area, as defined by Section 17.921, Water Code, in an affected county, from a subdivider, may bring suit in the district court in which the property is located or in a district court in Travis County to:

(1) declare the sale of the property void and require the subdivider to return the purchase price of the property; and

(2) recover from the subdivider:

(A) the market value of any permanent improvements the person placed on the property;

(B) actual expenses incurred as a direct result of the failure to provide adequate water and sewer facilities;

(C) court costs; and

(D) reasonable attorney's fees.

Sec. 232.039. CANCELLATION OF SUBDIVISION. (a) A subdivider of land in an affected county may apply to the commissioners court to cancel all or part of the subdivision in the manner provided by Section 232.008 after notice and hearing as provided by this section.

(b) A resident of a subdivision for which the subdivider has applied for cancellation under Subsection (a) has the same rights as a purchaser of land under Section 232.008.

(c) The notice required by Section 232.008(c) must also be published in Spanish in the newspaper of highest circulation and in a Spanish-language newspaper in the county if available.

(d) Not later than the 14th day before the date of the hearing, the county chief appraiser shall by regular and certified mail provide notice containing the information described by Section 232.008(c) to:

(1) each person who pays property taxes in the subdivision, as determined by the most recent tax roll; and

(2) each person with an interest in the property.

(e) The commissioners court may require a subdivider to provide the court with the name and last known address of each person with an interest in the property. For purposes of this subsection, a person residing on a lot purchased through an executory contract has an interest in the property.

(f) A person who fails to provide information requested under Subsection (e) before the 31st day after the date the request is made is liable to the state for a penalty of \$500 for each week the person fails to provide the information.

(g) The commissioners court may cancel a subdivision only after a public hearing. At the hearing, the commissioners court shall permit any interested person to be heard. At the conclusion of the hearing, the commissioners court shall adopt an order on whether to cancel the subdivision.

Sec. 232.040. REPLATTING. (a) A subdivision plat must accurately reflect the subdivision as it develops. If there is any change, either by the intentional act of the subdivider or by the forces of nature, including changes in the size or dimension of lots or the direction or condition of the roads, a plat must be revised in accordance with Section 232.041.

(b) Except as provided by Subsection (c), a lot in a subdivision may not be sold if the lot lacks water and sewer services as required by this subchapter unless the lot is platted or replatted as required by this subchapter. A

subdivider or agent of a subdivider may not transfer a lot through an executory contract or other similar conveyance to evade the requirements of this subchapter. The prohibition in this subsection includes the sale of a lot:

(1) by a subdivider who regains possession of a lot previously exempt under Subsection (c) through the exercise of a remedy described in Section 5.061, Property Code; or

(2) for which it is shown at a proceeding brought in the district court in which the property is located that the sale of a lot otherwise exempt under Subsection (c) was made for the purpose of evading the requirements of this subchapter.

(c) Subsection (b) does not apply if a seller other than a subdivider or agent of a subdivider:

(1) resides on the lot; or

(2) purchases the lot through a contract for deed.

(d) The attorney general or a district or county attorney with jurisdiction may bring a proceeding under Subsection (b).

(e) Existing utility services to a subdivision that must be platted or replatted under this section may not be terminated under Section 232.029.

Sec. 232.041. REVISION OF PLAT. (a) A person who has subdivided land that is subject to the subdivision controls of the county in which the land is located may apply in writing to the commissioners court of the county for permission to revise the subdivision plat filed for record with the county clerk.

(b) After the application is filed with the commissioners court, the court shall publish a notice of the application in a newspaper of general circulation in the county. The notice must include a statement of the time and place at which the court will meet to consider the application and to hear protests to the revision of the plat. The notice must be published at least three times during the period that begins on the 30th day and ends on the seventh day before the date of the meeting. If all or part of the subdivided tract has been sold to nondeveloper owners, the court shall also give notice to each of those owners by certified or registered mail, return receipt requested, at the owner's address in the subdivided tract.

(c) During a regular term of the commissioners court, the court shall adopt an order to permit the revision of the subdivision plat if it is shown to the court that:

(1) the revision will not interfere with the established rights of any owner of a part of the subdivided land; or

(2) each owner whose rights may be interfered with has agreed to the revision.

(d) If the commissioners court permits a person to revise a subdivision plat, the person may make the revision by filing for record with the county clerk a revised plat or part of a plat that indicates the changes made to the original plat.

Sec. 232.042. VARIANCES. (a) On request of a subdivider or resident purchaser, the commissioners court may grant a delay or a variance from compliance with Section 232.040 as provided by this section.

(b) The commissioners court may grant a delay of two years if the reason for the delay is to install utilities. A person may apply for one renewal of a

delay under this subsection. To obtain an initial delay under this subsection, a subdivider must:

- (1) identify the affected utility providers;
- (2) provide the terms and conditions on which service may be provided; and
- (3) provide a certified letter from each utility provider stating that it has the right to serve the area and it will serve the area.

(c) The commissioners court may grant a delay or a variance for a reason other than a reason described by Subsection (b) if it is shown that compliance would be impractical or would be contrary to the health and safety of residents of the subdivision. The commissioners court must issue written findings stating the reasons why compliance is impractical.

(d) A delay or a variance granted by the commissioners court is valid only if the commissioners court notifies the attorney general of the delay or variance and the reasons for the delay or variance not later than the 30th day after the date the commissioners court grants the delay or variance.

(e) Until approved water and sewer services are made available to the subdivision, the subdivider of land for which a delay is granted under this section must provide at no cost to residents:

- (1) 25 gallons of potable water a day for each resident and a suitable container for storing the water; and
- (2) suitable temporary sanitary wastewater disposal facilities.

SECTION 5. Subchapter B, Chapter 412, Local Government Code, is amended by adding Section 412.015 to read as follows:

Sec. 412.015. COUNTY WATER AND SEWER UTILITY. An affected county, as defined by Section 16.341, Water Code, may own, operate, or maintain a water or sewer utility in the same manner as a municipality under Chapter 402.

SECTION 6. Section 13.002, Water Code, is amended by amending Subdivision (23) and adding Subdivision (26) to read as follows:

(23) "Water and sewer utility," "public utility," or "utility" means any person, corporation, cooperative corporation, affected county, or any combination of these persons or entities, other than a municipal corporation, water supply or sewer service corporation, or a political subdivision of the state, except an affected county, or their lessees, trustees, and receivers, owning or operating for compensation in this state equipment or facilities for the transmission, storage, distribution, sale, or provision of potable water to the public or for the resale of potable water to the public for any use or for the collection, transportation, treatment, or disposal of sewage or other operation of a sewage disposal service for the public, other than equipment or facilities owned and operated for either purpose by a municipality or other political subdivision of this state or a water supply or sewer service corporation, but does not include any person or corporation not otherwise a public utility that furnishes the services or commodity only to itself or its employees or tenants as an incident of that employee service or tenancy when that service or commodity is not resold to or used by others.

(26) "Affected county" has the meaning assigned by Section 232.021, Local Government Code.

SECTION 7. Section 13.043, Water Code, is amended by amending Subsections (b), (c), (f), and (g) and adding Subsection (k) to read as follows:

(b) Ratepayers of the following entities may appeal the decision of the governing body of the entity affecting their water, drainage, or sewer rates to the commission:

(1) a nonprofit water supply or sewer service corporation created and operating under Chapter 76, Acts of the 43rd Legislature, 1st Called Session, 1933 (Article 1434a, Vernon's Texas Civil Statutes);

(2) a utility under the jurisdiction of a municipality inside the corporate limits of the municipality;

(3) a municipally owned utility, if the ratepayers reside outside the corporate limits of the municipality; ~~and~~

(4) a district or authority created under Article III, Section 52, or Article XVI, Section 59, of the Texas Constitution that provides water or sewer service to household users; and

(5) a utility owned by an affected county, if the ratepayer's rates are actually or may be adversely affected. For the purposes of this section ratepayers who reside outside the boundaries of the district or authority shall be considered a separate class from ratepayers who reside inside those boundaries.

(c) An appeal under Subsection (b) of this section must be initiated by filing a petition for review with the commission and the entity providing service within 90 days after the effective day of the rate change or, if appealing under Subdivision (b)(2) or (5) of this section, within 90 days after the date on which the governing body of the municipality or affected county makes a final decision. The petition must be signed by the lesser of 10,000 or 10 percent of those ratepayers whose rates have been changed and who are eligible to appeal under Subsection (b) of this section.

(f) A retail public utility that receives water or sewer service from another retail public utility or political subdivision of the state, including an affected county, may appeal to the commission a decision of the provider of water or sewer service affecting the amount paid for water or sewer service. An appeal under this subsection must be initiated within 90 days after the date of notice of the decision is received from the provider of water or sewer service by the filing of a petition by the retail public utility.

(g) An applicant for service from an affected county or a water supply or sewer service corporation may appeal to the commission a decision of the county or water supply or sewer service corporation affecting the amount to be paid to obtain service in addition to the regular membership or tap fees. If the commission finds the amount charged to be unreasonable, it shall establish the fee to be paid for that applicant. An appeal under this subsection must be initiated within 90 days after the date written notice is provided to the applicant or member of the decision of an affected county or water supply or sewer service corporation ~~[corporation's decision]~~ relating to the applicant's initial request for that service.

(k) Not later than the 30th day after the date of a final decision on a rate change, the commissioners court of an affected county shall provide written notice to each ratepayer eligible to appeal. The notice must include the

effective date of the new rates, the new rates, and the location where additional information on rates may be obtained.

SECTION 8. The heading to Subchapter D, Chapter 13, Water Code, is amended to read as follows:

SUBCHAPTER D. MUNICIPALITIES AND COUNTIES

SECTION 9. Section 13.084, Water Code, is amended to read as follows:

Sec. 13.084. **AUTHORITY OF GOVERNING BODY; COST REIMBURSEMENT.** The governing body of any municipality or the commissioners court of an affected county shall have the right to select and engage rate consultants, accountants, auditors, attorneys, engineers, or any combination of these experts to conduct investigations, present evidence, advise and represent the governing body, and assist with litigation on water and sewer utility ratemaking proceedings. The water and sewer utility engaged in those proceedings shall be required to reimburse the governing body or the commissioners court for the reasonable costs of those services and shall be allowed to recover those expenses through its rates with interest during the period of recovery.

SECTION 10. Section 13.085, Water Code, is amended to read as follows:

Sec. 13.085. **ASSISTANCE BY COMMISSION.** On request, the commission may advise and assist municipalities and affected counties in connection with questions and proceedings arising under this chapter. This assistance may include aid to municipalities or an affected county in connection with matters pending before the commission, the courts, [or] the governing body of any municipality, or the commissioners court of an affected county, including making members of the staff available to them as witnesses and otherwise providing evidence.

SECTION 11. Section 13.139(a), Water Code, is amended to read as follows:

(a) Every retail public utility that possesses or is required to possess a certificate of public convenience and necessity and every district and affected county that furnishes retail water or sewer utility service, shall furnish the service, instrumentalities, and facilities as are safe, adequate, efficient, and reasonable.

SECTION 12. Section 13.141, Water Code, is amended to read as follows:

Sec. 13.141. **BILLING FOR SERVICE TO STATE.** A utility, utility owned by an affected county, or municipally owned utility may not bill or otherwise require the state or a state agency or institution to pay for service before the service is rendered.

SECTION 13. Section 13.181, Water Code, is amended to read as follows:

Sec. 13.181. **POWER TO ENSURE COMPLIANCE; RATE REGULATION.** Subject to this chapter, the commission has all authority and power of the state to ensure compliance with the obligations of utilities under this chapter. For this purpose the regulatory authority may fix and regulate rates of utilities, including rules and regulations for determining the classification of customers and services and for determining the applicability of rates. A rule or order of the regulatory authority may not conflict with the rulings of any federal regulatory body. Except Section 13.192, this subchapter shall apply only to a utility and shall not be applied to municipalities, counties, districts,

or water supply or sewer service corporations. The commission may adopt rules which authorize a utility which is permitted under Section 13.242(c) to provide service without a certificate of public convenience and necessity to request or implement a rate increase and operate according to rules, regulations, and standards of service other than those otherwise required under this chapter provided that rates are just and reasonable for customers and the utility and that service is safe, adequate, efficient, and reasonable.

SECTION 14. Section 13.242(a), Water Code, is amended to read as follows:

(a) Unless otherwise specified, a utility, a utility operated by an affected county, or a water supply or sewer service corporation may not in any way render retail water or sewer utility service directly or indirectly to the public without first having obtained from the commission a certificate that the present or future public convenience and necessity will require that installation, operation, or extension, and except as otherwise provided by this subchapter, a retail public utility may not furnish, make available, render, or extend retail water or sewer utility service to any area to which retail water or sewer utility service is being lawfully furnished by another retail public utility without first having obtained a certificate of public convenience and necessity that includes the area in which the consuming facility is located.

SECTION 15. Sections 16.343(a) and (g), Water Code, are amended to read as follows:

(a) The Texas Natural Resource Conservation [~~Water~~] Commission and the Texas Department of Health shall, in conjunction with the board and after consultation with the attorney general, prepare model rules to assure that minimum standards for safe and sanitary water supply and sewer services in residential areas of political subdivisions, including rules of any state agency relating to septic tanks and other waste disposal systems, are met.

(g) Before filing an application for funds for facility engineering under Section 15.407 of this code or financial assistance under Subchapter K, Chapter 17, of this code, a political subdivision must adopt the model rules pursuant to this section or, in the case of a district or nonprofit water supply corporation, must be located in a city or county that has adopted such rules. An affected county may not receive funds under either Section 15.407 of this code or Subchapter K, Chapter 17, of this code unless the county adopts and enforces the model rules.

SECTION 16. Section 16.349, Water Code, is amended by amending Subsection (b) and adding Subsection (c) to read as follows:

(b) Except as provided by Subsection (c), the [~~The~~] amount charged under Subsection (a) of this section may be equal to or less than the rates paid for water supply and sewer services by residents of the political subdivision [~~and without regard to whether the economically distressed area is located in the boundaries of the political subdivision~~].

(c) A political subdivision holding a certificate of convenience and necessity described by Section 13.242, that extends service to an economically distressed area outside the boundaries of the political subdivision, may not charge the residents of the area rates that exceed the lesser of:

(1) the cost of providing service to the area; or

(2) the rates charged other residents of the political subdivision plus 15 percent.

SECTION 17. Section 16.352, Water Code, is amended to read as follows:

Sec. 16.352. ENFORCEMENT OF RULES. (a) A person who violates a rule adopted by a county or municipality pursuant to Section 16.343 of this code is subject to a civil penalty of not less than \$1,000 [~~\$50~~] nor more than \$10,000 [~~\$1,000~~] for each violation and for each day of a continuing violation but not in excess of \$50,000 [~~\$5,000~~] per day.

(b) A person commits an offense if the person knowingly or intentionally violates a rule adopted under this subchapter [~~pursuant to Section 16.343 of this code by a county or a municipality~~].

(c) An offense under Subsection (b) of this section is a Class A [~~B~~] misdemeanor.

(d) Venue for prosecution of an offense under Subsection (b) is in a county in which any element of the offense is alleged to have occurred or in Travis County.

SECTION 18. Section 16.353, Water Code, is amended to read as follows:

Sec. 16.353. INJUNCTION. In addition to other remedies, the attorney general or[;] the county or district attorney of the county in which the violation occurred is[, ~~or other local officials are~~] authorized to apply to the district court for and the court in its discretion may grant the state or political subdivision, without bond or other undertaking, any injunction that the facts may warrant including temporary restraining orders, temporary injunctions after notice and hearing, and permanent injunctions enjoining a violation of the rules.

SECTION 19. Subchapter J, Chapter 16, Water Code, is amended by adding Section 16.356 to read as follows:

Sec. 16.356. VENUE. A suit under this subchapter for injunctive relief or for the recovery of a civil penalty may be brought in a district court in:

(1) the county in which the defendant resides;

(2) the county in which the alleged violation or threat of violation occurs; or

(3) Travis County.

SECTION 20. Section 17.921(1), Water Code, is amended to read as follows:

(1) "Economically distressed area" means an area in which:

(A) water supply or sewer services are inadequate to meet minimal needs of residential users as defined by board rules;

(B) financial resources are inadequate to provide water supply or sewer services that will satisfy those needs; and

(C) the percentage [~~80 percent~~] of the dwellings occupied on June 1, 1989, to be served by financial assistance under this subchapter was at least:

(i) 80 percent; or

(ii) 50 percent, if the services provided by financial assistance under this subchapter can be provided by common or regional facilities in a cost-effective manner in conjunction with service provided to an economically distressed area as determined under the other provisions of this subdivision [~~were occupied on June 1, 1989~~].

SECTION 21. Section 17.933, Water Code, is amended by adding Subsection (g) to read as follows:

(g) The amount of financial assistance provided by the board to a political subdivision for service to areas defined in Section 17.921(1)(C)(ii) for which repayment is not required is 50 percent of the state bond proceeds used for the design and construction of the service.

SECTION 22. Subchapter K, Chapter 17, Water Code, is amended by adding Section 17.936 to read as follows:

Sec. 17.936. RECOVERY OF ECONOMICALLY DISTRESSED AREA IMPACT FEES. (a) It is the intent of the legislature that a private developer not unduly benefit from the expenditure by the state of public funds on infrastructure for public benefit.

(b) In this section:

(1) "Capital improvement costs" includes:

(A) the construction contract price;

(B) surveying and engineering fees;

(C) land acquisition costs, including land purchases, court awards and costs, attorney's fees, and expert witness fees;

(D) fees actually paid or contracted to be paid to an independent, qualified engineer or financial consultant who is:

(i) preparing or updating the capital improvements plan; and

(ii) not an employee of the subdivision; and

(E) projected interest charges and other finance costs that are used for the payment of principal and interest on bonds, notes, or other obligations issued by or on behalf of the political subdivision to finance the capital improvements plan and that are not used to reimburse bond funds expended for facilities that are not identified in the capital improvements plan of the subdivision.

(2) "Economically distressed areas program impact fees" means the pro rata share of the capital improvement costs attributable to each lot in an economically distressed area.

(c) This section applies only to property located in:

(1) the unincorporated area of an affected county, as defined by Section 16.341; and

(2) an economically distressed area, as defined by Section 16.341.

(d) The provider of water or wastewater utility service to an economically distressed area may recover from a developer or owner of an undeveloped lot economically distressed areas program impact fees as provided by rules adopted by the board.

SECTION 23. Section 26.001, Water Code, effective until delegation of NPDES permit authority, is amended by adding Subdivision (20) to read as follows:

(20) "Affected county" has the meaning assigned by Section 232.021, Local Government Code.

SECTION 24. Section 26.001, Water Code, effective upon delegation of NPDES permit authority, is amended by adding Subdivision (26) to read as follows:

(26) "Affected county" has the meaning assigned by Section 232.021, Local Government Code.

SECTION 25. Section 26.123, Water Code, effective until delegation of NPDES permit authority, is amended by adding Subsection (e) to read as follows:

(e) If the attorney general determines that a subdivider, as defined by Section 232.021, Local Government Code, of land in an affected county has violated or is threatening to violate a provision of this chapter, or a rule adopted by the commission under this chapter, the executive director on the request of the attorney general shall conduct an investigation of the alleged violation. The executive director shall consult with the attorney general during the investigation to determine appropriate remedial action.

SECTION 26. Section 26.123, Water Code, effective upon delegation of NPDES permit authority, is amended by adding Subsection (j) to read as follows:

(j) If the attorney general determines that a subdivider, as defined by Section 232.021, Local Government Code, of land in an affected county has violated or is threatening to violate a provision of this chapter, or a rule adopted by the commission under this chapter, the executive director on the request of the attorney general shall conduct an investigation of the alleged violation. The executive director shall consult with the attorney general during the investigation to determine appropriate remedial action.

SECTION 27. Section 26.124, Water Code, is amended by adding Subsection (c) to read as follows:

(c) If the attorney general determines that a violation of Section 26.121 or a rule adopted under that section has occurred or is about to occur in an affected county, the attorney general may institute a civil suit in district court for injunctive relief or civil penalties against the person who has or is about to commit a violation.

SECTION 28. Subchapter E, Chapter 2306, Government Code, is amended by adding Section 2306.0985 to read as follows:

Sec. 2306.0985. RECOVERY OF FUNDS FROM CERTAIN SUBDIVISIONS. (a) It is the intent of the legislature that a private developer not unduly benefit from the expenditure by the state of public funds on infrastructure for public benefit.

(b) This section applies only to property located in:

(1) the unincorporated area of an affected county, as defined by Section 16.341, Water Code; and

(2) an economically distressed area, as defined by Section 16.341, Water Code.

(c) As a condition for the receipt of state funds, and to the extent permitted by law, federal funds, the department may require a political entity with authority to tax and place a lien on property to place a lien or assessment on property that benefits from the expenditure of state or federal funds for water, wastewater, or drainage improvements affecting the property. The lien or assessment may not exceed an amount equal to the cost of making the improvements as those costs relate to the property. The lien or assessment expires 10 years after the date the improvements are completed.

(d) If property subject to a lien or assessment under Subsection (c) is sold, the seller must pay to the political entity from the proceeds of the sale an amount equal to the value of the lien or assessment. This subsection does not apply if:

(1) the reason for the sale is:

(A) the disposition of the estate following the death of the owner of the property; or

(B) the owner because of physical condition must reside in a continuous care facility and no longer resides on the property; or

(2) the owner of the property is a person of low or moderate income.

(e) If property subject to a lien or assessment under Subsection (c) is repossessed by the holder of a note or a contract for deed, the holder must pay to the political entity an amount equal to the value of the lien or assessment before taking possession of the property.

(f) Subject to rules adopted by the department, a political entity shall collect payments made under this section and remit the funds for deposit in the treasury to the credit of a special account in the general revenue fund that may be appropriated only to the department for use in administering a program under Section 2306.098.

(g) After public notice and comment, the department shall adopt rules to administer this section. The department may provide by rule for the reduction or waiver of a fee authorized by this section.

SECTION 29. The following sections of the Local Government Code are repealed: Sections 232.001(f), 232.0035, 232.0036, 232.0046, 232.0047, and 232.0049.

SECTION 30. (a) The changes in law made in Sections 4 and 17 of this Act relating to criminal offenses apply only to an offense committed on or after the effective date of this Act. For purposes of this subsection, an offense is committed before the effective date of this Act if any element of the offense occurs before that date. An offense committed before the effective date of this Act is governed by the law in effect when the offense was committed, and the former law is continued in effect for this purpose.

(b) The changes in law made in Sections 4 and 17 of this Act relating to civil penalties apply only to a violation that occurs on or after the effective date of this Act. For purposes of this subsection, a violation is committed before the effective date of this Act if any element of the violation occurs before that date. A violation committed before the effective date of this Act is governed by the law in effect when the violation occurred, and the former law is continued in effect for this purpose.

SECTION 31. This Act does not exempt the deliberations of a political subdivision from the requirements of Chapter 551, Government Code.

SECTION 32. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

Senate Amendment No. 1

Amend **CSHB 1001** as follows:
page 15, line 8 after "county" add "." and delete remainder of sentence

Senate Amendment No. 2

Amend **CSHB 1001** on page 9, lines 13-18 by striking Subsection 232.035(b) and adding the following new subsection:

(b) Notwithstanding any other remedy at law or equity, a subdivider or an agent of a subdivider may not cause, suffer, allow, or permit any part of a subdivision in an affected county over which the subdivider or an agent of the subdivider has control, or a right of ingress and egress, to become a public health nuisance as defined by Section 341.011, Health and Safety Code.

Senate Amendment No. 3

Amend **CSHB 1001** by adding the following new section on page 18 and renumbering the subsequent section accordingly:

SECTION 32. Counties must comply with the requirements of this act by July 1, 1995. Section 232.033, relating to advertising standard, is effective on July 1, 1995.

HB 1013 - WITH SENATE AMENDMENTS

Representative Romo called up with senate amendments for consideration at this time,

HB 1013, A bill to be entitled An Act relating to the issuance of obligations by the Texas Public Finance Authority.

Representative Romo moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on the bill.

The motion prevailed without objection.

HB 1013 - APPOINTMENT OF CONFERENCE COMMITTEE

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 1013**: Romo, chair, Carona, Elkins, Gutierrez, and Patterson.

LEAVE OF ABSENCE GRANTED

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

Ogden on motion of Holzheuser.

(Speaker in the chair)

HB 1405 - WITH SENATE AMENDMENT

Representative Holzheuser called up with a senate amendment for consideration at this time,

HB 1405, A bill to be entitled An Act relating to facility response plans for hazardous liquids pipelines.

On motion of Representative Holzheuser, the house concurred in the senate amendment to **HB 1405**.

HB 1405 - TEXT OF SENATE AMENDMENT

Senate Amendment No. 1 (Senate Committee Amendment No. 1)

Amend **HB 1405** by striking subsection (e) of Section 117.012 in SECTION 1 of the bill and substitute the following:

"(e) Rules relating to facility response plans shall be consistent with the provisions of the federal Water Pollution Prevention and Control Act, 33 U.S.C. Sec. 1321(j)(5). Rules shall provide that, in lieu of submitting a plan for approval under Subsection (a), a facility may submit a facility response plan prepared in compliance with the Water Pollution Prevention and Control Act, 33 U.S.C. Sec. 1321(j)(5). A plan approved or pending approval by the United States Department of Transportation Office of Pipeline Safety shall be deemed approved by the commission for the purposes of this section."

HB 1419 - WITH SENATE AMENDMENTS

Representative Yarbrough called up with senate amendments for consideration at this time,

HB 1419, A bill to be entitled An Act relating to certificates and permits issued by the Alcoholic Beverage Commission and to regulation of private club permittees by certain municipalities.

Representative Yarbrough moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on the bill.

The motion prevailed without objection.

HB 1419 - APPOINTMENT OF CONFERENCE COMMITTEE

The speaker announced the appointment of the following conference committee, on the part of the house, on **HB 1419**: Yarbrough, chair, Wilson, D. Jones, Torres, and Kubiak.

HB 1487 - WITH SENATE AMENDMENTS

Representative Counts called up with senate amendments for consideration at this time,

HB 1487, A bill to be entitled An Act relating to the investigation, prosecution, and punishment of the offense of insurance fraud.

On motion of Representative Counts, the house concurred in the senate amendments to **HB 1487**.

HB 1487 - TEXT OF SENATE AMENDMENTS

CSHB 1487, A bill to be entitled An Act relating to the investigation, prosecution, and punishment of the offense of insurance fraud.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. 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 causes to be prepared 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, with intent to defraud or deceive an insurer, the person solicits, offers, pays, or receives a benefit in connection with the furnishing of health care goods or services for which a claim for payment is submitted under a health or property and casualty 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 is \$1,500 or more but 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 the value of the claim is \$200,000 or more.

Sec. 35.03. AGGREGATION AND MULTIPLE OFFENSES. (a) When separate claims in violation of this chapter are communicated to an insurer or group of insurers pursuant to one scheme or continuing course of conduct, the conduct may be considered as one offense and the value of the claims aggregated in determining the classification of the offense. If claims are aggregated under this subsection, Subsection (b) shall not apply.

(b) When three or more separate claims in violation of this chapter are communicated to an insurer or group of insurers pursuant to one scheme or continuing course of conduct, the conduct may be considered as one offense, and the classification of the offense shall be one category higher than the most serious single offense proven from the separate claims, except that if the most serious offense is a felony of the first degree, the offense is a felony of the first degree. This subsection shall not be applied if claims are aggregated under Subsection (a).

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 2. 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 3. 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 4. 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 either a fraudulent insurance act, as defined by Section 1(a)(2) of this article, or insurance fraud under Section 35.02(a), Penal Code, or has committed, or is about to commit, a fraudulent insurance act or insurance fraud, 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 or insurance fraud. ~~[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 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.

SECTION 5. Subsection (d), Section 1B, Texas Motor Vehicle Safety-Responsibility Act (Article 6701h, Vernon's Texas Civil Statutes), is amended to read as follows:

(d) A standard proof of liability insurance form described in Subsection (a)(2) ~~[(A)(2)]~~ of this section, or a document that is an unauthorized version of the form, is a governmental record for purposes of Chapter 37, Penal Code. A standard proof of liability insurance form is unauthorized for purposes of this subsection if it is not issued by an insurer authorized to transact motor vehicle liability insurance in this state.

SECTION 6. (a) The change in law made by Chapter 35, Penal Code, as added by this Act, applies only to an offense committed on or after the effective date of this Act. For purposes of this section, an offense is committed before the effective date of this Act if any element of the offense occurs before that date.

(b) An offense committed before the effective date of this Act is governed by the law in effect when the offense was committed, and the former law is continued in effect for that purpose.

SECTION 7. This Act takes effect September 1, 1995.

SECTION 8. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Senate Amendment No. 1

Amend **CSHB 1487** by striking 35.02(d) on page 2 lines 11 through 19 and substituting in lieu thereof the following:

(d) 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 the value of the claim is \$20 or more but less than \$500;

(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 the value of the claim is \$1,500 or more but less than \$20,000;

(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; or

(B) 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.

HB 1586 - WITH SENATE AMENDMENT

Representative Marchant called up with a senate amendment for consideration at this time,

HB 1586, A bill to be entitled An Act relating to certain agreements under a retail installment contract for the purchase of a motor vehicle.

On motion of Representative Marchant, the house concurred in the senate amendment to **HB 1586** by (Record 550): 133 Yeas, 6 Nays, 1 Present, not voting.

Yeas — Alexander; Allen; Alonzo; Alvarado; Averitt; Bailey; Berlanga; Black; Bosse; Brady; Brimer; Carona; Carter; Chisum; Coleman; Combs; Cook; Corte; Counts; Crabb; Craddick; Cuellar, H.; Cuellar, R.; Culberson; Davila; Davis; De La Garza; Dear; Delisi; Denny; Dukes; Duncan; Ehrhardt; Eiland; Elkins; Farrar; Finnell; Gallego; Giddings; Glaze; Goodman; Goolsby; Greenberg; Grusendorf; Gutierrez; Haggerty; Hamric; Harris; Hartnett; Hawley; Heflin; Hernandez; Hightower; Hilbert; Hilderbran; Hill; Hochberg; Holzhauser; Horn; Howard; Hudson; Hunter, B.; Hunter, T.; 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; Mowery; Munoz; Naishtat; Nixon; Oakley; Park; Patterson; Pickett; Pitts; Place; Price; Puente; Rabuck; Ramsay; Raymond; Rhodes; Rodriguez; Romo; Rusling; Sadler; Saunders; Seidlits; Serna; Shields; Siebert; Smithee; Solis; Solomons; Staples; Stiles; Swinford; Talton; Thompson; Tillery; Torres; Turner, B.; Turner, S.; Uher; Van de Putte; Walker; West; Williamson; Willis; Wilson; Wohlgenuth; Wolens; Woolley; Yarbrough; Zbranek.

Nays — Conley; Danburg; Dutton; Hirschi; Moreno; Rangel.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Ogden; Telford.

Absent — Clemons; Driver; Edwards; Gray; Jackson; Oliveira; Reyna; Yost.

HB 1586 - TEXT OF SENATE AMENDMENT**Senate Amendment No. 1 (Senate Committee Amendment No. 1)**

Amend **HB 1586**, House Engrossment, by deleting all language beginning with and including the underlined word "A" on page 2, line 9 of the House Engrossment, and ending with and including the underlined period following the underlined word "reasonable" on page 2, line 10.

HB 1697 - WITH SENATE AMENDMENTS

Representative Maxey called up with senate amendments for consideration at this time,

HB 1697, A bill to be entitled An Act relating to providing information to students applying for guaranteed student loans relating to the graduation, placement, and student loan default rates for certain postsecondary educational institutions.

On motion of Representative Maxey, the house concurred in the senate amendments to **HB 1697**.

HB 1697 - TEXT OF SENATE AMENDMENTS

CSHB 1697, A bill to be entitled An Act relating to providing information to students applying for guaranteed student loans relating to the graduation, placement, and student loan default rates for proprietary schools.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. (a) In this section:

(1) "Guaranteed student loan" means a loan guaranteed under the Higher Education Act of 1965 (20 U.S.C. Section 1001 et seq.) or other federal law the purpose of which is to provide money for a person to attend a postsecondary educational institution.

(2) "Proprietary school" has the meaning assigned by Chapter 32, Education Code, or the successor to that chapter.

(b) The agency responsible for administering Chapter 32, Education Code, or the successor to that chapter shall collect and maintain information relating to guaranteed student loans for each proprietary school in this state that is eligible to enroll a student receiving a guaranteed student loan. The information collected by the agency must include, to the extent practicable:

(1) the graduation rate for students enrolled in the proprietary school;

(2) the career placement rate for students graduating from the proprietary school; and

(3) the guaranteed student loan default rate of students who have received guaranteed student loans to attend the proprietary school.

(c) The agency shall prepare materials for distribution to a student applying for a guaranteed student loan to attend a proprietary school to which this section applies designed to inform the student of the graduation, placement, and loan default rates for the proprietary school collected under Subsection (b) of this section. The agency may provide the information in any form the agency considers reasonable and may provide rates for the proprietary school as a whole or for particular programs of the proprietary school.

(d) The agency by rule shall require:

(1) proprietary schools covered by this section and entities administering guaranteed student loans in this state to report information that the agency requires for the administration of this section; and

(2) each entity that administers guaranteed student loans in this state to provide each applicant for a guaranteed student loan to attend a proprietary school to which this section applies with the materials prepared by the agency under Subsection (c) of this section.

(e) The agency shall include in the materials distributed under Subsection (c) of this section information warning the student of the possible consequences of defaulting on repayment of the student loan. The agency shall prescribe the form and content of the warning. The warning must include information relating to the following items, with any additions or changes prescribed by the agency to ensure that the information is clear and accurate:

(1) that the student may be sued for the entire unpaid amount of the delinquent loan, including interest;

(2) that the student may become liable for costs associated with collecting the delinquent loan, including attorney's fees and court costs;

(3) that the wages or salary of the student may be subject to withholding to enforce repayment of the delinquent loan and to recover related collection costs;

(4) that the student may become ineligible to receive guaranteed student loans or other student financial aid until the student has made satisfactory arrangements for repayment of the delinquent loan;

(5) that the student may become ineligible for assistance under most federal benefits programs;

(6) that the student may become ineligible for future student deferments of the loan or for federal interest benefits when enrolled in a college or university after default; and

(7) that the student may become ineligible to obtain or renew a professional or occupational license.

(f) The agency shall prepare materials for distribution to students applying for guaranteed student loans as required by this section not later than September 1, 1996.

SECTION 2. This Act takes effect September 1, 1995.

SECTION 3. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Senate Amendment No. 1.

Amend **CSHB 1697** as follows:

On page 1, line 20, between "chapter" and "." insert the following:

", and any other private school offering courses in cosmetology, as defined by Sec. 1(3), Art. 8451a, Texas Civil Statutes or barbering, as defined by Sec. 4(b), Art. 8407a, Texas Civil Statutes".

HB 1698 - WITH SENATE AMENDMENT

Representative Maxey called up with a senate amendment for consideration at this time,

HB 1698, A bill to be entitled An Act relating to requiring a health and human services agency to inform certain clients or patients of community-based service options.

On motion of Representative Maxey, the house concurred in the senate amendment to **HB 1698** by (Record 551): 142 Yeas, 0 Nays, 1 Present, not voting.

Yeas — 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; Dear; Delisi; Denny; 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; Hilbert; Hilderbran; Hill; Hirschi; Hochberg; Holzheuser; Horn; Howard; Hudson; Hunter, B.; Hunter, T.; 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; Oakley; Oliveira; Park; Patterson; Pickett; Pitts; Place; Price; Puente; Rabuck; Ramsay; Rangel; Raymond; Reyna; Rhodes; Rodriguez; Romo; Rusling; Sadler; Saunders; Seidlits; Serna; Shields; Siebert; Smithee; Solis; Solomons; Staples; Stiles; Swinford; Talton; Thompson; Tillery; Torres; Turner, B.; Turner, S.; Uher; Van de Putte; Walker; West; Williamson; Willis; Wilson; Wohlgenuth; Wolens; Woolley; Yarbrough; Zbrank.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Ogden; Telford.

Absent — Alexander; Driver; Jackson; Nixon; Yost.

HB 1698 - TEXT OF SENATE AMENDMENT

Senate Amendment No. 1 (Senate Committee Amendment No. 1)

Amend **HB 1698** in SECTION 1, Art. 4413(502), Revised Statutes, Sec. 22 as follows:

On Page 1, Line 12 of the House Engrossed Version, after "placed in a", strike "long term residential".

MESSAGE FROM THE SENATE

Austin, Texas, May 25, 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 175 by Hirschi, Junel, Ramsay, Hunter, Todd, and McCall (Sponsor-Montford), relating to the protection of a public employee who reports a violation of law.

HB 1718 by Turner, Sylvester (Sponsor-Wentworth), relating to the revision of the open records law (amended).

HB 2569 by Brady (Sponsor-Harris, Chris), relating to the investigation of child abuse and the protection of the interests of a child who is the subject of a child abuse investigation or a suit affecting the parent-child relationship or who is under the jurisdiction of the Department of Protective and Regulatory Services; providing penalties (committee substitute and amended).

HB 3028 by Ehrhardt, Coleman, Maxey, Naishtat, et al. (Sponsor-Gallegos), relating to security deposits and application deposits provided by residential tenants and prospective residential tenants and lease obligations of certain successor landlords; providing a civil penalty (amended).

Respectfully,
Betty King
Secretary of the Senate

HB 2027 - WITH SENATE AMENDMENTS

Representative Yarbrough called up with senate amendments for consideration at this time,

HB 2027, A bill to be entitled An Act relating to the regulation of tanning facilities; providing penalties.

Representative Yarbrough moved that the house concur in the senate amendments to **HB 2027**.

Representative Davila offered a substitute motion that the house not concur and that a conference committee be requested to adjust the differences between the two houses on the bill.

(Ogden now present)

A record vote was requested.

The motion prevailed by (Record 552): 141 Yeas, 0 Nays, 1 Present, not voting.

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

Present, not voting — Mr. Speaker(C).

Absent, Excused — Telford.

Absent — Carona; Clemons; Dukes; Glaze; Kubiak; Nixon; Yost.

STATEMENT OF VOTE

When Record No. 552 was taken, I was in the house but away from my desk. I would have voted yes.

Carona

MESSAGE FROM THE SENATE

Austin, Texas, May 25, 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 1362 by McDonald (Sponsor-Moncrief), relating to certain health care liability claims for which the state provides indemnification (amended).

HB 2644 by Hilderbran (Sponsor-Patterson, Jerry), relating to licensing and Medicaid certification requirements for certain nursing facilities and related penalties and dispute resolution (committee substitute).

HB 2850 by Naishtat, et al. (Sponsor-Moncrief), relating to the regulation of the indoor air quality of certain school district buildings (committee substitute).

Respectfully,
Betty King
Secretary of the Senate

HB 2216 - WITH SENATE AMENDMENT

Representative Kuempel called up with a senate amendment for consideration at this time,

HB 2216, A bill to be entitled An Act relating to the issuance of licenses and stamps by the Parks and Wildlife Department; providing penalties.

On motion of Representative Kuempel, the house concurred in the senate amendment to **HB 2216** by (Record 553): 143 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Alexander; Allen; Alonzo; Alvarado; Averitt; Bailey; Berlanga; Black; Bosse; Brady; Brimer; Carona; Carter; Chisum; Coleman; Combs; Conley; Cook; Corte; Counts; Crabb; Craddick; Cuellar, H.; Cuellar, R.; Culberson; Danburg; Davis; De La Garza; Dear; Delisi; Denny; Driver; 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; Hilbert;

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; Munoz; Naishtat; Nixon; Oakley; Ogden; Oliveira; Park; Patterson; Pickett; Pitts; Place; Price; Puente; Rabuck; Ramsay; Rangel; Raymond; Reyna; Rhodes; Rodriguez; Romo; Rusling; Sadler; Saunders; Seidlits; Serna; Shields; Siebert; Smithee; Solis; Solomons; Staples; Stiles; Swinford; Talton; Thompson; Tillery; Torres; Turner, B.; Turner, S.; Uher; Van de Putte; Walker; West; Williamson; Willis; Wilson; Wohlgemuth; Wolens; Woolley; Yost; Zbranek.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Telford.

Absent — Clemons; Davila; Dukes; Mowery; Yarbrough.

HB 2216 - TEXT OF SENATE AMENDMENT

CSHB 2216, A bill to be entitled An Act relating to the issuance of hunting licenses and stamps and the conducting of public hunt drawings by the Parks and Wildlife Department; providing penalties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 11.056(a), Parks and Wildlife Code, is amended to read as follows:

(a) The price of a wildlife art decal or stamp sold under this subchapter is \$5.00 or an amount set by the commission, whichever amount is more. The department may issue other editions of the stamp and decal at amounts set by the commission.

SECTION 2. Subchapter B, Chapter 12, Parks and Wildlife Code, is amended by adding Section 12.119 to read as follows:

Sec. 12.119. VIOLATION OF COMMISSION RULE ON POSSESSION OF LICENSE; PENALTY. (a) A person commits an offense if the person violates a rule adopted by the commission relating to possessing a license or stamp otherwise required by this code for hunting wildlife resources or for catching aquatic life.

(b) An offense under this section is a Class C Parks and Wildlife misdemeanor.

SECTION 3. Chapter 12, Parks and Wildlife Code, is amended by adding Subchapter H to read as follows:

SUBCHAPTER H. LICENSE DEPUTIES

Sec. 12.701. ISSUANCE OF LICENSE, STAMP, PERMIT, OR TAG BY LICENSE DEPUTIES. The department may authorize the issuance of a license, stamp, permit, or tag by a license deputy.

Sec. 12.702. LICENSE DEPUTIES; FEES. (a) An employee of the department, a county clerk, or another person designated or contracted with by the department to issue and collect money received for a license, stamp, permit, tag, or other similar item is a license deputy and may issue and collect money for a license, stamp, permit, tag, or other similar item issued under this code, including a special issue stamp or decal.

(b) The commission by rule may set collection and issuance fees for a license, stamp, tag, permit, or other similar item issued under any chapter of this code. The commission shall not set any collection or issuance fees for license deputies at amounts less than the amounts in effect on June 1, 1995. If a collection or issuance fee or other similar fee set by another section of this code conflicts with this section, the collection or issuance fee set under the authority of this section prevails.

Sec. 12.703. POINT-OF-SALE SYSTEM. (a) The department may issue a license, stamp, tag, permit, or another similar item authorized by this code through the use of automated equipment and a point-of-sale system.

(b) The department may designate an entity to install the system for the issuance of licenses, stamps, permits, tags, or other similar items. A designated entity may collect revenue for the department from license deputies.

(c) The commission by rule may set the amount of compensation for a point-of-sale entity. The compensation may include an amount to be retained by the entity from the fee collected for each item issued by the entity.

Sec. 12.704. DUTIES OF LICENSE DEPUTIES. A license deputy shall:

(1) complete and keep for the use of the department a designated copy or other record of the sale of each license, stamp, permit, or tag issued;

(2) keep a record of each license, stamp, permit, or tag issued, showing:

(A) the identification of the purchaser;

(B) the serial number of the item sold;

(C) the date of issuance; and

(D) any other information required by the department; and

(3) perform any other function required by the license deputy's agreement with the department.

Sec. 12.705. LICENSE, STAMP, PERMIT, AND TAG SALES REPORTS.

(a) After the end of each calendar month or at any other time designated by the department, a license deputy shall send to the department a report on a form and in the manner prescribed by the department.

(b) A license deputy shall furnish any other information or material required by the license deputy's agreement with the department.

(c) The commission by rule may establish reasonable penalties for delinquent payments or reports from license deputies and may establish payment discounts for timely payments or reports from license deputies.

Sec. 12.706. UNISSUED ITEMS. A license deputy shall return to the department, at the department's request, unissued licenses, stamps, permits, tags, or any other materials or equipment furnished to the license deputy by the department.

Sec. 12.707. ISSUANCE OR ACCEPTANCE OF LICENSE, STAMP, PERMIT, OR TAG. No person may issue or accept a license, stamp, permit, or tag required by this code except on a form provided by the department.

SECTION 4. Section 42.002(a), Parks and Wildlife Code, is amended to read as follows:

(a) Except as provided by Subsection (b) of this section, no resident may hunt any bird or animal in this state without [first] having acquired [~~and having in the person's immediate possession~~] a [valid] hunting license.

SECTION 5. Chapter 42, Parks and Wildlife Code, is amended by adding Section 42.006 to read as follows:

Sec. 42.006. POSSESSION OF LICENSE: RULES. The commission by rule may prescribe requirements relating to possessing a license issued under this chapter.

SECTION 6. Section 42.010(b), Parks and Wildlife Code, is amended to read as follows:

(b) The department may issue tags for animals or birds allowed by law to be killed during each year or season to holders of licenses authorizing the killing of animals or birds. The commission may establish fees for the tags ~~[and collection fees for the agent issuing the tags].~~

SECTION 7. Section 42.012(a), Parks and Wildlife Code, is amended to read as follows:

(a) The fee for a resident hunting license is \$8 or an amount set by the commission, whichever amount is more. ~~[Fifty cents of the fee may be retained by an authorized agent, other than a department employee, issuing the license as his collection fee.]~~

SECTION 8. Section 42.0121, Parks and Wildlife Code, is amended to read as follows:

Sec. 42.0121. LIFETIME RESIDENT HUNTING LICENSE FEE. The fee for a lifetime resident hunting license is \$300 or an amount set by the commission, whichever amount is more. ~~[Fifty cents of the fee may be retained by an authorized agent, other than a department employee, issuing the license as his collection fee.]~~

SECTION 9. Section 42.014, Parks and Wildlife Code, is amended to read as follows:

Sec. 42.014. NONRESIDENT SPECIAL HUNTING LICENSE FEE. The fee for a nonresident special hunting license is \$37.75 or an amount set by the commission, whichever amount is more. ~~[Seventy-five cents of the fee may be retained by the officer, other than a department employee, issuing the license as his collection fee.]~~

SECTION 10. Section 42.0141, Parks and Wildlife Code, is amended to read as follows:

Sec. 42.0141. GENERAL NONRESIDENT HUNTING LICENSE FEE. The fee for a general nonresident hunting license is \$100.75 or an amount set by the commission, whichever amount is more. ~~[Seventy-five cents of the fee may be retained by the officer, other than a department employee, issuing the license as his collection fee.]~~

SECTION 11. Section 42.0142(b), Parks and Wildlife Code, is amended to read as follows:

(b) The fee for a nonresident banded bird hunting license is an amount set by the commission. ~~[Seventy-five cents of the fee may be retained by an authorized agent, other than a department employee, issuing the license as his collection fee.]~~

SECTION 12. Section 42.0143, Parks and Wildlife Code, is amended to read as follows:

Sec. 42.0143. NONRESIDENT FIVE-DAY SPECIAL HUNTING LICENSE. A nonresident five-day special hunting license is valid for five

consecutive days. The fee for the license is set by the commission in an amount not to exceed 50 percent of the amount of the fee set for a nonresident special hunting license. ~~[Seventy-five cents of the fee may be retained by an authorized agent, other than a department employee, issuing the license as his collection fee.]~~

SECTION 13. Section 42.017(d), Parks and Wildlife Code, is amended to read as follows:

(d) The fee for a duplicate license or tags is \$5 or an amount set by the commission, whichever amount is more. ~~[Fifty cents of the fee may be retained by the officer, other than a department employee, issuing the license as his collection fee.]~~

SECTION 14. Section 42.0175(a), Parks and Wildlife Code, is amended to read as follows:

(a) A license issued under this chapter, other than a lifetime resident hunting license or a nonresident five-day special hunting license is valid only during the yearly period for which the license is issued without regard to the date on which a license is acquired. Each yearly period begins on September 1 or on another date set by the commission ~~[of a year]~~ and extends through August 31 of the next year or another date set by the commission. A license issued under this chapter other than a nonresident five-day special hunting license that is issued before September 1 or another date set by the commission and does not expire until August 31 of the next year or another date set by the commission is valid from the date of issuance through August 31 of the following year or another date set by the commission. The commission by rule may set the amount of a license fee for a license issued during a transition period at an amount lower than prescribed in this chapter and provide for a license term for a transition period that is shorter or longer than a year.

SECTION 15. Chapter 42, Parks and Wildlife Code, is amended by adding Section 42.0177 to read as follows:

Sec. 42.0177. BIRD OR ANIMAL TAGS: COMMISSION RULES. The commission by rule may modify or eliminate the tagging requirements of Section 42.018, 42.0185, or 42.020, or other similar tagging requirements in this chapter.

SECTION 16. Sections 42.022(a) and (d), Parks and Wildlife Code, are amended to read as follows:

(a) No person may acquire or possess more than one hunting license during a license year. For purposes of this section, a violation does not occur unless a person acquires or possesses more than one license having the same expiration date.

(d) For purposes of this section, a license year begins on September 1 or another date set by the commission and extends through August 31 of the next year or another date set by the commission.

SECTION 17. Section 43.011(a), Parks and Wildlife Code, is amended to read as follows:

(a) Except as provided by Subsection (b) of this section, no person may hunt white-winged dove in this state unless the person has acquired ~~[in the person's possession]~~ a white-winged dove stamp issued to the person by the department. The commission by rule may prescribe requirements relating to possessing a stamp required by this subchapter.

SECTION 18. Section 43.012, Parks and Wildlife Code, is amended to read as follows:

Sec. 43.012. ISSUANCE OF STAMP. (a) The department ~~[or its agent]~~ may issue a white-winged dove stamp to any person on the payment to the department of \$6 or an amount set by the commission, whichever amount is more. The department may issue other editions of the stamp that are not valid for hunting at an amount set by the commission.

(b) The stamp shall be issued in the form and manner prescribed by the department and, except as provided by Subsection (c), must be signed on its face by the person using the stamp for the stamp to be valid for hunting purposes.

(c) The commission by rule may prescribe alternate requirements for identifying the purchaser of a stamp issued in an automated manner.

(d) A stamp issued under this subchapter is valid for hunting only during the yearly period for which the stamp is issued without regard to the date on which the stamp is acquired. A yearly period begins on September 1 or another date set by the commission and extends through August 31 of the next year or another date set by the commission. The commission by rule may set the amount of a stamp fee for a stamp issued during a transition period at an amount lower than prescribed in this subchapter and provide for a stamp term for a transition period that is shorter or longer than a year.

SECTION 19. Section 43.014, Parks and Wildlife Code, is amended to read as follows:

Sec. 43.014. DISPOSITION OF STAMP FEES. (a) ~~[Fifty cents of the fee collected under this subchapter may be retained by the agent of the department, other than a department employee, as his collection fee.~~

~~(b)~~ After deduction of the collection fee, if allowed, the receipts from stamp sales shall be sent to the department.

~~(b)~~ ~~(c)~~ The stamp sale receipts may be spent only for research and management for the protection of white-winged dove and for the acquisition, lease, or development of white-winged dove habitat in the state. Not more than one-half of the receipts may be expended for research and management.

SECTION 20. Section 43.045, Parks and Wildlife Code, is amended to read as follows:

Sec. 43.045. DURATION OF LICENSE. A hunting lease license is valid for the period from September 1 or another date set by the commission through ~~[the following]~~ August 31 of the next year or another date set by the commission. The commission by rule may set the amount of a license fee for a license issued during a transition period at an amount lower than prescribed in this subchapter and provide for a license term for a transition period that is shorter or longer than a year.

SECTION 21. Section 43.0485(d), Parks and Wildlife Code, is amended to read as follows:

(d) Not later than August 31 of a license year or another date set by the commission, the holder of a hunting lease license shall deliver the record book to a game warden in the county in which the hunting lease is located. The record book must include information required by the department on the license year's hunting activity on the hunting lease.

SECTION 22. Sections 43.0722(c) and (f), Parks and Wildlife Code, are amended to read as follows:

(c) The fee [fees] for a private bird hunting area license is \$60 [~~licenses are determined by the following schedule~~] or an amount set by the commission, whichever amount is more[~~:~~

[~~(1) \$50 if the private bird hunting area is less than 2,000 contiguous acres;~~

[~~(2) \$100 if the private bird hunting area is at least 2,000 but less than 4,000 contiguous acres; and~~

[~~(3) \$200 if the private bird hunting area is more than 4,000 contiguous acres~~].

(f) The private bird hunting area license is valid from September 1 or another date set by the commission through [~~the following~~] August 31 of the next year or another date set by the commission. The commission by rule may set the amount of a license fee for a license issued during a transition period at an amount lower than prescribed in this subchapter and provide for a license term for a transition period that is shorter or longer than a year.

SECTION 23. Section 43.0761(e), Parks and Wildlife Code, is amended to read as follows:

(e) The record book shall contain all information concerning hunting activities that occurred on the licensed area from September 1 through the following August 31 or another yearly period established by the commission, and must be retained and available for inspection by a game warden for a period of one year from the expiration date of the license year for which the record book is applicable. The commission may provide for a recording period during a transition period that corresponds to the license term for the transition period.

SECTION 24. Section 43.201, Parks and Wildlife Code, is amended by amending Subsections (a) and (b) and adding Subsections (d) and (e) to read as follows:

(a) Except as provided by Subsection (c) or (d) of this section, no person may hunt wild deer, bear, turkey, or javelina (collared peccary) during an open archery season provided by law or by the proclamations of the commission and during which season only longbows and arrows may be used unless the person has [~~first~~] acquired [~~from the department~~] an archery hunting stamp issued to the person by the department. The commission by rule may prescribe requirements relating to possessing a stamp required by this subchapter.

(b) The stamp shall be issued in the form and manner prescribed by the department and, except as provided by Subsection (d), must be signed on its face by the person using the stamp for the stamp to be valid for hunting purposes.

(d) The commission by rule may prescribe alternate requirements for identifying the purchaser of a stamp issued in an automated manner.

(e) A stamp issued under this subchapter is valid for hunting only during the yearly period for which the stamp is issued without regard to the date on which the stamp is acquired. Each yearly period begins on September 1 or another date set by the commission and extends through August 31 of the next year or another date set by the commission. The commission by rule may set

the amount of a stamp fee for a stamp issued during a transition period at an amount lower than prescribed in this subchapter and provide for a stamp term for a transition period that is shorter or longer than a year.

SECTION 25. Section 43.202, Parks and Wildlife Code, is amended to read as follows:

Sec. 43.202. FEE. The fee for an archery hunting stamp is \$6 or an amount set by the commission, whichever amount is more. The department may issue other editions of the stamp that are not valid for hunting at an amount set by the commission. [~~Fifty cents shall be retained by the agent issuing the stamp as a collection fee, except that employees of the department may not retain the collection fee.~~]

SECTION 26. Section 43.251(a), Parks and Wildlife Code, is amended to read as follows:

(a) Except as provided by Subsection (b) of this section, no person may hunt turkeys in this state unless the person has acquired [~~in the person's possession~~] a turkey stamp issued to the person by the department. The commission by rule may prescribe stamp possession requirements relating to possessing a stamp required by this subchapter.

SECTION 27. Section 43.252, Parks and Wildlife Code, is amended by amending Subsection (a) and adding Subsections (d) and (e) to read as follows:

(a) The department may issue a turkey stamp to any person on the payment to the department of \$5 or an amount set by the commission, whichever amount is more. The department may issue other editions of the stamp that are not valid for hunting at an amount set by the commission. Except as provided by Subsection (d), the stamp must be signed on its face by the person using the stamp for the stamp to be valid for hunting purposes.

(d) The commission by rule may prescribe alternate requirements for identifying the purchaser of a stamp issued in an automated manner.

(e) A stamp issued under this subchapter is valid for hunting only during the yearly period for which the stamp is issued without regard to the date on which the stamp is acquired. Each yearly period begins on September 1 or another date set by the commission and extends through August 31 of the next year or another date set by the commission. The commission by rule may set the amount for a stamp fee for a stamp issued during a transition period at an amount lower than prescribed in this subchapter and provide for a stamp term for a transition period that is shorter or longer than a year.

SECTION 28. Section 43.254, Parks and Wildlife Code, is amended to read as follows:

Sec. 43.254. DISPOSITION OF STAMP FEES. (a) [~~Fifty cents of the fee collected under this subchapter may be retained by the agent of the department, other than a department employee, as a collection fee.~~

~~(b)~~ After deduction of any collection fee, the net receipts from stamp sales shall be sent to the department.

~~(b)~~ ~~(c)~~ The stamp sale net receipts may be spent only for research, management, and protection of turkeys and for the acquisition, lease, or development of turkey habitats in the state.

SECTION 29. Section 43.302(a), Parks and Wildlife Code, is amended to read as follows:

(a) Except as provided by Subsection (b) of this section, no person may hunt waterfowl in this state unless the person has acquired [~~in the person's possession~~] a waterfowl stamp issued to the person by the department. The commission by rule may prescribe requirements relating to possessing a stamp required by this subchapter.

SECTION 30. Section 43.303, Parks and Wildlife Code, is amended by amending Subsection (a) and adding Subsections (d) and (e) to read as follows:

(a) The department [~~or its agent~~] may issue a waterfowl stamp to any person on the payment to the department of \$5 or an amount set by the commission, whichever amount is more. The department may issue other editions of the stamp that are not valid for hunting at an amount set by the commission. Except as provided by Subsection (d), the stamp must be signed on its face by the person using the stamp [to whom it is issued] for the stamp to be valid for hunting purposes.

(d) The commission by rule may prescribe alternate requirements for identifying the purchaser of a stamp issued in an automated manner.

(e) A stamp issued under this subchapter is valid for hunting only during the yearly period for which the stamp is issued without regard to the date on which the stamp is acquired. Each yearly period begins on September 1 or another date set by the commission and extends through August 31 of the next year or another date set by the commission. The commission by rule may set the amount of a stamp fee for a stamp issued during a transition period at an amount lower than prescribed in this subchapter and provide for a stamp term that is shorter or longer than a year.

SECTION 31. Section 43.305, Parks and Wildlife Code, is amended to read as follows:

Sec. 43.305. DISPOSITION OF STAMP FEES. (a) [~~Fifty cents of the fee collected under this subchapter may be retained by the agent of the department, other than a department employee, as a collection fee.~~

~~(b)~~ After deduction of any collection fee, the net receipts from stamp sales shall be sent to the department.

~~(b)~~ [(c)] The stamp sale net receipts may be spent only for research, management, and protection of waterfowl, for the acquisition, lease, or development of waterfowl habitats in the state, and for grants as provided by Section 43.306 of this code. Not more than one-half of the receipts may be spent for research, management, and protection.

SECTION 32. Section 43.402(a), Parks and Wildlife Code, is amended to read as follows:

(a) Except as provided by Subsection (b) or (c) of this section, no person may engage in fishing in saltwater for sporting purposes in this state unless the person has acquired [~~in the person's possession~~] a saltwater sportfishing stamp issued to the person by the department. The commission by rule may prescribe requirements relating to possessing a stamp required by this subchapter.

SECTION 33. Section 43.403, Parks and Wildlife Code, is amended by amending Subsection (a) and adding Subsection (d) to read as follows:

(a) The department [~~or its agent~~] may issue a saltwater sportfishing stamp to any person on the payment to the department of \$5 or an amount set by the commission, whichever amount is more. The department may issue other

editions of the stamp that are not valid for fishing at an amount set by the commission. Except as provided by Subsection (d), the stamp must be signed on its face by the person using the stamp for the stamp to be valid for fishing purposes.

(d) The commission by rule may prescribe alternate requirements for identifying the purchaser of a stamp issued in an automated manner.

SECTION 34. Section 43.4035, Parks and Wildlife Code, is amended to read as follows:

Sec. 43.4035. EXPIRATION OF STAMP. (a) Except as provided by Subsection (b) or (c), a stamp issued under this subchapter is valid for fishing only during the yearly period for which the stamp is issued without regard to the date on which the stamp is acquired. Each yearly period begins on September 1 or another date set by the commission and extends through August 31 of the next year or another date set by the commission. The commission by rule may set the amount of a stamp fee for a stamp issued during a transition period at an amount lower than prescribed in this subchapter and provide for a stamp term for a transition period that is shorter or longer than a year.

(b) A saltwater sportfishing stamp issued before September 1 or another date set by the commission that does not expire until August 31 of the following year or another date set by the commission is valid from the date of issuance through August 31 of the following year or another date set by the commission.

(c) [(b)] A saltwater sportfishing stamp issued in conjunction with a license issued under Section 46.005 or 46.0051 of this code expires at the same time the license expires or on the expiration date printed on the stamp, whichever is later.

SECTION 35. Section 43.405, Parks and Wildlife Code, is amended to read as follows:

Sec. 43.405. COLLECTION FEES. (a) ~~[Fifty cents of the fee collected under this subchapter shall be retained by the agent of the department, other than a department employee, as a collection fee.]~~

~~[(b)]~~ After deduction of the collection fee, the net receipts from stamp sales shall be sent to the department.

~~[(b) [(c)]]~~ The stamp sale net receipts shall be spent for coastal fisheries enforcement and management and are hereby appropriated for such purposes.

SECTION 36. Section 43.502(a), Parks and Wildlife Code, is amended to read as follows:

(a) Except as provided by Subsection (b) or (c) of this section, no person may take or attempt to take any trout from public waters in this state unless the person has acquired [without having in possession] a freshwater trout stamp issued to the person by the department. The commission by rule may prescribe requirements relating to possessing a stamp required by this subchapter.

SECTION 37. Section 43.503, Parks and Wildlife Code, is amended by amending Subsection (a) and by adding Subsection (d) to read as follows:

(a) The department ~~[or its agent]~~ may issue a freshwater trout stamp to any person on the payment to the department of \$5 or an amount set by the commission, whichever amount is more. The department may issue other editions of the stamp that are not valid for fishing at an amount set by the

commission. Except as provided by Subsection (d), the stamp must be signed on its face by the person using the stamp for the stamp to be valid for fishing purposes.

(d) The commission by rule may prescribe alternate requirements for identifying the purchaser of a stamp issued in an automated manner.

SECTION 38. Section 43.505, Parks and Wildlife Code, is amended to read as follows:

Sec. 43.505. DISPOSITION OF STAMP FEES. (a) ~~[Fifty cents of the fee collected under this subchapter may be retained by the agent of the department, other than a department employee, as a collection fee.~~

~~[(b)]~~ After deduction of any collection fee, the net receipts from stamp sales shall be sent to the department.

~~(b) [(e)]~~ The stamp sale net receipts may be spent for any purposes authorized by Section 11.033 of this code and are hereby appropriated for such purposes.

SECTION 39. Subchapter N, Chapter 43, Parks and Wildlife Code, is amended by adding Section 43.508 to read as follows:

Sec. 43.508. EXPIRATION OF STAMP. (a) Except as provided by Subsection (b) or (c), a stamp issued under this subchapter is valid for fishing only during the yearly period for which the stamp is issued without regard to the date on which the stamp is acquired. Each yearly period begins on September 1 or another date set by the commission and extends through August 31 of the next year or another date set by the commission. The commission by rule may set the amount of a stamp fee for a stamp issued during a transition period at an amount lower than prescribed in this subchapter and provide for a stamp term for a transition period that is shorter or longer than a year.

(b) A freshwater trout stamp issued before September 1 or another date set by the commission that does not expire until August 31 of the next year or another date set by the commission is valid from the date of issuance through August 31 of the next year or another date set by the commission.

(c) A freshwater trout stamp issued in conjunction with a license issued under Section 46.005 or 46.0051 expires at the same time the license expires or on the expiration date printed on the stamp, whichever is later.

SECTION 40. Section 43.524, Parks and Wildlife Code, is amended to read as follows:

Sec. 43.524. DISPOSITION OF CONSERVATION PERMIT FEES. (a) ~~[Fifty cents of each conservation permit fee collected under Section 43.522 of this code by an agent of the department, other than a department employee, may be retained as a collection fee by the agent.~~

~~[(b)]~~ After deducting any [a] collection fee ~~[under Subsection (a) of this section]~~, an agent of the department shall send to the department the net receipts from the sale of conservation permits.

~~(b) [(e)]~~ The department may use the net receipts from the sale of conservation permits for the sole purpose of acquiring, leasing, or developing state lands, paying principal and interest on Texas Park Development Bonds, or operating land or facilities under the department's control.

SECTION 41. Section 43.581, Parks and Wildlife Code, is amended to read as follows:

Sec. 43.581. MUZZLELOADER HUNTING STAMP REQUIRED. (a) Except as provided by Subsection (b), no [No] person may hunt wild deer, turkey, or javelina (collared peccary) during an open season prescribed by law or by proclamation of the commission during which only muzzleloaders may be used for hunting unless the person has acquired [in the person's possession] a muzzleloader hunting stamp from the department. The commission by rule may prescribe requirements relating to possessing a stamp required by this subchapter.

(b) The commission by rule may exempt a person from the stamp requirement of this section.

SECTION 42. Section 43.582, Parks and Wildlife Code, is amended to read as follows:

Sec. 43.582. ISSUANCE AND FORM OF STAMP. (a) The department [or its agent] may issue a muzzleloader hunting stamp. The stamp shall be issued in a form and manner prescribed by the department. Except as provided by Subsection (b), the [The] stamp must be signed on its face by the person using the stamp [to whom it is issued] for the stamp to be valid for hunting purposes. The department may issue other editions of the stamp that are not valid for hunting at an amount set by the commission.

(b) The commission by rule may prescribe alternate requirements for identifying the purchaser of a stamp issued in an automated manner.

(c) A stamp issued under this subchapter is valid for hunting only during the yearly period for which the stamp is issued without regard to the date on which the stamp is acquired. Each yearly period begins on September 1 or another date set by the commission and extends through August 31 of the next year or another date set by the commission. The commission by rule may set the amount of a stamp fee for a stamp issued during a transition period at an amount lower than prescribed in this subchapter and provide for a stamp term for a transition period that is shorter or longer than a year.

SECTION 43. Section 43.583, Parks and Wildlife Code, is amended to read as follows:

Sec. 43.583. FEE. The fee for a muzzleloader stamp is \$10 or an amount set by the commission, whichever amount is more. The commission may set a different amount for another edition of the stamp issued under Section 43.582.

SECTION 44. Section 43.585, Parks and Wildlife Code, is amended to read as follows:

Sec. 43.585. DISPOSITION OF FEES. ~~[(a) Fifty cents of a fee collected under this subchapter may be retained as a collection fee by an agent of the department other than a department employee.~~

~~[(b)] After deduction of any collection fee, the net receipts from stamp sales shall be sent to the department.~~

SECTION 45. Section 44.003, Parks and Wildlife Code, is amended to read as follows:

Sec. 44.003. GAME BREEDER'S LICENSE. The department shall issue a game breeder's license on payment of a license fee of \$10 or an amount set by the commission, whichever amount is more. The license is valid for a yearly period. Each yearly period begins on September 1 or another date set by the commission [of a year] and extends through August 31 of the next year

or another date set by the commission. The commission by rule may set the amount of a license fee for a license issued during a transition period at an amount lower than prescribed in this section and provide for a license term for a transition period that is shorter or longer than a year.

SECTION 46. Section 44.007, Parks and Wildlife Code, is amended to read as follows:

Sec. 44.007. RECORDS. (a) Each game breeder shall keep a written record in a suitably bound book for the period from August 1 until the following July 31 or another yearly period established by the commission containing:

(1) the number and source of each kind of game animal on hand at the time the license is issued;

(2) the number, source, and date of receipt of each kind of game animal on hand at any time after the license is obtained;

(3) the number of each kind of game animal shipped or delivered, the date of shipment or delivery, and the name and address of persons to whom the shipment or delivery is made; and

(4) any other information determined by the commission to be necessary to enforce the provisions of this chapter.

(b) During August or another month set by the commission of each year, but before August 31 or another date established by the commission, a game breeder shall send to the department a report showing the information required by this section.

SECTION 47. Section 45.002(c), Parks and Wildlife Code, is amended to read as follows:

(c) A license is valid for a yearly period. Each yearly period begins on September 1 or another date set by the commission [~~of a year~~] and extends through August 31 of the next year or another date set by the commission. The commission by rule may set the amount of a license fee for a license issued during a transition period at an amount lower than prescribed in this section and provide for a license term for a transition period that is shorter or longer than a year.

SECTION 48. Section 45.008(b), Parks and Wildlife Code, is amended to read as follows:

(b) During August of each year or another month set by the commission, but before August 31 or another date established by the commission, a commercial game bird breeder shall send to the department a report showing the total number of game birds in the possession of the breeder during the reporting period and accounting for the acquisition and disposition of each game bird. The reporting period is from August 1 of the preceding year through July 31 of the current year or another yearly period established by the commission.

SECTION 49. Section 46.001, Parks and Wildlife Code, is amended to read as follows:

Sec. 46.001. PROHIBITED ACTS. No person may fish in the public water of this state unless he has acquired [~~obtained~~] a fishing license issued under this subchapter, except as provided by Sections 46.0012 and 46.002 of this code. The commission by rule may prescribe requirements relating to possessing a license required by this subchapter.

SECTION 50. Section 46.0045, Parks and Wildlife Code, is amended to read as follows:

Sec. 46.0045. TAG FEES. The commission by rule may establish fees for initial and duplicate tags issued under this subchapter ~~[and for issuance or collection fees for license deputies issuing the tags].~~

SECTION 51. Section 46.005, Parks and Wildlife Code, is amended to read as follows:

Sec. 46.005. TEMPORARY SPORTFISHING LICENSES ~~[LICENSE]~~. (a) Any person who is a Texas resident or other person designated by the commission is entitled to receive from the department a license allowing fishing for sporting purposes in public water for a period of 14 consecutive days or other period set by the commission. The commission may authorize the issuance of more than one type of license under this subsection and may prescribe the categories of persons to whom the licenses may be issued.

(b) The fee for a ~~[the]~~ temporary sportfishing license is ~~[\$5 or]~~ an amount set by the commission~~;~~ ~~whichever amount is more. Fifty cents may be retained as a collection fee by the issuing officer, other than a department employee].~~

SECTION 52. Section 46.0051, Parks and Wildlife Code, is amended to read as follows:

Sec. 46.0051. TEMPORARY NONRESIDENT LICENSES ~~[LICENSE]~~. (a) A nonresident or other person designated by the commission ~~[alien]~~ is entitled to receive from the department a license allowing fishing for sporting purposes in public water for a period of five consecutive days or other period set by the commission. The commission may authorize the issuance of more than one type of license under this subsection and may prescribe the categories of persons to whom the licenses may be issued.

(b) The fee for a license ~~[fee]~~ is ~~[\$7 or]~~ an amount set by the commission~~;~~ ~~whichever amount is more. Fifty cents of the fee may be retained as a collection fee by the issuing officer, other than a department employee].~~

SECTION 53. Section 46.006(b), Parks and Wildlife Code, as amended by Chapters 457 and 838, Acts of the 73rd Legislature, Regular Session, 1993, is amended to read as follows:

(b) The application for a duplicate license or tag must be an affidavit containing:

(1) a statement of fact concerning the loss or destruction of the license or tag; and

~~[(2) the serial number of the lost or destroyed license or tag.]~~

(2) any other information which the commission by regulation may prescribe as necessary.

SECTION 54. Section 46.007, Parks and Wildlife Code, as amended by Chapters 457 and 838, Acts of the 73rd Legislature, Regular Session, 1993, is amended to read as follows:

Sec. 46.007. EXPIRATION OF LICENSES AND TAGS. (a) Except as provided by Subsections (b), (c), ~~[and]~~ (d), (e), and (f) of this section, a license required or authorized by this subchapter is valid only during the yearly period for which it is issued without regard to the date on which the license is acquired. Each yearly period begins on September 1 or another date set by the commission ~~[of a year]~~ and extends through August 31 of the next year or

another date set by the commission. The commission by rule may set the amount of a license fee for a license issued during a transition period at an amount lower than prescribed in this section and provide for a license term for a transition period that is shorter or longer than a year.

(b) A license issued under Section 46.005 or 46.0051 of this code is valid for the number of consecutive days authorized and does not necessarily expire on August 31 or another date set by the commission.

(c) A tag or duplicate tag required or authorized by this subchapter is valid for a period as established by the commission.

(d) [(e)] A license issued under Section 46.004 of this code that is issued before September 1 or another date set by the commission and does not expire until August 31 of the following year or another date set by the commission is valid from the date of issuance through August 31 of the following year or another date set by the commission.

(e) [(d)] A lifetime resident fishing license is valid for the lifetime of the license holder.

(f) [(e)] A duplicate license is valid for the period of validity of the original license only.

SECTION 55. Section 46.0085, Parks and Wildlife Code, is amended to read as follows:

Sec. 46.0085. FORM AND ISSUANCE OF LICENSES [License] AND TAGS. (a) The department shall issue and prescribe the form [of] and manner of issuance of [~~shall issue~~] the licenses and tags authorized by this chapter. The commission by rule may prescribe identification and compliance requirements.

(b) A license and tag issued under this chapter is not valid until the person to whom it is issued completes all required information on the license and tag.

(c) The department may issue tags for finfish species allowed by law to be taken during each year or season from coastal waters of the state to holders of licenses authorizing the taking of finfish species or to other categories of persons.

SECTION 56. Section 46.0086, Parks and Wildlife Code, is amended by amending Subsection (b) and adding Subsection (c) to read as follows:

(b) Except as provided by Subsection (c), no [A] person may [~~not~~]:

- (1) use the same finfish tag on more than one finfish;
- (2) use a finfish tag issued in the name of another;
- (3) use a tag on a finfish for which another tag is specifically required;

or

(4) take a finfish required to be tagged and fail to immediately attach a properly executed tag to the finfish in the manner prescribed by the commission.

(c) The commission by rule may modify or eliminate the requirements of this section.

SECTION 57. Section 46.102, Parks and Wildlife Code, is amended to read as follows:

Sec. 46.102. FISHING LICENSE REQUIRED. Except as provided in this subchapter, no person may catch fish in Lake Texoma unless he has acquired [~~and possesses on his person~~] a [valid] license issued under this subchapter. The commission by rule may prescribe requirements relating to possessing a license required by this subchapter.

SECTION 58. Section 46.104(b), Parks and Wildlife Code, is amended to read as follows:

(b) The fee for the license is \$5.75 or an amount set by the commission, whichever amount is more. [~~Seventy-five cents of the fee may be retained by the issuing officer, other than a department employee.~~]

SECTION 59. Section 46.105(b), Parks and Wildlife Code, is amended to read as follows:

(b) The fee for the license is \$1.25 or an amount set by the commission, whichever amount is more. [~~Fifteen cents of the fee may be retained by the officer issuing the license, other than a department employee.~~]

SECTION 60. Section 47.007(e), Parks and Wildlife Code, is amended to read as follows:

(e) The fee for a commercial fishing boat license for a boat that is not numbered under Chapter 31 of this code or does not have a certificate of documentation issued by the United States Coast Guard that lists an address in Texas for the boat owner or other criteria established by the commission [~~a home port in this state~~] is \$60 or an amount set by the commission, whichever amount is more.

SECTION 61. Section 47.031(a), Parks and Wildlife Code, is amended to read as follows:

(a) All licenses and permits issued under the authority of Chapter 47 of this code are valid only during the yearly period for which they are issued without regard to the date on which the licenses are acquired. Each yearly period begins on September 1 or another date set by the commission [~~of a year~~] and extends through August 31 of the next year or another date set by the commission. The commission by rule may set the amount of a license fee for a license issued during a transition period at an amount lower than prescribed in this chapter and provide for a license term for a transition period that is shorter or longer than a year.

SECTION 62. Section 50.001, Parks and Wildlife Code, is amended by adding Subsection (c) to read as follows:

(c) The commission shall establish combination licenses or license packages for hunting, fishing, and other activities. The commission may set fees for those combination licenses or license packages. The fees set for combination licenses or license packages shall be less than the fees for the individual licenses, permits, or stamps that are combined in the combination licenses or license packages.

SECTION 63. Section 50.0011, Parks and Wildlife Code, is amended to read as follows:

Sec. 50.0011. DEFINITION. In this chapter, "resident" means:

(1) an individual who has resided continuously in this state for more than six months immediately before applying for a license issued under this chapter;

(2) a member of the United States armed forces on active duty;

(3) a dependent of a member of the United States armed forces on active duty; or

(4) a member of any other category of individuals that the commission by regulation designates as residents.

SECTION 64. Sections 50.0021(a) and (b), Parks and Wildlife Code, are amended to read as follows:

(a) Except as provided by Subsections (b) and (c) of this section, a license required or authorized by this chapter is valid only during the yearly period for which the license is issued without regard to the date on which the license is acquired. Each yearly period begins on September 1 or another date set by the commission [~~of a year~~] and extends through August 31 of the next year or another date set by the commission. The commission by rule may set the amount of a license fee for a license issued during a transition period at an amount lower than prescribed in this chapter and provide for a license term for a transition period that is shorter or longer than a year.

(b) A license issued under the authority of this chapter that is issued before September 1 or another date set by the commission and does not expire until August 31 or another date set by the commission of the following year is valid from the date of issuance through August 31 of the following year or another date set by the commission.

SECTION 65. Section 50.004(a), Parks and Wildlife Code, is amended to read as follows:

(a) The department shall issue and prescribe the form and manner of issuance of the license [~~and shall attach to it deer tags as provided in Chapter 42 of this code~~]. The commission by rule may prescribe identification and compliance requirements.

SECTION 66. Chapter 65, Parks and Wildlife Code, is amended by adding Section 65.0071 to read as follows:

Sec. 65.0071. EXPIRATION OF LICENSES. A license issued under this chapter is valid only during the yearly period for which the license is issued without regard to the date on which the license is acquired. Each yearly period begins on September 1 or another date set by the commission and extends through August 31 of the next year or another date set by the commission. The commission by rule may set the amount of a license fee for a license issued during a transition period at an amount lower than prescribed in this chapter and provide for a license term for a transition period that is shorter or longer than a year.

SECTION 67. Section 66.017(a), Parks and Wildlife Code, is amended to read as follows:

(a) All licenses, tags, and permits issued under the authority of Chapter 66 of this code are valid only during the yearly period for which they are issued without regard to the date on which the licenses are acquired. Each yearly period begins on September 1 or another date set by the commission [~~of a year~~] and extends through August 31 of the next year or another date set by the commission. The commission by rule may set the amount of a license fee for a license issued during a transition period at an amount lower than prescribed in this chapter and provide for a license term for a transition period that is shorter or longer than a year.

SECTION 68. Section 71.010, Parks and Wildlife Code, is amended to read as follows:

Sec. 71.010. LICENSE PERIOD. The license period for licenses issued under this chapter is September 1 or another date set by the commission [~~of~~

one year] through August 31 of the next [following] year or another date set by the commission, and a license is current and valid only for the license period for which it is issued. The commission by rule may set the amount of a license fee for a license issued during a transition period at an amount lower than prescribed in this chapter and provide for a license term for a transition period that is shorter or longer than a year.

SECTION 69. Section 76.103, Parks and Wildlife Code, is amended to read as follows:

Sec. 76.103. TYPES OF LICENSES; PERIOD OF VALIDITY. A commercial oyster boat license, commercial oyster boat captain's license, sport oyster boat license, or commercial oyster fisherman's license expires on August 31 of the yearly period for which it is issued or another date set by the commission.

SECTION 70. Section 76.1031(a), Parks and Wildlife Code, is amended to read as follows:

(a) All licenses issued under the authority of Chapter 76 of this code are valid only during the yearly period for which they are issued without regard to the date on which the licenses are acquired. Each yearly period begins on September 1 or another date set by the commission [of a year] and extends through August 31 of the next year or another date set by the commission. The commission by rule may set the amount of a license fee for a license issued during a transition period at an amount lower than prescribed in this chapter and provide for a license term for a transition period that is shorter or longer than a year.

SECTION 71. Sections 76.104(e) and (f), Parks and Wildlife Code, are amended to read as follows:

(e) The fee for a commercial oyster boat license for a boat that is not numbered under Chapter 31 of this code or does not have a certificate of documentation issued by the United States Coast Guard that lists an address in Texas for the boat owner or other criteria established by the commission [a home port in this state] is \$1,400 or an amount set by the commission, whichever amount is more.

(f) The fee for a sport oyster boat license for a boat that is not numbered under Chapter 31 of this code or does not have a certificate of documentation issued by the United States Coast Guard that lists an address in Texas for the boat owner or other criteria established by the commission [a home port in this state] is \$40 or an amount set by the commission, whichever amount is more.

SECTION 72. Section 77.031(d), Parks and Wildlife Code, is amended to read as follows:

(d) The fee for a commercial bay shrimp boat license for a boat that is not numbered under Chapter 31 of this code or does not have a certificate of documentation issued by the United States Coast Guard that lists an address in Texas for the boat owner or other criteria established by the commission [a home port in this state] is \$500 or an amount set by the commission, whichever amount is more.

SECTION 73. Section 77.033(c), Parks and Wildlife Code, is amended to read as follows:

(c) The fee for a commercial bait-shrimp boat license for a boat that is not numbered under Chapter 31 of this code or does not have a certificate of

documentation issued by the United States Coast Guard that lists an address in Texas for the boat owner or other criteria established by the commission [a home port in this state] is \$500 or an amount set by the commission, whichever amount is more.

SECTION 74. Section 77.035(c), Parks and Wildlife Code, is amended to read as follows:

(c) The fee for a commercial gulf shrimp boat license for a boat that is not numbered under Chapter 31 of this code or does not have a certificate of documentation issued by the United States Coast Guard that lists an address in Texas for the boat owner or other criteria established by the commission [a home port in this state] is \$1,000 or an amount set by the commission, whichever amount is more.

SECTION 75. Section 77.0361, Parks and Wildlife Code, is amended to read as follows:

Sec. 77.0361. LICENSE EXPIRATIONS AND TRANSFERS. (a) All licenses issued under the authority of Chapter 77 of this code are valid only during the yearly period for which they are issued without regard to the date on which the licenses are acquired. Each yearly period begins on September 1 or another date set by the commission [of a year] and extends through August 31 of the next year or another date set by the commission. The commission by rule may set the amount of a license fee for a license issued during a transition period at an amount lower than prescribed in this chapter and provide for a license term for a transition period that is shorter or longer than a year.

(b) ~~[Commercial bay shrimp boat licenses issued from the effective date of this section until December 15, 1993, shall expire on March 1, 1994, and licenses issued from December 16, 1993, through August 31, 1994, shall expire on August 31, 1994.~~

~~(c)~~ All licenses issued under the authority of Chapter 77 of this code may not be transferred to another person or vessel except as provided by this subsection. The commission, by rule [regulation], may prescribe requirements necessary for license transfers and may prescribe, by rule [regulation], forms to be used and fees to be charged for transfers of licenses in this chapter and for duplicate license plates and/or duplicate or replacement licenses.

SECTION 76. Section 78.002(b), Parks and Wildlife Code, is amended to read as follows:

(b) The license form shall be prescribed by the department and shall designate the water in which the licensee may operate. All licenses issued under the authority of Chapter 78 of this code are valid only during the yearly period for which they are issued without regard to the date on which the licenses are acquired. Each yearly period begins on September 1 or another date set by the commission [of a year] and extends through August 31 of the next year or another date set by the commission. The commission by rule may set the amount of a license fee for a license issued during a transition period at an amount lower than prescribed in this chapter and provide for a license term for a transition period that is shorter or longer than a year.

SECTION 77. Sections 78.003(e) and (f), Parks and Wildlife Code, are amended to read as follows:

~~(e) [A shell buyer's license expires on August 31 following the date on which the license was issued, regardless of the date on which the license was issued.~~

[†] The holder of a shell buyer's license shall file with the department a report of activities performed under the license in a form and manner specified by the department.

SECTION 78. Section 11.0271, Parks and Wildlife Code, is amended to read as follows:

Sec. 11.0271. PUBLIC HUNTING DRAWING; FEES. (a) The department may conduct public drawings to select applicants for public hunting privileges. The department may charge each person who participates in the drawing a nonrefundable participation fee in addition to any fee for issuing a hunting permit or license. The participation fee shall be set by the commission in an amount sufficient to pay the costs of operating the drawing.

(b) The commission may approve participation fees, not to exceed \$25 per species for each participant on an application, in drawings for special hunting programs, packages, or events that exceed the costs of operating the drawing only if the fees charged are designated for use in the management and restoration efforts of the specific wildlife program implementing each special hunting program, package, or event.

SECTION 79. Section 47.02(c), Penal Code, is amended to read as follows:

(c) It is a defense to prosecution under this section that the actor reasonably believed that the conduct:

(1) was permitted under the Bingo Enabling Act (Article 179d, Vernon's Texas Civil Statutes);

(2) was permitted under the Charitable Raffle Enabling Act (Article 179f, Revised Statutes);

(3) consisted entirely of participation in the state lottery authorized by the State Lottery Act (~~Chapter 466, Government Code [Article 179g, Vernon's Texas Civil Statutes]~~); [or]

(4) was permitted under the Texas Racing Act (Article 179e, Vernon's Texas Civil Statutes); or

(5) consisted entirely of participation in a drawing for hunting privileges authorized under the Parks and Wildlife Code.

SECTION 80. Sections 11.056(c), 42.011, 46.004(d), 46.006(c), 46.009, 46.010, 46.011, 46.012, 50.002(c), 71.013, and 78.002(f), Parks and Wildlife Code, are repealed.

SECTION 81. (a) Except as otherwise provided by this section, this Act takes effect immediately.

(b) The commission shall adopt rules necessary to implement the changes in law made by this Act immediately after the effective date of this Act.

(c) The changes in law made by this Act apply only to fees collected for a license, stamp, or tag issued for the licensing period that begins September 1, 1995, except that Sections 58 and 59 of this Act apply only to fees collected for a license issued for the licensing period that begins January 1, 1996.

SECTION 82. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

HB 2766 - WITH SENATE AMENDMENTS

Representative Smithee called up with senate amendments for consideration at this time

HB 2766, A bill to be entitled An Act relating to providing fairness and choice to patients and providers under managed care health benefit plans.

Representative Smithee moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on the bill.

The motion prevailed without objection.

HB 2766 - APPOINTMENT OF CONFERENCE COMMITTEE

The speaker announced the appointment of the following conference committee, on the part of the house, on **HB 2766**: Smithee, chair, Van de Putte, Berlanga, Averitt, and Driver.

HB 2890 - WITH SENATE AMENDMENTS

Representative R. Lewis called up with senate amendments for consideration at this time

HB 2890, A bill to be entitled An Act relating to the management of the Edwards Aquifer.

Representative R. Lewis moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on the bill.

The motion prevailed without objection.

HB 2890 - APPOINTMENT OF CONFERENCE COMMITTEE

The speaker announced the appointment of the following conference committee, on the part of the house, on **HB 2890**: R. Lewis, chair, Counts, Walker, Yost, and Siebert.

HB 2943 - WITH SENATE AMENDMENT

Representative Greenberg called up with a senate amendment for consideration at this time,

HB 2943, A bill to be entitled An Act relating to public retirement systems for employees of certain municipalities.

On motion of Representative Greenberg, the house concurred in the senate amendment to **HB 2943**.

HB 2943 - TEXT OF SENATE AMENDMENT**Senate Amendment No. 1 (Senate Committee Amendment No. 1)**

Amend **HB 2943**, in SECTION 1 of the bill, amending Chapter 451, Acts of the 72nd Legislature, Regular Session, 1991 (Article 6243n, Vernon's Texas Civil Statutes), as follows:

(1) Strike proposed Section 2(39) of Article 6243n (house engrossment, page 10, lines 11-24) and substitute the following:

(39) [(29)] "Regular full-time employee" means an individual who is employed by the city, a hospital authority, or the board;[;] who is not a commissioned civil service police officer or fire fighter, a fire or police cadet employed under civil service procedures, the mayor, or a member of the governing body: who [city council, whose position] is classified in the annual [city, board, or hospital authority] budget of an employer for employment for the full calendar year;[; whose position is classified in the annual city, board, or hospital authority budget to continue from year to year;] and who works 30 hours or more in a normal 40-hour work week. The term does not include an individual whose position is classified as seasonal or temporary by the employer [city, a hospital authority, or the board], even if the individual works 30 hours or more in a normal 40-hour work week in which the individual is employed.

(2) In proposed Section 7(d) of Article 6243n, strike Subdivision (2)(C) (house engrossment, page 32, lines 1-13) and substitute the following:

(C) The amount of the adjustment for each retired member or beneficiary shall be a uniform percentage of the monthly payment being received by a member, or by a beneficiary by reason of a member, who was retired at least one year before the adjustment and may not exceed six percent of the monthly payment due the retired member or beneficiary before the adjustment. For members who retired during the year in which the adjustment is authorized, the increase for the first year in which the adjustment is being paid shall be prorated in the ratio that the number of completed months after the member's retirement in the year of the member's retirement bears to 12. After the first year the member is entitled to the full amount of any [the] adjustment without proration.

(3) In proposed Section 12 of Article 6243n, strike Subsection (d) (house engrossment, page 62, line 17, through page 63, line 13) and substitute the following:

(d) Notwithstanding any other provision in this Act to the contrary, in the event of a termination of the retirement and pensioning system, the benefit of any highly compensated employee or former employee is limited to a benefit that is nondiscriminatory under Section 401(a)(4) of the code. Benefits distributed to any of the 25 most highly compensated active and former highly compensated employees are restricted such that the annual payments are no greater than an amount equal to the payment that would be made on behalf of an employee under a single life annuity that is the [A member who is entitled to a benefit, including a benefit consisting solely of a distribution of the member's accumulated deposits, from the system may instruct the system to pay the single lump-sum] actuarial equivalent of the sum of the employee's accrued benefit and the employee's other benefits under the plan. The preceding sentence shall not apply if: (1) after payment of the benefit to an employee described in that sentence, the value of plan assets equals or exceeds 110 percent of the value of the current liabilities, as defined in Section 412(l)(7) of the code, or (2) the value of the benefits for an employee described in that paragraph is less than one percent of the value of current liabilities. For purposes of this subsection, benefit includes loans in excess of the amount set forth in Section 72(p)(2)(A) of the code, any periodic income, any withdrawal values payable to a living employee and any death benefits not provided for by insurance on the employee's life.

(4) At the end of proposed Section 12 of Article 6243n (house engrossment, page 64, between lines 26 and 27), insert the following:

(f) The retirement system shall add six months to the membership service of any member who was involuntarily terminated by an employer for nondisciplinary reasons during the period beginning April 1, 1995, and ending September 30, 1995. The current service annuity of a member who is described by this subsection and who is eligible for retirement will be equal to one-twelfth of the product of 2.3 percent of the member's average final compensation multiplied by the sum of the number of months of membership service.

HB 3031 - WITH SENATE AMENDMENT

Representative Goolsby called up with a senate amendment for consideration at this time,

HB 3031, A bill to be entitled An Act relating to authorized locations for the sale of lottery tickets.

On motion of Representative Goolsby, the house concurred in the senate amendment to **HB 3031** by (Record 554): 135 Yeas, 1 Nay, 2 Present, not voting.

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

Nay — Chisum.

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

Absent, Excused — Telford.

Absent — Clemons; Duncan; Glaze; Krusee; Mowery; Oliveira; Park; Romo; Siebert; Thompson; Uher.

HB 3031 - TEXT OF SENATE AMENDMENTS

Senate Amendment No. 1

Amend **HB 3031** as follows:

(1) Add the following appropriately numbered sections:

SECTION____. Subchapter G, Chapter 466, Government Code, is amended by adding Section 466.317 to read as follows:

Sec. 466.317. PROHIBITION AGAINST SALE OF CERTAIN LOTTERY TICKETS. (a) Except as permitted by a compact entered into under Subsection (b), a person may not sell or offer for sale in this state any interest in a lottery of another state or state government or an Indian tribe or tribal government, including an interest in an actual lottery ticket, receipt, contingent promise to pay, order to purchase, or other record of the interest.

(b) The state may enter into a compact with another state or state government or an Indian tribe or tribal government to permit the sale of lottery tickets of this state in the state's, tribe's, or government's jurisdiction and to allow the sale of the state's, tribe's, or government's lottery tickets in this state.

(c) A person commits an offense if the person violates this section. An offense under this section is a Class A misdemeanor.

SECTION____. (a) The change in law made by this Act applies only to an offense committed on or after the effective date of this Act. For the purposes of this section, an offense is committed before the effective date of this Act if any element of the offense occurs before that date.

(b) 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 that purpose.

(2) Renumber the remaining sections of the bill appropriately.

HB 3189 - WITH SENATE AMENDMENTS

Representative Puente called up with senate amendments for consideration at this time,

HB 3189, A bill to be entitled An Act relating to the board of directors of the Edwards Aquifer Authority and the management of the Edwards Aquifer.

Representative Puente moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on the bill.

The motion prevailed without objection.

HB 3189 - APPOINTMENT OF CONFERENCE COMMITTEE

The speaker announced the appointment of the following conference committee, on the part of the house, on **HB 3189**: Puente, chair, R. Lewis, King, Conley, and Holzheuser.

HCR 186 - WITH SENATE AMENDMENT

Representative Counts called up with a senate amendment for consideration at this time,

HCR 186, A bill to be entitled An Act endorsing and announcing the creation and appointment of an Events Subcommittee for the observance of the State of Texas Sesquicentennial.

On motion of Representative Counts, the house concurred in the senate amendment to **HCR 186**.

HCR 186 - TEXT OF SENATE AMENDMENT**CSHCR 186**

WHEREAS, In 1995, the State of Texas will mark the sesquicentennial of its annexation to the United States, an occasion that warrants appropriate observances in commemoration of the historic entry into the Union of the former republic; and

WHEREAS, Executive Order AWR 94-18, signed by the governor on April 15, 1994, established a Sesquicentennial Committee co-chaired by State Senator John T. Montford and State Representative Jerry K. Johnson; and provided that ex-officio members of the Committee consist of one representative each from the Texas Historical Commission, the Texas State Library and Archives Commission, the Institute of Texan Cultures, the Center for American History, and the Texas Parks and Wildlife Department; the committee was charged to coordinate and assist in the planning of statewide sesquicentennial celebrations and was empowered to appoint advisory members and designate subcommittees as deemed appropriate and necessary to the achievement of its purposes; and

WHEREAS, Much planning has already gone into the sesquicentennial, the first major event for which occurs on June 16 in the chamber of the Texas House of Representatives to unveil a commemorative postage stamp honoring Texas' 150th anniversary as a state; this date coincides with the calling of the Congress of the Republic of Texas by President Anson Jones to consider the alternative of annexation; and

WHEREAS, Festivities continue on July 4 in Austin to commemorate the date on which a Texas convention assembled to approve annexation and draw up a state constitution; and

WHEREAS, On October 13, occasioned by individual community celebrations throughout the state, Texans will commemorate the ratification by voters of the first Texas state constitution, to be followed on December 15 in Austin by a symbolic ceremony to recreate the certification of the election of the new state's government officials; and

WHEREAS, On December 28 and 29, attention focuses on Dallas for a reenactment by national and state officials of the acceptance by the United States Congress of the constitution and the signing of the annexation document proclaiming Texas the 28th state; other events will be held throughout the state; and

WHEREAS, Scheduled events conclude on February 19, 1996, marking the final step in Texas' passage to statehood, the relinquishment of authority by President Jones to Governor James P. Henderson and the raising of the Union flag at a ceremony in Austin; and

WHEREAS, The committee and event organizers are to be commended for their initial efforts toward the promotion of the state's history and heritage, and it is fitting that a body of knowledgeable and active Texans be named to elaborate on plans for the celebration of the statehood sesquicentennial; now, therefore, be it

RESOLVED, That the 74th Legislature of the State of Texas hereby endorse and announce the Sesquicentennial Committee's creation and appointment of the Events Subcommittee for the observance of the State of Texas Sesquicentennial; and, be it further

RESOLVED, That the subcommittee include the following citizen members: Mr. Jim Sears of Irving, who shall serve as chair; Mr. Neal Johnson of Austin, who shall serve as vice chair; Mrs. Louise Caldwell of Dallas; Ms. Brigitte Saidi of San Antonio; Dr. Ray Stephens of Denton; Mrs. Willie Lee Gay of Houston; Ms. Linda Harper of Irving; Mr. Chris Semos of Dallas; Mr. Robert Power of Irving; Ms. Liz Carpenter of Austin; Dr. Felix D. Almaraz, Jr., of San Antonio; Mrs. Sandra Hardie of Irving; Mr. Bob Bolen of Fort Worth; Ms. Carol Susat of Irving; Dr. Archie P. McDonald of Nacogdoches; Mrs. Bette Smith Mullins of Dallas; Mrs. Sid R. Bass of Fort Worth; Mr. Randy M. Lee of Austin; and Mr. R. Sam Bolen of Dallas; and, be it further

RESOLVED, That the subcommittee include the following members of the Texas Legislature: Senator Chris Harris of Arlington; Senator Mike Moncrief of Fort Worth; Senator Bill Ratliff of Mount Pleasant; Representative Tony Goolsby of Dallas; Representative Bob Hunter of Abilene; Representative Dan Kubiak of Rockdale; and Representative Leticia Van de Putte of San Antonio; and, be it further

RESOLVED, That the subcommittee include the following representatives from state agencies and universities: Mr. Antonio (Tony) O. Garza, Jr., Secretary of State; Mr. Curtis Tunnell, executive director of the Texas Historical Commission; Mr. William D. Gooch, director and librarian of the Texas State Library and Archives Commission; Mr. Rex Ball, director of the Institute of Texan Cultures of The University of Texas at San Antonio; Mr. Andrew Sansom, executive director of the Texas Parks and Wildlife Department; Mr. Don E. Carlton, director of the Center for American History at The University of Texas at Austin; Dr. Dianne Mendoza-Galaviz, tourism director at the Texas Department of Commerce; Dr. Michael Moses, commissioner of the Texas Education Agency; Mr. Harry Montgomery, program director at the Texas Higher Education Coordinating Board; Mr. John Paul Batiste, executive director of the Texas Commission on the Arts; Mr. William G. Burnett, executive director of the Texas Department of Transportation; and Ms. Margaret Blagg, director of the Capitol Complex Visitors Center of the State Preservation Board; and, be it further

RESOLVED, That any citizen member vacancies be filled by the co-chairs of the Sesquicentennial Committee, that agency or university officials vacate their subcommittee service and be replaced by their successors should they leave or resign their current government or academic position, and that legislators similarly vacate their service should they leave or resign from the senate or house, their respective replacements to be named from the chamber of origin by the lieutenant governor or speaker, as appropriate; and, be it further

RESOLVED, That subcommittee members, in accordance with the terms of Executive Order AWR 94-18, serve without compensation or reimbursement of actual expenses; and, be it further

RESOLVED, That the subcommittee meet at the call of the chair, have authority to adopt any rules necessary for its own procedures, and operate within the requirements of the open records law, open meetings law, and Administrative Procedure Act; and, be it further

RESOLVED, That the committee be authorized specifically to:

(1) coordinate state and local events relating to the celebration of the sesquicentennial of Texas statehood;

(2) encourage individuals, private organizations, and local governments to organize appropriate commemorative activities; and

(3) gather and disseminate information to the Texas public and prospective visitors regarding those events and activities; and, be it further

RESOLVED, That at the conclusion of the event to be held on February 16, 1996, the subcommittee shall expire.

HJR 68 - WITH SENATE AMENDMENT

Representative Haggerty called up with a senate amendment for consideration at this time,

HJR 68. A joint resolution proposing a constitutional amendment to raise the limits of the exemption from ad valorem taxation of property owned by disabled veterans or by the surviving spouses and surviving minor children of disabled veterans.

On motion of Representative Haggerty, the house concurred in the senate amendment to **HJR 68** by (Record 555): 146 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Alexander; Allen; Alonzo; Alvarado; Averitt; Bailey; Berlanga; Black; Bosse; Brady; Brimer; Carona; Carter; Chisum; Coleman; Combs; Conley; Cook; Corte; Counts; Crabb; Craddick; Cuellar, H.; Cuellar, R.; Culberson; Danburg; Davila; Davis; De La Garza; Dear; 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; Hilbert; 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; Price; Puente; Rabuck; Ramsay; Rangel; Raymond; Reyna; Rhodes; Rodriguez; Romo; Rusling; Sadler; Saunders; Seidlits; Serna; Shields; Siebert; Solis; Solomons; Staples; Stiles; Swinford; Talton; Thompson; Tillery; Torres; Turner, B.; Turner, S.; Uher; Van de Putte; Walker; West; Williamson; Willis; Wilson; Wohlgenuth; Wolens; Woolley; Yarbrough; Yost; Zbraneck.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Telford.

Absent — Clemons; Smithee.

HJR 68 - TEXT OF SENATE AMENDMENT

Senate Amendment No. 1

Amend **HJR 68** on page 1, line 36 of the Committee Printing by deleting the proposed amount "\$15,000" and substituting "\$12,000".

HB 2027 - APPOINTMENT OF CONFERENCE COMMITTEE

The speaker announced the appointment of the following conference committee, on the part of the house, on **HB 2027**: Yarbrough, chair, Davila, Luna, Talton, and Solomons.

RESOLUTION REFERRED TO COMMITTEE

The following resolution was laid before the house and referred to committee:

By Solis,

HR 1118, Directing the commissioner of the Texas Department of Mental Health and Mental Retardation, the state auditor, and the state comptroller to conduct a feasibility study to determine the best governance and administrative structure to enhance client care for mental health and mental retardation services in the catchment areas of the Rio Grande State Center and the Tropical Texas Center for Mental Health and Mental Retardation.

To Committee on Public Health.

HOUSE AT EASE

At 2:09 p.m., the speaker announced that the house would stand at ease.

(Smithee in the chair)

The chair called the house to order at 2:24 p.m.

MESSAGE FROM THE SENATE

Austin, Texas, May 25, 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 982 by McDonald (Sponsor-Shapiro), relating to the children's trust fund and the Children's Trust Fund of Texas Council operating fund (amended).

HCR 231 by Hightower, instructing the house enrolling clerk to make technical corrections to H.B. 2162.

HB 809 by Williamson, et al. (Sponsor-Sibley), relating to the purposes for which funds received by local crime stoppers programs may be used, including the installation of signs on the right-of-way of public highways (amended).

HB 1612 by Kubiak and Hunter, Bob (Sponsor-Sibley), relating to the application to religious facilities of the law relating to architectural barriers (amended).

HB 1826 by Jackson (Sponsor-Brown), relating to the approval of disposal system plans by the Texas Natural Resource Conservation Commission (amended).

HB 2758 by Saunders and Yost (Sponsor-Ellis), relating to the provision of municipal services in an annexed area (committee substitute and amended).

HB 2603 by Kubiak, Patterson, L. P. "Pete", Black, Johnson, Alexander, et al. (Sponsor-Armbrister), relating to the liability of and a motor vehicle liability self-insurance program for volunteer fire departments (committee substitute and amended).

Respectfully,
Betty King
Secretary of the Senate

HOUSE AT EASE

At 2:26 p.m., the chair announced that the house would stand at ease.

(Duncan in the chair)

The chair called the house to order at 2:55 p.m.

MESSAGE FROM THE SENATE

Austin, Texas, May 25, 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 40 by McCall, Van de Putte, Oakley, et al. (Sponsor-Armbrister), relating to the requirement of DNA analysis of certain inmates and to the creation of a DNA database; providing penalties (amended).

HB 576 by Pitts (Sponsor-Shapiro), relating to theft by check, issuance of bad checks, and collection of processing fees for dishonored checks; providing penalties (committee substitute and amended).

HB 1023 by Coleman, et al. (Sponsor-Ellis), relating to regulation of end stage renal disease facilities; providing penalties (committee substitute).

HB 2550 by Madden (Sponsor-Harris, Chris), relating to regulation of food wholesalers and manufacturers and distributors of devices under the Texas Food, Drug, and Cosmetic Act (amended).

HB 3101 by Pitts (Sponsor-Lucio), relating to the amounts that may be charged and collected in connection with a loan or other extension of credit for accounts and notes receivable (committee substitute and amended).

HB 3021 by Kuempel and Seidlits (Sponsor-Cain), relating to the regulation of bingo; providing penalties (amended).

Respectfully,
Betty King
Secretary of the Senate

HOUSE AT EASE

At 2:56 p.m., the chair announced that the house would stand at ease.

(Speaker in the chair)

The speaker called the house to order at 3:35 p.m.

MESSAGE FROM THE SENATE

Austin, Texas, May 25, 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 93 by Kamel and Hartnett (Sponsor-Shapiro), relating to the imposition of a sentence for the offense of intoxication manslaughter (committee substitute).

HB 1020 by Oliveira (Sponsor-Sibley), relating to the regulation of savings banks (committee substitute).

HB 1193 by Berlanga (Sponsor-Zaffirini), relating to the regulation of orthotists and prosthetists; providing a civil penalty (committee substitute and amended).

HB 2891 by Hilderbran (Sponsor-Zaffirini), relating to reports to the legislature by state health and human services agencies and to the long-term care state plan for the elderly (committee substitute).

HB 2189 Harris, Jack (Sponsor-Brown), relating to the creation, composition, operation, and management of certain conservation and reclamation districts (amended).

HB 2307 by Carter (Sponsor-Haywood), relating to powers and duties of the Advisory Commission on State Emergency Communications and emergency communication districts and to the administration of state emergency communications services.

Respectfully,
Betty King
Secretary of the Senate

HOUSE AT EASE

At 3:36 p.m., the speaker announced that the house would stand at ease.

The speaker called the house to order at 4:08 p.m.

HR 1101 - ADOPTED

The speaker laid before the house the following privileged resolution:

By R. Cuellar,

HR 1101

BE IT RESOLVED by the House of Representatives of the State of Texas, 74th Legislature, Regular Session, 1995, That House Rule 13, Section 9(a), be suspended in part as provided by House Rule 13, Section 9(f), to enable the conference committee appointed to resolve the differences on Senate Bill No. 646 to consider and take action on the following matter:

House Rule 13, Section 9(a)(2), is suspended to permit the committee to omit text not in disagreement in Section 1 of the bill, which amends Section 657.001(2), Government Code, and to renumber the other sections of the bill as appropriate. The omitted text reads as follows:

SECTION 1. Section 657.001(2), Government Code, is amended to read as follows:

(2) "Public entity" means a public department, commission, board, office, or agency, including:

(A) an institution of higher education, as defined by Section 61.003, Education Code;

(B) a governmental body, as defined by Chapter 551 or 552;
and

(C) a public entity that receives money from the state or federal government, directly or indirectly, under the federal Job Training Partnership Act (29 U.S.C. Section 1501 et seq.).

Explanation: This change is necessary to ensure that the legislation applies only to certain public entities.

The resolution was adopted without objection.

HR 1084 - ADOPTED

The speaker laid before the house the following privileged resolution:

By Alexander,

HR 1084

BE IT RESOLVED by the House of Representatives of the State of Texas, 74th Legislature, Regular Session, 1995, That House Rule 13, Section 9(a), be suspended in part as provided by House Rule 13, Section 9(f), to enable the conference committee appointed to resolve the differences on Senate Bill No. 1513 to consider and take action on the following specific matter:

House Rule 13, Section 9(a)(1) is suspended to permit the committee to enact Sections 86(a)(4) and (5), Uniform Act Regulating Traffic on Highways, to read as follows:

(4) a ~~[(c) A]~~ railroad engine approaching within approximately fifteen hundred (1500) feet of the highway crossing emits a signal audible from such distance and such engine by reason of its speed or nearness to such crossing is an immediate hazard; or

(5) an ~~[(d) An]~~ approaching railroad train is plainly visible and ~~[is]~~ in hazardous proximity to such crossing.

Explanation: This action is necessary to protect the lives of drivers of motor vehicles at certain railroad crossings in this state.

The resolution was adopted without objection.

SB 345 - REQUEST OF SENATE GRANTED

On motion of Representative Uher, the house granted the request of the senate for the appointment of a conference committee on **SB 345**.

SB 345 - APPOINTMENT OF CONFERENCE COMMITTEE

The speaker announced the appointment of the following conference committee, on the part of the house, on **SB 345**: Uher, chair, Junell, Smithee, Oliveira, and S. Turner.

SB 744 - REQUEST OF SENATE GRANTED

On motion of Representative Holzheuser, the house granted the request of the senate for the appointment of a conference committee on **SB 744**.

SB 744 - APPOINTMENT OF CONFERENCE COMMITTEE

The speaker announced the appointment of the following conference committee, on the part of the house, on **SB 744**: Holzheuser, chair, Hawley, Hirschi, Dutton, and West.

SB 1396 - REQUEST OF SENATE GRANTED

On motion of Representative Dukes, the house granted the request of the senate for the appointment of a conference committee on **SB 1396**.

SB 1396 - APPOINTMENT OF CONFERENCE COMMITTEE

The speaker announced the appointment of the following conference committee, on the part of the house, on **SB 1396**: Dukes, chair, Maxey, Krusee, Hilderbran, and B. Turner.

SB 870 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Giddings submitted the conference committee report on **SB 870**.

Representative Giddings moved to adopt the conference committee report on **SB 870**.

The motion prevailed without objection.

HB 785 - WITH SENATE AMENDMENTS

Representative Seidlits called up with senate amendments for consideration at this time,

HB 785, A bill to be entitled An Act relating to the regulation and characterization of manufactured housing.

(Black in the chair)

On motion of Representative Seidlits, the house concurred in the senate amendments to **HB 785**.

HB 785 - TEXT OF SENATE AMENDMENTS

CSHB 785, A bill to entitled An Act relating to the regulation of manufactured housing; providing penalties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Sections 3(4), (8), (9), (14), and (21), Texas Manufactured Housing Standards Act (Article 5221f, Vernon's Texas Civil Statutes), are amended to read as follows:

(4) "Department" means the Texas Department of Housing and Community Affairs [~~Licensing and Regulation~~].

(8) "Seal" means a device or insignia issued by the director [~~commissioner~~] to be affixed to used manufactured homes for titling purposes, as required by the director [~~commissioner~~]. The seal shall remain the property of the department.

(9) "Label" means a device or insignia issued by the director [~~commissioner~~] to indicate compliance with the standards, rules, and regulations established by the Department of Housing and Urban Development, and is permanently affixed to each transportable section of each HUD-code manufactured home constructed after June 15, 1976, for sale to a consumer.

(14) "Director" [~~"Commissioner"~~] means the executive director of the department [~~commissioner of licensing and regulation~~].

(21) "Board" [~~"Commission"~~] means the governing board of the department [~~Texas Commission of Licensing and Regulation~~].

SECTION 2. Section 4, Texas Manufactured Housing Standards Act (Article 5221f, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 4. MANUFACTURED HOUSING STANDARDS. (a) The director [~~commissioner~~] shall adopt standards and requirements for the installation and for the construction of manufactured housing, that are reasonably necessary in order to protect the health, safety, and welfare of the occupants and the public. The collection of these standards and requirements is the Texas Manufactured Housing Code.

(b) The requirements and standards for the plumbing, heating, air-conditioning and electrical systems and construction of manufactured [~~mobile~~] homes in effect on September 1, 1989, remain in full force and effect until amended in accordance with the procedure set forth in this section.

(c) The director [~~commissioner~~] shall adopt standards and requirements for the construction of HUD-code manufactured homes in compliance with the federal standards and requirements established under Title VI of the Housing and Community Development Act of 1974, entitled the National Manufactured Home Construction and Safety Standards Act of 1974.

(d) [~~(b)~~] The director [~~commissioner~~] shall adopt standards and requirements for the installation of all manufactured housing in the state that are necessary for the protection of the health, safety, and welfare of all the citizens. The standards must assure that the installation of manufactured housing on both permanent and nonpermanent foundation systems resists overturning and lateral movement of the housing according to the design loads for the particular wind zone for which the housing was constructed [~~in the first two tiers of coastal counties in the state is capable of withstanding winds of hurricane-force velocity of not less than 105 miles per hour and that manufactured housing in all other counties of the state is capable of withstanding winds of a minimum gale-force velocity~~].

(e) The requirements and standards for the installation of manufactured [~~mobile~~] homes as adopted by the state [~~department~~] in existence on September 1, 1989, remain in force until amended in accordance with the procedure set forth in this section.

(f) All manufactured housing must be installed in compliance with the standards, rules, regulations, or administrative orders of the director [~~commissioner~~].

(g) [~~(e)~~] A local governmental unit [~~political subdivision~~] of this state, without the express approval of the board [~~commission~~] following a hearing on the matter, may not adopt different standards from those promulgated by the director [~~commission~~] for the construction or installation of manufactured housing within the local governmental unit [~~political subdivision~~].

(h) [~~(d)~~] Before the adoption or promulgation of any standards or requirements authorized by this section, any change in or addition to the standards authorized in this section, or the approval of different standards by any local governmental unit [~~political subdivision~~], the director [~~commissioner~~] shall publish a notice and conduct a public hearing in accordance with Chapter 2001, Government Code [~~the Administrative Procedure and Texas Register Act, as amended (Article 6252-13a, Vernon's Texas Civil Statutes)~~], not sooner than the 30th day following the publication of notice.

(i) [~~(e)~~] Every requirement or standard or modification, amendment, or repeal of a requirement or standard adopted by the director [~~commissioner~~] shall state the date it shall take effect.

(j) [~~(f)~~] The department shall cooperate with all units of local government in this state and shall authorize local units of government, on request, to make and perform inspection and enforcement activities related to the construction of foundation systems and the erection and installation of manufactured housing at the homesite pursuant to contracts or other official designations and the rules and regulations of the director [~~commissioner~~]. The department shall notify each local governmental unit biennially in writing to advise the local governmental unit of the program for contracting installation inspections. The department shall encourage local building inspection officials to perform enforcement and inspection activities for manufactured housing installed within the local governmental unit and may establish cooperative inspection training programs. The department may withdraw the authorization if the local governmental unit fails to follow the rules, regulations, interpretations, and written instructions of the department.

SECTION 3. Section 6(g), Texas Manufactured Housing Standards Act (Article 5221f, Vernon's Texas Civil Statutes), is amended to read as follows:

(g) It is unlawful for a retailer to purchase for resale to a consumer, or to sell, exchange, or lease-purchase or offer to sell, exchange, or lease-purchase, any new HUD-code manufactured home which was constructed by a manufacturer which was not registered with the department [~~commissioner~~] at the time of construction.

SECTION 4. Section 7, Texas Manufactured Housing Standards Act (Article 5221f, Vernon's Texas Civil Statutes), is amended by amending Subsections (a), (d), (e), (g), (i), and (k)-(q) and adding Subsection (r) to read as follows:

(a) A person may not construct or assemble a new HUD-code manufactured home in the state or ship a new HUD-code manufactured home into the state, unless the person is registered as a manufactured housing manufacturer with [~~by~~] the department [~~commissioner~~] and possesses a valid

manufacturer's certificate of registration at the time the home is constructed or assembled.

(d) A person may not perform any installation functions on manufactured housing in the state, unless the person possesses a valid installer's certificate of registration and files proof of insurance as required by the director [~~commissioner~~]. The director [~~commissioner~~] may issue a temporary installer's certificate of registration to a homeowner for the installation of the owner's home in accordance with applicable requirements, standards, and regulations of the director [~~commissioner~~], on application and payment of the required fee and on submission of proof of insurance by the owner as required by the department.

(e) Each applicant for a certificate of registration as a manufacturer, retailer, broker, or installer must file with the director [~~commissioner~~] an application for registration containing the following information:

- (1) the legal name, address, and telephone number of the applicant;
- (2) the trade name by which the applicant does business and, if incorporated, the name registered with the secretary of state and the address of the business; and
- (3) the dates on which the applicant became the owner and operator of the business.

(g) All certificates of registration are valid for one year [~~the period set by the commission~~] and are renewable as provided by the director [~~commission~~].

(i) If a change occurs in the information filed with the director [~~commissioner~~] under Subsection (e) of this section, the applicant shall file an amendment to his or her application that states the correct information.

(k) The director [~~commissioner~~], after notice and hearing, may refuse to issue or may permanently revoke, or suspend for a definite period of time and for a specified geographic area or sales location, any certificate of registration if the director [~~commissioner~~] finds that the applicant or registrant:

- (1) knowingly and wilfully violated any provision of this article or any rule, administrative order, or regulation made pursuant to this Act [~~article~~];
- (2) without lawful authorization retained or converted any money, property, or any other thing of value from consumers in the form of down payments, sales and use taxes, deposits, or insurance premiums;
- (3) failed to deliver proper title documents or certificates of title to consumers;
- (4) failed to give or breached any manufactured home warranty required by this Act [~~article~~] or by the Federal Trade Commission;
- (5) engaged in any false, misleading, or deceptive acts or practices as the term is set forth in and as those acts are declared unlawful by the provisions of Chapter 17, Subchapter E, Business & Commerce Code;
- (6) failed to furnish or file any reports required by the department for the administration and enforcement of this Act [~~article~~];
- (7) furnished false information on any application, report, or other document filed with the department;
- (8) has a record of criminal convictions within the five years preceding the date of the application that [~~which~~], in the opinion of the director [~~commissioner~~], renders the applicant unfit for registration; or

(9) failed to file the bond or post other security for each location as required by [~~Section 13 of~~] this Act [~~article~~].

(l) The director [~~commissioner~~] shall conduct any hearing involving the denial, revocation or suspension of a certificate of registration in accordance with Chapter 2001, Government Code [~~the Administrative Procedure and Texas Register Act, as amended (Article 6252-13a, Vernon's Texas Civil Statutes)~~].

(m) A retailer or an installer may not contract with any person for the installation of any air-conditioning equipment, devices, or components in connection with the installation of a manufactured home unless the person is registered as an installer with the department [~~commissioner~~] or is otherwise licensed by the state as an air-conditioning contractor. This subsection shall not apply to a new manufactured home being installed on a permanent foundation within a municipality which regulates air-conditioning contractors unless some other state statute provides otherwise.

(n) A person may not act as a salesperson of manufactured housing unless the person is registered with the department [~~commissioner~~]. Each applicant for a certificate of registration shall file with the director [~~commissioner~~] an application giving such information as the director [~~commissioner~~] deems necessary and pay the required fee. The owner of a sole proprietorship, a partner in a partnership, or an officer of a corporation which is duly registered as a retailer or broker does not have to register as a salesperson so long as such individual is properly listed in the retailer's or broker's application for registration. The salesperson is the agent of the retailer or broker. The registration shall be an annual registration. A retailer or broker shall not employ, retain, or otherwise use the services of a salesperson who is not registered. A registered salesperson may work or sell for one or more retailers, brokers, or sales locations.

(o) A person may not alter, repair, or otherwise rebuild a salvaged manufactured home, as such term is defined in Section 8 of this Act [~~article~~], unless the person is duly registered with the department [~~commissioner~~] as a manufactured home rebuilder or retailer and unless the person complies with the rules and regulations of the director [~~commissioner~~] relating to the rebuilding of salvaged manufactured homes.

(p) Any person not registered with the department or a predecessor agency [~~commissioner~~] as of September 1, 1987, must attend and complete twenty (20) hours of instruction in the law and consumer protection regulations prior to any registration. The instruction shall be given not less than one time each quarter. No test shall be made a prerequisite of registration, but actual attendance at the instruction sessions is required. The director [~~commissioner~~] shall not issue a registration until the instruction is completed. This subsection does not apply to a registrant making application to register additional business locations or to register as a salesperson. In lieu of this instruction requirement, a manufacturer may request that a one-day, in-plant training session be presented by an authorized representative of the department. The manufacturer shall reimburse the department for the actual costs of the training session.

(q) Notwithstanding any provision of this Act [~~article~~] to the contrary, any state or national bank, state or federal savings and loan association or federal savings bank, or state or federal credit union engaged in the business of selling

or offering for sale, exchange, or lease-purchase manufactured homes that the institution has acquired as a result of repossession of its collateral is not required to attend any school or file any bond or post other security in order to be registered as a retailer.

(r) In lieu of the instruction requirements imposed under Subsection (p) of this section, the director may recognize and approve a one-day training program for installers that is conducted in the field by a private institution or other person.

SECTION 5. Section 7A, Texas Manufactured Housing Standards Act (Article 5221f, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 7A. CONTINUING EDUCATION PROGRAMS. The director [~~commissioner~~] may recognize, prepare, or administer continuing education programs for persons regulated under this Act. Participation in the programs is voluntary.

SECTION 6. Section 8, Texas Manufactured Housing Standards Act (Article 5221f, Vernon's Texas Civil Statutes), is amended by amending Subsections (c), (e), (f), (g), and (h) and by adding Subsection (i) to read as follows:

(c) For purposes of all provisions of this Act [~~article~~] or other laws of this state the term "habitable" as applied to manufactured housing is limited to and means that there is no defect, damage, or deterioration to the home which creates a dangerous or unsafe situation or condition; that the plumbing, heating, and electrical systems are in safe working order; that the walls, floor, and roof are free from any substantial openings not designed and are structurally sound; and that all exterior doors and windows are in place.

(e) The purchaser of a used manufactured home for business use shall not sell, exchange, or lease-purchase the home for use as a dwelling or residence unless a new title to the used manufactured home is issued by the director [~~commissioner~~]. The purchaser may apply to the department for the issuance of a new title. The department shall then inspect the home, and if it is determined that the home is habitable, issue a new title.

(f) A holder of a lien recorded on a manufactured home document of title issued by the department who sells, exchanges, or transfers by a lease-purchase a repossessed manufactured home covered by such document of title is not required to comply with the provisions of this Act [~~article~~], provided that the sale, exchange, or transfer by a lease-purchase is (1) to or through a registered retailer, or (2) to a purchaser for the purchaser's business use. If the sale, exchange, or lease-purchase is to a purchaser for the purchaser's business use, the holder of the lien shall surrender the title to the department for cancellation. If the sale, exchange, or lease-purchase is to or through a registered retailer, the retailer is responsible and liable for compliance with the provisions of this Act [~~article~~] and all rules and regulations of the department, and the holder of the lien shall not be joined as a party in any litigation arising in connection with, or relating to, the sale, exchange, or lease-purchase of the repossessed manufactured home.

(g) For the purposes of this Act, a [(1) A] "salvaged" manufactured home[; for purposes of all provisions of this article, is defined as and] means a manufactured home obtained by a property and casualty insurer from the

insured by reason of the insurer's payment of the policy value written on the home to the insured. The[;the] reasonableness of the insurer's judgment that the costs of repair to the home would exceed the insured value of the home does not affect the status of the home as salvage. [(2)] The person possessing the original document of title to a salvaged manufactured home must surrender such document of title to the director [commissioner] for cancellation of the title and issuance of a salvage title. If the manufactured home is rebuilt in accordance with the provisions of this Act [article] and the rules and regulations of the director [commissioner], the director [commissioner] shall issue, upon proper application, a new original document of title in lieu of the salvage title.

(h) Notwithstanding any provisions of this section to the contrary, the director [commissioner], following a written application by the purchaser or transferee, may expressly authorize in writing a registered retailer to sell or exchange a used manufactured home which is not or may not be habitable to or with governmental housing agencies or authorities or to nonprofit organizations providing housing for the homeless. As a part of the application the purchaser or transferee must certify to the receipt of a written notice that the home is not or may not be habitable. The form of such written notice shall be prepared by the consumer protection division of the attorney general's office and approved by the director [commissioner]. The purchaser or transferee shall not occupy the home or allow the home to be occupied as a residence or dwelling until such time as any necessary repairs to make the home habitable have been completed.

(i) A tax collector is not required to comply with this section or other sections of this Act relating to the sale of a used manufactured home in relation to the sale of a manufactured home for the collection of delinquent taxes. If a manufactured home does not have a serial number, seal, or label, the tax collector may apply to the department for a seal, pay the applicable fee, and recover that fee as part of the cost of the sale of the manufactured home. The seal issued to the tax collector is for identification purposes only and may not be construed to imply that:

(1) the home is habitable; or

(2) the purchaser of the home at a tax sale may obtain a title document from the department without an inspection for habitability.

SECTION 7. Section 9, Texas Manufactured Housing Standards Act (Article 5221f, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 9. ADMINISTRATION AND ENFORCEMENT. (a) The director [commission] is hereby charged with the administration and enforcement of this Act [article].

(b) The director [commissioner] shall adopt rules and regulations, promulgate administrative orders, and take all action necessary to assure compliance with the intent and purpose of this Act to effectuate and to provide for uniform enforcement of all provisions of this Act and of the Texas Manufactured Housing Standards Code. The director [commissioner] shall make and enforce rules and regulations reasonably required to effectuate the notification and correction procedures provided in Section 615 of the National Manufactured Home Construction and Safety Standards Act of 1974.

(c) The director [commissioner] shall adopt rules and regulations,

promulgate administrative orders, and take all actions necessary to comply with the provisions of the National Manufactured Home Construction and Safety Standards Act of 1974 and to provide for the effective enforcement of all HUD-code manufactured home construction and safety standards in order to have its state plan approved by the secretary of the United States Department of Housing and Urban Development. The state plan must provide for the use of ~~[that a manufacturer may, at its option, choose a]~~ third-party inspection agencies ~~[agency that is]~~ approved by the ~~[commission and authorized by the]~~ Department of Housing and Urban Development to act as an ~~[the]~~ In Plant Inspection Agency. ~~[However, the manufacturer may not change from one third-party In Plant Inspection Agency to another without the approval of the commission.]~~

(d) At least 30 days before the adoption or promulgation of any change in or addition to the rules and regulations authorized in Subsections (b) and (c) of this section, the director ~~[commissioner]~~ shall publish in the Texas Register a notice including:

(1) a copy of the proposed changes and additions; and

(2) the time and place that the director ~~[commissioner]~~ will consider any objections to the proposed changes and additions.

(e) After giving the notice required by Subsection (d) of this section, the director ~~[commissioner]~~ shall afford interested persons an opportunity to participate in the rule-making through submission of written data, views, or arguments with the ~~[or without]~~ opportunity to present the same orally on any matter.

(f) Every rule or regulation or modification, amendment, or repeal of a rule or regulation adopted by the director ~~[commissioner]~~ shall state the date it shall take effect.

(g) Immediately after their promulgation, the director ~~[commissioner]~~ shall publish in the Texas Register all rules and regulations or amendments thereto.

(h) ~~[(j)]~~ The director ~~[commissioner]~~ may employ state inspectors to carry out the functions required of the department pursuant to this Act ~~[article]~~, to effectuate the provisions of this Act ~~[article]~~, and to enforce the rules, regulations, and administrative orders promulgated pursuant to this Act ~~[article]~~. The director ~~[commissioner]~~ may authorize state inspectors to travel inside or outside of the state to inspect manufacturing facilities in connection with the enforcement of this Act ~~[article]~~.

(i) ~~[(k)]~~ The director ~~[commissioner]~~ may contract with any federal agency or any agency or political subdivision of any state for the performance of any inspections or inspection programs pursuant to this Act ~~[article]~~ or the rules and regulations of the director ~~[commissioner]~~ to assure that manufactured homes sold or installed in the state comply with the Texas Manufactured Housing Standards Code.

(j) ~~[(l)]~~ The director ~~[commissioner]~~ may enter into contracts with the Department of Housing and Urban Development or its designees to monitor the Department of Housing and Urban Development programs.

(k) ~~[(m)]~~ When necessary or required by law, the director ~~[commissioner]~~ may obtain inspection search warrants.

(l) ~~[(n)]~~ The director ~~[commissioner]~~ may inspect manufactured homes at the borders of this state and adopt rules and regulations necessary for the

inspection of all manufactured homes entering this state to assure compliance with the National Manufactured Home Construction and Safety Standards Act of 1974, the Texas Manufactured Housing Standards Code, and the rules and regulations of the director [~~commissioner~~], and to assure payment of any use tax which may be due the State of Texas.

(m) [~~(o)~~] In order to protect the public health, safety, and welfare, and to assure the availability of low cost manufactured housing for all consumers, the director [~~commissioner~~] shall establish rules and regulations for the protection of the interests of consumers who occupy or desire to purchase or install manufactured housing and for the business conduct of those persons required to be registered under this Act [~~article~~].

SECTION 8. Sections 11(a), (b), (c), (e), and (g), Texas Manufactured Housing Standards Act (Article 5221f, Vernon's Texas Civil Statutes), are amended to read as follows:

(a) There shall be a fee in an amount set by the board [~~commission~~] for the inspection of the installation of mobile and HUD-code manufactured homes which shall be paid by the installer of the home. Said fee shall be paid to the state and shall accompany notification to the department of the exact location of the home. The department shall make appropriate fee distributions to local governmental units performing inspections pursuant to contracts or other official designations provided that the local governmental units are not collecting a local inspection fee.

(b) Looking for guidance to the rules and regulations promulgated under Title VI of the Housing and Community Development Act of 1974 and to that Act itself, the board [~~commission~~] shall set fees for the following functions:

(1) There shall be a schedule of fees for the review of HUD-code manufactured home blueprints and supporting data when the department acts as a Design Approval Primary Inspection Agency. This fee shall be paid by the manufacturer seeking approval.

(2) There shall be an inspection fee on all HUD-code manufactured homes manufactured or assembled within the State of Texas. This fee shall be paid by the manufacturer of the home. The manufacturer shall also be charged for the actual cost of travel for representatives of the department to and from the manufacturing facility.

(3) The fees in Subsections (1) and (2) shall not be applicable when an accepted inspection agency authorized by the Department of Housing and Urban Development, other than the department, acts as the Design Approval Primary Inspection Agency or the In-Plant Inspection Agency.

(4) There shall be a fee charged on an hourly basis for inspection of alterations made upon the structure, plumbing, heating, or electrical systems of HUD-code manufactured homes. This fee shall be paid by the person making the alteration. There shall be a fee for the inspection of the rebuilding of salvaged manufactured homes which shall be paid by the rebuilder. The person making the alteration or the rebuilder shall also be charged for the actual cost of travel for representatives of the department to and from the place of inspection. There shall be a fee for the inspection of used manufactured homes for which the title has been cancelled to determine if the home is habitable for the issuance of a new title.

(5) There shall be a fee for the issuance of seals for used mobile or HUD-code manufactured homes.

(c) The ~~board~~ ~~[commission]~~ shall set fees for the issuance and renewal of manufacturers', retailers', brokers', salespersons', and installers' certificates of registration; and fees for the issuance of rebuilder registrations.

(e) A fee shall be set and charged to the manufacturer or retailer requesting a consumer complaint inspection of the manufactured home pursuant to the provisions of ~~[Subsection (e) of]~~ Section 14 of this ~~Act~~ ~~[article]~~.

(g) The ~~board~~ ~~[commission]~~ shall set the fees imposed under this section in amounts that are reasonable and necessary to defray the costs of administering this ~~Act~~ ~~[article]~~.

SECTION 9. Sections 13 and 13A, Texas Manufactured Housing Standards Act (Article 5221f, Vernon's Texas Civil Statutes), are amended to read as follows:

Sec. 13. SECURITY [REQUIRED]. (a) The ~~department~~ ~~[commissioner]~~ may not issue ~~or renew~~ a certificate of registration~~;~~ unless ~~[the applicant first files]~~ a surety bond or ~~[posts]~~ other security in ~~the~~ ~~[such]~~ form ~~prescribed by~~ ~~[as]~~ the ~~director is filed with the department as provided by~~ ~~[commissioner may prescribe and a written irrevocable designation of the commissioner as agent for service of legal process, which service is made pursuant to Subsection (k) of]~~ this section.

(b) If a surety bond is filed, ~~the~~ ~~[it shall be continuous and remain in effect until cancelled by the surety company with notice as provided in this section. Other security need not be posted annually so long as the applicable amount specified in this section remains posted. If a claim is made against the security causing the security to be lessened, the person posting the security has 20 calendar days in which to post additional security so that compliance may be had with the requirements of this section. If the deficit is not eliminated within 20 days, the certificate of registration of the inadequately covered manufacturer, retailer, broker, or installer is immediately suspended. If a bond is cancelled, the certificate of registration is suspended on the effective date of cancellation.]~~

~~[(c) If other security is posted, the interest from the security shall go to the person posting the security.]~~

~~[(d) The] bond must ~~[shall]~~ be ~~[a surety bond]~~ issued by a company authorized to do business in this state and must conform to applicable provisions of ~~[shall be in conformity with]~~ the Insurance Code. If ~~[The]~~ other security is posted, the other security must be maintained in or by a banking institution located in this state ~~[shall be in such a form as the commissioner may deem appropriate].~~~~

~~[(e)]~~ The bond or other security shall be payable to and for the benefit of the special account established under Section 13A of this Act. ~~[state for the use by a consumer, the state, or any political subdivision thereof who secures any judgment against a manufacturer, retailer, broker, or installer, or a registrant's surety, for damages, restitution, or expenses including reasonable attorney's fees resulting from a cause of action directly related to the sale, lease-purchase, exchange, brokerage, or installation of a manufactured home, including:~~

~~[(1) retention or conversion of money, property, or any other thing of value from consumers in the form of down payments, any sales and use taxes, deposits, or insurance premiums;~~

~~[(2) failure to give proper title documents or certificates of title to consumers;~~

~~[(3) failure to give or the breach of any warranty required by this article or by the Federal Trade Commission or the violation of any requirements of the Texas Credit Code or of the federal Truth-in-Lending Act; or~~

~~[(4) engaging in any false, misleading, or deceptive acts or practices as the term is set forth in and as those acts or practices are declared unlawful by the provisions of Chapter 17, Subchapter E, Business & Commerce Code.~~

~~[(f) The bond or other security shall not be liable for any judgment, or part thereof, resulting from pain and suffering, mental anguish, emotional distress, or any other tort claims except as are recoverable in a deceptive trade practice action pursuant to Chapter 17, Subchapter E, Business & Commerce Code, nor for any punitive, exemplary, or treble damages. A consumer, the state, or any political subdivision thereof may recover against the principal, the surety, or the principal and surety jointly and severally for such damages, restitution, or expenses, provided, however, that in no event shall a surety or the other security posted under this section be liable for an amount in excess of actual damages, restitution, or expenses, including reasonable attorney's fees. Any judgment obtained against a principal is conclusive against the surety or other security if notice of the filing of suit is given as required by this section.]~~

~~(d) The bond or other security shall be open to successive claims up to the amount of the face value of the bond or other required security. The surety shall not be liable for successive claims in excess of the bond amount, regardless of the number of years the bond remains in force.~~

~~[(g) A consumer shall inform the manufacturer, retailer, or installer, and the department in writing of any claim against the bond or security no later than two years after the purchase of the manufactured home. Whenever the department receives notice of a claim against a bond, the commissioner shall promptly notify the bonding company involved. If the consumer claim results in a private lawsuit being filed by the consumer, the consumer shall notify the attorney general's office and the surety company by certified mail of the filing of the lawsuit. At the time of sale or delivery of a new manufactured home to a consumer, the consumer must be given conspicuous written notification of this two-year limit and the notice requirements.]~~

~~(e) [(h)] Any manufacturer, retailer, broker, or installer who maintains a place of business at one or more locations shall file with the department [commissioner] a separate bond or other security for each location. Property used for the business that is not contiguous to, or located within 300 feet of, a bonded location requires a separate bond. Any location at which a manufactured home is shown to the public or at which it is offered for sale, exchange, or lease-purchase by a retailer to consumers is a location which is required to be bonded. A manufactured home installed on a permanent foundation system and offered for sale as real estate is not a business location that requires a bond. A temporary location for a bona fide trade show sponsored by a nonprofit corporation which qualifies for tax exemption pursuant~~

to Section 501(c) of the U.S. Internal Revenue Code is not a location which requires a bond.

(f) [(†)] A manufacturer shall be bonded or post other security in the amount of \$100,000. A retailer shall be bonded or post other security in the amount of \$30,000. A broker shall be bonded or post other security in the amount of \$20,000. An installer shall be bonded or post other security in the amount of \$10,000. A rebuilder shall be bonded or post other security in the amount of \$30,000. In order to assure the availability of prompt and satisfactory warranty service, a manufacturer, which does not have a registered manufacturing plant or other facility in this state from which warranty service and repairs can be provided and made, shall be bonded or post other security in an additional amount of \$100,000. A retailer holding a valid certificate of registration shall not be required to be bonded or file any security to secure a certificate of registration as a broker or an installer. A new bond shall not be required for any change of ownership of a corporation registered with the department [~~commissioner~~] nor for any change of a location; however, a proper endorsement of the original bond may be required by the director [~~commissioner~~].

(g) [(‡)] The bonding company must provide written notification to the director [~~commissioner~~] at least 60 days prior to the cancellation of a surety [~~any~~] bond required by this section. Any other security on file with the department [~~commissioner~~] shall remain on file and be maintained [~~with the commissioner~~] for two years after the person ceases business as a manufacturer, retailer, broker, or installer or at such later time as the director [~~commissioner~~] may determine that no claims exist against the security.

(h) If a bond is canceled, the certificate of registration is suspended on the effective date of cancellation. If a surety files for liquidation or reorganization in bankruptcy or is placed in receivership, the registrant is entitled to 60 days from the date notice of the filing or receivership was received to obtain other security. If the required face amount of any other security is impaired by the payment of a claim, the registrant is entitled to 60 days to restore the security to its required face value.

(i) Subject to the limitations in this section, the bond or other security is liable for, and shall reimburse the recovery fund under Section 13A of this Act, the amount of any claim paid out of the fund by the director to a consumer that resulted from an act or omission of the registrant who filed the bond or other security. Payment by the surety or from the other security shall be made not later than the 30th day from the date of receipt of notice from the director that a consumer claim has been paid. If for any reason the surety or other security fails to make timely payment of a claim to the fund, the attorney general shall file suit for recovery of the amount due the fund. Venue for the suit is in Travis County.

(j) As trustee of the fund, the director shall prepare an informational pamphlet informing the consumers of their rights to recover from the recovery fund. The director may contract with private parties for the printing and distribution of the pamphlets.

[(k)(1) ~~The commissioner may not be served as a registrant's agent for service of legal process unless the service is accompanied by the affidavit of~~

a person legally authorized to serve civil process that service on the registrant has been attempted but has not been possible. The affidavit shall set forth the facts relating to the attempted, but unsuccessful, service.

~~[(2) When served with process as the agent of a registrant, the commissioner shall mail a copy of the affidavit, citation, and petition by certified mail, return receipt requested, to the physical location and the mailing addresses of the registrant and, if applicable, to the registrant's corporate mailing address.]~~

Sec. 13A. ~~[MANUFACTURED HOMEOWNERS']~~ RECOVERY FUND.

(a) There is hereby established a special account in the general revenue fund designated as the manufactured homeowners' recovery fund ("fund"). The fund shall be administered ~~[and managed]~~ by the director ~~[commissioner].~~

(b) No bond or other security shall be required of the director in the director's capacity as administrator of the fund ~~[members of the board of trustees].~~

(c) ~~The [Beginning September 1, 1987, the]~~ department shall charge and collect an additional fee of \$10 for each ~~[and every]~~ title transaction for which it charges a fee. This additional fee shall be deposited in the ~~[special]~~ fund.

(d) The ~~[sums in this]~~ fund, the fees collected for the fund, and income earned from investment of the fund shall be used exclusively for the protection programs set forth in ~~[carrying out the purposes of]~~ this section. Money in the fund ~~[These funds]~~ may be invested and reinvested in the same manner as funds of the ~~[Texas State]~~ Employees Retirement System of Texas. Income from the fund ~~[- and the interest from these investments]~~ shall be deposited to the credit of the fund. No ~~[It is expressly provided, however, that no]~~ investments may ~~[shall]~~ be made that ~~[which will]~~ impair the ~~[necessary]~~ liquidity necessary for payment of the protection programs ~~[required to reimburse consumers]~~ as provided by ~~[it]~~ this section.

(e) Subject to the limitations ~~[and requirements]~~ of Section 13 of this Act ~~[article]~~ and of this section, the fund shall be used to compensate consumers who sustain actual damages resulting from ~~[have]~~ unsatisfied ~~[judgments, or in certain limited circumstances unsatisfied]~~ claims ~~[-]~~ against a manufacturer, retailer, broker, or installer registered with the department if the claims resulted from a violation of:

(1) this Act;

(2) a rule issued by the director;

(3) the National Manufactured Housing Construction and Safety Standards Act;

(4) the rules and regulations of the United States Department of Housing and Urban Development; or

(5) the Deceptive Trade Practices-Consumer Protection Act, Section 17.41 et seq., Business & Commerce Code.

(f) The consumer must file a verified written complaint in the form required by the director not later than the second anniversary of the date of the alleged act or omission causing the actual damages, or the second anniversary of the date the act or omission is discovered or should reasonably have been discovered. Failure to timely file the claim precludes recovery from the fund. On receipt of a properly verified complaint, the department shall notify the

registrants as appropriate and investigate the claim to determine its validity and whether or not the complaint can be resolved by remedial action of the registrants. If there is a dispute between the registrants as to responsibility for the complaint, or between any registrant and the consumer, the department shall conduct an informal dispute resolution process, including a home inspection if appropriate, for a resolution of the disputes. If it is possible to secure the agreement of the parties, the department shall prepare and file with the director a written report of the agreement.

(g) During the informal dispute resolution process, the department shall make a preliminary determination as to the responsibility and liability of the manufacturer, retailer, and installer for claims determined to be valid. The registrants shall be afforded an opportunity to comment on the preliminary determination under consideration by the department before the department makes a final determination. If a registrant is out of business, is no longer registered, or has filed for liquidation or reorganization in bankruptcy, the department shall notify the registrant's surety and give the registrant's surety an opportunity to participate in the informal dispute resolution process. If a registrant or the registrant's surety fails or refuses to participate in the informal dispute resolution process after receiving notice of the claim, the registrant and the registrant's surety are bound by the department's final determination of responsibility and liability, and the department may suspend or revoke the registrant's certificate of registration.

(h) If the disputed claim is not resolved through the informal dispute resolution process, the parties may elect to submit the claim for formal, binding arbitration under Title 9, United States Code. The director by rule shall establish procedures for the binding arbitration process and for the approval and selection of arbitrators.

(i) The fund is not liable for, and the director may not pay, any punitive, exemplary, double, or treble damages, or damages for pain and suffering, mental anguish, emotional distress, or other analogous tort claims. The payment of actual damages is limited to the actual, reasonable costs and expenses, not including attorney's fees, that the consumer has incurred or will incur to correct or resolve the acts or omissions found to be violations as set forth in Subsection (e) of this section. By way of further limitation, a consumer may not be paid more than \$35,000 in actual damages, and attorney's fees, costs, and expenses are limited to 20 percent of the amount of actual damages. Neither the fund nor the director is liable to the consumer if the fund does not have the funds necessary to pay the actual damages and attorney's fees determined to be payable. The director shall record the time and date of receipt of all verified complaints and, as funds become available, the director shall pay the consumer whose claim is the earliest by time and date.

(j) One million dollars shall be reserved in the fund for payment of valid consumer claims. The costs and expenses of the director and the department in administering and managing the fund, keeping books and records, investigating consumer complaints, and conducting the informal dispute resolution process shall be paid out of the fund unless the balance of the fund is less than \$1 million. [~~("registrant") or against the registrant's surety, in one of the following situations:~~

~~[(1) The consumer has obtained a final judgment which is unsatisfied against the registrant, its surety, or the registrant and its surety jointly and severally, or against the registrant only, if the court found that the surety was not liable due to prior payments of valid claims against the bond in an amount equal to, or greater than, the face amount of the applicable bond.~~

~~[(2) The consumer has obtained a judgment against the surety of the registrant which is unsatisfied:~~

~~[(3) The consumer has obtained a judgment against a registrant which has posted other security in lieu of the bond in accordance with Section 13 of this article, and such security is insufficient to satisfy the judgment.~~

~~[(4) The consumer has alleged a claim against the registrant in a lawsuit which has been stayed or discharged as a result of the filing for reorganization or discharge in bankruptcy by the registrant and (1) judgment against the surety is not possible because of the bankruptcy or liquidation of the surety or because the surety has been found by a court of competent jurisdiction not to be liable due to prior payment of valid claims against the bond in an amount equal to, or greater than, the face amount of the applicable bond; or (2) the registrant has posted other security in lieu of the bond.~~

~~[(f)(1) In order to recover from the fund, the consumer must file, in the district courts of Travis County, Texas, an application for an order directing payment out of the fund to which is attached a verified claim. A copy of the application and verified claim must be served on the commission by serving the commissioner:~~

~~[(2) If the consumer has obtained a judgment which is unsatisfied against the registrant and/or its surety as set forth in Subsection (e)(1), (e)(2), or (e)(3) of this section, the verified claim shall contain the following:~~

~~[(A) evidence satisfactory to the court: (1) that the judgment against the registrant, its surety, or the registrant and its surety has been entered; or (2) that the judgment against the registrant only contains a specific finding that the surety has no liability, and that execution has been returned nulla bona, and that a judgment lien has been perfected;~~

~~[(B) the amount of actual damages broken down by category as awarded by the court or jury in the cause which resulted in the unsatisfied judgment, and the amount of attorney's fees, costs, and expenses set forth in the unsatisfied judgment;~~

~~[(C) the amount of payment or other consideration received, if any, from the registrant, the surety, or other security posted with the department; and~~

~~[(D) the amount that may be realized, if any, from the sale of real or personal property or other assets of the judgment debtors liable to be sold or applied in satisfaction of the judgment and the balance remaining due on the judgment after application of the amount which may be realized.~~

~~[(3) If the consumer has alleged a claim as set forth in Subsection (e)(4) of this section and for the reasons set forth therein has not been able to secure a judgment, the verified claim must contain the following:~~

~~[(A) a true copy of all the pleadings in the lawsuit which was stayed or discharged by the bankruptcy court;~~

~~[(B) a complete list of all complaints against the registrant, setting forth the specific acts or omissions complained of which resulted in~~

actual damage to the consumer along with the actual dollar amount necessary to reimburse or compensate the consumer for costs or expenses resulting from the acts or omissions of which the consumer complains;

~~[(C) a true copy of any written agreement which the consumer has entered into with his or her attorney; or a statement as to the oral agreement with the attorney with reference to the payment of legal fees and costs; and~~

~~[(D) true copies of all purchase agreements, warranties, notices, requests for warranty service, service or repair orders, or papers or documents of any kind whatsoever which the consumer received in connection with the purchase, exchange, or lease-purchase of the manufactured home and its warranties from which the consumer's cause of action arises.~~

~~[(g) Within 20 days following receipt of service of the application and verified claim, the commission may enter an appearance on its behalf, file a response, appear at the hearing, cross-examine witnesses, or take whatever other action it deems appropriate that could have been taken in the original action on behalf of, and in the name of, the registrant or surety; in taking such action the commission shall act only to protect the fund from spurious or unjust claims and to assure compliance with the requirements for recovery under this section. If the unsatisfied final judgment on which the consumer's claim is based is a default judgment, the commission is entitled to a trial de novo for a determination of the actual damages, attorney's fees, costs, and expenses for which the fund is liable.~~

~~[(h) The court shall set a hearing on the application at the earliest possible time following 30 days from the date on which the commission was served. Not less than 10 days' notice shall be given the applicant and the commission. The court shall determine from the verified complaint or oral testimony at the hearing the amount of actual damage which is recoverable by the consumer pursuant to the provisions and limitations of Section 13 of this article, and the amount of reasonable attorney's fees, costs, and expenses which the consumer incurred in the litigation which resulted in the judgment or incurred in preparing and prosecuting the litigation which was stayed or discharged by the bankruptcy court and for legal services, costs, and expenses in recovering from the fund. The court shall enter its order specifically setting forth the actual damages and attorney's fees, costs, and expenses which the commission shall pay to the consumer. Under no circumstances shall the order include any punitive, exemplary, or double or treble damages nor damages for pain and suffering, mental anguish, emotional distress, or any other tort claims which are not recoverable against a surety as set forth in Section 13 of this article.~~

~~[(i) Within 30 days following receipt of the order of the court, the commission shall pay to the consumer a sum equal to the amount of actual damages and attorney's fees, costs, and expenses awarded by the court in its order; however, under no circumstances shall any consumer be paid more than \$30,000 in actual damages or an amount in excess of \$15,000 for attorney's fees, costs, and expenses per home. Prior to payment, the consumer shall execute an assignment to the commission of all of the consumer's right, title, and interest in and to the unsatisfied judgment and the judgment lien or the claim against the registrant and surety.~~

~~[(j) The commission shall notify the commissioner of the name of any manufacturer, retailer, broker, or installer named in a judgment which is the basis for a claim against the fund. If the person named is still registered with the department, the commissioner shall immediately suspend the registration, without hearing, by notifying the registrant by certified mail, return receipt requested.~~

~~[(k) The commission, in its discretion, may try to recover from the registrant, the judgment debtor, or its surety any sums paid to consumers from the fund. Any sums recovered shall be deposited to the credit of the fund.]~~

~~[(k) [(H)] The provisions of this section do not apply to, and a consumer shall not recover against the fund as a result of, any claim against a registrant resulting from a cause of action directly related to the sale, lease-purchase, exchange, brokerage or installation of a manufactured home prior to September 1, 1987.~~

~~[(m) The Texas Department of Licensing and Regulation shall serve and act as manager of the fund. The manager shall handle the administrative duties of the fund, keep such books and records as may be required by the commission, cause appearances to be entered in hearings or judicial proceedings as may be necessary to protect the fund from spurious or unjust claims and to assure compliance with the requirements for recovery under this section, pay claims, and invest and reinvest the fund's assets in accordance with instructions from the commission. The manager of the fund shall be paid its reasonable and necessary costs and expenses for the management of the fund; however, such costs and expenses shall only be paid out of the interest earnings of the fund and not from the proceeds of the additional title fee charge or other assets which the fund may recover. The interest earnings from the fund are hereby appropriated and reappropriated to the department.~~

~~[(n) Neither the fund, nor the commission, shall be liable to any consumer for recovery if the fund does not have the funds necessary to pay the amounts awarded by an order of the court. If the fund does not have sufficient assets to pay the consumer, it shall log the time and date of receipt of any order by a court for payment to a consumer. As funds become available, the commission shall pay the consumer whose unpaid order is the earliest by time and date.]~~

SECTION 10. Section 14, Texas Manufactured Housing Standards Act (Article 5221f, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 14. WARRANTIES. (a) The manufacturer shall warrant that each new HUD-code manufactured home is constructed or assembled in accordance with all building codes, standards, requirements, and regulations prescribed by the U.S. Department of Housing and Urban Development pursuant to the provisions of the National Manufactured Home Construction and Safety Standards Act of 1974. The manufacturer shall further warrant that the manufactured home and all appliances and equipment included in the home are free from defects in materials or workmanship.

(b) The manufacturer's warranty provided for in this section must be set forth in a separate written document and is in effect for a period of at least one year from the date of initial installation of the new HUD-code manufactured home at the consumer's homesite.

(c) The manufacturer shall deliver the manufactured home warranty to the retailer at the time of delivery of the home to the retailer along with all

warranties given by the manufacturers of all appliances or equipment installed in the home.

(d) The retailer shall give the consumer a written warranty that the installation of the new HUD-code manufactured home at the initial homesite will be completed in accordance with all standards, rules, regulations, administrative orders, and requirements of the department [~~commissioner~~] and that any appliances or equipment included with the sale of the home to be installed by the retailer have been, or will be, installed in accordance with the instructions or specifications of the manufacturer of the appliance or equipment and are free from defects in materials or workmanship. The retailer's warranty is for a period of one year from the date of initial installation of the home at the consumer's homesite. The retailer shall deliver to the consumer at the time the contract of sale is signed the following:

- (1) the manufacturer's warranty;
- (2) the retailer's warranty;
- (3) the warranties for all appliances and equipment given by the manufacturers of the appliances and equipment included with, or installed in, the home; and
- (4) the name and address of the manufacturer and retailer to which the consumer is to give notice of warranty service requests.

(e) [(1)] The consumer shall notify either the retailer or the manufacturer, or both, if applicable, in writing of the need for warranty service or repairs. Written [~~written~~] notice to the department [~~or to the office of the attorney general~~] constitutes notice to the retailer and manufacturer. The manufacturer or retailer, or both, shall take appropriate corrective action within a reasonable period of time as required by the rules of the department to fulfill their respective written warranty obligations.

(f) [(2)] If the manufacturer or retailer fails to provide warranty service within the reasonable time allowed by the rules of the director [~~commissioner~~], the manufacturer or retailer must show good cause in writing why such service was not provided. Failure to show good cause constitutes sufficient basis for suspension or revocation of the registration.

(g) [(3)] If the consumer is not provided proper warranty service, the consumer may, at any time, without fee, request the department to perform a consumer complaint home inspection.

(h) [(4)] If the manufacturer or retailer believes the consumer's complaints are not covered by the respective warranty, believes that the warranty service was previously properly provided, or has a dispute as to the respective responsibilities pursuant to the warranties, either of them may request the department to perform a consumer complaint home inspection along with payment of the required inspection fee.

(i) [(5)] After receipt of a request for a home inspection, the department shall [~~with~~] perform such inspection within 15 days. Within five days following the inspection, the department [~~commissioner~~] shall mail a written report and orders, if any, to the consumer, manufacturer, and retailer by certified mail, return receipt requested. The report shall detail each of the consumer's complaints, whether or not each complaint is covered by either of the warranties and which warranty. The director [~~commissioner~~] shall issue appropriate orders

to the manufacturer or retailer for correction or repair of the defects and the time allowed, which must be reasonable, for the correction.

(j) [~~(6)~~] The manufacturer and retailer shall comply with the initial report and warranty service orders of the director [~~commissioner~~]. Such orders are not contested cases within the meaning of Chapter 2001, Government Code, [~~the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes)~~] so as to provide an opportunity for an adjudicative hearing prior to compliance.

(k) If the manufacturer or retailer, or both, fails or refuses to provide the warranty service in accordance with the orders of the department following a home inspection, the director [~~commissioner~~] shall set a hearing at which the manufacturer or retailer, or both, shall show cause why the registration should not be suspended or revoked. If, following the hearing, the director [~~commissioner~~] finds that the prior warranty service orders were correct, the failure or refusal of the manufacturer or retailer to comply with the orders is sufficient cause for the suspension or revocation of the registration. If the director [~~commissioner~~] finds that the prior warranty service orders were incorrect in the determination of the respective responsibilities of the manufacturer, retailer, or both, the director [~~commissioner~~] shall enter a final order setting forth [~~(†)~~] the correct responsibilities[;] and [~~(2)~~] the right of either the manufacturer or retailer to indemnification from the other. The director [~~commissioner~~] may also enter an order directing the manufacturer or retailer whose registration is not revoked, or who is not out of business, to perform the warranty service responsibilities of the retailer or manufacturer whose registration is revoked, or who is out of business, by giving the manufacturer or retailer performing such warranty service the right of indemnity against the other. The manufacturer or retailer entitled to indemnification by virtue of an order of the director [~~commissioner~~] pursuant to this subsection is a "consumer" for purposes of Sections 13 and 13A of this Act [~~article~~] and may recover its actual damages [~~costs, expenses,]~~ and attorney's fees from the [~~other party's surety, other security, or the~~] manufactured homeowners' recovery fund.

(l) [~~(†)~~] If the new HUD-code manufactured home is moved from the initial installation site during the term of the warranty period, the manufacturer's and retailer's warranties shall not apply to any defect or damage caused by the move. Conspicuous notice of this provision shall be given the consumer at the time of sale. The burden of proof is placed on the warrantor to establish that the defect is caused by the move.

(m) [~~(g)~~] For all secondary installations not covered by the retailer's warranty as set forth in Subsection (d) of this section and for the installation of all used manufactured homes, the installer shall give the manufactured home owner a written warranty that the installation of the home was done in accordance with all standards, rules, regulations, administrative orders, and requirements of the department [~~commissioner~~].

[~~(h)~~] If a manufacturer is no longer registered with the commissioner or has filed for reorganization or discharge in bankruptcy, the commissioner shall give written notice of this fact to all registered retailers. The retailer must assume liability, and is fully responsible, for the manufacturer's warranty and all warranty service as to any new HUD-code manufactured home constructed by

~~such manufacturer and sold to a consumer by the retailer following receipt of the commissioner's notice. A written notice, as required by the commissioner, must be given to the consumer by the retailer prior to the execution of a binding deposit agreement or retail installment sales contract. The retailer is entitled to indemnity from the manufacturer's surety or other security, and from the manufactured homeowners' recovery fund, for all warranty service performed pursuant to the manufacturer's warranty; in this situation the retailer is a "consumer" for purposes of recovery against the surety and the fund pursuant to the provisions of Sections 13 and 13A of this article. Nothing contained in this subsection authorizes a retailer to purchase new HUD-code manufactured homes from an unregistered manufacturer in violation of Section 6(h) of this article.]~~

SECTION 11. Section 17, Texas Manufactured Housing Standards Act (Article 5221f, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 17. PENALTIES; JUDICIAL REVIEW. (a) A person, individual, or director, officer, or agent of a corporation who knowingly and wilfully violates a provision of this Act or any rule, regulation, or administrative order of the department [~~commissioner~~] in a manner that threatens the health or safety of any purchaser or consumer commits a Class A misdemeanor and on conviction shall be fined not more than \$2,000 or shall be confined in the county jail not longer than one year or both.

(b) In addition to the injunctive relief set forth in Section 18 of this Act [~~and notwithstanding the monetary limits of penalties established by Section 17, Article 9100, Revised Statutes~~], a person who fails to obtain or maintain a registration as required by this Act [~~article~~] may be assessed a civil penalty by the director [~~commissioner~~] payable to the state in an amount not to exceed \$10,000 for each violation of this Act [~~article~~] in addition to the reasonable attorney's fees, court costs, witness fees, investigative costs, and deposition expenses.

(c) Failure by a manufacturer, installer, or retailer to comply with the warranty provisions of this Act [~~article~~] or any implied warranties or the violation of any provision of this Act [~~article~~] by any person is a deceptive trade practice in addition to those practices delineated in Chapter 17, Subchapter E, Business & Commerce Code and is actionable as provided by that [~~pursuant to said~~] subchapter. As such, the venue provisions and all remedies available in that [~~said~~] subchapter apply to and are cumulative of the remedies in this Act [~~article~~]. However, notwithstanding any provisions of law to the contrary, a lawsuit containing allegations that the manufacturer, installer, or retailer failed to perform warranty obligations or failed to comply with any written or implied warranties shall be abated, provided that a plea in abatement is filed with the court not more than 45 days following the answer date of the movant, if the manufacturer, installer, or retailer requests a consumer complaint inspection pursuant to the provisions of Section 14 of this Act [~~article~~]. The abatement shall continue until the department has performed a consumer complaint inspection and the retailer, manufacturer, or both, or the installer, has been given an opportunity to comply with the inspection report, determinations, and orders of the director [~~commissioner~~]; however, the abatement shall not be granted for a period in excess of 150 days. A consumer's refusal to allow the manufacturer,

installer, or retailer to perform warranty service pursuant to the inspection report, determinations, or orders of the director [~~commissioner~~] is a bar to any cause of action relating to alleged failure to comply with any written or implied warranties or perform warranty service.

(d) Judicial review of an order, decision, or determination of the director shall be instituted by filing a petition with a district court in Travis County as provided by Chapter 2001, Government Code.

SECTION 12. Sections 18(a)-(f), Texas Manufactured Housing Standards Act (Article 5221f, Vernon's Texas Civil Statutes), are amended to read as follows:

(a) Any waiver by a consumer of the provisions of this Act [~~article~~] is contrary to public policy and is unenforceable and void.

(b) The provisions of all laws, parts of laws, ordinances, rules or regulations which are in conflict with any of the provisions of this Act [~~article~~] are superseded and preempted to the extent of such conflict. The proper giving of the warranties and notices by the seller as required by the provisions of Section 8 and Section 14 of this Act [~~article~~] is a valid disclaimer of any implied warranties of fitness for a particular purpose or of merchantability as described in Chapter 2, Business & Commerce Code. The failure to give the warranties and notices required by the provisions of Section 8 and Section 14 of this Act [~~article~~] is a deceptive trade practice in addition to those set forth in Section 17.50, Business & Commerce Code.

(c) If any provision of this Act [~~article~~] or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this Act [~~article~~] which can be given effect without the invalid provision or application, and to this end the provisions of this Act [~~article~~] are declared to be severable. This Act [~~article~~] shall be liberally construed in its entirety to accomplish the purposes set forth in Section 2 of this Act.

(d) If a retailer, broker, or installer does not possess a valid certificate of registration at the time of entering into any contract with a consumer, the contract between the consumer and the retailer, broker, or installer is voidable within two years from the date of the purchase of the manufactured home at the option of the consumer. A consumer's contract for the purchase, exchange, or lease-purchase of a new manufactured home is also voidable within two years from the date of the purchase of the manufactured home, if the retailer purchased the home from an unregistered manufacturer in violation of Section 6, Subsection (h) of this Act [~~article~~].

(e) Nothing in this Act [~~article~~] shall be construed to modify or amend any provisions of The Real Estate License Act, as amended (Article 6573a, Vernon's Texas Civil Statutes). The provisions of this Act [~~article~~], as amended, shall not apply to a person licensed as a real estate broker or salesman pursuant to The Real Estate License Act, as amended (Article 6573a, Vernon's Texas Civil Statutes), who, as agent of the buyer or seller, negotiates the sale or lease of a manufactured home and the real property to which it is affixed; provided that the ownership of the manufactured home and real property are of record in the same person and that such sale or lease shall be in a single real estate transaction.

(f) Notwithstanding any provisions of any other statute, regulation, or ordinance to the contrary, a registered retailer or registered installer is not required to secure any permit, certificate, or license or pay any fee for the transportation of manufactured housing to the place where it is to be installed except as required by the department or by the Texas [State] Department of [~~Highways and Public~~] Transportation pursuant to Article 6701-1/2, Title 116, Revised Statutes. The department shall cooperate with the Texas [State] Department of [~~Highways and Public~~] Transportation by providing current lists of registered manufactured housing manufacturers, retailers, and installers.

SECTION 13. Section 19, Texas Manufactured Housing Standards Act (Article 5221f, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 19. MANUFACTURED HOME TITLES. (a) In this section:

(1) "Debtor" has the same meaning as given it by Section 9.105(a)(4), Business & Commerce Code.

(2) "Document of title" means a written instrument issued solely by and under the authority of the director [~~commissioner~~] that sets forth:

(A) the name and address of the purchaser and seller at the first retail sale, or the transferee and transferor at any subsequent sale or transfer;

(B) the manufacturer's name and address and, if any, the model designation;

(C) in accordance with applicable rules of the director [~~commissioner~~], the outside dimensions of the manufactured home when installed for occupancy exclusive of the tongue or other towing device as measured to the nearest one-half of one foot at the base of the home, and the approximate square footage of the home when installed for occupancy;

(D) the identification number or numbers for each section or module of the manufactured home;

(E) the county of this state in which the manufactured home is installed for occupancy;

(F) the dates of any liens, and the names and addresses of the lienholders, in chronological order of recordation, and if no liens are registered or recorded on the manufactured home, a statement of that fact;

(G) the signature of the owner signed with pen and ink on receipt of the certificate;

(H) that if a husband and wife file, with the application for document of title, an agreement signed by both providing that the manufactured home is to be held jointly with rights of survivorship, the director shall [~~commissioner will~~] issue the document of title in both names; and

(I) any other data the director [~~commissioner~~] requires.

(3) "First retail sale" means the initial acquisition by a consumer of a new manufactured home by purchase, exchange, or lease-purchase from a retailer and includes a bargain, sale, transfer, or delivery with intent to pass an interest other than a lien, to a manufactured home for which a document of title has not been previously issued by the director [~~commissioner~~].

(4) "Identification number" means the permanent number affixed to, or imprinted on, a manufactured home or section of the home as prescribed by the rules of the department [~~commissioner~~].

(5) "Inventory" has the meaning given it by Section 9.109(4), Business & Commerce Code, as amended.

(6) "Lien" means a security interest that is created by any kind of lease, conditional sales contract, deed of trust, chattel mortgage, trust receipt, reservation of title, or other security agreement of whatever kind or character if an interest, other than an absolute title, is sought to be held or given in a manufactured home, and any lien on a manufactured home that is created or given by the constitution or a statute.

(7) "Manufacturer's certificate" means a document, or a form prescribed by the director [~~commissioner~~], that shows the original transfer of a manufactured home from the manufacturer to the retailer, and if presented with an application for a document of title, the certificate must show, on a form prescribed by the director [~~commissioner~~], each subsequent transfer between retailers and retailer to owner.

(8) "Mortgagee" means a secured party or any other person who holds a lien on a manufactured home.

(9) "Mortgagor" means a debtor or other person who gives a lien on a manufactured home, any person who agrees that a lien may be retained on the home or any part of it, or any person against whom a lien arises under the constitution or a statute.

(10) "Secured party" has the meaning given it by Section 9.105(a)(13), Business & Commerce Code.

(11) "Security interest" has the meaning given it by Section 1.201(37), Business & Commerce Code.

(12) "Security agreement" has the meaning given it by Section 9.105(a)(12), Business & Commerce Code.

(13) "Subsequent sale" means a bargain, sale, transfer, or delivery with intent to pass an interest, other than a lien, to a manufactured home from a person to another person subsequent to the first retail sale and initial issuance of a document of title.

(b) The director [~~commissioner~~] shall prescribe forms and adopt rules relating to manufacturer's certificates, to applications for documents of title, and to the issue of documents of title at the first retail sale and for each subsequent sale or transfer of a manufactured home.

(c) [(+)] At the first retail sale, the retailer and purchaser shall apply for the issuance of a document of title. As a part of the application, the retailer shall surrender the original manufacturer's certificate. At a subsequent sale or transfer the seller and purchaser, or the transferor and transferee, shall apply for the issuance of a new document of title. As a part of the application, the seller or transferor shall surrender the original document of title.

(d) [(2)] The department [~~commissioner~~] may not refuse to issue a document of title, and may not suspend or revoke a document of title, unless:

(1) [(A)] the application contains any false or fraudulent statement, [~~or~~] the applicant has failed to furnish information required by the director [~~commissioner~~], or the applicant is not lawfully entitled to the issuance of a document of title;

(2) [(B)] the director [~~commissioner~~] has reasonable basis to believe that the manufactured home has been stolen or unlawfully converted, or the

issuance of a document of title would constitute a fraud against the rightful owner or a lienholder;

(3) ~~[(C)]~~ the director ~~[commissioner]~~ has reasonable basis to believe that the manufactured home is "salvaged" as defined in Section 8 of this Act ~~[article]~~ and a salvage title has not been applied for;

(4) ~~[(D)]~~ the required fee has not been paid;

(5) ~~[(E)]~~ the state sales and use tax has not been paid in accordance with the provisions of Chapter 158, Tax Code, and its subsequent amendments, and Subsection (j) ~~[(H)]~~ of this section; or

(6) ~~[(F)]~~ a local tax lien has been filed and recorded pursuant to Section 32.015, Property Tax Code.

(e) ~~[(3)]~~ If the director ~~[commissioner]~~ refuses to issue, or suspends or revokes, a document of title, written notice of such action must be given by certified mail to the seller and purchaser, or transferor and transferee, and to the holder of a lien or security interest of record. Such action by the director ~~[commissioner]~~ is a contested case under Chapter 2001, Government Code ~~[within the meaning of the Administrative Procedure and Texas Register Act, as amended (Article 6252-13a, Vernon's Texas Civil Statutes)]~~. Notice of the appeal and request for hearing must be filed with the director ~~[commissioner]~~ within 30 days following notice of the director's ~~[commissioner's]~~ action.

(f) ~~[(4)]~~ If there are no liens registered or recorded, the department ~~[commissioner]~~ shall issue a document of title marked "ORIGINAL" on its face and shall send the original by first class mail to the purchaser or transferee at the address on the application. If a lien is shown in the application or recorded with the department, the department ~~[commissioner]~~ shall issue a document of title marked "ORIGINAL" on its face and send the original by first class mail to the first lienholder. The department ~~[commissioner]~~ shall mail, first class, a copy of the document of title conspicuously marked "NONTRANSFERABLE COPY" on its face to the purchaser or transferee and any other lienholder at the address shown on the application.

(g) ~~[(5)]~~ The owner designated in the original document of title must transfer the title on a form prescribed by the director ~~[commissioner executed before a notary public]~~ and must file the form with the department before a manufactured home may be conveyed, transferred, or otherwise disposed of at a subsequent sale. The form must include any information the director ~~[commissioner]~~ requires and must include a statement ~~[an affidavit]~~ that the person signing is the owner of the manufactured home and that there are no liens on the home except a lien shown on the document of title ~~[or described in the affidavit]~~. A title to a manufactured home may not pass or vest at a subsequent sale until the transfer is executed as provided by this section and an application for the issuance of a new document of title is sent to the department.

(h) ~~[(6)]~~ When the ownership of a manufactured home in this state is transferred by operation of law, as in an inheritance, a devise, or a bequest, bankruptcy, receivership, judicial sale, or any involuntary divestiture of ownership, the department ~~[commissioner]~~ shall issue a new document of title when the department is provided with a certified copy of the order or bill of sale from an officer making a judicial sale, or the order appointing a temporary

administrator, the probate proceedings, the letters testamentary, the letters of administration, or an affidavit by all of the heirs at law showing that no administration is necessary and showing in whose name the certificate should be issued. If a security interest or other lien is foreclosed in accordance with law by nonjudicial means and the secured party or other mortgagee files an affidavit with the department showing the nonjudicial foreclosure in accordance with law, the department ~~[commissioner]~~ may issue a new document of title in the name of the purchaser at the foreclosure sale. If the foreclosure is of a constitutional or statutory lien and the person entitled to the lien ~~[mortgagee]~~ files an affidavit showing the creation of the lien and of the divestiture of title because of the lien in accordance with law, the department ~~[commissioner]~~ may issue a new document of title in the name of the purchaser. If an agreement providing for right of survivorship is signed by the husband and wife and if on the death of either spouse the department is provided with a copy of the death certificate of the deceased spouse, the department ~~[commissioner]~~ shall issue a new document of title to the surviving spouse.

(i) ~~[(g)]~~ If an original document of title is lost or destroyed, the owner or lienholder may obtain a certified copy of the original from the department by making an affidavit on a form prescribed by the director. The department ~~[commissioner; but the commissioner]~~ shall issue the certified copy only to the first lienholder if a lien is disclosed on the original. The certified copy shall be conspicuously marked "CERTIFIED COPY OF ORIGINAL" on its face. If the original is recovered, the owner or lienholder shall immediately surrender the original to the department with the certified copy of the original document of title, and the department ~~[commissioner]~~ shall issue a new original document of title.

(j) ~~[(h)]~~ The department may ~~[commissioner shall]~~ not issue titles to new manufactured homes installed for use and occupancy in this state unless the state sales and use tax has been paid. Proof of payment may be shown in any manner as may be prescribed at the discretion of the department.

(k) ~~[(i)]~~ A lien on the manufactured homes in the inventory is perfected by filing a security agreement with the department in a form that contains the information the director ~~[commissioner]~~ requires. Once perfected, the lien applies to the manufactured homes in the inventory as well as to any proceeds of the sale of those homes. Failure to pay or satisfy any inventory lien filed and recorded against a manufactured home pursuant to the terms of the security agreement by the retailer is sufficient cause to revoke or suspend the retailer's registration with the department ~~[commissioner]~~.

(l) ~~[(j)]~~ If a manufactured home is permanently affixed to real estate ~~[by installation on a permanent foundation, as defined by the department]~~, the manufacturer's certificate or the original document of title may be surrendered to the department for cancellation. The legal description or the appropriate tract or parcel number ~~[address and location]~~ of the real estate must be given to the department when the certificate or document of title is surrendered. The director ~~[commissioner]~~ may require the filing of other information. The department ~~[commissioner]~~ may not cancel a manufacturer's certificate or a document of title if a lien has been registered or recorded on the manufactured home. If a lien has been registered or recorded, the department ~~[commissioner]~~

shall notify the owner and each lienholder that the title and a description of the lien have been surrendered to the department and that the department may [~~commissioner will~~] not cancel the title until the lien is released. Permanent attachment to real estate does not affect the validity of a lien recorded or registered with the department before the manufactured home is permanently attached. The rights of a prior lienholder pursuant to a security agreement or the provisions of a credit transaction and the rights of the state pursuant to a tax lien are preserved. The department shall issue a certificate of attachment to real estate to the person who surrenders the manufacturer's certificate or document of title. The certificate or document must contain the legal description or the appropriate tract or parcel number of the real estate and the identification number of the home, and must certify that the manufacturer's certificate or original document of title has been canceled.

(m) [(*)] The registration and recordation of a lien with the department is notice to all persons that the lien exists. Liens recorded or registered with the department have priority, in the chronological order of recordation, over other liens or claims against the manufactured home, other than as expressly provided by Chapter 32, Tax Code.

(n) [(†)] Notwithstanding any other provisions of this section, the filing of a security agreement by a secured party perfecting a lien in the inventory of a retailer may [~~shall~~] not prevent a buyer in the ordinary course of business as defined by Sections 1.201(9) and 9.307(a) of the Business & Commerce Code from acquiring good title free and clear of such interest, and the department may [~~commissioner shall~~] not consider such security interest as a lien for the purpose of title issuance.

(o) [(‡)] The department [~~commissioner~~] shall furnish each county tax assessor-collector in this state a quarterly report that lists the name of the owner of each manufactured home installed in the county during the preceding calendar quarter, the name of the manufacturer, the model designation, the identification number of each section or module, and the address or location where the manufactured home is installed. The report shall include the same information for all manufactured homes previously installed in the county for which a transfer of ownership was recorded by the issuance of a document of title during the quarter. The director [~~commissioner~~] shall furnish a copy of the report to the chief appraiser of the appraisal district established for the county in which the manufactured home is installed.

(p) This Act supersedes [(‡)] ~~The express provisions of this article supersede~~ any conflicting provisions of the Business & Commerce Code; otherwise, the provisions of the Business & Commerce Code apply to transactions relating to manufactured housing.

(q) [(‡)] A certificate of title to a manufactured home issued pursuant to the Certificate of Title Act, as amended (Article 6687-1, Vernon's Texas Civil Statutes), before March 1, 1982, is subject to this Act [~~article~~]. A lien registered or recorded with the Texas [~~State~~] Department of [~~Highways and Public~~] Transportation or a predecessor agency of that department before March 1, 1982, for the purposes of this Act [~~article~~] is registered or recorded with the department.

(r) [(‡)] Each month the Texas [~~State~~] Department of [~~Highways and Public~~] Transportation shall send the department either a copy of each permit

issued in the preceding month for the movement of manufactured housing on the highways or a list of the permits issued and the information on the permits. The department shall pay the reasonable cost of providing the copies or the list and information.

(s) [(q)] The director [commissioner] shall adopt rules consistent with this Act [article] for the titling of a manufactured home that has been previously registered or titled in this state or any other state. The rules must protect a lienholder recorded on a certificate or document of title.

(t) [(r)] The board [commission] shall set fees for issuing and cancelling titles to manufactured housing. The fees [which] shall include \$10 for each title transaction which shall be [paid to the State Treasury and] deposited in a special account [fund] to be known as the manufactured homeowners' recovery fund and used for the purposes established under Section 13A of this Act. [The unexpended balance in the manufactured homeowners' recovery fund on September 1, 1989, and \$10 of each title transaction fee collected after that date are hereby appropriated and reappropriated to the commission for payment of claims pursuant to Section 13A of this article.] The balance of the fee for each title transaction is hereby appropriated, and reappropriated, to the department in addition to its general appropriation to be used exclusively for enforcement of this Act [article].

(u) [(s)] The department shall print on every document of title issued [by the commissioner] under this section a notice that the document of title may not reflect the existence of a tax lien notice filed for the manufactured home since the document of title was issued and that information about tax liens for which notice has been filed may be obtained from the department on written request.

(v) [(t)] On the written request of a person containing the name of the owner of a manufactured home having a document of title or the identification number of a manufactured home, the department [commissioner] shall furnish information held by the department on the current ownership of the manufactured home and the existence of any tax liens on the manufactured home for which notice has been filed with the department.

(w) [(u)] The department [commissioner] shall cancel titles to manufactured homes which have been sold, exchanged, or lease-purchased to purchasers for the purchasers' business use. New titles may be issued on proper application following an inspection and determination that the home is habitable. The department [commissioner] shall issue salvage titles for salvaged manufactured homes, as defined in Section 8 of this Act [article], and may issue new titles if the new home is rebuilt pursuant to the rules and regulations of the director [commissioner].

SECTION 14. Section 20, Texas Manufactured Housing Standards Act (Article 5221f, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 20. NOTICE TO CONSUMERS BEFORE TITLE TRANSFER. (a) A retailer or manufacturer shall not transfer title to a HUD-Code manufactured home nor otherwise sell, assign or convey a HUD-Code manufactured home to a consumer without delivering the formaldehyde health notice required by this section subject to applicable rules of the director [commissioner]. The notice shall be delivered to the consumer prior to the execution of any mutually binding sales agreement or retail installment sales contract.

(b) The content of the notice shall be the same as required by the U.S. Department of Housing and Urban Development and of such type, size, and format as prescribed by the director [~~commissioner~~]. A retailer or manufacturer shall not vary the provisions or form of the notice; it is sufficient and adequate, as a matter of law, to advise consumers of the risks of occupying the home. The consumer's written acknowledgement of receipt of the notice is conclusive proof of the delivery of the notice and the posting of the notice in compliance with federal regulations.

(c) The knowing and willful failure of a retailer or a manufacturer to comply with the applicable regulations of the U.S. Department of Housing and Urban Development and of the director [~~commissioner~~] is conclusive that such person breached the duty to notify the consumer about formaldehyde and that the home is not habitable; compliance with such applicable regulations by a retailer or a manufacturer is conclusive that the consumer received sufficient and adequate notice of the risks of occupying the home and that the home is habitable as regards formaldehyde emissions.

(d) The knowing and willful failure of a retailer or a manufacturer, from September 1, 1981, to September 1, 1985, to comply with the applicable provisions of this section [~~Section 20, Texas Manufactured Housing Standards Act (Article 5221f, Vernon's Texas Civil Statutes);~~] and the revised formaldehyde warning as promulgated by the department continues to be conclusive that such person breached the duty to notify the consumer about formaldehyde and that the home is not habitable; compliance, from September 1, 1981, to September 1, 1985, with the applicable provisions of this section [~~Section 20, Texas Manufactured Housing Standards Act (Article 5221f, Vernon's Texas Civil Statutes);~~] and the revised formaldehyde warning as promulgated by the department continues to be conclusive that the consumer received sufficient and adequate notice of the risks of occupying the home and that the home is habitable as regards formaldehyde emissions.

SECTION 15. Title 1, Property Code, is amended by adding Chapter 2 to read as follows:

CHAPTER 2. NATURE OF PROPERTY

Sec. 2.001. MANUFACTURED HOUSING. (a) Except as provided by Subsection (b), a manufactured home is personal property.

(b) A manufactured home is real property if:

(1) the home is permanently attached to real property; and
(2) the manufacturer's certificate of origin or the original document of title is surrendered for cancellation and a certificate of attachment described by the Texas Manufactured Housing Standards Act (Article 5221f, Vernon's Texas Civil Statutes) is filed in the real property records of the county in which the home is located.

(c) In this section, "manufactured home" has the meaning assigned by the Texas Manufactured Housing Standards Act (Article 5221f, Vernon's Texas Civil Statutes).

(d) This section does not affect or change the classification of a manufactured home as personal or real property if the manufactured home was permanently affixed to real property before January 1, 1996.

SECTION 16. Subsection B, Article 6701-1/2, Revised Statutes, is amended by amending Subdivision (1) and adding Subdivision (3) to read as follows:

B. (1) The application for a permit and the permit shall be in the form as prescribed by the Texas [State] Department of [Highways and Public] Transportation; however, the permit must contain the complete identification or serial number or the Department of Housing and Urban Development label number or state seal number of the manufactured home, the name of the owner of the home, the location from which the home is being moved, the location to which the home is being delivered, and the overall length, width, and height of the [manufactured] home and the towing vehicle in combination. The overall combined length of the manufactured home and the towing vehicle shall include the length of the hitch or towing device. The height shall be measured from the roadbed to the highest elevation of the manufactured home. The width of the home or section shall include any roof or eave extension or overhang on either side.

(3) If the movement of a manufactured home under a permit issued by the Texas Department of Transportation begins or ends in a county in this state, the department shall send on a quarterly basis a copy of the permit, or furnish the essential information in the permit, to the chief appraiser of the appraisal district for each county in which the movement begins or ends.

SECTION 17. Subsection C, Article 6701-1/2, Revised Statutes, is amended to read as follows:

C. (1) The Texas [State] Department of [Highways and Public] Transportation shall only issue permits to persons registered as manufacturers, installers, or retailers with the Texas Department of Housing and Community Affairs [commissioner of licensing and regulation] or motor carriers registered with the [certificated for the transportation of manufactured housing by the Railroad Commission of] Texas Department of Transportation [or the Interstate Commerce Commission] except as otherwise expressly authorized by this section. The registration number or the motor carrier [certificate] number of the person to whom the permit is issued shall be affixed to the rear of the manufactured home during transportation with letters and numbers which are at least eight (8) inches in height.

(2) The Texas [State] Department of [Highways and Public] Transportation may issue single trip permits to owners of manufactured homes provided that the ownership of the manufactured home and of the towing vehicle is shown to be the same person by the title to the home and to the towing vehicle or that a lease duly filed pursuant to Chapter 209, Acts of the 53rd Legislature, Regular Session, 1953 (Article 6701c-1, Vernon's Texas Civil Statutes), shows the owner of the manufactured home to be the lessee of the towing vehicle. Single trip permits may also be issued to installers registered with the Texas Department of Housing and Community Affairs [Labor and Standards] for the transportation of manufactured homes over routes between points when such transportation would be excluded from regulation under Chapter 314, Acts of the 41st Legislature, Regular Session, 1929 (Article 911b, Vernon's Texas Civil Statutes). The owner or installer must have proof of insurance coverage in force as required in Section H of this article.

SECTION 18. Subsection D, Article 6701-1/2, Revised Statutes, is amended to read as follows:

D. A fee of Sixteen [Fifteen] Dollars (\$16) [(\$15) for each permit] shall be collected by the Texas [State] Department of [Highways and Public] Transportation. One Dollar (\$1) shall be deposited to the credit of the state highway fund and Fifteen Dollars (\$15) shall be [and] deposited in the Treasury of the State of Texas to the credit of the General Revenue Fund. Sections 403.094(h) and 403.095, Government Code, do not apply to funds deposited in the state highway fund under this subsection. The [On application said] department may [shall] issue permit books [or packets containing twenty (20) individual permits provided that the aggregate fee of Fifteen Dollars (\$15) per permit is received with such application. The book-type permit can be used for the movement of any manufactured home regardless of width, length, or height], and route approval may [can] be secured by telephone from the issuing office along with any required validation number for the permit. In lieu of the permit books [or packets], the [said] department may establish an escrow account for the payment of permit fees.

SECTION 19. Subsection E(1), Article 6701-1/2, Revised Statutes, is amended to read as follows:

(1) Except as otherwise provided by this subdivision, all [AH] manufactured homes which exceed twelve (12) feet in total width shall have one rotating amber beacon of not less than eight (8) inches mounted somewhere on the roof at the rear of the manufactured home. In addition the towing vehicle shall have one rotating amber beacon of not less than eight (8) inches mounted on top of the cab. These beacons shall be operational during any permitted move over the highways, roads, and streets of this state. Instead of a roof beacon, two (2) five-inch flashing amber lights may be mounted approximately six (6) feet from ground level at the rear corners of the manufactured home.

SECTION 20. Section 32.014(a), Tax Code, is amended to read as follows:

(a) A tax lien to secure the payment of a tax and any penalties and interest imposed on a manufactured home does not attach to the real property on which the manufactured home is located, even if the manufactured home is affixed to the real property by installation on a permanent foundation, if on the January 1 on which the tax is imposed, the manufactured home is subject to a lien of record on a document of title issued on the manufactured home by the Texas Department of Housing and Community Affairs [commissioner of licensing and regulation]. If such a lien is not of record on January 1 and the ownership of the manufactured home and the real property is the same, the manufactured housing may be appraised and taxed as an improvement to real property, notwithstanding any other law relating to the classification of manufactured housing as real or personal property.

SECTION 21. Section 32.015, Tax Code, is amended to read as follows:

Sec. 32.015. RECORDING TAX LIEN ON MANUFACTURED HOME.

(a) The collector for a taxing unit may file notice of the unit's tax lien on a manufactured home with the department [Texas Department of Licensing and Regulation] if the tax has not been paid by January 31 of the year following the year for which the tax is imposed [assessed]. The notice must include:

- (1) the name and address of the owner of the manufactured home; and
- (2) the amount of tax owed, the tax year for which the tax was imposed, and the name of the taxing unit that imposed the tax; and
- (3) the complete [correct] identification number or serial number of the manufactured home, or the Department of Housing and Urban Development label number or state seal number.

(b) The collector may simultaneously file notice of tax liens of all the taxing units served by the collector. However, notice of any lien for taxes for the prior calendar year must be filed with the department [Texas Department of Licensing and Regulation] prior to September 1 of the following year. Any lien for which the notice is not filed by such date is extinguished and is not enforceable.

(c) If the complete identification or serial number or the Department of Housing and Urban Development label number or state seal number of the home on the tax lien notice matches that of a [the] title of record, the department [Texas Department of Licensing and Regulation] shall record the tax lien on the title records of the manufactured home. Simultaneously with the recording of a tax lien, the department [Texas Department of Licensing and Regulation] must mail a notice of the tax lien to any other lienholders of record.

(d) The department shall record the tax lien under Subsection (c) even if the person listed as the owner on the department's title records is not the person who owned the manufactured home on the date that the tax was imposed. Recording of the tax lien does not invalidate a title document or a certificate of title for the manufactured home that was previously issued by the department.

(e) ~~[(d)]~~ For all manufactured homes sold, or to which ownership is transferred, after December 31, 1985, the recording of a tax lien under this section constitutes constructive notice of the existence of the tax lien to all purchasers of the manufactured home who purchase it after the date of recordation of the lien and before a tax certificate or paid tax receipt is filed pursuant to Subsection (g) ~~[(e) of this section canceling the lien]~~.

(f) When the ownership of a manufactured home is transferred, the subsequent owner and the lienholder of the home is considered to have notice of the ad valorem taxes imposed on the home for the current tax year or for the previous tax year if the time for filing a notice of a tax lien under Subsection (b) has not expired.

(g) ~~[(e)]~~ On payment of the taxes, penalties, and interest for a year for which a valid tax lien has been recorded on the title records of the department [Texas Department of Licensing and Regulation], the collector for the taxing unit shall issue a tax certificate showing no taxes due or a tax paid receipt for such year to the person making payment. When the tax certificate showing no taxes due or tax paid receipt is filed with the department [Texas Department of Licensing and Regulation], the tax lien is extinguished and canceled and shall be removed from the title records of the manufactured home. The collector for a taxing unit may not refuse to issue a tax paid receipt to the person who offers to pay the taxes, penalties, and interest for a particular year or years, even though taxes may also be due for another year or other years.

(h) If a manufactured home for which a notice of a tax lien is timely filed does not have a title recorded on the records of the department, the tax lien is

not extinguished and is enforceable. ~~[(f) The provisions of this section shall not apply to a taxing unit, or any lien filed by a taxing unit, which regulates manufactured housing for siting or zoning purposes in a manner which is different from such regulation of site-built housing.]~~

(i) ~~[(g)]~~ In this section, "department," "label," "seal," and "manufactured home" ~~have~~ has the meanings ~~[meaning]~~ assigned by ~~[Subsection (s),]~~ Section 3, Texas Manufactured Housing Standards Act (Article 5221f, Vernon's Texas Civil Statutes); however, the term "manufactured home" does not include a ~~[apply to any]~~ manufactured home ~~that~~ which has been attached to real property ~~[estate]~~ and for which the document of title has been canceled under ~~[pursuant to Subsection (j) of]~~ Section 19(1) ~~of that Act~~ [said Act].

SECTION 22. Section 32.03(b), Tax Code, is amended to read as follows:

(b) A bona fide purchaser for value or the holder of a lien recorded on the manufactured home document of title is not required to pay any taxes, penalties, or interest except for those years for which a valid tax lien has been duly filed and recorded under ~~[pursuant to the provisions of]~~ Section 32.015 of this code and those years for which the owner of the manufactured home has constructive notice of the taxes under Section 32.015(e) of this code. In this section, ~~[A]~~ "manufactured home" has the meaning assigned by ~~[set forth in]~~ Section 32.015(i) ~~[32.015(g)]~~ of this code.

SECTION 23. Section 2306.021(b), Government Code, is amended to read as follows:

- (b) The department is composed of:
- (1) the community affairs division;
 - (2) the housing finance division; ~~and~~
 - (3) the manufactured housing division; and
 - (4) any other division created by the director.

SECTION 24. Chapter 2306, Government Code, is amended by adding Subchapter Y to read as follows:

SUBCHAPTER Y. MANUFACTURED HOUSING DIVISION

Sec. 2306.601. REGULATION AND ENFORCEMENT. The department shall administer and enforce the Texas Manufactured Housing Standards Act (Article 5221f, Vernon's Texas Civil Statutes) through the manufactured housing division. The board and the director shall exercise authority and responsibilities assigned to them under that Act.

Sec. 2306.602. PERSONNEL. The director may employ staff as necessary to perform the work of the manufactured housing division and may prescribe their duties and compensation. Subject to applicable personnel policies and regulations, the director may remove any division employee.

Sec. 2306.603. RULES. (a) The director shall adopt rules as necessary to implement this subchapter and to administer and enforce the manufactured housing program through the manufactured housing division. Rules adopted by the director are subject to Chapter 2001, Government Code.

(b) The director may not adopt rules restricting competitive bidding or advertising by a person regulated by the division except to prohibit false, misleading, or deceptive practices by that person.

(c) The director may not include in the rules to prohibit false, misleading, or deceptive practices by a person regulated by the division a rule that:

- (1) restricts the use of any advertising medium;
- (2) restricts the person's personal appearance or the use of the person's voice in an advertisement;
- (3) relates to the size or duration of an advertisement used by the person; or
- (4) restricts the use of a trade name in advertising by the person.

Sec. 2306.604. SANCTIONS AND PENALTIES. (a) The director shall adopt rules relating to the administrative sanctions that may be enforced against a person regulated by the manufactured housing division. If the person violates a law relating to the regulation of manufactured housing or a rule or order adopted or issued by the director relating to the program, the director may:

- (1) issue a written reprimand to the person that specifies the violation;
- (2) revoke or suspend the person's certificate of registration; or
- (3) place on probation a person whose certificate of registration has been suspended.

(b) In addition to or in lieu of a sanction imposed under Subsection (a) of this section, the board may assess an administrative penalty in an amount not to exceed \$1,000 for each violation.

(c) If a suspension is probated, the director may require the person to report regularly to the director on matters that are the basis of the probation.

(d) If the director proposes to suspend or revoke a certificate of registration or the director proposes to assess an administrative penalty against a person regulated by the division, the person is entitled to a hearing before a hearing officer appointed by the director. The director by rule shall prescribe the procedures by which a decision to suspend or revoke a certificate of registration or to assess an administrative penalty are made and are appealable.

(e) In determining the amount of an administrative penalty assessed under this section, the board shall consider:

- (1) the seriousness of the violation;
- (2) the history of previous violations;
- (3) the amount necessary to deter future violations;
- (4) efforts made to correct the violation; and
- (5) any other matters that justice may require.

(f) If, after investigation of a possible violation and the facts surrounding that possible violation, the director determines that a violation has occurred, the director shall issue a preliminary report stating the facts on which the conclusion that a violation occurred is based, recommending that an administrative penalty under this section be imposed on the person charged, and recommending the amount of that proposed penalty. The director shall base the recommended amount of the proposed penalty on the seriousness of the violation determined by consideration of the factors set forth in Subsection (e) of this section.

(g) Not later than the 14th day after the date on which the preliminary report is issued, the director shall give written notice of the violation to the person charged. The notice shall include:

- (1) a brief summary of the charges;
- (2) a statement of the amount of the penalty recommended; and

(3) a statement of the right of the person charged to a hearing on the occurrence of the violation, the amount of the penalty, or both the occurrence of the violation and the amount of the penalty.

(h) Not later than the 20th day after the date on which the notice is received, the person charged may accept the determination of the director made under Subsection (f) of this section, including the recommended penalty, or make a written request for a hearing on that determination.

(i) If the person charged with the violation accepts the determination of the director, the director shall issue an order approving the determination and ordering that the person pay the recommended penalty.

(j) If the person charged fails to respond in a timely manner to the notice or if the person requests a hearing, the director shall set a hearing, give written notice of the hearing to the person, and designate a hearings examiner to conduct the hearing. The hearings examiner shall make findings of fact and conclusions of law and shall promptly issue to the board a proposal for decision as to the occurrence of the violation and a recommendation as to the amount of the proposed penalty if a penalty is determined to be warranted. Based on the findings of fact and conclusions of law and the recommendations of the hearings examiner, the board by order may find that a violation has occurred and may assess a penalty, or may find that no violation has occurred.

(k) The director shall give notice of the board's order to the person charged. The notice must include:

(1) separate statements of the findings of fact and conclusions of law;

(2) the amount of any penalty assessed;

(3) a statement of the right of the person charged to judicial review of the commission's order; and

(4) any other information required by law.

(l) Not later than the 30th day after the date on which the decision is final, the person charged shall:

(1) pay the penalty in full; or

(2) if the person files a petition for judicial review contesting the fact of the violation, the amount of the penalty, or both the fact of the violation and the amount of the penalty:

(A) forward the amount assessed to the department for deposit in an escrow account;

(B) in lieu of payment into escrow, post with the department a supersedeas bond for the amount of the penalty, in a form approved by the director and effective until judicial review of the decision is final; or

(C) without paying the amount of the penalty or posting the supersedeas bond, pursue the judicial review.

(m) A person charged with a penalty who is financially unable to comply with Subsection (l)(2) of this section is entitled to judicial review if the person files with the court, as part of the person's petition for judicial review, a sworn statement that the person is unable to meet the requirements of that subsection.

(n) If the person charged does not pay the penalty and does not pursue judicial review, the department or the attorney general may bring an action for the collection of the penalty.

(o) Judicial review of the order of the board assessing the penalty is subject to the substantial evidence rule and shall be instituted by filing a petition with a Travis County district court.

(p) If, after judicial review, the penalty is reduced or not assessed, the director shall remit to the person charged the appropriate amount, plus accrued interest if the penalty has been paid, or shall execute a release of the bond if a supersedeas bond has been posted. The accrued interest on amounts remitted by the director under this subsection shall be paid at a rate equal to the rate charged on loans to depository institutions by the New York Federal Reserve Bank, and shall be paid for the period beginning on the date that the assessed penalty is paid to the director and ending on the date the penalty is remitted.

(q) A penalty collected under this section shall be deposited in the state treasury to the credit of the general revenue fund.

(r) All proceedings conducted under this section and any review or appeal of those proceedings are subject to Chapter 2001, Government Code.

(s) If it appears that a person is in violation of, or is threatening to violate, any provision of the Texas Manufactured Housing Standards Act (Article 5221f, Vernon's Texas Civil Statutes), or a rule or order related to the administration and enforcement of the manufactured housing program, the attorney general or the director may institute an action for injunctive relief to restrain the person from continuing the violation and for civil penalties not to exceed \$1,000 for each violation and not exceeding \$250,000 in the aggregate. A civil action filed under this subsection shall be filed in district court in Travis County. The attorney general and the director may recover reasonable expenses incurred in obtaining injunctive relief under this subsection, including court costs, reasonable attorney's fees, investigative costs, witness fees, and deposition expenses.

Sec. 2306.605. ACCEPTANCE OF DONATIONS. The department may accept gifts and grants of money or property under this chapter and shall spend the money and use the property for the purpose for which the donation was made, except that the expenditure of money or use of property must promote the acceptance of HUD-Code manufactured homes as a viable source of housing for very low, low, and moderate income families.

SECTION 25. The following laws are repealed:

(1) Section 16, Texas Manufactured Housing Standards Act (Article 5221f, Vernon's Texas Civil Statutes);

(2) the heading to Subchapter A, Chapter 21, Tax Code; and

(3) Subchapter B, Chapter 21, Tax Code.

SECTION 26. (a) Effective September 1, 1995, the administration of the Texas Manufactured Housing Standards Act (Article 5221f, Vernon's Texas Civil Statutes) is transferred to the Texas Department of Housing and Community Affairs. On that date or as soon as possible thereafter, the assets, obligations, liabilities, contracts, records, leases, equipment, and other property used by the Texas Department of Licensing and Regulation in the administration and enforcement of the Texas Manufactured Housing Standards Act (Article 5221f, Vernon's Texas Civil Statutes) shall be transferred to the Texas Department of Housing and Community Affairs.

(b) The comptroller shall work with the Texas Department of Housing and

Community Affairs and the Texas Department of Licensing and Regulation to apportion property and equipment that may be used jointly by those agencies in the regulation of manufactured housing and for the regulation of other related matters or entities. The comptroller shall supervise and approve appropriate interagency contracts for shared equipment and leased property to assure the continuity of manufactured housing regulation. The comptroller shall also coordinate the transfer of personnel from the Texas Department of Licensing and Regulation to the Texas Department of Housing and Community Affairs. The Texas Department of Housing and Community Affairs shall prepare and furnish to the comptroller and the Texas Department of Licensing and Regulation a list of those employees requested for transfer. The number of employees transferred on September 1, 1995, shall not exceed the number of full-time equivalent positions engaged in the manufactured housing program as of August 1, 1995.

SECTION 27. The rules of the Texas Department of Licensing and Regulation relating to the administration and enforcement of the Texas Manufactured Housing Standards Act (Article 5221f, Vernon's Texas Civil Statutes) are continued in effect as rules of the Texas Department of Housing and Community Affairs until amended or repealed by that department. Each affected certificate, permit, bond, order, security, or registration issued or regulated by the Texas Department of Licensing and Regulation is continued in effect as a certificate, permit, bond, order, security, or registration of the Texas Department of Housing and Community Affairs.

SECTION 28. A complaint or investigation pending before the Texas Department of Licensing and Regulation on August 31, 1995, is transferred without change in status to the Texas Department of Housing and Community Affairs on the effective date of this Act. A contested case pending before the Texas Department of Licensing and Regulation on August 31, 1995, is transferred to the jurisdiction of the Texas Department of Housing and Community Affairs on the effective date of this Act, and actions taken in the proceeding shall be treated as if taken by that department.

SECTION 29. A reference in a law to the Texas Department of Licensing and Regulation relating to the administration and enforcement of the Texas Manufactured Housing Standards Act (Article 5221f, Vernon's Texas Civil Statutes) means and is a reference to the Texas Department of Housing and Community Affairs.

SECTION 30. (a) The repeal of Section 21.24, Tax Code, by this Act applies only to an offense committed on or after that 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 that purpose. For purposes of this subsection, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

(b) The amendment of Section 13, Texas Manufactured Housing Standards Act (Article 5221f, Vernon's Texas Civil Statutes), by this Act does not invalidate or otherwise affect a surety bond or other security on file with the Texas Department of Licensing and Regulation on the effective date of this Act. The surety bond or other security is considered endorsed to the manufactured

homeowners' recovery fund on that date and is subject to Section 13, as amended by this Act. A surety company and a registrant filing other security must file a new bond or other security with the Texas Department of Housing and Community Affairs not later than March 1, 1996.

(c) The balance in the manufactured homeowners' recovery fund administered by the Texas Department of Licensing and Regulation on August 31, 1995, is transferred to the special account created by Section 13A, Texas Manufactured Housing Standards Act (Article 5221f, Vernon's Texas Civil Statutes), as amended by this Act, on the effective date of this Act.

SECTION 31. This Act takes effect September 1, 1995.

SECTION 32. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Senate Amendment No. 1

Amend **CSHB 785** as follows:

On page 24 of the Senate committee report, delete lines 8 through 12 and substitute the following:

"D. A fee of Twenty [Fifteen] Dollars (\$20) [~~(\$15) for each permit~~] shall be collected by the Texas [State] Department of [Highways and Public] Transportation. Thirty cents (\$0.30) shall be deposited to the credit of the state highway fund and the balance of each fee shall be [and] deposited in the Treasury of the State"

HB 1048 - WITH SENATE AMENDMENT

Representative Maxey called up with a senate amendment for consideration at this time,

HB 1048, A bill to be entitled An Act relating to the creation of the Texas Health Care Information Council; providing civil penalties.

On motion of Representative Maxey, the house concurred in the senate amendment to **HB 1048**.

HB 1048 - TEXT OF SENATE AMENDMENT

CSHB 1048, A bill to entitled An Act relating to the creation of the Texas Health Care Information Council; providing civil penalties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subtitle E, Title 2, Health and Safety Code, is amended by adding Chapter 108 to read as follows:

CHAPTER 108. TEXAS HEALTH CARE INFORMATION COUNCIL

Sec. 108.001. CREATION OF COUNCIL. The Texas Health Care Information Council shall administer this chapter and report to the governor, the legislature, and the public.

Sec. 108.002. DEFINITIONS. In this chapter:

(1) "Board" means the Texas Board of Health.

(2) "Charge" or "rate" means the amount billed by a provider for specific procedures or services provided to a patient before any adjustment for contractual allowances. The term does not include copayment charges to health maintenance organization enrollees by providers paid by capitation or salary in a health maintenance organization.

(3) "Council" means the Texas Health Care Information Council.

(4) "Data" means information collected under Section 108.009 in the form initially received.

(5) "Department" means the Texas Department of Health.

(6) "Health care facility" means:

(A) a hospital;

(B) an ambulatory surgical center licensed under Chapter 243;

(C) a chemical dependency treatment facility licensed under

Chapter 464;

(D) a renal dialysis facility;

(E) a birthing center;

(F) a rural health clinic; or

(G) a federally qualified health center as defined by 42 U.S.C.

Section 1396d(1)(2)(B).

(7) "Health maintenance organization" means an organization as defined in Section 2, Texas Health Maintenance Organization Act (Article 20A.02, Vernon's Texas Insurance Code).

(8) "Hospital" means a public, for-profit, or nonprofit institution licensed or owned by this state that is a general or special hospital, private mental hospital, chronic disease hospital, or other type of hospital.

(9) "Outcome data" means measures related to the provision of care, including:

(A) patient demographic information;

(B) patient length of stay;

(C) mortality;

(D) co-morbidity;

(E) complications; and

(F) charges.

(10) "Physician" means an individual licensed under the laws of this state to practice medicine under the Medical Practice Act (Article 4495b, Vernon's Texas Civil Statutes).

(11) "Provider" means a physician, health care facility, or health maintenance organization.

(12) "Provider quality" means the extent to which a provider renders care that, within the capabilities of modern medicine, obtains for patients medically acceptable health outcomes and prognoses, after severity adjustment.

(13) "Rural provider" means a provider located in:

(A) a county with a population of not more than 35,000;

(B) those portions of extended cities that the United States Bureau of the Census has determined to be rural; or

(C) an area that is not delineated as an urbanized area by the United States Bureau of the Census.

(14) "Severity adjustment" means a method to stratify patient groups by degrees of illness and mortality.

(15) "Uniform patient identifier" means a number assigned to an individual patient and composed of numeric, alpha, or alphanumeric characters.

(16) "Uniform physician identifier" means a number assigned to an individual physician and composed of numeric, alpha, or alphanumeric characters.

Sec. 108.003. COUNCIL COMPOSITION; EXPENSES. (a) The council is composed of three nonvoting ex officio state agency members and 15 members appointed by the governor in accordance with this section.

(b) The nonvoting ex officio members of the council are:

(1) the commissioner of public health;

(2) the commissioner of health and human services; and

(3) the commissioner of insurance.

(c) The governor shall appoint the following members of the council:

(1) three representatives of the business community, with at least one representing small businesses, who are purchasers of health care but who are not involved in the provision of health care or health insurance;

(2) two representatives from labor, one of whom is not directly involved with management of health care benefits;

(3) two representatives of consumers who are not professionally involved in the purchase, provision, administration, or review of health care or health care insurance;

(4) two representatives of hospitals;

(5) one representative of health maintenance organizations;

(6) three representatives of physicians who are involved in direct patient care; and

(7) two members who are not professionally involved in the purchase, provision, administration, or review of health care or health care insurance and who have expertise in:

(A) health planning;

(B) health economics;

(C) provider quality assurance;

(D) statistics or health data management; or

(E) the reimbursement of medical education and research

costs.

(d) The chairman is appointed by and serves at the pleasure of the governor. Members annually shall elect a vice chairman.

(e) A majority of voting members constitutes a quorum for the transaction of any business. An act by the majority of the voting members present at any meeting at which there is a quorum is considered to be an act of the council.

(f) The council may appoint subcommittees and may elect any officers subordinate to those provided for in Subsection (d).

(g) The council shall appoint technical advisory committees. The technical advisory committees shall work in coordination with each other and may consult with other professionals, as necessary. The technical advisory committees shall include:

(1) a technical advisory committee that includes, among other individuals, at least five practicing physicians licensed in this state to provide advice and recommendations to the council on:

(A) the development and implementation of the methodology and the interpretation of provider quality data under Section 108.010; and

(B) the development and dissemination of consumer education information and materials;

(2) a technical advisory committee composed of at least five practicing physicians licensed in this state who have been actively engaged in organized peer review at a hospital in this state to provide advice, recommendations, and peer review expertise to the council on:

(A) the use of peer review in the determination of quality inpatient care;

(B) the development and interpretation of data elements necessary to the determination of quality inpatient care; and

(C) the development and format of reports and information relating to provider quality;

(3) a technical advisory committee composed of individuals who have expertise in the reimbursement of medical education and research costs; and

(4) a technical advisory committee composed of representatives of health maintenance organizations to assist the council in complying with Section 108.009(o).

(h) A member of the council may not receive compensation for service on the council. However, the member shall be reimbursed for the member's actual and necessary meals, lodging, transportation, and incidental expenses if incurred while performing council business.

(i) A member of an advisory committee appointed by the council may not receive compensation or reimbursement of any expense incurred while serving on the committee.

(j) Appointments to the council shall be made without regard to the race, color, disability, sex, religion, age, or national origin of appointees. Additionally, in making the appointments to the council, the governor shall consider geographical representation.

(k) A person may not serve as a member of the council if the person is required to register as a lobbyist under Chapter 305, Government Code, because of the person's activities for compensation on behalf of a profession related to the operation of the council.

Sec. 108.004. MEETINGS. (a) The council, council subcommittees, and technical advisory committees are subject to the open meetings law, Chapter 551, Government Code.

(b) The council shall meet as often as necessary, but not less often than quarterly, to perform its duties under this chapter.

(c) The council shall publish a notice of its meetings in at least four newspapers of general circulation in this state.

Sec. 108.005. TERMS. (a) The terms of the agency members are concurrent with their terms of office. The appointed council members serve six-year staggered terms, with the terms of five members expiring September 1 of each odd-numbered year.

(b) An appointed member may not serve more than two full consecutive terms.

(c) It is a ground for removal from the council if a member of the council:

(1) does not have at the time of appointment the qualifications required by Section 108.003;

(2) does not maintain during service the qualifications required by Section 108.003;

(3) cannot discharge the member's duties for a substantial part of the term for which the member is appointed because of illness or disability; or

(4) fails to attend at least one-half of the regularly scheduled meetings that the member is eligible to attend during a calendar year.

Sec. 108.006. POWERS AND DUTIES OF COUNCIL. (a) The council shall develop a statewide health care data collection system to collect health care charges, utilization data, provider quality data, and outcome data to facilitate the promotion and accessibility of cost-effective, good quality health care. The council shall:

(1) direct the collection, dissemination, and analysis of data under this chapter;

(2) contract with the department to collect the data under this chapter;

(3) adopt policies and rules necessary to carry out this chapter, including rules concerning data collection requirements;

(4) build on and not duplicate other data collection required by state or federal law, by an accreditation organization, or by board rule;

(5) working with appropriate agencies, review public health data collection programs in this state and recommend, where appropriate, consolidation of the programs and any legislation necessary to effect the consolidation;

(6) assure that data collected is made available and accessible to interested persons;

(7) prescribe by rule a format for providers to submit data consistent with Section 108.009;

(8) adopt by rule and implement a methodology to collect and disseminate data reflecting provider quality in accordance with Section 108.010;

(9) make reports to the legislature, the governor, and the public on:

(A) the charges and rate of change in the charges for health care services in this state;

(B) the effectiveness of the council in carrying out the legislative intent of this chapter;

(C) if applicable, any recommendations on the need for further legislation; and

(D) the quality and effectiveness of health care and access to health care for all citizens of this state;

(10) develop an annual work plan and establish priorities to accomplish its duties;

(11) provide consumer education on the interpretation and understanding of the information that is released to the public;

(12) work with the Health and Human Services Commission and each health and human services agency that administers a part of the state Medicaid program to avoid duplication of expenditures of state funds for computer systems, staff, or services in the collection and analysis of data relating to the state Medicaid program; and

(13) work with the Department of Information Resources in developing and implementing the statewide health care data collection system and maintain consistency with Department of Information Resources standards.

(b) The council may:

(1) employ or contract with the department to employ an executive director and other staff, including administrative and legal personnel, necessary to comply with this chapter and rules adopted under this chapter;

(2) engage professional consultants as it considers necessary to the performance of its duties;

(3) adopt rules clarifying which health care facilities must provide data under this chapter; and

(4) apply for and receive any appropriation, donation, or other funds from the state or federal government or any other public or private source, subject to Section 108.015 and limitations and conditions provided by legislative appropriation.

(c) The council may not establish or recommend rates of payment for health care services.

(d) The council may not take an action that affects or relates to the validity, status, or terms of a department interagency agreement or a contract without the board's approval.

(e) In the collection of data, the council shall consider the research and initiatives being pursued by the United States Department of Health and Human Services, the National Committee for Quality Assurance, and the Joint Commission on Accreditation of Healthcare Organizations to reduce potential duplication or inconsistencies. The council may not adopt rules that conflict with or duplicate any federally mandated data collection programs or requirements of comparable scope.

Sec. 108.007. REVIEW POWERS. (a) The council, through the department and subject to reasonable rules and guidelines, may:

(1) inspect documents and records used by data sources that are required to compile data and reports; and

(2) compel providers to produce accurate documents and records.

(b) The council may enter into a memorandum of understanding with a state agency, including the division of the Health and Human Services Commission responsible for the state Medicaid program, or with a school of public health or another institution of higher education, to share data and expertise, to obtain data for the council, or to make data available to the council. An agreement entered into under this subsection must protect patient confidentiality.

Sec. 108.008. DUTIES OF DEPARTMENT. (a) The department, as the state health planning and development agency under Chapter 104, is responsible for the collection of data under Chapter 311.

(b) The department shall:

(1) contract with the council to collect data under this chapter;

(2) provide administrative and legal assistance to the council in accordance with rules adopted by the board after consulting with the council and set out in the contract with the council;

(3) coordinate administrative responsibilities with the council to avoid unnecessary duplication of the collection of data and other duties;

(4) give the council access to data collected by the department on request of the council;

(5) submit or assist in the council's budget request to the legislature;
and

(6) work with the Department of Information Resources in developing and implementing the statewide health care data collection system and maintain consistency with Department of Information Resources standards.

(c) The department may not take an action that affects or relates to the validity, status, or terms of a council interagency agreement or a contract without the council's approval.

Sec. 108.009. DATA SUBMISSION AND COLLECTION. (a) The council may collect, and, except as provided by Subsections (c) and (d), providers shall submit to the council or another entity as determined by the council, all data required by this section. The data shall be collected according to uniform submission formats, coding systems, and other technical specifications necessary to make the incoming data substantially valid, consistent, compatible, and manageable using electronic data processing, if available.

(b) The council shall adopt rules to implement the data submission requirements imposed by Subsection (a) in appropriate stages to allow for the development of efficient systems for the collection and submission of the data.

(c) A rural provider may, but is not required to, provide the data required by this section.

(d) The council may not collect data from individual physicians or from an entity that is composed entirely of physicians and that is a professional association organized under the Texas Professional Association Act (Article 1528f, Vernon's Texas Civil Statutes), a limited liability partnership organized under Section 3.08, Texas Revised Partnership Act (Article 6132b-3.08, Vernon's Texas Civil Statutes), or a limited liability company organized under the Texas Limited Liability Company Act (Article 1528n, Vernon's Texas Civil Statutes), except to the extent the entity owns and operates a health care facility in this state. This subsection does not prohibit the release of data about physicians that has been collected from a health care facility under this chapter.

(e) The council shall establish the department as the single collection point for receipt of data from providers. With the approval of the council and the board, the department may transfer collection of any data required to be collected by the department under any other law to the statewide health care data collection system.

(f) The council may not require providers to submit data more frequently than quarterly, but providers may submit data on a more frequent basis.

(g) The council shall coordinate data collection with the data collection formats used by federally qualified health centers. To satisfy the requirements of this chapter:

(1) a federally qualified health center shall submit annually to the council a copy of the Medicaid cost report of federally qualified health centers;
and

(2) a provider receiving federal funds under 42 U.S.C. Section 254b, 254c, or 256 shall submit annually to the council a copy of the Bureau of

Common Reporting Requirements data report developed by the United States Public Health Service.

(h) The council shall, to the extent feasible, coordinate data collection with the data collection formats used by hospitals and other providers. The council shall accept data in the format developed by the National Uniform Billing Committee (Uniform Hospital Billing Form UB 92) and HCFA-1500 or their successors or other universally accepted standardized forms approved by the council.

(i) The council shall develop by rule reasonable alternate data submission procedures for providers that do not possess electronic data processing capacity.

(j) The council shall collect data and disseminate reports reflecting provider quality in accordance with Section 108.010.

(k) In developing the statewide health care data collection system, the council shall identify health care data elements relating to health care charges, provider quality, payer type, the outcome data related to health care services, and the use of health care services by consumers.

(l) The council shall develop and implement a health care information plan to be used by the department to:

(1) support public health and preventive health initiatives;

(2) assist in the delivery of primary and preventive health care services;

(3) facilitate the establishment of appropriate benchmark data to measure performance improvements;

(4) establish and maintain a systematic approach for the collection, storage, and analysis of health care data for longitudinal, epidemiological, and policy impact studies; and

(5) develop and use system-based protocols to identify individuals and populations at risk.

(m) To the extent feasible, the council shall obtain from public records the information that is available from those records.

(n) The council shall develop the statewide health care data collection system in accordance with Department of Information Resources standards.

(o) A health maintenance organization shall annually submit to the council aggregate data by service area required by the Health Plan Employer Data Information Set (HEDIS) as operated by the National Committee for Quality Assurance. The council may approve the submission of data in accordance with other methods generally used by the health maintenance organization industry. This subsection does not relieve a health care facility that provides services to a health maintenance organization from the requirements of this chapter.

Sec. 108.010. COLLECTION AND DISSEMINATION OF PROVIDER QUALITY DATA. (a) Subject to Section 108.009, the council shall collect data reflecting provider quality based on a methodology and review process established through the council's rulemaking process. The methodology shall identify and measure quality standards and adhere to any federal mandates.

(b) After a majority of the council has been appointed, the council shall study and analyze initial methodologies for obtaining provider quality data. The council shall adopt an initial methodology not later than January 1, 1997, but may not adopt the initial methodology before the first anniversary of the date

on which a majority of the council is appointed. If the council determines additional time for development of the initial methodology is needed, the council, by a two-thirds vote of the full council, may extend the deadline established by this subsection for adopting the initial methodology.

(c) The council shall test the methodology by collecting provider quality data for one year, subject to Section 108.009. The council may test using pilot methodologies. After collecting provider quality data for one year, the council shall report findings applicable to a provider to that provider and allow the provider to review and comment on the initial quality outcome data applicable to that provider. The council shall verify the accuracy of the data during this review and revision process. After the review and revision process, quality outcome data for subsequent reports shall be published and made available to the public, on a time schedule the council considers appropriate.

(d) If the council determines that quality outcome data to be published under Subsection (c) does not provide the intended result or is inaccurate or inappropriate for dissemination, the council is not required to publish the data or reports based in whole or in part on the data. This subsection does not affect the release of data collected under Section 108.009.

(e) The council shall adopt rules allowing a provider to submit written comments regarding any specific data to be released concerning the provider. The comments may be attached to any public release of data.

(f) The methodology adopted by the council for measuring quality shall include case-mix qualifiers, severity adjustment factors, adjustments for medical education and research, and any other factors necessary to accurately reflect provider quality.

(g) In addition to the requirements of this section, any release of provider quality data shall comply with Sections 108.011(d)-(f).

(h) A quality outcome data report may not identify an individual physician by name, but must identify the physician by the uniform physician identifier designated by the council under Section 108.011(c).

Sec. 108.011. DATA DISSEMINATION AND PUBLICATION. (a) The council shall promptly provide data to those requesting it, subject to the restrictions on access to council data prescribed by Sections 108.010 and 108.013.

(b) Subject to the restrictions on access to council data prescribed by Sections 108.010 and 108.013, and using the data collected under Section 108.009 and other data, records, and matters of record available to it, the council shall prepare and issue reports to the governor, the legislature, and the public as provided by this section and Section 108.006(a). The council must issue the reports at least annually.

(c) Subject to the restrictions on access to council data prescribed by Sections 108.010 and 108.013, the council shall prepare and issue reports that provide information relating to providers, such as the incidence rate of selected medical or surgical procedures and the provider quality. The reports must provide the data in a manner that identifies individual providers and that identifies and compares data elements for all providers. Individual physicians may not be identified by name, but shall be identified by uniform physician identifiers. The council by rule shall designate the characters to be used as uniform physician identifiers.

(d) The council shall adopt procedures to verify the accuracy of the data before a report containing the data is released to the public.

(e) If provider data is requested from the council for a specific provider, the council shall notify the provider about the release of the data. This subsection does not authorize the provider to interfere with the release of that data.

(f) A report issued by the council shall include a reasonable review and comment period for the affected providers before public release of the report.

Sec. 108.012. COMPUTER ACCESS TO DATA. (a) The council shall provide a means for computer-to-computer access to the data. All reports shall maintain patient confidentiality as provided by Section 108.013.

(b) The council may charge a person requesting data a fee for the data. The fees may reflect the quantity of information provided and the expense incurred by the council in collecting and providing the data and shall be set at a level that will raise revenue sufficient for the operation of the council. The council may not charge a fee for providing data to another state agency.

Sec. 108.013. CONFIDENTIALITY AND GENERAL ACCESS TO DATA. (a) The data received by the council shall be used by the council for the benefit of the public. The council is subject to the open records law, Chapter 552, Government Code. Subject to specific limitations established by this chapter and council rule, the council shall make determinations on requests for information in favor of access.

(b) The council by rule shall designate the characters to be used by providers as uniform patient identifiers.

(c) Unless specifically authorized by this chapter, the council may not release and a person or entity may not gain access to any data:

(1) that could reasonably be expected to reveal the identity of a patient or physician or that reveals the zip code of a patient's primary residence;

(2) disclosing provider discounts or differentials between payments and billed charges; or

(3) relating to actual payments to an identified provider made by a payer.

(d) All data collected and used by the department and the council under this chapter is subject to the confidentiality provisions and criminal penalties of:

(1) Section 311.037;

(2) Section 81.103; and

(3) Section 5.08, Medical Practice Act (Article 4495b, Vernon's Texas Civil Statutes).

(e) Data on patients and physicians and compilations, reports, or analyses produced from the data collected that identify patients and physicians are not:

(1) subject to discovery, subpoena, or other means of legal compulsion for release to any person or entity except as provided by this section; or

(2) admissible in any civil, administrative, or criminal proceeding.

(f) Notwithstanding Subsection (c)(1), the council may use zip code information to analyze data on a geographic basis.

Sec. 108.014. CIVIL PENALTY. (a) A person who knowingly or negligently releases data in violation of this chapter is liable for a civil penalty of not more than \$10,000.

(b) A person who fails to supply available data under Sections 108.009 and 108.010 is liable for a civil penalty of not less than \$1,000 or more than \$10,000 for each act of violation.

(c) The attorney general, at the request of the council, shall enforce this chapter.

Sec. 108.015. CONFLICT OF INTEREST. The council may not accept a donation from a person required to provide data under this chapter or from a person or business entity who provides goods or services to the council for compensation.

SECTION 2. Section 311.032(a), Health and Safety Code, is amended to read as follows:

(a) The department shall establish a uniform reporting and collection system for hospital financial ~~and~~[;] utilization~~[-, and patient discharge]~~ data.

SECTION 3. Section 311.035(c), Health and Safety Code, is amended to read as follows:

(c) The department shall enter into an interagency agreement with the Texas Department of Mental Health and Mental Retardation, Texas Commission on Alcohol and Drug Abuse, and Texas Department of Insurance relating to the mental health and chemical dependency ~~[hospital discharge]~~ data collected under Section 311.0335. The agreement shall address the collection, analysis, and sharing of the data by the agencies.

SECTION 4. Subchapter C, Chapter 2054, Government Code, is amended by adding Section 2054.0541 to read as follows:

Sec. 2054.0541. STATEWIDE HEALTH CARE DATA COLLECTION SYSTEM. The department shall assist the Texas Health Care Information Council and the Texas Department of Health with planning, analyses, and management functions relating to the procurement, use, and implementation of a statewide health care data collection system under Chapter 108, Health and Safety Code.

SECTION 5. The following laws are repealed:

- (1) Section 311.035(b), Health and Safety Code; and
- (2) Section 311.034, Health and Safety Code.

SECTION 6. (a) The governor shall make appointments to the Texas Health Care Information Council as soon as practicable after the effective date of this Act.

(b) The governor shall make the initial appointments to the Texas Health Care Information Council as follows:

(1) one representative of business, one representative from labor, one representative of hospitals, one representative of physicians, and one non-health-care professional member serve terms expiring September 1, 1997;

(2) one representative of business, one consumer representative, one representative of physicians, one representative of hospitals, and the representative of a health maintenance organization serve terms expiring September 1, 1999; and

(3) one representative from labor, one representative of business, one consumer representative, one representative of physicians, and one non-health-care professional member serve terms expiring September 1, 2001.

SECTION 7. Not later than December 1, 1996, the Texas Health Care Information Council appointed under Chapter 108, Health and Safety Code, as

added by this Act, shall make recommendations under Section 108.006(a)(5) of that code relating to consolidation of health data collection programs existing on the effective date of this Act, together with proposed legislation necessary to effect any recommended consolidation.

SECTION 8. This Act takes effect September 1, 1995.

SECTION 9. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

HB 1366 - WITH SENATE AMENDMENT

Representative Dutton called up with a senate amendment for consideration at this time,

HB 1366, A bill to be entitled An Act relating to information in county records and on death certificates concerning places in which remains are interred and to the filing of death certificates; providing civil penalties.

On motion of Representative Dutton, the house concurred in the senate amendment to **HB 1366**.

HB 1366 - TEXT OF SENATE AMENDMENT

CSHB 1366, A bill to be entitled An Act relating to information in county records and on death certificates concerning places in which remains are interred; providing civil penalties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 711.034, Health and Safety Code, is amended by amending Subsections (a) and (e) and adding Subsection (g) to read as follows:

(a) A cemetery organization that acquires property for interment purposes shall:

(1) in the case of land, survey and subdivide the property into gardens or sections, with descriptive names or numbers, and make a map or plat of the property showing the plots contained within the perimeter boundary and showing a specific unique number for each plot; or

(2) in the case of a mausoleum or a crematory and columbarium, make a map or plat of the property delineating sections or other divisions with descriptive names and numbers and showing and showing a specific unique number for each crypt, lawn crypt, or niche.

(e) The certificate or declaration may contain a provision permitting the directors by order to resurvey and change the shape and size of the property for which the associated map or plat is filed if that change does not disturb any interred remains. If a change is made, the cemetery organization shall file an amended map or plat and shall indicate any change in a specific unique number assigned to a plot, crypt, lawn crypt, or niche.

(g) A cemetery association is civilly liable to the state in an amount not to exceed \$1,000 for each map or plat that fails to comply with Subsection (a), (b), (c), or (e).

SECTION 2. Section 193.001, Health and Safety Code, is amended to read as follows:

Sec. 193.001. FORM OF CERTIFICATE. (a) The department shall prescribe the form and contents of death certificates and fetal death certificates.

(b) The department shall require death certificates and fetal death certificates to include the name of the place and the specific number of the plot, crypt, lawn crypt, or niche in which a decedent's remains will be interred or, if the remains will not be interred, the place and manner of other disposition.

(c) The bureau of vital statistics and each local registrar shall make the information provided under Subsection (b) available to the public and may charge a fee in an amount prescribed under Section 191.0045 for providing that service.

SECTION 3. A cemetery association that, on the effective date of this Act, has not complied with Section 711.034, Health and Safety Code, shall comply with that law not later than September 30, 1995.

SECTION 4. This Act takes effect September 1, 1995, except that Section 1 of this Act takes effect October 1, 1995.

SECTION 5. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

HB 1481 - WITH SENATE AMENDMENT

Representative McCall called up with a senate amendment for consideration at this time,

HB 1481, A bill to be entitled An Act relating to the county courts at law of Collin County.

On motion of Representative McCall, the house concurred in the senate amendment to **HB 1481**.

HB 1481 - TEXT OF SENATE AMENDMENT

Senate Amendment No. 1 (Senate Committee Amendment No. 1)

Amend **HB 1481** by striking SECTION 2 of the bill (House Engrossment, page 1, lines 12-21) and substituting the following:

SECTION 2. Section 25.0452, Government Code, is amended by adding Subsection (h) to read as follows:

(h) A person sitting in the capacity of a judge in County Court at Law No. 4 of Collin County may not sit as an assigned judge in Bexar, Dallas, Ector, Fort Bend, Harris, Jefferson, Lubbock, Midland, Tarrant, or Travis County.

HB 1642 - WITH SENATE AMENDMENT

Representative Patterson called up with a senate amendment for consideration at this time,

HB 1642, A bill to be entitled An Act relating to the county court at law in Hopkins County.

On motion of Representative Patterson, the house concurred in the senate amendment to **HB 1642**.

HB 1642 - TEXT OF SENATE AMENDMENT**Senate Amendment No. 1 (Senate Committee Amendment No. 1)**

Amend **HB 1642** as follows:

On page 2, line 15, strike "is at least equal to 60 percent, but".

HB 1651 - WITH SENATE AMENDMENT

Representative Chisum called up with a senate amendment for consideration at this time,

HB 1651, A bill to be entitled An Act relating to the expansion of the Higgins Hospital District of Lipscomb County to include the territory included in the Lipscomb Hospital District of Lipscomb County and to the name of the expanded district.

On motion of Representative Chisum, the house concurred in the senate amendment to **HB 1651**.

HB 1651 - TEXT OF SENATE AMENDMENT**Senate Amendment No. 1 (Senate Committee Amendment No. 1)**

Amend **CSHB 1651** on page 7, line 16, by striking "the municipality of Lipscomb" and substituting "Lipscomb County".

HB 2754 - WITH SENATE AMENDMENTS

Representative Pitts called up with senate amendments for consideration at this time,

HB 2754, A bill to be entitled An Act relating to the definition of portable building unit for certain purposes.

Representative Pitts moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on the bill.

The motion prevailed without objection.

HB 2754 - APPOINTMENT OF CONFERENCE COMMITTEE

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 2754**: Pitts, chair, Bosse, Alexander, Price, and McCall.

HB 2861 - WITH SENATE AMENDMENTS

Representative Goodman called up with senate amendments for consideration at this time,

HB 2861, A bill to be entitled An Act relating to the access by a safe house to criminal history record information.

Representative Goodman moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on the bill.

The motion prevailed without objection.

HB 2861 - APPOINTMENT OF CONFERENCE COMMITTEE

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 2861**: Grusendorf, chair, Carter, Allen, Driver, and Madden.

HR 1031 - ADOPTED

Representative G. Lewis moved to suspend all necessary rules to take up and consider at this time **HR 1031**.

The motion prevailed without objection.

The chair laid before the house the following resolution:

By G. Lewis,

HR 1031, Honoring former Forest Hill Mayor Donald R. Walker on his recent retirement.

The resolution was adopted without objection.

HR 1039 - ADOPTED

Representative G. Lewis moved to suspend all necessary rules to take up and consider at this time **HR 1039**.

The motion prevailed without objection.

The chair laid before the house the following resolution:

By G. Lewis,

HR 1039, Honoring Len A. Fuller, Jr.

The resolution was adopted without objection.

HR 1040 - ADOPTED

Representative G. Lewis moved to suspend all necessary rules to take up and consider at this time **HR 1040**.

The motion prevailed without objection.

The chair laid before the house the following resolution:

By G. Lewis,

HR 1040, Honoring Councilman Robert Albert Davis for his service to the citizens of Forest Hill.

The resolution was adopted without objection.

MESSAGE FROM THE SENATE

Austin, Texas, May 25, 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 227 by Talton, commemorating the Rohm and Haas Lone Star Plant ground breaking ceremony.

HB 2523 by McDonald (Sponsor-West, Royce), relating to the prevention of Medicaid fraud; imposing civil penalties (committee substitute).

I am directed by the Senate to inform the House that the Senate has adopted the Conference Committee Report on the following: **HB 1** by 31 Yeas, 0 Nays.

Respectfully,
Betty King
Secretary of the Senate

HR 1128 - ADOPTED

Representative Kubiak moved to suspend all necessary rules to take up and consider at this time **HR 1128**.

The motion prevailed without objection.

The chair laid before the house the following resolution:

By Kubiak,

HR 1128, Commending Kacey Warrick on winning the UIL Class 3A state title in the 1600-meter run.

The resolution was adopted without objection.

SB 1502 - REQUEST OF SENATE GRANTED

On motion of Representative R. Cuellar, the house granted the request of the senate for the appointment of a conference committee on **SB 1502**.

SB 1502 - APPOINTMENT OF CONFERENCE COMMITTEE

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 1502**: R. Cuellar, chair, Harris, McDonald, Munoz, and Jackson.

SB 1646 - REQUEST OF SENATE GRANTED

On motion of Representative Coleman, the house granted the request of the senate for the appointment of a conference committee on **SB 1646**.

SB 1646 - APPOINTMENT OF CONFERENCE COMMITTEE

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 1646**: Coleman, chair, Greenberg, H. Cuellar, Hochberg, and Woolley.

HB 1479 - WITH SENATE AMENDMENT

Representative Hilderbran called up with a senate amendment for consideration at this time,

HB 1479, A bill to be entitled An Act relating to tuition and fee exemptions at public institutions of higher education for certain students.

On motion of Representative Hilderbran, the house concurred in the senate amendment to **HB 1479**.

HB 1479 - TEXT OF SENATE AMENDMENT

CSHB 1479, A bill to be entitled An Act relating to tuition and fee exemptions at public institutions of higher education and tuition credits at public and private institutions of higher education for certain students.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter D, Chapter 54, Education Code, is amended by adding Sections 54.212 and 54.213 to read as follows:

Sec. 54.212. ONE-YEAR EXEMPTION FOR CERTAIN AFDC STUDENTS. A student is exempt from the payment of tuition and fees authorized by this chapter for the first academic year in which the student enrolls at an institution of higher education if the student:

(1) graduated from a public high school in this state;

(2) successfully completed the attendance requirements under Section 21.032;

(3) during the student's last year of public high school in this state, was a dependent child receiving financial assistance under Chapter 31, Human Resources Code, for not less than six months;

(4) is younger than 22 years of age on the date of enrollment;

(5) enrolls at the institution as an undergraduate student not later than the first anniversary of the date of graduation from a public high school in this state;

(6) has met the entrance examination requirements of the institution before the date of enrollment; and

(7) is classified as a resident under Subchapter B.

Sec. 54.213. FUNDING OF EXEMPTIONS. (a) An institution of higher education may fund tuition exemptions under Section 54.212 from local funds or from funds appropriated to the institution. An institution of higher education is not required to provide tuition exemptions beyond those funded through appropriations specifically designated for this purpose.

(b) Savings to the foundation school fund that occur as a result of the Early High School Graduation Scholarship program created in Subchapter K, Chapter 56, and that are not required for the funding of state tuition credits under that program shall be used to provide tuition exemptions under Section 54.212. Payment of funds under this subsection shall be made in the manner provided by Section 56.207 for tuition credits under Subchapter K, Chapter 56.

SECTION 2. Chapter 56, Education Code, is amended by adding Subchapter K to read as follows:

**SUBCHAPTER K. EARLY HIGH SCHOOL
GRADUATION SCHOLARSHIP PROGRAM**

Sec. 56.201. PROGRAM NAME. The student financial assistance program authorized by this subchapter is known as the Early High School Graduation Scholarship program.

Sec. 56.202. PURPOSE. (a) The Early High School Graduation Scholarship program is created to increase efficiency in the Foundation School Program and to provide tuition assistance to an eligible person to enable that person to attend a Texas public or private institution of higher education.

(b) A portion of the savings to the Foundation School Program that occur as a result of the program is dedicated to state tuition credits provided by the program.

Sec. 56.203. ELIGIBLE PERSON. To be eligible for the Early High School Graduation Scholarship program, a person must:

(1) have the written approval of at least one of the person's parents or a person standing in parental relation to the person;

(2) have successfully completed the requirements for a public high school diploma in not more than 36 consecutive months and graduated or be eligible for graduation from a Texas public high school;

(3) have attended high school in this state only; and

(4) be a Texas resident as defined by Texas Higher Education Coordinating Board rule.

Sec. 56.204. ENTITLEMENT; MATCHING CREDIT. (a) An eligible person under the Early High School Graduation Scholarship program is entitled to \$1,000 in state tuition credits at a Texas public or private institution of higher education.

(b) The use of a credit at a Texas private institution is contingent on a private institution's agreement to match the state tuition credit.

(c) A person eligible for a tuition credit under the tuition credit program authorized by Rider 23, page III-9, Chapter 19, Acts of the 72nd Legislature, 1st Called Session, 1991 (General Appropriations Act), who did not receive a credit under that program is eligible for and entitled to \$1,000 in state tuition credits under this subchapter. This subsection expires September 1, 2005.

Sec. 56.205. ISSUANCE OF CERTIFICATE. The coordinating board shall provide a certificate for state tuition credits to an eligible person.

Sec. 56.206. USE OF TUITION CREDIT. (a) On enrollment of an eligible person in an eligible institution of higher education, the institution shall apply to the person's tuition charges for the enrollment period an amount equal to the lesser of:

(1) the amount of the tuition credit available to the person; or

(2) the person's actual tuition.

(b) A private institution of higher education shall apply the state tuition credit and the matching credit required by Section 56.204(b) in equal amounts.

(c) For each student using a state tuition credit under this subchapter, the institution of higher education shall report to the coordinating board:

(1) the student's name;

(2) the school district from which the student graduated from high school; and

(3) the amount of the state tuition credit applied.

Sec. 56.207. PAYMENT OF TUITION CREDIT. (a) On receipt of a report from an eligible institution of higher education under Section 56.206(c), the coordinating board shall distribute to the institution the amount of the state tuition credit applied by the institution.

(b) At least once each year the coordinating board shall submit a report to the commissioner of education that includes:

(1) the name of each student who used state tuition credit under this subchapter during the period covered by the report;

(2) the school district from which each student graduated from high school; and

(3) the amount of the state tuition credit used by each student during the period covered by the report.

(c) On receipt of a report from the coordinating board under Subsection (b), the commissioner shall transfer to the coordinating board, from funds appropriated for the Foundation School Program, an amount sufficient to reimburse the coordinating board for amounts disbursed in payment of state tuition credits during the period covered by the report.

Sec. 56.208. FUNDING. (a) The Early High School Graduation Scholarship program is financed under the Foundation School Program. Funding for the state tuition credits is not subject to the provisions of Sections 16.254(e)-(k).

(b) The commissioner of education shall reduce the total annual amount of foundation school fund payments made to a school district by an amount equal to $F \times A$, where:

(1) "F" is the lesser of one or the quotient of the district's local share for the preceding school year under Section 16.252 divided by the amount of money to which the district was entitled under Subchapters C and D, Chapter 16, for the preceding school year; and

(2) "A" is the amount of state tuition credits under this subchapter applied by institutions of higher education on behalf of eligible persons who graduated from the district that has not been used to compute a previous reduction under this subsection.

(c) A school district that does not receive foundation school fund payments during a year in which the commissioner would otherwise withhold money from the district under Subsection (b) shall remit an amount equal to the amount that would be withheld under Subsection (b) to the comptroller for deposit to the credit of the foundation school fund.

(d) The commissioner and the foundation school fund budget committee shall consider the costs of the program in estimating the funds needed for Foundation School Program purposes.

Sec. 56.209. ADOPTION AND DISTRIBUTION OF RULES. (a) The coordinating board shall adopt rules to administer this subchapter.

(b) The coordinating board shall distribute copies of all rules adopted under this subchapter to each eligible institution of higher education and to each school district.

SECTION 3. This Act applies beginning with tuition and fees collected for the fall semester of 1995.

SECTION 4. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

HB 1541 - WITH SENATE AMENDMENTS

Representative Torres called up with senate amendments for consideration at this time,

HB 1541, A bill to be entitled An Act relating to the prohibition of the sale or transfer of certain plumbing fixtures.

Representative Torres moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on the bill.

The motion prevailed without objection.

HB 1541 - APPOINTMENT OF CONFERENCE COMMITTEE

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 1541**: Torres, chair, Brimer, Goolsby, Hilbert, and Yarbrough.

HB 1770 - WITH SENATE AMENDMENTS

Representative R. Lewis called up with senate amendments for consideration at this time,

HB 1770, A bill to be entitled An Act 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.

Representative R. Lewis moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on the bill.

The motion prevailed without objection.

HB 1770 - APPOINTMENT OF CONFERENCE COMMITTEE

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 1770**: R. Lewis, chair, Hamric, Wohlgemuth, Kamel, and Munoz.

HB 1810 - WITH SENATE AMENDMENTS

Representative S. Turner called up with senate amendments for consideration at this time,

HB 1810, A bill to be entitled An Act relating to membership on the boards of trustees of retirement systems for police officers in certain municipalities.

Representative S. Turner moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on the bill.

The motion prevailed without objection.

HB 1810 - APPOINTMENT OF CONFERENCE COMMITTEE

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 1810**: S. Turner, chair, Telford, McCall, Rangel, and Averitt.

HB 2540 - WITH SENATE AMENDMENT

Representative J. Jones called up with a senate amendment for consideration at this time,

HB 2540, A bill to be entitled An Act relating to allowing the Texas State Library and Archives Commission to assist public libraries with public information technology grants.

On motion of Representative J. Jones, the house concurred in the senate amendment to **HB 2540**.

HB 2540 - TEXT OF SENATE AMENDMENT

Senate Amendment No. 1

Amend **HB 2540**, by deleting SECTIONS 2 and 3, and inserting new SECTIONS 2 and 3, to read as follows:

SECTION 2. Subchapter I, Section 441.135(a), Government Code, is amended to read as follows:

(a) The commission shall establish a program of state grants within the limitations of funds appropriated by the legislature. The commission shall adopt by rule the guidelines for awarding grants, except that any municipal library which lends more than 20,000 items per year to non-residents cannot be denied any grant awarded after January 1, 1995, based solely upon the provision of services to non-residents.

SECTION 3. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

HB 2726 - WITH SENATE AMENDMENTS

Representative Romo called up with senate amendments for consideration at this time,

HB 2726, A bill to be entitled An Act relating to tax-exempt private activity bonds and housing finance corporations.

Representative Romo moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on the bill.

The motion prevailed without objection.

HB 2726 - APPOINTMENT OF CONFERENCE COMMITTEE

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 2726**: Romo, chair, Marchant, Elkins, Giddings, and Carona.

HB 1094 - WITH SENATE AMENDMENT

Representative Heflin called up with a senate amendment for consideration at this time,

HB 1094, A bill to be entitled An Act relating to delinquency charges in retail charge agreements.

Representative Heflin moved that the house concur in the senate amendment to **HB 1094**.

Representative Berlanga offered a substitute motion that the house not concur and that a conference committee be requested to adjust the differences between the two houses on the bill.

Representative Wolens moved to table the substitute motion to not concur.

A record vote was requested.

The motion to table prevailed by (Record 556): 83 Yeas, 57 Nays, 2 Present, not voting.

Yeas — Alexander; Allen; Averitt; Brady; Brimer; Carter; Chisum; Coleman; Cook; Corte; Counts; Crabb; Craddick; Culberson; Danburg; Dear; Delisi; Denny; Driver; Duncan; Eiland; Elkins; Finnell; Goodman; Goolsby; Gray; Greenberg; Grusendorf; Gutierrez; Haggerty; Hamric; Harris; Hartnett; Heflin; Hilbert; Hilderbran; Hill; Horn; Howard; Hunter, B.; Hunter, T.; Jackson; Janek; Johnson; Jones, D.; Kamel; Krusee; Kuempel; Madden; Marchant; McCoulskey; Moffat; Mowery; Nixon; Ogden; Oliveira; Park; Patterson; Pitts; Rabuck; Ramsay; Raymond; Reyna; Rusling; Seidlits; Shields; Siebert; Smithee; Solomons; Staples; Swinford; Talton; Turner, B.; Uher; Walker; West; Williamson; Willis; Wilson; Wohlgemuth; Wolens; Woolley; Yost.

Nays — Alonzo; Alvarado; Bailey; Berlanga; Bosse; Combs; Conley; Cuellar, R.; Davila; Davis; De La Garza; Dukes; Dutton; Edwards; Ehrhardt; Farrar; Gallego; Giddings; Glaze; Hawley; Hernandez; Hightower; Hirschi; Hochberg; Holzheuser; Hudson; Jones, J.; King; Kubiak; Lewis, G.; Lewis, R.; Longoria; Luna; Maxey; McCall; McDonald; Moreno; Naishtat; Pickett; Place; Price; Puente; Rangel; Rhodes; Rodriguez; Romo; Sadler; Serna; Solis; Stiles; Thompson; Tillery; Torres; Turner, S.; Van de Putte; Yarbrough; Zbrank.

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

Absent, Excused — Telford.

Absent — Carona; Clemons; Cuellar, H.; Junell; Munoz; Oakley; Saunders.

The motion to concur in the senate amendment to **HB 1094** prevailed by (Record 557): 88 Yeas, 48 Nays, 4 Present, not voting.

Yeas — Alexander; Allen; Averitt; Brimer; Carter; Chisum; Clemons; Cook; Corte; Counts; Crabb; Craddick; Cuellar, H.; Culberson; Danburg; Dear; Delisi; Denny; Driver; Dukes; Duncan; Eiland; Elkins; Finnell; Goodman; Goolsby; Gray; Greenberg; Grusendorf; Haggerty; Hamric; Hartnett; Heflin; Hilbert; Hilderbran; Hill; Hirschi; Holzheuser; Horn; Howard; Hunter, B.; Hunter, T.; Jackson; Janek; Johnson; Jones, D.; Kamel; Krusee; Kuempel; Lewis, R.; Madden; Marchant; McCoulskey; Mowery; Nixon; Oakley; Ogden; Oliveira; Park; Patterson; Pitts; Rabuck; Ramsay; Raymond; Reyna; Rhodes; Rusling; Seidlits; Shields; Siebert; Smithee; Solomons; Staples; Stiles; Swinford; Talton; Turner, B.; Uher; Walker; West; Williamson; Willis; Wilson; Wohlgemuth; Wolens; Woolley; Yost; Zbrank.

Nays — Alonzo; Alvarado; Bailey; Berlanga; Bosse; Combs; Conley; Cuellar, R.; Davila; Davis; De La Garza; Dutton; Edwards; Ehrhardt; Farrar; Gallego; Giddings; Glaze; Hawley; Hernandez; Hightower; Hochberg; Hudson; Jones, J.; King; Lewis, G.; Longoria; Luna; Maxey; McCall; McDonald; Moreno; Naishtat; Pickett; Place; Price; Puente; Rangel; Rodriguez; Romo; Serna; Solis; Thompson; Tillery; Torres; Turner, S.; Van de Putte; Yarbrough.

Present, not voting — Mr. Speaker; Black(C); Gutierrez; Kubiak.

Absent, Excused — Telford.

Absent — Brady; Carona; Coleman; Harris; Junell; Moffat; Munoz; Sadler; Saunders.

STATEMENT OF VOTE

I was shown voting no on Record No. 557. I intended to vote yes.

McDonald

HB 1094 - TEXT OF SENATE AMENDMENT

CSHB 1094, A bill to be entitled An Act relating to delinquency charges in retail charge agreements.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Article 6.03(6)(c), Title 79, Revised Statutes (Article 5069-6.03, Vernon's Texas Civil Statutes), is amended to read as follows:

(c) The time price differential in a retail charge agreement resulting from the computation under this Section shall be computed utilizing the average daily balance method. A minimum time price differential not in excess of 75 cents per month may be charged, received, and collected for any billing cycle in which a balance is due. Under this Section, a retail charge agreement may provide for a delinquency charge on each installment in default for a period of more than 21 [~~10~~] days in an amount not to exceed \$10 [~~five percent of each installment or \$5, whichever is less~~]. Only one such delinquency charge may be collected on any installment regardless of the period during which it remains in default. In addition, such retail charge agreement may provide for the payment of an attorney's reasonable fee when it is referred for collection to an attorney who is not a salaried employee of the holder of the contract and for court costs and disbursements.

SECTION 2. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

MESSAGE FROM THE SENATE

Austin, Texas, May 25, 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 52 by McCall, Park, et al. (Sponsor-Shapiro) relating to the authority of state and local governments to make purchases and contracts and to engage in certain projects (committee substitute and amended).

HB 2032 by Uher (Sponsor-Armbrister), relating to the administration of medical and dental units of public institutions of higher education (amended).

HB 2860 by Grusendorf and Maxey (Sponsor-Barrientos), relating to the power of certain school districts to grant tax abatements (committee substitute).

HJR 80 by Black (Sponsor-Sims), proposing a constitutional amendment to abolish the office of constable in Mills, Reagan, and Roberts counties (amended).

Respectfully,
Betty King
Secretary of the Senate

HR 1129 - NOTICE OF INTRODUCTION

Pursuant to the provisions of Rule 13, Section 9(f), of the House Rules, the chair announced the introduction of **HR 1129**, suspending the limitations on the conferees for **SB 1646**.

HB 1454 - WITH SENATE AMENDMENT

Representative Talton called up with a senate amendment for consideration at this time,

HB 1454, A bill to be entitled An Act relating to requirements for certain political subdivisions that acquire real property held in trust.

On motion of Representative Talton, the house concurred in the senate amendment to **HB 1454**.

HB 1454 - TEXT OF SENATE AMENDMENT

Senate Amendment No. 1 (Senate Committee Amendment No. 1)

Amend **HB 1454** by adding a new subsection (b) to read as follows and relettering subsequent sections:

"(b) The trustee shall identify the true owner of the property to a municipality or county."

HR 1131 - ADOPTED

Representative Marchant moved to suspend all necessary rules to take up and consider at this time **HR 1131**.

The motion prevailed without objection.

The chair laid before the house the following resolution:

By Marchant,

HR 1131, Honoring Webb Chapel United Methodist Church on its 150th anniversary.

The resolution was adopted without objection.

**SCR 170 - ADOPTED
(Talton - House Sponsor)**

Representative Talton moved to suspend all necessary rules to take up and consider at this time **SCR 170**.

The motion prevailed without objection.

The chair laid before the house the following resolution:

SCR 170, Congratulating and commending the Robert E. Lee High School Class of 1995.

The resolution was adopted without objection.

HB 676 - WITH SENATE AMENDMENTS

Representative Craddick called up with senate amendments for consideration at this time,

HB 676 - TEXT OF SENATE AMENDMENTS

HB 676, A bill to be entitled An Act relating to a tax exemption for hydrocarbon production from certain inactive oil and gas leases returned to production.

CSHB 676, A bill to entitled An Act relating to a tax exemption for hydrocarbon production from certain inactive oil and gas leases returned to production.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 202.056(a), Tax Code, is amended by amending Subdivision (2) and adding Subdivision (4) to read as follows:

(2) "Hydrocarbons" means any oil or gas produced from a well, including hydrocarbon production.

(4) "Two-year inactive well" means any well that has not produced in more than one month in the two years prior to the date of application for severance tax exemption under this section.

SECTION 2. Sections 202.056(b)-(e) and (h), Tax Code, are amended to read as follows:

(b) Hydrocarbons produced from a well qualify for a 10-year severance tax exemption if the commission designates the well as a three-year inactive well or a two-year inactive well. The commission may designate a well without an application, or an application may be made to the commission for approval under this section. The commission may require an applicant to provide the commission with any relevant information required to administer this section. The commission may require additional well tests to determine well capability as it deems necessary. The commission shall notify the comptroller in writing immediately if it determines that the operation of the three-year inactive well or two-year inactive well has been terminated or if it discovers any information that affects the taxation of the production from the designated well.

(c) If the commission designates a three-year inactive well under this section, it shall issue a certificate designating the well as a three-year inactive well as defined by Subsection (a)(3) of this section. The commission may not designate a three-year inactive well under this section after August 31, 1995 [~~February 29, 1996~~]. If the commission designates a two-year inactive well under this section, it shall issue a certificate designating the well as a two-year inactive well as defined by Subsection (a)(4) of this section. The commission may not designate a two-year inactive well under this section after February 28, 1998.

(d) An application for three-year inactive well certification shall be made during the period of September 1, 1993, through August 31, 1995, to qualify for the tax exemption under this section. An application for two-year inactive well certification shall be made during the period of September 1, 1995, through August 31, 1997, to qualify for the tax exemption under this section. Hydrocarbons sold after the date of certification are eligible for the tax exemption.

(e) The commission may revoke a certificate if information indicates that a certified well was not a three-year inactive well or a two-year inactive well, as appropriate, or if other lease production is credited to the certified well. Upon notice to the operator from the commission that the certificate for tax exemption under this section has been revoked, the tax exemption may not be applied to hydrocarbons sold from that well from the date of revocation.

(h) If the tax is paid at the full rate provided by Section 201.052(a), 201.052(b), 202.052(a), or 202.052(b) before the comptroller approves an application for an exemption provided for in this chapter, the operator is entitled to a credit against taxes imposed by this chapter in an amount equal to the tax paid. To receive a credit, the operator must apply to the comptroller for the credit not later than the first anniversary after the date the commission certifies that the well is a three-year inactive well or a two-year inactive well.

SECTION 3. Section 202.056(i)(2), Tax Code, is amended to read as follows:

(2) Upon notice from the commission that the certification for a three-year inactive well or a two-year inactive well has been revoked, the tax exemption shall not apply to oil or gas production sold after the date of notification. Any person who violates this subsection is liable to the state for a civil penalty if the person applies or attempts to apply the tax exemption allowed by this chapter after the certification for a three-year inactive well or a two-year inactive well is revoked. The amount of the penalty may not exceed the sum of:

(A) \$10,000; and

(B) the difference between the amount of taxes paid or attempted to be paid and the amount of taxes due.

SECTION 4. Upon the effective date of this Act, the comptroller of public accounts and the Railroad Commission of Texas shall conduct a study, utilizing existing staff and budget resources, to determine the overall impact of the effect of the present statutory and regulatory framework, including tax incentives, upon the energy industry and the state, as well as the effect upon the market for and value of oil, gas, and other minerals and environmental impacts. Upon

conclusion of the study, the comptroller and the railroad commission shall make recommendations to appropriate legislative and regulatory agencies toward maximizing the value of these resources, their economic impact upon the state, and their long-range availability and use.

SECTION 5. This Act takes effect September 1, 1995.

SECTION 6. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Senate Amendment No. 1

Amend **HB 676** by deleting SECTION 4 and substituting in lieu thereof the following:

SECTION 4: Upon the effective date of this Act, the Comptroller of Public Accounts and the Railroad Commission shall conduct a study, utilizing existing staff and budget resources, to determine the overall impact of the effect of the present statutory and regulatory framework, including tax and other incentives, upon the energy industry and the state, as well as the effect upon the market for oil, gas and other minerals. Upon conclusion of the study, the Comptroller and the Railroad Commission shall make recommendations to appropriate legislative and regulatory agencies toward maximizing the value of these resources, their economic impact upon the state and their long-range availability and use.

Representative Craddick raised a point of order against further consideration of the senate amendments to **HB 676** on the grounds that the senate amendments to **HB 676** violate Rule 11, Section 2, of the House Rules.

The chair sustained the point of order.

HB 742 - WITH SENATE AMENDMENT

Representative Conley called up with a senate amendment for consideration at this time,

HB 742, A bill to be entitled An Act relating to the resale of certain land acquired by a political subdivision.

On motion of Representative Conley, the house concurred in the senate amendment to **HB 742**.

HB 742 - TEXT OF SENATE AMENDMENT

Senate Amendment No. 1 (Senate Committee Amendment No. 1)

Amend **HB 742** as follows:

In subsection (g) add

"in a municipality with a population of 1.5 million or more" after the word "unit".

HR 1115 - ADOPTED

Representative Longoria moved to suspend all necessary rules to take up and consider at this time **HR 1115**.

The motion prevailed without objection.

The chair laid before the house the following resolution:

By Longoria,

HR 1115, Honoring Coach Joe Cortez on his retirement.

The resolution was adopted without objection.

HB 1 - ORDERED NOT PRINTED

Representative Junell moved to not print the conference committee report on **HB 1** in the journal.

The motion prevailed without objection.

PROVIDING FOR ADJOURNMENT

Representative Hudson moved that, at the conclusion of the receipt of messages from the senate and the signing of bills and resolutions, the house adjourn until 10 a.m. tomorrow in memory of Mary Thelma Pettigrew Bray and Amous Earl Wilemon.

The motion prevailed without objection.

(Hirschi in the chair)

MESSAGE FROM THE SENATE

Austin, Texas, May 25, 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 713 by Oakley (Sponsor-Brown), relating to the regulation of private investigators and private security agencies; creating a criminal penalty (committee substitute and amended).

HB 1367 by Dutton, De La Garza, Duncan (Sponsor-Ellis), relating to certain acts of unfair discrimination in the business of insurance and certain methods, programs, and mechanisms for providing property and casualty insurance in underserved areas; providing administrative penalties (amended).

HB 1547 by Swinford (Sponsor-Bivins), relating to weight, length, and hours of operation restrictions on certain vehicles (amended).

HB 2610 by Craddick (Sponsor-Turner, Jim), relating to the collection of delinquent ad valorem taxes and the appraisal of property for ad valorem tax purposes (amended).

HB 2969 by McCoulskey (Sponsor-Brown), relating to the acquisition and disposition of land and facilities by a municipality and to the issuance of municipal bonds (amended).

(Speaker in the chair)

HB 1433 by Hamric, Place, Talton, Gallego, and Culberson (Sponsor-Brown), relating to the eligibility for release on mandatory supervision of certain inmates of the institutional division of the Texas Department of Criminal Justice (amended).

HB 3082 by Holzheuser (Sponsor-Armbrister), relating to the creation of, annexation of territory by, and consolidation of drainage districts (amended).

HB 3164 by Seidlits (Sponsor-Armbrister), relating to the continuation, operations, and functions of the Public Utility Commission of Texas and the Office of Public Utility Counsel; providing penalties (amended).

Respectfully,
Betty King
Secretary of the Senate

ADJOURNMENT

In accordance with a previous motion, the house, at 7:26 p.m., adjourned until 10 a.m. tomorrow.

APPENDIX

STANDING COMMITTEE REPORTS

Favorable reports have been filed by committees as follows:

Financial Institutions - **HCR 216**

ENGROSSED

May 25 - **HCR 76**

ENROLLED

May 24 - **HB 160, HB 280, HB 1227, HB 1510, HB 1604, HB 1670, HB 2008, HB 2022, HB 2062, HB 2187, HB 2658, HB 2731, HB 2747, HCR 220, HCR 221, HCR 222**

May 25 - **HB 73, HB 76, HB 200, HB 331, HB 333, HB 336, HB 340, HB 347, HB 359, HB 457, HB 496, HB 609, HB 740, HB 741, HB 824, HB 828, HB 841, HB 1124, HB 1180, HB 1200, HB 1205, HB 1225, HB 1323, HB 1359, HB 1375, HB 1385, HB 1417, HB 1441, HB 1472, HB 1491, HB 1495, HB 1536, HB 1537, HB 1544, HB 1551, HB 1605, HB 1648, HB 1661, HB 1717, HB 1757, HB 1785, HB 1875, HB 1882, HB 1900, HB 1943, HB 1957, HB 1964, HB 1991, HB 2035, HB 2042, HB 2053, HB 2069, HB 2168, HB 2304, HB 2313, HB 2373, HB 2401, HB 2432, HB 2463, HB 2496, HB 2574, HB 2579, HB 2588, HB 2613, HB 2640, HB 2661, HB 2669, HB 2673, HB 2684, HB 2686, HB 2698, HB 2771, HB 2781, HB 2793, HB 2875, HB 2926, HB 3053, HB 3072, HB 3109, HB 3120, HB 3165, HB 3188, HB 3195, HB 3198, HB 3211, HCR 127, HCR 128**

SENT TO THE GOVERNOR

May 23 - **HB 29, HB 941, HB 1329, HB 1434, HB 1644, HB 1763, HB 1792, HB 1956, HB 2012, HB 2230, HB 2314, HB 2365, HB 2390, HB 3062, HCR 4, HCR 92, HCR 200, HCR 219**

May 25 - **HB 73, HB 76, HB 160, HB 200, HB 280, HB 331, HB 333, HB 336, HB 340, HB 457, HB 496, HB 609, HB 740, HB 741, HB 824, HB 841, HB 1124, HB 1205, HB 1225, HB 1359, HB 1375, HB 1385, HB 1417, HB 1491, HB 1510, HB 1536, HB 1537, HB 1544, HB 1551, HB 1604, HB 1605, HB 1648, HB 1661, HB 1670, HB 1717, HB 1757, HB 1875, HB 1882, HB 1943, HB 1964, HB 2008, HB 2022, HB 2053, HB 2062, HB 2187, HB 2304, HB 2463, HB 2496, HB 2574, HB 2588, HB 2613, HB 2640, HB 2658, HB 2661, HB 2669, HB 2673, HB 2684, HB 2731, HB 2771, HB 2793, HB 2926, HB 3053, HB 3109, HB 3165, HB 3188, HB 3195, HB 3198, HB 3211, HCR 127, HCR 220, HCR 221, HCR 222**