

HOUSE JOURNAL

SEVENTY-NINTH LEGISLATURE, REGULAR SESSION

PROCEEDINGS

FIFTY-FIRST DAY — TUESDAY, APRIL 19, 2005

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 309).

Present — Mr. Speaker; Allen, A.; Allen, R.; Alonzo; Anchia; Anderson; Bailey; Baxter; Berman; Blake; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Campbell; Casteel; Castro; Chavez; Chisum; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Crownover; Davis, J.; Davis, Y.; Dawson; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; Escobar; Farabee; Farrar; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goodman; Goolsby; Griggs; Grusendorf; Guillen; Haggerty; Hamilton; Hamric; Hardcastle; Harper-Brown; Hartnett; Hegar; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hope; Hopson; Howard; Hughes; Hunter; Hupp; Isett; Jackson; Jones, D.; Jones, J.; Keel; Keffer, B.; Keffer, J.; King, P.; King, T.; Kolkhorst; Krusee; Kuempel; Laney; Laubenberg; Leibowitz; Luna; Madden; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miller; Moreno, J.; Moreno, P.; Morrison; Mowery; Naishtat; Nixon; Noriega, M.; Oliveira; Orr; Otto; Paxton; Peña; Phillips; Pickett; Puente; Quintanilla; Raymond; Reyna; Riddle; Ritter; Rodriguez; Rose; Seaman; Smith, T.; Smith, W.; Smithee; Solis; Solomons; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Uresti; Van Arsdale; Veasey; Villarreal; Vo; West; Wong; Woolley; Zedler.

Absent, Excused — Delisi; Olivo; Pitts.

The invocation was offered by Dr. Robert Jeffress, pastor, First Baptist Church, Wichita Falls, as follows:

Dear Heavenly Father, we come before you today asking that you bless our legislators who have gathered together to deliberate over the business of our great state. Your word says there is no governing body that exists that you have not established. These men and women are here today because you have placed them here to accomplish your will, not ours, and to serve you, not to serve ourselves.

I pray for each of our lawmakers today that you would grant them wisdom to discern your will concerning these complicated issues before them. I also pray for your blessing and protection for their families at home while they are here serving our citizens. We ask these things in the name of our Lord Jesus Christ who came, died, and rose again that we might have eternal life. Amen.

The speaker recognized Representative J. Keffer who led the house in the pledges of allegiance to the United States and Texas flags.

LEAVES OF ABSENCE GRANTED

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

Pitts on motion of Solomons.

The following member was granted leave of absence for today and tomorrow because of a death in the family:

Delisi on motion of Woolley.

CAPITOL PHYSICIAN

The speaker recognized Representative Swinford who presented Dr. George Cole of Farmers Branch as the "Doctor for the Day."

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

LEAVE OF ABSENCE GRANTED

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

Riddle on motion of Madden.

REGULAR ORDER OF BUSINESS SUSPENDED

On motion of Representative Denny and by unanimous consent, the reading and referral of bills was postponed until just prior to adjournment.

HB 3562 - PERMISSION TO INTRODUCE

Representative Campbell requested permission to introduce and have placed on first reading **HB 3562**.

Permission to introduce was granted.

HR 1049 - ADOPTED (by Geren)

Representative Geren moved to suspend all necessary rules to take up and consider at this time **HR 1049**.

The motion prevailed.

The following resolution was laid before the house:

HR 1049, Recognizing the University of North Texas Health Science Center on the success of its doctor and master of public health programs and congratulating all those associated with these outstanding programs.

HR 1049 was read and was adopted.

HB 3563 - PERMISSION TO INTRODUCE

Representative P. King requested permission to introduce and have placed on first reading **HB 3563**.

Permission to introduce was granted.

MESSAGE FROM THE SENATE

A message from the senate was received at this time (see the addendum to the daily journal, Messages from the Senate, Message No. 1).

(Woolley in the chair)

HR 1220 - ADOPTED

(by Hunter, Branch, Griggs, Laney, and McReynolds)

Representative Hunter moved to suspend all necessary rules to take up and consider at this time **HR 1220**.

The motion prevailed.

The following resolution was laid before the house:

HR 1220, Honoring Judge Jack Pope, on the occasion of his 92nd birthday, for his dedicated service to the State of Texas.

HR 1220 was read and was adopted.

On motion of Representative McReynolds, the names of all the members of the house were added to **HR 1220** as signers thereof.

INTRODUCTION OF GUESTS

The chair recognized Representative Hunter who introduced the Honorable Jack Pope and Royce Money, president of Abilene Christian University.

HR 1223 - ADOPTED

(by Vo)

Representative Vo moved to suspend all necessary rules to take up and consider at this time **HR 1223**.

The motion prevailed.

The following resolution was laid before the house:

HR 1223, Commemorating the "Vietnam Freedom March: Remembering the Past, Shaping the Future" event being held in Washington, D.C., on April 30, 2005.

HR 1223 was adopted.

HR 1222 - ADOPTED

(by Orr)

Representative Orr moved to suspend all necessary rules to take up and consider at this time **HR 1222**.

The motion prevailed.

The following resolution was laid before the house:

HR 1222, Honoring Bill and Joyce Stribling of Burleson for their contributions to their community.

HR 1222 was adopted.

HR 1017 - ADOPTED
(by Swinford and Chisum)

Representative Swinford moved to suspend all necessary rules to take up and consider at this time **HR 1017**.

The motion prevailed.

The following resolution was laid before the house:

HR 1017, Honoring the Frank Phillips College Lady Plainsmen volleyball team on its outstanding achievements.

HR 1017 was read and was adopted.

On motion of Representative Swinford, the names of all the members of the house were added to **HR 1017** as signers thereof.

INTRODUCTION OF GUESTS

The chair recognized Representative Chisum who introduced Cara Adams, Coach of the Lady Plainsmen volleyball team; John Green, athletic director; and Herb Sweener, president of Frank Phillips College.

HR 1165 - ADOPTED
(by Alonzo)

Representative Alonzo moved to suspend all necessary rules to take up and consider at this time **HR 1165**.

The motion prevailed.

The following resolution was laid before the house:

HR 1165, Welcoming students from W. H. Adamson High School to the State Capitol.

HR 1165 was adopted.

HR 1228 - ADOPTED
(by Y. Davis)

Representative Edwards moved to suspend all necessary rules to take up and consider at this time **HR 1228**.

The motion prevailed.

The following resolution was laid before the house:

HR 1228, Honoring Joseph L. Atkins of Dallas on his induction into the African American Education Archives and History Program Educators Hall of Fame.

HR 1228 was adopted.

HR 1229 - ADOPTED
(by Y. Davis)

Representative Edwards moved to suspend all necessary rules to take up and consider at this time **HR 1229**.

The motion prevailed.

The following resolution was laid before the house:

HR 1229, Honoring Rosie Collins Sorrells of Dallas on her induction into the African American Education Archives and History Program Educators Hall of Fame.

HR 1229 was adopted.

HR 1230 - ADOPTED
(by Y. Davis)

Representative Edwards moved to suspend all necessary rules to take up and consider at this time **HR 1230**.

The motion prevailed.

The following resolution was laid before the house:

HR 1230, Honoring Sam Tasby of Dallas on his induction into the African American Education Archives and History Program Educators Hall of Fame.

HR 1230 was adopted.

POSTPONED BUSINESS

The following bills were laid before the house as postponed business:

HB 1324 ON SECOND READING
(by Peña, Raymond, Hodge, Escobar, and Farrar)

HB 1324, A bill to be entitled An Act relating to the punishment for the offense of burglary of vehicles.

HB 1324 was read second time on March 30, postponed until April 12, and was again postponed until 10 a.m. today.

HB 1324 was passed to engrossment. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

HB 878 ON SECOND READING
(by Talton)

HB 878, A bill to be entitled An Act relating to the placement of public school students who engage in conduct that contains the elements of certain sexual offenses.

HB 878 was read second time on April 18, and was postponed until 10 a.m. today.

Representative Talton moved to postpone consideration of **HB 878** until noon today.

The motion prevailed.

**MAJOR STATE CALENDAR
HOUSE BILLS
THIRD READING**

The following bills were laid before the house and read third time:

**HB 1015 ON THIRD READING
(by Truitt, Solomons, and Hamric)**

HB 1015, A bill to be entitled An Act relating to the continuation and functions of the Texas State Board of Examiners of Psychologists.

HB 1015 was passed. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

**HB 1155 ON THIRD READING
(by Truitt, Solomons, and Hamric)**

HB 1155, A bill to be entitled An Act relating to the continuation and functions of the Texas State Board of Examiners of Dietitians.

HB 1155 was passed. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

**GENERAL STATE CALENDAR
HOUSE BILLS
THIRD READING**

The following bills were laid before the house and read third time:

**HB 2392 ON THIRD READING
(by Hill)**

HB 2392, A bill to be entitled An Act relating to the property tax situs and rendition requirements for motor vehicles located at a place of business of a wholesale motor vehicle auction.

HB 2392 was passed. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

**HB 3016 ON THIRD READING
(by Hill)**

HB 3016, A bill to be entitled An Act relating to the determination of the market value of certain drug supplies for ad valorem property tax purposes.

HB 3016 was passed. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. Members registering votes are as follows: Farrar, Herrero, Hughes, Leibowitz, J. Moreno, Talton, Taylor, Truitt, and Zedler recorded voting no.)

HB 56 ON THIRD READING
(by Denny, Bohac, Hughes, and Branch)

HB 56, A bill to be entitled An Act relating to the offense of tampering with a direct recording electronic voting machine; providing criminal penalties.

HB 56 was passed. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

HB 57 ON THIRD READING
(by Denny)

HB 57, A bill to be entitled An Act relating to the dates on which elections may be held and certain procedures involving the uniform election held in May.

HB 57 was passed. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

HB 311 ON THIRD READING
(by McReynolds)

HB 311, A bill to be entitled An Act relating to the prosecution and punishment of the offense of making a false report to a peace officer or law enforcement employee.

HB 311 was passed. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

HB 348 ON THIRD READING
(by Chisum)

HB 348, A bill to be entitled An Act relating to limiting the authority of a property owner to erect a gate on certain third-class and neighborhood roads.

HB 348 was passed. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

HB 383 ON THIRD READING
(by Dutton, et al.)

HB 383, A bill to be entitled An Act relating to the right of certain persons to discipline a child.

Amendment No. 1

Representative Dutton offered the following amendment to **HB 383**:

Amend **HB 383**, on third reading, in added Section 151.001(e)(1), Family Code, by inserting "or grandparent" between "parent" and "of the child".

Amendment No. 1 was adopted.

HB 383, as amended, was passed. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. Members registering votes are as follows: Coleman and M. Noriega recorded voting no.)

HB 571 ON THIRD READING
(by Hegar and Howard)

HB 571, A bill to be entitled An Act relating to the establishment of auxiliary county facilities in the unincorporated area of a county.

A record vote was requested.

HB 571 was passed by (Record 310): 143 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Allen, A.; Allen, R.; Alonzo; Anchia; Anderson; Bailey; Baxter; Berman; Blake; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Campbell; Casteel; Castro; Chavez; Chisum; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Crownover; Davis, J.; Davis, Y.; Dawson; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; Escobar; Farabee; Farrar; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goodman; Goolsby; Griggs; Grusendorf; Guillen; Haggerty; Hamilton; Hamric; Hardcastle; Harper-Brown; Hartnett; Hegar; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hope; Hopson; Hughes; Hunter; Hupp; Isett; Jackson; Jones, D.; Jones, J.; Keel; Keffer, B.; Keffer, J.; King, P.; King, T.; Kolkhorst; Krusee; Kuempel; Laney; Laubenberg; Leibowitz; Luna; Madden; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miller; Moreno, J.; Moreno, P.; Morrison; Mowery; Naishtat; Nixon; Noriega, M.; Oliveira; Orr; Otto; Paxton; Peña; Phillips; Pickett; Puente; Quintanilla; Raymond; Reyna; Ritter; Rodriguez; Rose; Seaman; Smith, T.; Smith, W.; Smithee; Solis; Solomons; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Uresti; Van Arsdale; Veasey; Villarreal; Vo; West; Wong; Zedler.

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

Absent, Excused — Delisi; Olivo; Pitts; Riddle.

Absent — Howard.

(Speaker in the chair)

HB 678 ON THIRD READING
(by Goodman, et al.)

HB 678, A bill to be entitled An Act relating to the accrual of interest on overdue child support.

A record vote was requested.

HB 678 was passed by (Record 311): 141 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen, A.; Allen, R.; Alonzo; Anchia; Anderson; Bailey; Baxter; Berman; Blake; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Campbell; Casteel; Castro; Chavez; Chisum; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Crownover; Davis, J.; Davis, Y.; Dawson; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; Escobar; Farabee; Farrar; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goodman; Goolsby; Griggs; Grusendorf; Guillen; Haggerty; Hamilton; Hamric; Hardcastle; Harper-Brown; Hartnett; Hegar; Hilderbran; Hill; Hochberg; Hodge; Homer; Hope; Hopson; Howard; Hughes; Hunter; Hupp; Isett; Jackson; Jones, D.; Jones, J.; Keel; Keffer, B.; Keffer, J.; King, P.; King, T.; Kolkhorst; Krusee; Kuempel; Laney; Laubenberg; Leibowitz; Luna; Madden; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miller; Moreno, P.; Morrison; Naishtat; Nixon; Noriega, M.; Oliveira; Orr; Otto; Paxton; Peña; Phillips; Pickett; Puente; Quintanilla; Raymond; Reyna; Ritter; Rodriguez; Rose; Seaman; Smith, T.; Smith, W.; Smithee; Solis; Solomons; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Van Arsdale; Veasey; Villarreal; Vo; West; Wong; Woolley; Zedler.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Delisi; Olivo; Pitts; Riddle.

Absent — Herrero; Moreno, J.; Mowery; Uresti.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 311. I intended to vote no.

Castro

When Record No. 311 was taken, I was in the house but away from my desk. I would have voted yes.

Herrero

When Record No. 311 was taken, I was in the house but away from my desk. I would have voted yes.

J. Moreno

BILLS AND RESOLUTIONS SIGNED BY THE SPEAKER

Notice was given at this time that the speaker had signed bills and resolutions in the presence of the house (see the addendum to the daily journal, Signed by the Speaker, House List No. 29).

HB 758 ON THIRD READING

(by **Denny, Rodriguez, Hegar, Coleman, Alonzo, et al.**)

HB 758, A bill to be entitled An Act relating to a pilot program allowing for countywide voting locations in certain elections.

HB 758 was passed. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

HB 856 ON THIRD READING

(by **Callegari**)

HB 856, A bill to be entitled An Act relating to the general powers, authority, and directors of the West Harris County Regional Water Authority.

A record vote was requested.

HB 856 was passed by (Record 312): 141 Yeas, 1 Nays, 1 Present, not voting.

Yeas — Allen, A.; Allen, R.; Alonzo; Anchia; Anderson; Bailey; Baxter; Berman; Blake; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Campbell; Casteel; Castro; Chavez; Chisum; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Crownover; Davis, J.; Davis, Y.; Dawson; Denny; Deshotel; Driver; Dukes; Dunnam; Edwards; Eiland; Eissler; Elkins; Escobar; Farrar; Flores; Flynn; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goodman; Goolsby; Griggs; Grusendorf; Guillen; Haggerty; Hamilton; Hamric; Hardcastle; Harper-Brown; Hartnett; Hegar; Herrero; Hilderbran; Hill; Hochberg; Hodge; Hope; Hopson; Howard; Hughes; Hunter; Hupp; Isett; Jackson; Jones, D.; Jones, J.; Keel; Keffer, B.; Keffer, J.; King, P.; King, T.; Kolkhorst; Krusee; Kuempel; Laney; Laubenberg; Leibowitz; Luna; Madden; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miller; Moreno, J.; Moreno, P.; Morrison; Mowery; Naishtat; Nixon; Noriega, M.; Oliveira; Orr; Otto; Paxton; Peña; Phillips; Pickett; Puente; Quintanilla; Raymond; Reyna; Ritter; Rodriguez; Rose; Seaman; Smith, T.; Smith, W.; Smithee; Solis; Solomons; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Uresti; Van Arsdale; Veasey; Villarreal; Vo; West; Wong; Woolley; Zedler.

Nays — Dutton.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Delisi; Olivo; Pitts; Riddle.

Absent — Farabee; Frost; Homer.

STATEMENTS OF VOTE

I was shown voting no on Record No. 312. I intended to vote yes.

Dutton

When Record No. 312 was taken, my vote failed to register. I would have voted yes.

Frost

**HB 942 ON THIRD READING
(by Geren)**

HB 942, A bill to be entitled An Act relating to the registration of antique boats with the Parks and Wildlife Department.

HB 942 was passed. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

**HB 1088 ON THIRD READING
(by Thompson)**

HB 1088, A bill to be entitled An Act relating to an automobile club membership offered in connection with a loan.

HB 1088 was passed. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. Members registering votes are as follows: Rose recorded voting no.)

**HB 1215 ON THIRD READING
(by Morrison)**

HB 1215, A bill to be entitled An Act relating to the degree programs offered by the University of Houston-Victoria.

A record vote was requested.

HB 1215 was passed by (Record 313): 144 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen, A.; Allen, R.; Alonzo; Anchia; Anderson; Bailey; Baxter; Berman; Blake; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Campbell; Casteel; Castro; Chavez; Chisum; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Crownover; Davis, J.; Davis, Y.; Dawson; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; Escobar; Farabee; Farrar; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goodman; Goolsby; Griggs; Grusendorf; Guillen; Haggerty; Hamilton; Hamric; Hardcastle; Harper-Brown; Hartnett; Hegar; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hope; Hopson; Howard; Hughes; Hunter; Hupp; Isett; Jackson; Jones, D.; Jones, J.; Keel; Keffer, B.; Keffer, J.; King, P.; King, T.; Kolkhorst; Krusee; Kuempel; Laney; Laubenberg; Leibowitz; Luna; Madden; Martinez; Martinez Fischer; McCall; McClendon;

McReynolds; Menendez; Merritt; Miller; Moreno, J.; Moreno, P.; Morrison; Mowery; Naishtat; Nixon; Noriega, M.; Oliveira; Orr; Otto; Paxton; Peña; Phillips; Pickett; Puente; Quintanilla; Raymond; Reyna; Ritter; Rodriguez; Rose; Seaman; Smith, T.; Smith, W.; Smithee; Solis; Solomons; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Uresti; Van Arsdale; Veasey; Villarreal; Vo; West; Woolley; Zedler.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Delisi; Olivo; Pitts; Riddle.

Absent — Wong.

STATEMENT OF VOTE

When Record No. 313 was taken, I was in the house but away from my desk. I would have voted yes.

Wong

HB 1262 ON THIRD READING (by Farabee)

HB 1262, A bill to be entitled An Act relating to the collection and dissemination by the Department of Public Safety of information relating to certain threats against detention officers.

HB 1262 was passed. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

HB 1304 ON THIRD READING (by Wong)

HB 1304, A bill to be entitled An Act relating to sanitation requirements for certain barbering and cosmetology services.

HB 1304 was passed. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. Members registering votes are as follows: Hopson, Merritt, and Truitt recorded voting no.)

HB 1347 ON THIRD READING (by Isett)

HB 1347, A bill to be entitled An Act relating to the power of a local authority to enforce compliance with a traffic-control signal on a highway under its jurisdiction by a photographic traffic signal enforcement system.

A record vote was requested.

HB 1347 was passed by (Record 314): 130 Yeas, 14 Nays, 1 Present, not voting.

Yeas — Allen, R.; Alonzo; Anchia; Anderson; Bailey; Baxter; Berman; Blake; Bohac; Bonnen; Branch; Brown, F.; Burnam; Callegari; Campbell; Casteel; Castro; Chavez; Chisum; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Crownover; Davis, J.; Davis, Y.; Dawson; Denny; Deshotel; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; Escobar; Farabee; Farrar; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goodman; Goolsby; Griggs; Grusendorf; Guillen; Haggerty; Hamilton; Hamric; Hardcastle; Hartnett; Hegar; Herrero; Hilderbran; Hill; Hodge; Homer; Hope; Hopson; Howard; Hughes; Hupp; Isett; Jones, D.; Jones, J.; Keel; Keffer, B.; Keffer, J.; King, T.; Kolkhorst; Krusee; Kuempel; Laney; Leibowitz; Martinez; Martinez Fischer; McClendon; McReynolds; Menendez; Merritt; Miller; Moreno, J.; Moreno, P.; Mowery; Naishtat; Nixon; Noriega, M.; Oliveira; Orr; Otto; Paxton; Peña; Phillips; Pickett; Puente; Quintanilla; Raymond; Reyna; Ritter; Rodriguez; Rose; Seaman; Smith, T.; Smith, W.; Smithee; Solis; Solomons; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Uresti; Van Arsdale; Veasey; Villarreal; West; Wong; Woolley.

Nays — Brown, B.; Driver; Harper-Brown; Hochberg; Hunter; Jackson; King, P.; Laubenberg; Luna; Madden; McCall; Morrison; Vo; Zedler.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Delisi; Olivo; Pitts; Riddle.

Absent — Allen, A.

STATEMENTS OF VOTE

I was shown voting no on Record No. 314. I intended to vote yes.

Hunter

I was shown voting yes on Record No. 314. I intended to vote no.

B. Keffer

I was shown voting yes on Record No. 314. I intended to vote no.

Paxton

I was shown voting yes on Record No. 314. I intended to vote no.

T. Smith

I was shown voting yes on Record No. 314. I intended to vote no.

Wong

**HB 1685 ON THIRD READING
(by Dukes, Naishtat, et al.)**

HB 1685, A bill to be entitled An Act relating to the establishment of an interagency coordinating council for the prevention of child abuse and neglect.

A record vote was requested.

HB 1685 was passed by (Record 315): 143 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen, A.; Allen, R.; Alonzo; Anchia; Anderson; Bailey; Baxter; Berman; Blake; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Campbell; Casteel; Castro; Chavez; Chisum; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Crownover; Davis, J.; Davis, Y.; Dawson; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Farabee; Farrar; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goodman; Goolsby; Griggs; Grusendorf; Guillen; Haggerty; Hamilton; Hamric; Hardcastle; Harper-Brown; Hartnett; Hegar; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hope; Hopson; Howard; Hughes; Hunter; Hupp; Isett; Jackson; Jones, D.; Jones, J.; Keel; Keffer, B.; Keffer, J.; King, P.; King, T.; Kolkhorst; Krusee; Kuempel; Laney; Laubenberg; Leibowitz; Luna; Madden; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miller; Moreno, J.; Moreno, P.; Morrison; Mowery; Naishtat; Nixon; Noriega, M.; Oliveira; Orr; Otto; Paxton; Peña; Phillips; Pickett; Puente; Quintanilla; Raymond; Reyna; Ritter; Rodriguez; Rose; Seaman; Smith, T.; Smith, W.; Smithee; Solis; Solomons; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Uresti; Van Arsdale; Veasey; Villarreal; Vo; West; Wong; Woolley; Zedler.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Delisi; Olivo; Pitts; Riddle.

Absent — Elkins; Escobar.

HB 2131 ON THIRD READING (by Phillips and Hardcastle)

HB 2131, A bill to be entitled An Act relating to the demonstration of financial assurance by a local government in relation to the operation of a municipal solid waste landfill facility.

A record vote was requested.

HB 2131 was passed by (Record 316): 142 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen, A.; Allen, R.; Alonzo; Anchia; Anderson; Bailey; Baxter; Berman; Blake; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Campbell; Casteel; Castro; Chavez; Chisum; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Crownover; Davis, J.; Davis, Y.; Dawson; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eissler; Elkins; Escobar; Farabee; Farrar; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goodman; Goolsby; Griggs; Grusendorf; Guillen; Haggerty; Hamilton; Hamric; Hardcastle; Harper-Brown; Hartnett; Hegar; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hope; Hopson; Howard; Hughes; Hunter; Hupp; Isett; Jackson; Jones, D.; Jones, J.; Keel; Keffer, B.; Keffer, J.; King, P.; King, T.; Kolkhorst; Krusee; Kuempel; Laney; Laubenberg; Leibowitz; Luna; Madden; Martinez; Martinez Fischer; McClendon; McReynolds; Menendez; Merritt; Miller; Moreno, J.; Moreno, P.; Morrison; Mowery; Naishtat; Nixon; Noriega, M.; Oliveira; Orr; Otto; Paxton; Peña;

Pickett; Puente; Quintanilla; Raymond; Reyna; Ritter; Rodriguez; Rose; Seaman; Smith, T.; Smith, W.; Smithee; Solis; Solomons; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Uresti; Van Arsdale; Veasey; Villarreal; Vo; West; Wong; Woolley; Zedler.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Delisi; Olivo; Pitts; Riddle.

Absent — Eiland; McCall; Phillips.

HB 2194 ON THIRD READING
(by Madden)

HB 2194, A bill to be entitled An Act relating to the review of the results of competency examinations in criminal cases by the Texas Correctional Office on Offenders with Medical or Mental Impairments.

A record vote was requested.

HB 2194 was passed by (Record 317): 141 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen, A.; Allen, R.; Alonzo; Anchia; Anderson; Bailey; Baxter; Berman; Blake; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Campbell; Casteel; Castro; Chavez; Chisum; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Crownover; Davis, J.; Davis, Y.; Dawson; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eissler; Elkins; Escobar; Farabee; Farrar; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goodman; Griggs; Grusendorf; Guillen; Haggerty; Hamilton; Hamric; Hardcastle; Harper-Brown; Hartnett; Hegar; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hope; Hopson; Howard; Hughes; Hunter; Hupp; Isett; Jackson; Jones, D.; Jones, J.; Keel; Keffer, B.; Keffer, J.; King, P.; King, T.; Kolkhorst; Krusee; Kuempel; Laney; Laubenberg; Leibowitz; Luna; Madden; Martinez; Martinez Fischer; McClendon; McReynolds; Menendez; Merritt; Miller; Moreno, J.; Moreno, P.; Morrison; Mowery; Naishtat; Nixon; Noriega, M.; Oliveira; Orr; Otto; Paxton; Peña; Phillips; Pickett; Puente; Quintanilla; Raymond; Reyna; Ritter; Rodriguez; Rose; Seaman; Smith, T.; Smith, W.; Smithee; Solis; Solomons; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Uresti; Van Arsdale; Veasey; Vo; West; Wong; Woolley; Zedler.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Delisi; Olivo; Pitts; Riddle.

Absent — Eiland; Goolsby; McCall; Villarreal.

HB 2199 ON THIRD READING
(by Madden and Branch)

HB 2199, A bill to be entitled An Act relating to the salaries of a county elections administrator and the administrator's employees.

A record vote was requested.

HB 2199 was passed by (Record 318): 142 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen, A.; Allen, R.; Alonzo; Anchia; Anderson; Bailey; Baxter; Berman; Blake; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Campbell; Casteel; Castro; Chavez; Chisum; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Crownover; Davis, J.; Davis, Y.; Dawson; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eissler; Elkins; Escobar; Farabee; Farrar; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goodman; Goolsby; Griggs; Grusendorf; Guillen; Haggerty; Hamilton; Hamric; Hardcastle; Harper-Brown; Hartnett; Hegar; Herrero; Hilderbran; Hill; Hochberg; Hodge; Hope; Hopson; Howard; Hughes; Hunter; Hupp; Isett; Jackson; Jones, D.; Jones, J.; Keel; Keffer, B.; Keffer, J.; King, P.; King, T.; Kolkhorst; Krusee; Kuempel; Laney; Laubenberg; Leibowitz; Luna; Madden; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miller; Moreno, J.; Morrison; Mowery; Naishtat; Nixon; Noriega, M.; Oliveira; Orr; Otto; Paxton; Peña; Phillips; Pickett; Puente; Quintanilla; Raymond; Reyna; Ritter; Rodriguez; Rose; Seaman; Smith, T.; Smith, W.; Smithee; Solis; Solomons; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Uresti; Van Arsdale; Veasey; Villarreal; Vo; West; Wong; Woolley; Zedler.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Delisi; Olivo; Pitts; Riddle.

Absent — Eiland; Homer; Moreno, P.

HB 2274 ON THIRD READING
(by B. Cook, Quintanilla, and Branch)

HB 2274, A bill to be entitled An Act relating to the continuation and functions of the Texas Guaranteed Student Loan Corporation.

HB 2274 was passed. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

HB 2650 ON THIRD READING
(by Krusee)

HB 2650, A bill to be entitled An Act relating to local government participation in the financing of turnpike projects.

HB 2650 was passed. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. Members registering votes are as follows: Dunnam, Farrar, Herrero, Hochberg, Keel, Kolkhorst, Leibowitz, Menendez, J. Moreno, Peña, Thompson, and Turner recorded voting no.)

HB 2653 ON THIRD READING
(by Krusee)

HB 2653, A bill to be entitled An Act relating to the use of tax increment financing to pay certain costs associated with certain transportation or transit projects.

A record vote was requested.

HB 2653 was passed by (Record 319): 136 Yeas, 5 Nays, 1 Present, not voting.

Yeas — Allen, A.; Allen, R.; Alonzo; Anchia; Anderson; Bailey; Berman; Blake; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Casteel; Castro; Chavez; Chisum; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Crownover; Davis, J.; Dawson; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; Escobar; Farabee; Farrar; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goodman; Goolsby; Griggs; Grusendorf; Guillen; Haggerty; Hamilton; Hamric; Hardcastle; Harper-Brown; Hartnett; Hegar; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hope; Hopson; Howard; Hughes; Hupp; Isett; Jackson; Jones, D.; Jones, J.; Keffer, B.; Keffer, J.; King, P.; Kolkhorst; Krusee; Kuempel; Laney; Laubenberg; Leibowitz; Luna; Madden; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miller; Moreno, J.; Moreno, P.; Morrison; Mowery; Naishtat; Nixon; Noriega, M.; Oliveira; Orr; Otto; Paxton; Peña; Phillips; Pickett; Puente; Quintanilla; Raymond; Reyna; Ritter; Rodriguez; Rose; Seaman; Smith, T.; Smith, W.; Smithee; Solis; Solomons; Strama; Straus; Swinford; Talton; Taylor; Truitt; Uresti; Veasey; Villarreal; Vo; West; Wong; Woolley; Zedler.

Nays — Baxter; Davis, Y.; Keel; King, T.; Thompson.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Delisi; Olivo; Pitts; Riddle.

Absent — Campbell; Hunter; Turner; Van Arsdale.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 319. I intended to vote no.

Burnam

I was shown voting yes on Record No. 319. I intended to vote no.

R. Cook

I was shown voting yes on Record No. 319. I intended to vote no.

Giddings

I was shown voting yes on Record No. 319. I intended to vote no.

Guillen

I was shown voting yes on Record No. 319. I intended to vote no.

Kolkhorst

I was shown voting yes on Record No. 319. I intended to vote no.

Raymond

When Record No. 319 was taken, I was in the house but away from my desk. I would have voted yes.

Van Arsdale

POSTPONED BUSINESS

The following bills were laid before the house as postponed business:

HB 2405 ON SECOND READING

(by Keel)

HB 2405, A bill to be entitled An Act relating to prohibiting a person not entitled to receive an early voting ballot by mail from casting that ballot; providing a criminal penalty.

HB 2405 was read second time on April 18 and was postponed until 11 a.m. today.

Amendment No. 1 - Vote Reconsidered

Representative Keel moved to reconsider the vote by which Amendment No. 1 was adopted.

The motion to reconsider prevailed.

Amendment No. 1 was withdrawn.

Amendment No. 3

Representatives Keel and Hodge offered the following amendment to **HB 2405**:

Amend **HB 2405** (committee printing) on page 1 by striking lines 13-16 and substituting the following:

(g) A person commits an offense if, with the intent that an unlawful ballot be cast, a person directs the return of a marked early voting ballot by mail as provided by Section 86.006 with the knowledge that the ballot is from a voter who is not entitled to receive an early voting ballot to be voted by mail. An offense under this subsection is a Class C misdemeanor.

HB 2405 - POINT OF ORDER

Representative Y. Davis raised a point of order against further consideration of **HB 2405** under Rule 4, Section 18(a) of the House Rules on the grounds that the committee minutes and committee meeting announcement contain different information.

The speaker sustained the point of order.

The ruling precluded further consideration of **HB 2405**.

**GENERAL STATE CALENDAR
(consideration continued)**

**HB 3036 ON THIRD READING
(by Deshotel)**

HB 3036, A bill to be entitled An Act relating to the number, terms, and removal of directors of certain development corporations.

A record vote was requested.

HB 3036 was passed by (Record 320): 143 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen, A.; Allen, R.; Alonzo; Anchia; Anderson; Bailey; Baxter; Berman; Blake; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Campbell; Casteel; Castro; Chavez; Chisum; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Crownover; Davis, J.; Davis, Y.; Dawson; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; Escobar; Farabee; Farrar; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goodman; Goolsby; Griggs; Grusendorf; Guillen; Haggerty; Hamilton; Hamric; Hardcastle; Harper-Brown; Hartnett; Hegar; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hope; Hopson; Howard; Hughes; Hunter; Hupp; Jackson; Jones, D.; Jones, J.; Keel; Keffer, B.; Keffer, J.; King, P.; King, T.; Kolkhorst; Krusee; Kuempel; Laney; Laubenberg; Leibowitz; Luna; Madden; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miller; Moreno, J.; Moreno, P.; Morrison; Mowery; Naishtat; Nixon; Noriega, M.; Oliveira; Orr; Otto; Paxton; Peña; Phillips; Pickett; Puente; Quintanilla; Raymond; Reyna; Ritter; Rodriguez; Rose; Seaman; Smith, T.; Smith, W.; Solis; Solomons; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Uresti; Van Arsdale; Veasey; Villarreal; Vo; West; Wong; Woolley; Zedler.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Delisi; Olivo; Pitts; Riddle.

Absent — Isett; Smithee.

**GENERAL STATE CALENDAR
SENATE BILLS
THIRD READING**

The following bills were laid before the house and read third time:

**SB 217 ON THIRD READING
(Driver - House Sponsor)**

SB 217, A bill to be entitled An Act relating to reporting the outcome of alcohol and drug tests of holders of commercial driver's licenses.

A record vote was requested.

SB 217 was passed by (Record 321): 140 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen, A.; Allen, R.; Alonzo; Anchia; Anderson; Bailey; Baxter; Berman; Blake; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Campbell; Casteel; Castro; Chavez; Chisum; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Crownover; Davis, J.; Davis, Y.; Dawson; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; Escobar; Farabee; Farrar; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Tourelles; Goodman; Goolsby; Griggs; Grusendorf; Guillen; Haggerty; Hamilton; Hamric; Harper-Brown; Hartnett; Hegar; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hope; Hopson; Howard; Hughes; Hunter; Hupp; Isett; Jackson; Jones, D.; Jones, J.; Keel; Keffer, B.; Keffer, J.; King, P.; King, T.; Kolkhorst; Krusee; Kuempel; Laney; Laubenberg; Leibowitz; Luna; Madden; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miller; Moreno, J.; Morrison; Mowery; Naishtat; Nixon; Noriega, M.; Oliveira; Orr; Otto; Paxton; Peña; Phillips; Pickett; Puente; Quintanilla; Raymond; Reyna; Rodriguez; Rose; Seaman; Smith, T.; Smith, W.; Smithee; Solis; Solomons; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Uresti; Van Arsdale; Veasey; Villarreal; Vo; West; Wong; Woolley; Zedler.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Delisi; Olivo; Pitts; Riddle.

Absent — Denny; Deshotel; Hardcastle; Moreno, P.; Ritter.

STATEMENTS OF VOTE

When Record No. 321 was taken, I was in the house but away from my desk. I would have voted yes.

Deshotel

When Record No. 321 was taken, I was in the house but away from my desk. I would have voted yes.

Ritter

SB 581 ON THIRD READING (Corte - House Sponsor)

SB 581, A bill to be entitled An Act relating to the powers and duties of the Veterans' Land Board.

A record vote was requested.

SB 581 was passed by (Record 322): 145 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen, A.; Allen, R.; Alonzo; Anchia; Anderson; Bailey; Baxter; Berman; Blake; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Campbell; Casteel; Castro; Chavez; Chisum; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Crownover; Davis, J.; Davis, Y.; Dawson; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; Escobar; Farabee; Farrar; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Tourelles; Goodman; Goolsby; Griggs; Grusendorf; Guillen;

Haggerty; Hamilton; Hamric; Hardcastle; Harper-Brown; Hartnett; Hegar; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hope; Hopson; Howard; Hughes; Hunter; Hupp; Isett; Jackson; Jones, D.; Jones, J.; Keel; Keffer, B.; Keffer, J.; King, P.; King, T.; Kolkhorst; Krusee; Kuempel; Laney; Laubenberg; Leibowitz; Luna; Madden; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miller; Moreno, J.; Moreno, P.; Morrison; Mowery; Naishtat; Nixon; Noriega, M.; Oliveira; Orr; Otto; Paxton; Peña; Phillips; Pickett; Puente; Quintanilla; Raymond; Reyna; Ritter; Rodriguez; Rose; Seaman; Smith, T.; Smith, W.; Smithee; Solis; Solomons; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Uresti; Van Arsdale; Veasey; Villarreal; Vo; West; Wong; Woolley; Zedler.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Delisi; Olivo; Pitts; Riddle.

**HR 1249 - ADOPTED
(by Dutton)**

Representative Dutton moved to suspend all necessary rules to take up and consider at this time **HR 1249**.

The motion prevailed.

The following resolution was laid before the house:

HR 1249, Recognizing May 7, 2005, as Founder's Day for the Houston Chapter of Top Ladies of Distinction, Inc.

HR 1249 was adopted.

COMMITTEE MEETING ANNOUNCEMENTS

The following committee meetings were announced:

Corrections, upon lunch recess today, Desk 50, for a formal meeting, to consider pending legislation.

Pensions and Investments, upon lunch recess today, Desk 41, for a formal meeting.

Defense Affairs and State-Federal Relations, upon lunch recess today, Desk 76, for a formal meeting, to consider pending legislation and senate companions.

Environmental Regulation will reconvene upon lunch recess, E1.014.

Insurance, Subcommittee on Life and Health, upon lunch recess today, Desk 138, for a formal meeting.

RECESS

At 11:39 a.m., the speaker announced that the house would stand recessed until 1 p.m. today.

AFTERNOON SESSION

The house met at 1 p.m. and was called to order by the speaker.

POSTPONED BUSINESS

The following bills were laid before the house as postponed business:

HB 878 ON SECOND READING

(by Talton)

HB 878, A bill to be entitled An Act relating to the placement of public school students who engage in conduct that contains the elements of certain sexual offenses.

HB 878 was read second time on April 18, and was postponed until 10 a.m. today, and was again postponed until this time.

(Howard in the chair)

Amendment No. 2

Representative Farrar offered the following amendment to **HB 878**:

Amend **HB 878** (committee printing) as follows:

(1) On page 1, line 8, strike "Notwithstanding" and substitute "(a) Except as provided by Subsection (b), notwithstanding".

(2) On page 2, between lines 5 and 6, insert:

"(b) After the student completes any period of deferred prosecution or probation under Subsection (a), the principal of the campus on which the student would be enrolled if the student were not subject to Subsection (a) may admit the student to the campus and may assign the student to attendance in a regular classroom if:

(1) the student receives counseling from a licensed professional counselor while the student is enrolled in the school district; and

(2) the principal reasonably believes the student will not be a threat to other students on the campus."

Amendment No. 2 was adopted.

Amendment No. 3

Representative Goodman offered the following amendment to **HB 878**:

Amend **HB 878** on page 1 by striking lines 12-14 and substituting the following:

property, unless placement of a student in a juvenile justice alternative education program under Section 37.011 is mandatory, a school district shall place the student in the district's disciplinary alternative education program under Section 37.008 if the student:

Amendment No. 3 was adopted.

HB 878, as amended, was passed to engrossment. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

BILLS RECOMMITTED

Representative Denny moved to recommit the following bills to the Committee on Elections: **HB 1706, HB 1945, HB 2068, HB 2069, HB 2202, HB 2322, and HB 2511.**

The motion prevailed.

**EMERGENCY CALENDAR
SENATE BILLS
SECOND READING**

The following bills were laid before the house and read second time:

CSSB 6 ON SECOND READING

(Hupp, Uresti, Reyna, Goodman, Naishtat, et al. - House Sponsors)

CSSB 6, A bill to be entitled An Act relating to protective services; providing penalties.

(Speaker in the chair)

Amendment No. 1

Representative Hupp offered the following amendment to **CSSB 6**:

Amend **CSSB 6**, in SECTION 1.11(a) of the bill, by striking amended Section 261.107(a), Family Code (House committee printing page 8, lines 2-8), and substituting the following:

(a) A person commits an offense if, with the intent to deceive, the person knowingly [~~or intentionally~~] makes a report as provided in this chapter that [~~the person knows~~] is false [~~or lacks factual foundation~~]. An offense under this section is a state jail felony [~~Class A misdemeanor~~] unless it is shown on the trial of the offense that the person has previously been convicted under this section, in which case the offense is a [~~state jail~~] felony of the third degree.

Amendment No. 1 was adopted.

Amendment No. 2

Representatives Naishtat and Hupp offered the following amendment to **CSSB 6**:

Amend **CSSB 6** (House Committee printing, page 59, line 9-page 66, line 24) by striking Section 1.45 of the bill and substituting the following:

SECTION 1.45. (a) Subtitle E, Title 5, Family Code, is amended by adding Chapter 266 to read as follows:

CHAPTER 266. MEDICAL CARE AND EDUCATIONAL SERVICES FOR
CHILDREN IN FOSTER CARE

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 266.001. DEFINITIONS. In this chapter:

(1) "Commission" means the Health and Human Services Commission.

(2) "Department" means the Department of Family and Protective Services.

(3) "Executive commissioner" means the executive commissioner of the Health and Human Services Commission.

(4) "Foster child" means a child who resides in a child-care institution, foster group home, foster home, agency foster group home, or agency foster home, as those terms are defined by Section 42.002, Human Resources Code.

(5) "Medical care" includes:

(A) routine medical care, including treatment of illnesses commonly associated with childhood, and administration of medication;

(B) immunizations and vaccinations commonly administered in childhood;

(C) mental health treatment including the administration of medication;

(D) emergency medical care and administration of related medication; and

(E) surgery and administration of related medication.

Sec. 266.002. CONSTRUCTION WITH OTHER LAW. This chapter does not limit the right to consent to medical, dental, psychological, and surgical treatment under Chapter 32.

Sec. 266.003. MEDICAL SERVICES FOR CHILD ABUSE AND NEGLECT VICTIMS. (a) Subject to the availability of funds, the commission shall collaborate with health care and child welfare professionals to design a comprehensive, cost-effective medical services delivery model to meet the needs of children served by the department, either directly or by contract. The medical services delivery model must include:

(1) the designation of health care facilities with expertise in the forensic assessment, diagnosis, and treatment of child abuse and neglect as pediatric centers of excellence;

(2) a statewide telemedicine system to link department investigators and caseworkers with pediatric centers of excellence or other medical experts for consultation;

(3) identification of a medical home for each foster child on entering foster care at which the child will receive an initial comprehensive assessment as well as preventive treatments, acute medical services, and therapeutic and rehabilitative care to meet the child's ongoing physical and mental health needs throughout the duration of the child's stay in foster care;

(4) a review system composed of medical and mental health professionals to assess clinical care recommendations as needed for individual foster children; and

(5) development of protocols for use of psychotropic medications for foster children based on the recommendations and best practices manual developed by an ad hoc work group consisting of experts from the fields of pharmacy, psychiatry, pediatrics, family practice, and internal medicine and staff from the commission.

(b) The commission shall collaborate with health and human services agencies, community partners, the health care community, and federal health and social services programs to maximize services and benefits available under this section.

(c) Notwithstanding any other provision in this section, the commission shall implement Subsections (a)(4) and (5) regardless of whether the commission implements the other provisions of Subsection (a).

(d) The executive commissioner shall adopt rules necessary to implement this chapter.

Sec. 266.004. CONSENT FOR MEDICAL CARE. (a) Medical care may not be provided to a child in foster care unless the person authorized by this section has provided consent.

(b) Except as provided by Section 266.010, the court may authorize the following persons to consent to medical care for a foster child:

(1) an individual designated by name in an order of the court, including the child's foster parent or the child's parent, if the parent's rights have not been terminated and the court determines that it is in the best interest of the parent's child to allow the parent to make medical decisions on behalf of the child; or

(2) the department or an agent of the department.

(c) If the person authorized by the court to consent to medical care is the department or an agent of the department, the department shall, not later than the fifth business day after the date the court provides authorization, file with the court and each party the name, address, and telephone number of the individual who will exercise the duty and responsibility of providing informed consent on behalf of the department. If that individual changes, the department shall file notice of the change with the court and each party not later than the fifth business day after the date of the change.

(d) A physician or other provider of medical care acting in good faith may rely on the representation by a person that the person has the authority to consent to the provision of medical care to a foster child as provided by Subsection (b).

(e) The department, a person authorized to consent to medical care under Subsection (b), the child's parent if the parent's rights have not been terminated, a guardian ad litem or attorney ad litem if one has been appointed, or the person providing foster care to the child may petition the court for any order related to medical care for a foster child that the department or other person believes is in the best interest of the child. Notice of the petition must be given to each person entitled to notice under Section 263.301(b).

(f) If a physician who has examined or treated the foster child has concerns regarding the medical care provided to the foster child, the physician may file a letter with the court stating the reasons for the physician's concerns. The court shall provide a copy of the letter to each person entitled to notice under Section 263.301(b).

(g) On its own motion or in response to a petition under Subsection (e) or Section 266.010, the court may issue any order related to the medical care of a foster child that the court determines is in the best interest of the child.

(h) Notwithstanding Subsection (b), a person may not be authorized to consent to medical care provided to a foster child unless the person has completed a department-approved training program related to informed consent and the provision of all areas of medical care as defined by Section 266.001. This subsection does not apply to a parent whose rights have not been terminated unless the court orders the parent to complete the training.

(i) A person authorized under Subsection (b) to consent to medical care for a foster child shall attend or shall participate by telephone, if feasible, in each appointment of the child with the provider of the medical care, other than any counseling or therapy session.

(j) A person authorized under Subsection (b) to give consent to medical care for a foster child must be aware of the child's medical condition and history before giving consent.

Sec. 266.005. PARENTAL NOTIFICATION OF SIGNIFICANT MEDICAL CONDITIONS. (a) In this section, "significant medical condition" means an injury or illness that is life-threatening or has potentially serious long-term health consequences, including hospitalization for surgery or other procedures, except minor emergency care.

(b) Except as provided by Subsection (c), the department shall notify the child's parents of any significant medical condition involving a foster child as soon as practicable, but not later than 24 hours after the department learns of the significant medical condition.

(c) The department is not required to provide notice under Subsection (b) to a parent who:

(1) has failed to give the department current contact information and cannot be located;

(2) has executed an affidavit of relinquishment of parental rights; or

(3) has had the parent's parental rights terminated.

Sec. 266.006. HEALTH PASSPORTS. (a) The commission shall make available to the person authorized to consent to medical care under Section 266.004(b) and any provider of medical care to a foster child the most complete health history, including any emergency medical care, of the child available to the department.

(b) The commission shall develop a health passport for each foster child. The commission in conjunction with the department shall determine the format of the passport. The passport may be maintained in an electronic format. The passport must include the most complete medical and mental health history, including any emergency care, of the child available to the department and must be readily accessible to medical care providers.

(c) The department shall maintain the passport as part of the department's records for the child as long as the child remains in foster care.

Sec. 266.007. JUDICIAL REVIEW OF MEDICAL CARE. (a) At each hearing under Chapter 263, or more frequently if ordered by the court, the court shall review a summary of the medical care provided to the foster child since the last hearing. The summary must include information regarding:

(1) the nature of any emergency medical care provided to the child and the circumstances necessitating emergency medical care, including any injury or acute illness suffered by the child;

(2) all medical and mental health treatment that the child is receiving and the child's progress with the treatment;

(3) any medication prescribed for the child and the condition, diagnosis, and symptoms for which the medication was prescribed and the child's progress with the medication;

(4) the degree to which the child or foster care provider has complied or failed to comply with any plan of medical treatment for the child;

(5) any adverse reaction to or side effects of any medical treatment provided to the child;

(6) any specific medical condition of the child that has been diagnosed or for which tests are being conducted to make a diagnosis;

(7) any activity that the child should avoid or should engage in that might affect the effectiveness of the treatment, including physical activities, other medications, and diet; and

(8) other information required by department rule or by the court.

(b) At or before each hearing under Chapter 263, the department shall provide the summary of medical care described by Subsection (a) to:

(1) the court;

(2) the person authorized to consent to medical treatment for the child;

(3) the guardian ad litem or attorney ad litem, if one has been appointed by the court;

(4) the child's parent, if the parent's rights have not been terminated; and

(5) any other person determined by the department or the court to be necessary or appropriate for review of the provision of medical care to foster children.

(c) At each hearing under Chapter 263, the foster child shall be provided the opportunity to express to the court the child's views on the medical care being provided to the child.

Sec. 266.008. EDUCATION. (a) The commission shall develop an education passport for each foster child. The commission, in conjunction with the department, shall determine the format of the passport. The passport may be maintained in an electronic format. The passport must contain educational records of the child, including the names and addresses of educational providers, the child's grade-level performance, and any other educational information the commission determines is important.

(b) The department shall maintain the passport as part of the department's records for the child as long as the child remains in foster care.

(c) The department shall make the passport available to the person authorized to consent to medical care for the foster child and to a provider of medical care to the foster child if access to the foster child's educational information is necessary to the provision of medical care and is not prohibited by law.

(d) The department and the commission shall collaborate with the Texas Education Agency to develop policies and procedures to ensure that the needs of foster children are met in every school district.

Sec. 266.009. PROVISION OF MEDICAL CARE IN EMERGENCY. (a) Consent or court authorization for the medical care of a foster child otherwise required by this chapter is not required in an emergency during which it is immediately necessary to provide medical care to the foster child to prevent the imminent probability of death or substantial bodily harm to the child, including circumstances in which:

(1) the child is overtly or continually threatening or attempting to commit suicide or cause self-inflicted serious bodily harm; or

(2) the child is behaving in a manner that indicates that the child is unable to satisfy the child's need for nourishment, essential medical care, or self-protection.

(b) The physician providing the medical care or designee shall notify the person authorized to consent to medical care for a foster child about the decision to provide medical care without consent or court authorization in an emergency not later than the second business day after the date of the provision of medical care under this section. This notification must be documented in the foster child's health passport.

(c) This section does not apply to the administration of medication under Subchapter G, Chapter 574, Health and Safety Code, to a foster child who is at least 16 years of age and who is placed in an inpatient mental health facility.

Sec. 266.010. CONSENT TO MEDICAL CARE BY FOSTER CHILD AT LEAST 16 YEARS OF AGE. (a) A foster child who is at least 16 years of age may consent to the provision of medical care, except as provided by Chapter 33, if the court with continuing jurisdiction determines that the child has the capacity to consent to medical care. If the child provides consent by signing a consent form, the form must be written in language the child can understand.

(b) A court with continuing jurisdiction may make the determination regarding the foster child's capacity to consent to medical care during a hearing under Chapter 263 or may hold a hearing to make the determination on its own motion. In addition, a foster child who is at least 16 years of age, or the foster child's attorney ad litem, may file a petition with the court for a hearing. If the court determines that the foster child lacks the capacity to consent to medical care, the court may consider whether the foster child has acquired the capacity to consent to medical care at subsequent hearings under Section 263.503.

(c) If the court determines that a foster child lacks the capacity to consent to medical care, the person authorized by the court under Section 266.004 shall continue to provide consent for the medical care of the foster child.

(d) If a foster child who is at least 16 years of age and who has been determined to have the capacity to consent to medical care refuses to consent to medical care and the department or private agency providing substitute care or case management services to the child believes that the medical care is appropriate, the department or the private agency may file a motion with the court requesting an order authorizing the provision of the medical care.

(e) The motion under Subsection (d) must include:

- (1) the child's stated reasons for refusing the medical care; and
- (2) a statement prepared and signed by the treating physician that the medical care is the proper course of treatment for the foster child.

(f) If a motion is filed under Subsection (d), the court shall appoint an attorney ad litem for the foster child if one has not already been appointed. The foster child's attorney ad litem shall:

- (1) discuss the situation with the child;
- (2) discuss the suitability of the medical care with the treating physician;
- (3) review the child's medical and mental health records; and
- (4) advocate to the court on behalf of the child's expressed preferences regarding the medical care.

(g) The court shall issue an order authorizing the provision of the medical care in accordance with a motion under Subsection (d) to the foster child only if the court finds, by clear and convincing evidence, after the hearing that the medical care is in the best interest of the foster child and:

- (1) the foster child lacks the capacity to make a decision regarding the medical care;
- (2) the failure to provide the medical care will result in an observable and material impairment to the growth, development, or functioning of the foster child; or
- (3) the foster child is at risk of suffering substantial bodily harm or of inflicting substantial bodily harm to others.

(h) In making a decision under this section regarding whether a foster child has the capacity to consent to medical care, the court shall consider:

- (1) the maturity of the child;
- (2) whether the child is sufficiently well informed to make a decision regarding the medical care; and
- (3) the child's intellectual functioning.

(i) In determining whether the medical care is in the best interest of the foster child, the court shall consider:

- (1) the foster child's expressed preference regarding the medical care, including perceived risks and benefits of the medical care;
- (2) likely consequences to the foster child if the child does not receive the medical care;
- (3) the foster child's prognosis, if the child does receive the medical care; and
- (4) whether there are alternative, less intrusive treatments that are likely to reach the same result as provision of the medical care.

(j) This section does not apply to emergency medical care. An emergency relating to a foster child who is at least 16 years of age, other than a child in an inpatient mental health facility, is governed by Section 266.009.

(k) This section does not apply to the administration of medication under Subchapter G, Chapter 574, Health and Safety Code, to a foster child who is at least 16 years of age and who is placed in an inpatient mental health facility.

(l) Before a foster child reaches the age of 16, the department or the private agency providing substitute care or case management services to the foster child shall advise the foster child of the right to a hearing under this section to determine whether the foster child may consent to medical care.

(b) The Health and Human Services Commission is required to develop and implement the passport programs required by Sections 266.006 and 266.008, Family Code, as added by this section, if the legislature appropriates money specifically for that purpose. If the legislature does not appropriate money specifically for that purpose, the commission may, but is not required to, develop and implement the passport programs using other appropriations available for that purpose. In addition, the commission may develop and implement the passport programs required by Sections 266.006 and 266.008, Family Code, as added by this section, only if technology necessary to ensure privacy is available.

(c) If the Health and Human Services Commission develops and implements the passport programs required by Sections 266.006 and 266.008, Family Code, as added by this section, the commission shall:

(1) finalize the form and content of the passports not later than March 1, 2006;

(2) make the health passport required by Section 266.006, Family Code, as added by this section, available in an electronic format not later than September 1, 2007; and

(3) ensure, not later than September 1, 2008, that the health passport required by Section 266.006, Family Code, as added by this section, can interface directly with other electronic health record systems that contain information that impacts the health care of the child.

Amendment No. 2 was withdrawn.

Amendment No. 3

Representative Hupp offered the following amendment to **CSSB 6**:

Amend **CSSB 6** in Section 1.59 of the bill, in added Section 40.031(e), Human Resources Code (House committee printing, page 76, line 5), by striking "Subchapter E, Chapter 261" and substituting "Section 261.401 or 261.404".

Amendment No. 3 was adopted.

Amendment No. 4

Representative Hupp offered the following amendment to **CSSB 6**:

Amend **CSSB 6**, in Article 1 of the bill, by adding the following appropriately numbered sections to the article and renumbering the remaining sections of the article as appropriate:

SECTION 1.__. Section 107.013, Family Code, is amended by adding Subsection (c) to read as follows:

(c) In a suit filed by a governmental entity requesting temporary managing conservatorship of a child, the court shall appoint an attorney ad litem to represent the interests of an indigent parent of the child who responds in opposition to the suit.

SECTION 1. ___. Section 107.015(c), Family Code, is amended to read as follows:

(c) If indigency of the parents is shown, an attorney ad litem appointed to represent a child or parent in a suit filed by a governmental entity [~~in which termination of the parent child relationship is requested~~] shall be paid from the general funds of the county according to the fee schedule that applies to an attorney appointed to represent a child in a suit under Title 3 as provided by Chapter 51. The court may not award attorney ad litem fees under this chapter against the state, a state agency, or a political subdivision of the state except as provided by this subsection.

SECTION 1. ___. (a) Section 118.018, Local Government Code, is amended by amending Subsection (c) and adding Subsection (d) to read as follows:

(c) Except as provided by Subsection (d), a [A] county clerk who collects a fee under this section from a marriage license applicant shall deposit \$3 of that fee to be sent to the comptroller as provided by Subchapter B, Chapter 133, for deposit in the family trust fund established under Section 2.014, Family Code.

(d) In addition to other fees collected under this section, a county clerk shall collect from a marriage license applicant a fee not to exceed \$15 to be deposited in the county treasury to be used by the county only to pay the fees to provide attorneys ad litem to represent indigent parents in child protective services cases.

(b) Section 118.019, Local Government Code, is amended to read as follows:

Sec. 118.019. DECLARATION OF INFORMAL MARRIAGE. (a) The fee for "Declaration of Informal Marriage" under Section 118.011 is for all services rendered in connection with the execution of a declaration of informal marriage under Section 2.402 [1-92], Family Code. The fee shall be collected at the time the service is rendered.

(b) In addition to the fee described by Subsection (a), a county clerk shall collect from the parties to a declaration of informal marriage a fee not to exceed \$15 to be deposited in the county treasury to be used by the county only to pay the fees to provide attorneys ad litem to represent indigent parents in child protective services cases.

(c) Section 118.022(a), Local Government Code, is amended to read as follows:

(a) The county clerk shall deposit, as provided by Subchapter B, Chapter 133, \$12.50 of each fee collected for issuance of a marriage license or declaration of informal marriage, other than a fee imposed under Section 118.018(d) or 118.019(b), to be sent to the comptroller and deposited as provided by Subsection (b).

(d) The changes in law made by this section to Sections 118.018, 118.019, and 118.022, Local Government Code, apply only to a fee imposed for a marriage license application filed, or a declaration of an informal marriage executed, as applicable, on or after the effective date of this section. A fee imposed for an application filed or declaration executed before the effective date

of this section is governed by the law in effect on the date the application was filed or the declaration was executed, and the former law is continued in effect for that purpose.

Amendment No. 4 was adopted.

Amendment No. 5

Representatives Naishtat, Hupp, Luna, and Truitt offered the following amendment to **CSSB 6**:

Amend **CSSB 6** as follows:

(1) In Section 1.30 of the bill, in added Section 45.002(a), Human Resources Code (House committee printing page 28, line 15), strike "2009" and substitute "2011".

(2) In Section 1.30 of the bill, in added Section 45.002(b), Human Resources Code (House committee printing page 28, line 18), strike "2009" and substitute "2011".

(3) In Section 1.30 of the bill, in added Section 45.002(c), Human Resources Code (House committee printing page 28, line 26), strike "2009" and substitute "2011".

(4) In Section 1.30 of the bill, in added Section 45.002(d), Human Resources Code (House committee printing page 29, line 7), strike "2009" and substitute "2011".

(5) In Section 1.30 of the bill, strike added Section 45.054(a), Human Resources Code (House committee printing page 32, lines 19-26), and substitute:

(a) The department shall implement the privatization of substitute care and case management services on a regional basis in accordance with the transition plan. The transition plan must include a schedule with deadlines for implementation of the plan. Subject to the requirements of Subsections (c), (d), and (e), statewide implementation of the plan shall be completed not later than September 1, 2011. The commission shall propose the first three regions of the state for implementation of privatization based on state demographics. The first three regions must include a rural region, a metropolitan region, and a region including border areas of the state.

(6) In Section 1.30 of the bill, in added Section 45.054(b), Human Resources Code (House committee printing page 33, between lines 12 and 13), insert a new Subdivision (5) to read as follows:

(5) completion of the transition of substitute care and case management services in the first region, not later than December 31, 2007;

(7) In Section 1.30 of the bill, in added Section 45.054(b), Human Resources Code (House committee printing page 33, line 13), strike "(5)" and substitute "(6)".

(8) In Section 1.30 of the bill, in added Section 45.054(b)(5), Human Resources Code (House committee printing page 33, line 16), strike "not later than" and substitute "annually beginning".

(9) In Section 1.30 of the bill, strike added Sections 45.054(b)(6)-(9), Human Resources Code (House committee printing page 33, lines 17-26), and substitute:

(7) completion of the transition of substitute care and case management services in the second and third regions, not later than December 1, 2009; and

(8) completion of the statewide implementation of contracted substitute care and case management services for additional geographic regions, not later than September 1, 2011.

(10) In Section 1.30 of the bill, strike added Section 45.054(c), Human Resources Code (House committee printing page 33, line 27 through page 34, line 8), and substitute:

(c) Not later than the first anniversary of the date the department enters into the first contract for substitute care and case management services under this section, the department shall contract with a qualified, independent third party to evaluate each phase of the privatization of substitute care and case management services. Each evaluation must:

(1) assess the performance of substitute care and case management services based on compliance with defined quality outcomes for children;

(2) assess the achievement of performance measures;

(3) compare for quality the performance of substitute care and case management services provided by contractors to substitute care and case management services provided by the department in the remaining regions;

(4) determine if contracted services are cost beneficial; and

(5) assess the private sector's ability to meet the performance measures, including service capacity, for the remaining regions.

(d) The independent third party with whom the department contracts under Subsection (c) shall submit its reports and recommendations to the House Human Services Committee, or its successor, and the Senate Health and Human Services Committee, or its successor.

(e) The department may continue to implement the transition plan for the second and third regions only after:

(1) the commission reports to the House Human Services Committee, or its successor, and the Senate Health and Human Services Committee, or its successor, the status of the initial transition of services to a contractor in the first region not later than December 31, 2006;

(2) the independent third party with whom the department contracts under Subsection (c) evaluates and reports to the House Human Services Committee, or its successor, and the Senate Health and Human Services Committee, or its successor, on the performance of contracted substitute care and case management services in the first region not later than December 31, 2008; and

(3) the commission determines, based on the report prepared under Subdivision (2) or information obtained by the review required under Subsection (b)(6), whether material modifications to the model for privatization of substitute care and case management services are necessary and submits a report and recommendations to the House Human Services Committee, or its successor, and the Senate Health and Human Services Committee, or its successor, not later than December 31, 2008.

(f) The department may not implement the transition plan for the second and third regions before September 1, 2009.

(g) The department may continue to implement the transition plan for the remaining regions of the state only after:

(1) the independent third party with whom the department contracts under Subsection (c) evaluates and reports to the House Human Services Committee, or its successor, and the Senate Health and Human Services Committee, or its successor, on the performance of contracted substitute care and case management services in the second and third regions not later than September 1, 2010; and

(2) the commission determines, based on the report prepared under Subdivision (1) or information obtained by the review required under Subsection (b)(6), whether material modifications to the model for privatization of substitute care and case management services are necessary and submits a report and recommendations to the House Human Services Committee, or its successor, and the Senate Health and Human Services Committee, or its successor, not later than December 31, 2010.

(11) In Section 1.30 of the bill, in added Section 45.102(12)(C), Human Resources Code (House committee printing page 37, line 10), strike "2009" and substitute "2011".

(12) In Section 1.30 of the bill, in added Section 45.151, Human Resources Code (House committee printing page 38, line 6), strike "2010" and substitute "2012".

(13) In Section 1.33 of the bill, in added Section 264.106(i), Family Code (House committee printing page 44, line 5), strike "2009" and substitute "2011".

(14) In Section 1.33 of the bill, in added Section 264.106(j), Family Code (House committee printing page 44, line 9), strike "2009" and substitute "2011".

(15) In Section 1.48(c) of the bill (House committee printing page 68, line 22), strike "2009" and substitute "2011".

(Straus in the chair)

Amendment No. 6

Representative Goodman offered the following amendment to Amendment No. 5:

Amend Amendment No. 5 by Naishtat as follows:

(1) In item 5 of the amendment (page 1, line 25) strike ". The first three regions must include" and substitute ", and shall consider including".

(2) In item 10 of the amendment (page 3, line 6) by striking "the remaining" and substituting "similar".

(3) In item 10 of the amendment (page 3, line 17) strike "may" and substitute "shall".

(4) In item 10 of the amendment (page 4, line 9) strike "may" and substitute "shall".

Amendment No. 6 was adopted.

Amendment No. 5, as amended, was adopted. (The vote was reconsidered later today, and Amendment No. 5 was further amended and adopted.)

Amendment No. 7

Representatives Naishtat and Hupp offered the following amendment to **CSSB 6**:

Amend **CSSB 6** (House Committee printing, page 59, line 9-page 66, line 24) by striking Section 1.45 of the bill and substituting the following:

SECTION 1.45. (a) Subtitle E, Title 5, Family Code, is amended by adding Chapter 266 to read as follows:

CHAPTER 266. MEDICAL CARE AND EDUCATIONAL SERVICES FOR
CHILDREN IN FOSTER CARE

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 266.001. DEFINITIONS. In this chapter:

(1) "Commission" means the Health and Human Services Commission.

(2) "Department" means the Department of Family and Protective Services.

(3) "Executive commissioner" means the executive commissioner of the Health and Human Services Commission.

(4) "Foster child" means a child who resides in a child-care institution, foster group home, foster home, agency foster group home, or agency foster home, as those terms are defined by Section 42.002, Human Resources Code.

(5) "Medical care" includes:

(A) routine medical care, including treatment of illnesses commonly associated with childhood, and administration of medication;

(B) immunizations and vaccinations commonly administered in childhood;

(C) mental health treatment including the administration of medication;

(D) emergency medical care and administration of related medication; and

(E) surgery and administration of related medication.

Sec. 266.002. CONSTRUCTION WITH OTHER LAW. This chapter does not limit the right to consent to medical, dental, psychological, and surgical treatment under Chapter 32.

Sec. 266.003. MEDICAL SERVICES FOR CHILD ABUSE AND NEGLECT VICTIMS. (a) Subject to the availability of funds, the commission shall collaborate with health care and child welfare professionals to design a comprehensive, cost-effective medical services delivery model to meet the needs of children served by the department, either directly or by contract. The medical services delivery model must include:

(1) the designation of health care facilities with expertise in the forensic assessment, diagnosis, and treatment of child abuse and neglect as pediatric centers of excellence;

(2) a statewide telemedicine system to link department investigators and caseworkers with pediatric centers of excellence or other medical experts for consultation;

(3) identification of a medical home for each foster child on entering foster care at which the child will receive an initial comprehensive assessment as well as preventive treatments, acute medical services, and therapeutic and rehabilitative care to meet the child's ongoing physical and mental health needs throughout the duration of the child's stay in foster care;

(4) a review system composed of medical and mental health professionals to assess clinical care recommendations as needed for individual foster children; and

(5) development of protocols for use of psychotropic medications for foster children based on the recommendations and best practices manual developed by an ad hoc work group consisting of experts from the fields of pharmacy, psychiatry, pediatrics, family practice, and internal medicine and staff from the commission.

(b) The commission shall collaborate with health and human services agencies, community partners, the health care community, and federal health and social services programs to maximize services and benefits available under this section.

(c) Notwithstanding any other provision in this section, the commission shall implement Subsections (a)(4) and (5) regardless of whether the commission implements the other provisions of Subsection (a).

(d) The executive commissioner shall adopt rules necessary to implement this chapter.

Sec. 266.004. CONSENT FOR MEDICAL CARE. (a) Medical care may not be provided to a child in foster care unless the person authorized by this section has provided consent.

(b) Except as provided by Section 266.010, the court may authorize the following persons to consent to medical care for a foster child:

(1) an individual designated by name in an order of the court, including the child's foster parent or the child's parent, if the parent's rights have not been terminated and the court determines that it is in the best interest of the parent's child to allow the parent to make medical decisions on behalf of the child; or

(2) the department or an agent of the department.

(c) If the person authorized by the court to consent to medical care is the department or an agent of the department, the department shall, not later than the fifth business day after the date the court provides authorization, file with the court and each party the name, address, and telephone number of the individual who will exercise the duty and responsibility of providing informed consent on behalf of the department. If that individual changes, the department shall file notice of the change with the court and each party not later than the fifth business day after the date of the change.

(d) A physician or other provider of medical care acting in good faith may rely on the representation by a person that the person has the authority to consent to the provision of medical care to a foster child as provided by Subsection (b).

(e) The department, a person authorized to consent to medical care under Subsection (b), the child's parent if the parent's rights have not been terminated, a guardian ad litem or attorney ad litem if one has been appointed, or the person

providing foster care to the child may petition the court for any order related to medical care for a foster child that the department or other person believes is in the best interest of the child. Notice of the petition must be given to each person entitled to notice under Section 263.301(b).

(f) If a physician who has examined or treated the foster child has concerns regarding the medical care provided to the foster child, the physician may file a letter with the court stating the reasons for the physician's concerns. The court shall provide a copy of the letter to each person entitled to notice under Section 263.301(b).

(g) On its own motion or in response to a petition under Subsection (e) or Section 266.010, the court may issue any order related to the medical care of a foster child that the court determines is in the best interest of the child.

(h) Notwithstanding Subsection (b), a person may not be authorized to consent to medical care provided to a foster child unless the person has completed a department-approved training program related to informed consent and the provision of all areas of medical care as defined by Section 266.001. This subsection does not apply to a parent whose rights have not been terminated unless the court orders the parent to complete the training.

(i) A person authorized under Subsection (b) to consent to medical care for a foster child shall attend or shall participate by telephone, if feasible, in each appointment of the child with the provider of the medical care, other than any counseling or therapy session.

(j) A person authorized under Subsection (b) to give consent to medical care for a foster child must be aware of the child's medical condition and history before giving consent.

Sec. 266.005. PARENTAL NOTIFICATION OF SIGNIFICANT MEDICAL CONDITIONS. (a) In this section, "significant medical condition" means an injury or illness that is life-threatening or has potentially serious long-term health consequences, including hospitalization for surgery or other procedures, except minor emergency care.

(b) Except as provided by Subsection (c), the department shall notify the child's parents of any significant medical condition involving a foster child as soon as practicable, but not later than 24 hours after the department learns of the significant medical condition.

(c) The department is not required to provide notice under Subsection (b) to a parent who:

(1) has failed to give the department current contact information and cannot be located;

(2) has executed an affidavit of relinquishment of parental rights; or

(3) has had the parent's parental rights terminated.

Sec. 266.006. HEALTH PASSPORTS. (a) The commission shall make available to the person authorized to consent to medical care under Section 266.004(b) and any provider of medical care to a foster child the most complete health history, including any emergency medical care, of the child available to the department.

(b) The commission shall develop a health passport for each foster child. The commission in conjunction with the department shall determine the format of the passport. The passport may be maintained in an electronic format. The passport must include the most complete medical and mental health history, including any emergency care, of the child available to the department and must be readily accessible to medical care providers.

(c) The department shall maintain the passport as part of the department's records for the child as long as the child remains in foster care.

Sec. 266.007. JUDICIAL REVIEW OF MEDICAL CARE. (a) At each hearing under Chapter 263, or more frequently if ordered by the court, the court shall review a summary of the medical care provided to the foster child since the last hearing. The summary must include information regarding:

(1) the nature of any emergency medical care provided to the child and the circumstances necessitating emergency medical care, including any injury or acute illness suffered by the child;

(2) all medical and mental health treatment that the child is receiving and the child's progress with the treatment;

(3) any medication prescribed for the child and the condition, diagnosis, and symptoms for which the medication was prescribed and the child's progress with the medication;

(4) the degree to which the child or foster care provider has complied or failed to comply with any plan of medical treatment for the child;

(5) any adverse reaction to or side effects of any medical treatment provided to the child;

(6) any specific medical condition of the child that has been diagnosed or for which tests are being conducted to make a diagnosis;

(7) any activity that the child should avoid or should engage in that might affect the effectiveness of the treatment, including physical activities, other medications, and diet; and

(8) other information required by department rule or by the court.

(b) At or before each hearing under Chapter 263, the department shall provide the summary of medical care described by Subsection (a) to:

(1) the court;

(2) the person authorized to consent to medical treatment for the child;

(3) the guardian ad litem or attorney ad litem, if one has been appointed by the court;

(4) the child's parent, if the parent's rights have not been terminated;
and

(5) any other person determined by the department or the court to be necessary or appropriate for review of the provision of medical care to foster children.

(c) At each hearing under Chapter 263, the foster child shall be provided the opportunity to express to the court the child's views on the medical care being provided to the child.

Sec. 266.008. EDUCATION. (a) The commission shall develop an education passport for each foster child. The commission, in conjunction with the department, shall determine the format of the passport. The passport may be maintained in an electronic format. The passport must contain educational records of the child, including the names and addresses of educational providers, the child's grade-level performance, and any other educational information the commission determines is important.

(b) The department shall maintain the passport as part of the department's records for the child as long as the child remains in foster care.

(c) The department shall make the passport available to the person authorized to consent to medical care for the foster child and to a provider of medical care to the foster child if access to the foster child's educational information is necessary to the provision of medical care and is not prohibited by law.

(d) The department and the commission shall collaborate with the Texas Education Agency to develop policies and procedures to ensure that the needs of foster children are met in every school district.

Sec. 266.009. PROVISION OF MEDICAL CARE IN EMERGENCY. (a) Consent or court authorization for the medical care of a foster child otherwise required by this chapter is not required in an emergency during which it is immediately necessary to provide medical care to the foster child to prevent the imminent probability of death or substantial bodily harm to the child, including circumstances in which:

(1) the child is overtly or continually threatening or attempting to commit suicide or cause self-inflicted serious bodily harm; or

(2) the child is behaving in a manner that indicates that the child is unable to satisfy the child's need for nourishment, essential medical care, or self-protection.

(b) The physician providing the medical care or designee shall notify the person authorized to consent to medical care for a foster child about the decision to provide medical care without consent or court authorization in an emergency not later than the second business day after the date of the provision of medical care under this section. This notification must be documented in the foster child's health passport.

(c) This section does not apply to the administration of medication under Subchapter G, Chapter 574, Health and Safety Code, to a foster child who is at least 16 years of age and who is placed in an inpatient mental health facility.

Sec. 266.010. CONSENT TO MEDICAL CARE BY FOSTER CHILD AT LEAST 16 YEARS OF AGE. (a) A foster child who is at least 16 years of age may consent to the provision of medical care, except as provided by Chapter 33, if the court with continuing jurisdiction determines that the child has the capacity to consent to medical care. If the child provides consent by signing a consent form, the form must be written in language the child can understand.

(b) A court with continuing jurisdiction may make the determination regarding the foster child's capacity to consent to medical care during a hearing under Chapter 263 or may hold a hearing to make the determination on its own

motion. In addition, a foster child who is at least 16 years of age, or the foster child's attorney ad litem, may file a petition with the court for a hearing. If the court determines that the foster child lacks the capacity to consent to medical care, the court may consider whether the foster child has acquired the capacity to consent to medical care at subsequent hearings under Section 263.503.

(c) If the court determines that a foster child lacks the capacity to consent to medical care, the person authorized by the court under Section 266.004 shall continue to provide consent for the medical care of the foster child.

(d) If a foster child who is at least 16 years of age and who has been determined to have the capacity to consent to medical care refuses to consent to medical care and the department or private agency providing substitute care or case management services to the child believes that the medical care is appropriate, the department or the private agency may file a motion with the court requesting an order authorizing the provision of the medical care.

(e) The motion under Subsection (d) must include:

(1) the child's stated reasons for refusing the medical care; and

(2) a statement prepared and signed by the treating physician that the medical care is the proper course of treatment for the foster child.

(f) If a motion is filed under Subsection (d), the court shall appoint an attorney ad litem for the foster child if one has not already been appointed. The foster child's attorney ad litem shall:

(1) discuss the situation with the child;

(2) discuss the suitability of the medical care with the treating physician;

(3) review the child's medical and mental health records; and

(4) advocate to the court on behalf of the child's expressed preferences regarding the medical care.

(g) The court shall issue an order authorizing the provision of the medical care in accordance with a motion under Subsection (d) to the foster child only if the court finds, by clear and convincing evidence, after the hearing that the medical care is in the best interest of the foster child and:

(1) the foster child lacks the capacity to make a decision regarding the medical care;

(2) the failure to provide the medical care will result in an observable and material impairment to the growth, development, or functioning of the foster child; or

(3) the foster child is at risk of suffering substantial bodily harm or of inflicting substantial bodily harm to others.

(h) In making a decision under this section regarding whether a foster child has the capacity to consent to medical care, the court shall consider:

(1) the maturity of the child;

(2) whether the child is sufficiently well informed to make a decision regarding the medical care; and

(3) the child's intellectual functioning.

(i) In determining whether the medical care is in the best interest of the foster child, the court shall consider:

(1) the foster child's expressed preference regarding the medical care, including perceived risks and benefits of the medical care;

(2) likely consequences to the foster child if the child does not receive the medical care;

(3) the foster child's prognosis, if the child does receive the medical care; and

(4) whether there are alternative, less intrusive treatments that are likely to reach the same result as provision of the medical care.

(j) This section does not apply to emergency medical care. An emergency relating to a foster child who is at least 16 years of age, other than a child in an inpatient mental health facility, is governed by Section 266.009.

(k) This section does not apply to the administration of medication under Subchapter G, Chapter 574, Health and Safety Code, to a foster child who is at least 16 years of age and who is placed in an inpatient mental health facility.

(l) Before a foster child reaches the age of 16, the department or the private agency providing substitute care or case management services to the foster child shall advise the foster child of the right to a hearing under this section to determine whether the foster child may consent to medical care.

(b) The Health and Human Services Commission is required to develop and implement the passport programs required by Sections 266.006 and 266.008, Family Code, as added by this section, if the legislature appropriates money specifically for that purpose. If the legislature does not appropriate money specifically for that purpose, the commission may, but is not required to, develop and implement the passport programs using other appropriations available for that purpose. In addition, the commission may develop and implement the passport programs required by Sections 266.006 and 266.008, Family Code, as added by this section, only if technology necessary to ensure privacy is available.

(c) If the Health and Human Services Commission develops and implements the passport programs required by Sections 266.006 and 266.008, Family Code, as added by this section, the commission shall:

(1) finalize the form and content of the passports not later than March 1, 2006;

(2) make the health passport required by Section 266.006, Family Code, as added by this section, available in an electronic format not later than September 1, 2007; and

(3) ensure, not later than September 1, 2008, that the health passport required by Section 266.006, Family Code, as added by this section, can interface directly with other electronic health record systems that contain information that impacts the health care of the child.

Amendment No. 8

Representative Uresti offered the following amendment to Amendment No. 7:

Amend Amendment No. 7 by Naishtat to **CSSB 6** as follows:

(1) Strike page 5, line 30 through page 6, line 13 of the amendment and substitute the following:

Sec. 266.006. HEALTH PASSPORT. (a) The commission, in conjunction with the department, and with the assistance of physicians and other health care providers experienced in the care of foster children and children with disabilities and with the use of electronic health records, shall develop and provide a health passport for each foster child. The passport must be maintained in an electronic format and use the commission's and the department's existing computer resources to the greatest extent possible.

(b) The executive commissioner of the commission shall adopt rules specifying the information required to be included in the passport. The required information may include:

(1) the name and address of each of the child's physicians and health care providers;

(2) a record of each visit to a physician or other health care provider, including routine checkups conducted in accordance with the Texas Health Steps program;

(3) an immunization record that may be exchanged with ImmTrac;

(4) a list of the child's known health problems and allergies;

(5) information on all medications prescribed to the child in adequate detail to permit refill of prescriptions, including the disease or condition that the medication treats; and

(6) any other available health history that physicians and other health care providers who provide care for the child determine is important.

(c) The system used to access the health passport must be secure and maintain the confidentiality of the child's health records.

(d) Health passport information shall be part of the department's record for the child as long as the child remains in foster care.

(e) The commission shall provide training or instructional materials to foster parents, physicians, and other health care providers regarding use of the health passport.

(f) The department shall make health passport information available in printed and electronic formats to the following individuals when a child is discharged from foster care:

(1) the child's legal guardian, managing conservator, or parent; or

(2) the child, if the child is at least 18 years of age or has had the disabilities of minority removed.

(2) Strike page 12, lines 4-28 of the amendment, and substitute the following:

(b) Not later than September 1, 2007, the Department of Family and Protective Services shall implement the health passport required by Section 266.006, Family Code, as added by this section.

(c) The Health and Human Services Commission is required to develop and implement the education passport program required by Section 266.008, Family Code, as added by this section, if the legislature appropriates money specifically for that purpose. If the legislature does not appropriate money specifically for that purpose, the commission may, but is not required to, develop and implement the education passport program using other appropriations available for that

purpose. In addition, the commission may develop and implement the education passport program required by Section 266.008, Family Code, as added by this section, only if technology necessary to ensure privacy is available.

(d) If the Health and Human Services Commission develops and implements the education passport program required by Section 266.008, Family Code, as added by this section, the commission shall finalize the form and content of the passport not later than March 1, 2006.

Amendment No. 8 was adopted.

Amendment No. 7, as amended, was adopted.

(Harper-Brown in the chair)

CSSB 6 - STATEMENT OF LEGISLATIVE INTENT

REPRESENTATIVE ZEDLER: With regard to granting consent to medical care, the state retains the conservatorship even if the child is in private foster care?

REPRESENTATIVE HUPP: I missed the part about medical care, the state retains legal conservatorship in all of these cases. Was that your question?

ZEDLER: Yes. It is the state's policy not to grant permission for pregnancy termination?

HUPP: It is currently agency policy to not grant—I forget how you worded it—permission for pregnancy termination.

ZEDLER: Is that correct?

HUPP: Yes, that's correct.

REMARKS ORDERED PRINTED

Representative Zedler moved to print remarks between Representative Hupp and Representative Zedler.

The motion prevailed.

Amendment No. 5 - Vote Reconsidered

Representative Naishtat moved to reconsider the vote by which Amendment No. 5 was adopted.

The motion to reconsider prevailed.

Amendment No. 9

Representative Naishtat offered the following amendment to Amendment No. 5:

Amend Amendment No. 5 to **CSSB 6** as follows:

On page 8, line 19, after "child" and before ", including", add "or others

On page 8, line 22, after "cause" and before "serious", strike "self-inflicted"

On page 8, line 23, after "harm" and before ":", add to self or others

Amendment No. 9 was adopted.

Amendment No. 5, as amended, was adopted.

Amendment No. 10

Representative Naishtat offered the following amendment to **CSSB 6**:

Amend **CSSB 6** in SECTION 1.05 of the bill, in proposed Section 107.004(c), Family Code (House committee printing page 4, lines 25-26), by striking Subdivision (1) and substituting the following:

"(1) be low-cost and available to persons throughout this state, including on the Internet provided through the State Bar of Texas; and".

Amendment No. 10 was adopted.

Amendment No. 11

Representative Hilderbran offered the following amendment to **CSSB 6**:

Amend **CSSB 6** as follows:

(1) In Section 1.09 of the bill, strike the recital to that section and substitute "Sections 261.001(2) and (4), Family Code, are amended to read as follows:"

(2) On page 7, between lines 21 and 22, insert the following:

(4) "Neglect" includes:

(A) the leaving of a child in a situation where the child would be exposed to a substantial risk of physical or mental harm, without arranging for necessary care for the child, and the demonstration of an intent not to return by a parent, guardian, or managing or possessory conservator of the child;

(B) the following acts or omissions by a person:

(i) placing a child in or failing to remove a child from a situation that a reasonable person would realize requires judgment or actions beyond the child's level of maturity, physical condition, or mental abilities and that results in bodily injury or a substantial risk of immediate harm to the child;

(ii) failing to seek, obtain, or follow through with medical care for a child, with the failure resulting in or presenting a substantial risk of death, disfigurement, or bodily injury or with the failure resulting in an observable and material impairment to the growth, development, or functioning of the child;

(iii) the failure to provide a child with food, clothing, or shelter necessary to sustain the life or health of the child, excluding failure caused primarily by financial inability unless relief services had been offered and refused; ~~(E)~~

(iv) placing a child in or failing to remove the child from a situation in which the child would be exposed to a substantial risk of sexual conduct harmful to the child; or

(v) placing a child in or failing to remove the child from a situation in which the child would be exposed to acts or omissions that constitute abuse under Subdivision (1)(E), (F), (G), (H), or (K) committed against another child; or

(C) the failure by the person responsible for a child's care, custody, or welfare to permit the child to return to the child's home without arranging for the necessary care for the child after the child has been absent from the home for any reason, including having been in residential placement or having run away.

(3) In Article 1 of the bill, insert the following appropriately numbered sections and renumber the sections in that article accordingly:

SECTION _____. The heading to Section 261.105, Family Code, is amended to read as follows:

Sec. 261.105. REFERRAL OF REPORT BY DEPARTMENT, [~~OR~~] LAW ENFORCEMENT, OR ATTORNEY GENERAL.

SECTION _____. Section 261.105(a), Family Code, is amended to read as follows:

(a) All reports received by a local or state law enforcement agency or the office of the attorney general that allege abuse or neglect by a person responsible for a child's care, custody, or welfare shall be referred immediately to the department or the designated agency.

SECTION _____. Section 21.01, Penal Code, is amended by adding Subdivision (4) to read as follows:

(4) "Spouse" means a person to whom a person is legally married under Subtitle A, Title 1, Family Code, or a comparable law of another jurisdiction.

Amendment No. 11 was adopted.

Amendment No. 12

Representative Farabee offered the following amendment to **CSSB 6**:

Amend **CSSB 6** as follows:

(1) In SECTION 1.13(a) of the bill, in the introductory language (House committee report page 9, line 14), between "(d)," and "(f)", insert "(e)".

(2) In SECTION 1.13(a) of the bill, in amended Section 261.301, Family Code (House committee report page 10, between lines 5 and 6), insert the following:

(e) As necessary to provide for the protection of the child, the department or designated agency shall determine:

- (1) the nature, extent, and cause of the abuse or neglect;
- (2) the identity of the person responsible for the abuse or neglect;
- (3) the names and conditions of the other children in the home;
- (4) an evaluation of the parents or persons responsible for the care of the child;

(5) the adequacy of the home environment, including whether illegal drugs are being used or sold in the home;

(6) the relationship of the child to the persons responsible for the care, custody, or welfare of the child; and

(7) all other pertinent data.

Representative Hupp moved to table Amendment No. 12.

The motion to table was lost.

(Speaker in the chair)

Amendment No. 12 was withdrawn.

Amendment No. 13

Representative Paxton offered the following amendment to **CSSB 6**:

Amend **CSSB 6** as follows:

(1) In SECTION 1.17 of the bill, in proposed Section 261.3031, Family Code (House committee report page 14, line 12), between the period and "If", insert "(a)".

(2) In SECTION 1.17 of the bill, in proposed Section 261.3031, Family Code (House committee report page 14, between lines 19 and 20), insert the following:

(b) For purposes of Subsection (a), a parent or other person who, in response to the department's investigation, seeks an evaluation of the child by a credible third-party professional, including a licensed physician or a licensed counselor, is considered to be cooperating with the investigation.

Amendment No. 13 was adopted.

MESSAGE FROM THE SENATE

A message from the senate was received at this time (see the addendum to the daily journal, Messages from the Senate, Message No. 2).

CSSB 6 - (consideration continued)**Amendment No. 14**

Representative Paxton offered the following amendment to **CSSB 6**:

Amend **CSSB 6** in SECTION 1.14 of the bill, in added Section 261.3011(b), Family Code (House committee report page 12, line 17), between "investigations" and the period, by inserting ", as well as instruction on rights provided by the Fourth Amendment to the United States Constitution".

Amendment No. 14 was adopted.

Amendment No. 15

Representative Dutton offered the following amendment to **CSSB 6**:

Amend **CSSB 6** as follows:

(1) In SECTION 1.19(a) of the bill, in amended Section 261.307, Family Code (House committee report page 16, lines 8-14), strike added Subdivision (2) and substitute the following:

(2) if the department determines that removal of the child may be warranted, a proposed child placement resources form that:

(A) instructs the parent or other person having legal custody of the child to:

(i) complete and return the form to the department or agency;
and

(ii) identify in the form three individuals who could be relative caregivers or designated caregivers, as those terms are defined by Section 264.751; and

(B) informs the parent or other person of a location that is available to the parent or other person to submit the information in the form 24 hours a day either in person or by facsimile machine or e-mail; and

(2) In SECTION 1.25(a) of the bill, in the introductory language (House committee report page 21, line 3), strike "Section 262.201(c), Family Code, is" and substitute "Sections 262.201(c) and (e), Family Code, are".

(3) In SECTION 1.25(a) of the bill (House committee report page 21, between lines 24 and 25), insert the following:

(e) The court shall place a child removed from the child's custodial parent with the child's noncustodial parent or with a relative of the child if placement with the noncustodial parent is inappropriate, unless the department overcomes the presumption that placement with the noncustodial parent or a relative is [~~not~~] in the best interest of the child.

(4) Immediately following SECTION 1.25 of the bill (House committee report page 22, between lines 3 and 4), insert the following and renumber the SECTIONS of the bill accordingly:

(c) The change in law made by this section to Section 262.201(e), Family Code, applies only to a suit affecting the parent-child relationship filed on or after the effective date of this section. A suit affecting the parent-child relationship filed before the effective date of this section is governed by the law in effect on the date suit was filed, and the former law is continued in effect for that purpose.

SECTION 1.____. (a) Section 262.205(e), Family Code, is amended to read as follows:

(e) Unless the department overcomes the presumption that the placement [~~is~~] is [~~not~~] in the best interest of the child, the court shall place a child who has been removed under this section with:

(1) the child's noncustodial parent; or

(2) another relative of the child if placement with the noncustodial parent is inappropriate.

(b) The change in law made by this section to Section 262.205(e), Family Code, applies only to a suit affecting the parent-child relationship filed on or after the effective date of this section. A suit affecting the parent-child relationship filed before the effective date of this section is governed by the law in effect on the date suit was filed, and the former law is continued in effect for that purpose.

(5) In Article 1 of the bill (House committee report page 24, between lines 21 and 22), insert the following appropriately numbered SECTION and renumber subsequent SECTIONS of the bill accordingly:

SECTION 1.____. (a) Section 263.404(a), Family Code, is amended to read as follows:

(a) The court may render a final order appointing the department as managing conservator of the child without terminating the rights of the parent of the child if the court finds that:

(1) appointment of a parent as managing conservator would not be in the best interest of the child because the appointment would significantly impair the child's physical health or emotional development; and

(2) the department has overcome the presumption that it would [~~not~~] be in the best interest of the child to appoint a relative of the child or another person as managing conservator.

(b) The change in law made by this section to Section 263.404(a), Family Code, applies only to a suit affecting the parent-child relationship filed on or after the effective date of this section. A suit affecting the parent-child relationship filed before the effective date of this section is governed by the law in effect on the date suit was filed, and the former law is continued in effect for that purpose.

(6) In SECTION 1.44 of the bill, in added Section 264.751(1), Family Code (House committee report page 55, line 13), between "conservator" and "and", insert "or with the child's family".

Amendment No. 15 was adopted.

(Morrison in the chair)

Amendment No. 16

Representative Naishtat offered the following amendment to **CSSB 6**:

Amend **CSSB 6** in SECTION 1.30 of the bill by striking added Section 45.003, Human Resources Code (House committee printing, page 29, lines 12-19), and substituting the following:

Sec. 45.003. HIRING PREFERENCE. A substitute care or case management services provider that contracts with the department to provide substitute care or case management services shall:

(1) give a preference in hiring to qualified department employees in good standing with the department who provide substitute care or case management services and whose positions with the department may be eliminated as a result of the privatization of substitute care and case management services; and

(2) ensure that each subcontractor with whom the substitute care or case management services provider contracts for the provision of substitute care or case management services also gives a preference in hiring to current and former qualified department employees whose positions with the department may be or were eliminated as a result of the privatization of substitute care and case management services.

Amendment No. 16 was adopted.

Amendment No. 17

Representative Goodman offered the following amendment to **CSSB 6**:

Amend **CSSB 6** as follows:

(1) In Section 1.30 of the bill, in added Section 45.052, Human Resources Code (House committee printing page 31, line 19), strike "its subcontract" and substitute "substitute care and case management".

(2) In Section 1.30 of the bill, in added Section 45.054(c), Human Resources Code (House committee printing page 34, line 4), between "services" and the period, insert ", including an evaluation of the department's monitoring and oversight activities".

(3) In Section 1.33 of the bill, strike amended Section 264.106(b)(2), Family Code (House committee printing page 40, lines 14-18), and substitute:

"(2) either contract directly with private agencies as part of regional community-centered networks for the provision of all necessary substitute care and case management [~~substitute care providers only to the extent necessary to meet the need for those~~] services or use an independent administrator to contract for those services;"

(4) In Section 1.33 of the bill, in added Section 264.106(b)(3), Family Code (House committee printing page 40, line 19), between "administrator" and "to", insert ", if cost beneficial,".

(5) In Section 1.33 of the bill, in added Section 264.106(d)(1), Family Code (House committee printing page 41, line 11), between "care" and "providers", insert "and case management".

(6) In Section 1.33 of the bill, in added Section 264.106(f), Family Code (House committee printing page 42, line 24), between "services" and "must", insert "under Subsection (b)(2)".

(7) In Section 1.35 of the bill, in added Section 264.1063(a), Family Code (House committee printing page 45, lines 19 and 20), strike "contract with an independent administrator" and substitute "contract with either an independent administrator or the department".

(8) In Section 1.35 of the bill, in added Section 264.1063(b), Family Code (House committee printing page 46, line 4), between "and" and "independent", insert ", if applicable, the".

(9) In Section 1.44 of the bill, in added Section 264.752(a), Family Code (House committee printing page 56, line 8), strike "administer" and substitute "procure".

(10) In Section 1.44 of the bill, in added Section 264.753, Family Code (House committee printing page 56, line 20), between "department" and "shall", insert "or other authorized entity".

(11) In Section 3.08(a)(5) of the bill (House committee printing page 136, line 13), strike "Commission".

Amendment No. 17 was adopted.

Amendment No. 18

Representative Coleman offered the following amendment to **CSSB 6**:

Amend **CSSB 6** as follows:

- 1) On page 25, line 25, strike the words "AND CASE MANAGEMENT";
- 2) On page 26, line 24, strike the words "and case management";
- 3) On page 27, line 13, after the words "postadoption services," insert the word "and"
- 4) On page 27, line 14, strike the words ", and case management";
- 5) On page 28, line 11, after the word "include" insert the words "case management or";
- 6) On page 28, line 19, strike the words "and case management";
- 7) On page 29, line 8, strike the words "and case management";
- 8) On page 29, lines 12, 13, and 14, strike the words "or case management";

- 9) On page 29, lines 19 and 25, strike the words "and case management";
 - 10) On page 30, lines 2, 7, 11 and 12, strike the words "and case management";
 - 11) On page 32, line 17, strike the words "and case management";
 - 12) On page 34, lines 13-14, strike the words "and case management";
 - 13) On page 35, line 7, strike the words "and case management";
 - 14) On page 35, strike lines 24 through 27;
 - 15) On page 36, lines 6 and 27, strike the words "and case management";
 - 16) On page 38, lines 25-26, strike the words "and case management";
 - 17) On page 39, lines 13 and 23, strike the words "and case management";
 - 18) On page 40, line 8, after the word "include" insert the words "case management or";
 - 19) On page 42, line 24, strike the words "and case management";
 - 20) On page 43, line 2, strike the words "and case management";
 - 21) On page 44, line 10, strike the words "and case management";
 - 22) On page 45, lines 18 and 27, strike the words "and case management";
- and
- 23) On page 46, line 3, strike the words "or case management".

Representative Goodman moved to table Amendment No. 18.

A record vote was requested.

The motion to table prevailed by (Record 323): 88 Yeas, 53 Nays, 4 Present, not voting.

Yeas — Allen, R.; Anderson; Baxter; Berman; Blake; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Callegari; Campbell; Casteel; Cook, B.; Cook, R.; Corte; Crabb; Crownover; Davis, J.; Dawson; Denny; Driver; Eissler; Elkins; Flores; Flynn; Gattis; Geren; Goodman; Goolsby; Griggs; Grusendorf; Haggerty; Hamilton; Hamric; Hardcastle; Harper-Brown; Hartnett; Hegar; Hilderbran; Hill; Hope; Hopson; Howard; Hughes; Hunter; Hupp; Isett; Jackson; Jones, D.; Keel; Keffer, B.; Keffer, J.; King, P.; Kolkhorst; Krusee; Kuempel; Laubenberg; Luna; Madden; McCall; Merritt; Miller; Mowery; Naishtat; Nixon; Orr; Otto; Paxton; Phillips; Pickett; Reyna; Ritter; Seaman; Smith, W.; Smithee; Solomons; Straus; Swinford; Talton; Taylor; Turner; Uresti; Van Arsdale; West; Wong; Woolley; Zedler.

Nays — Allen, A.; Alonzo; Anchia; Bailey; Burnam; Castro; Chavez; Coleman; Davis, Y.; Deshotel; Dukes; Dunnam; Dutton; Edwards; Eiland; Escobar; Farabee; Farrar; Frost; Gallego; Giddings; Gonzales; Gonzalez Tourelles; Guillen; Herrero; Hochberg; Hodge; Homer; Jones, J.; King, T.; Laney; Leibowitz; Martinez; Martinez Fischer; McClendon; McReynolds; Menendez; Moreno, J.; Moreno, P.; Noriega, M.; Oliveira; Peña; Puente; Quintanilla; Raymond; Rodriguez; Rose; Solis; Strama; Thompson; Veasey; Villarreal; Vo.

Present, not voting — Mr. Speaker; Morrison(C); Smith, T.; Truitt.

Absent, Excused — Delisi; Olivo; Pitts; Riddle.

Absent — Chisum.

STATEMENT OF VOTE

I was shown voting yes on Record No. 323. I intended to vote no.

Bonnen

Amendment No. 19

Representative Coleman offered the following amendment to **CSSB 6**:

Amend **CSSB 6** as follows:

(1) On page 29, line 19, between the words "entity" and "to" insert the words "and/or counties with a local child welfare board";

(2) On page 32, line 3, between the words "agencies" and "and" insert the words "and/or counties with a local child welfare board";

(3) On page 32, line 19, between the words "agencies" and "that" insert the words "and/or counties with a local child welfare board"; and

(4) On page 43, line 13, between the words "agencies" and "as" insert the words "and/or counties with a local child welfare board".

Representative Goodman moved to table Amendment No. 19.

A record vote was requested.

The motion to table prevailed by (Record 324): 90 Yeas, 54 Nays, 2 Present, not voting.

Yeas — Allen, R.; Anderson; Baxter; Berman; Blake; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Callegari; Campbell; Casteel; Chisum; Cook, B.; Cook, R.; Corte; Crabb; Crownover; Davis, J.; Dawson; Denny; Driver; Eiland; Eissler; Elkins; Flynn; Gattis; Geren; Goodman; Goolsby; Griggs; Grusendorf; Haggerty; Hamilton; Hamric; Hardcastle; Harper-Brown; Hartnett; Hegar; Hilderbran; Hill; Hope; Hopson; Howard; Hughes; Hunter; Hupp; Isett; Jackson; Jones, D.; Keel; Keffer, B.; Keffer, J.; King, P.; Kolkhorst; Krusee; Kuempel; Laubenberg; Luna; Madden; McCall; Merritt; Miller; Mowery; Naishtat; Nixon; Orr; Otto; Paxton; Phillips; Pickett; Reyna; Ritter; Seaman; Smith, T.; Smith, W.; Smithee; Solomons; Straus; Swinford; Talton; Taylor; Truitt; Uresti; Van Arsdale; West; Wong; Woolley; Zedler.

Nays — Allen, A.; Alonzo; Anchia; Bailey; Burnam; Castro; Chavez; Coleman; Davis, Y.; Deshotel; Dukes; Dunnam; Dutton; Edwards; Escobar; Farabee; Farrar; Flores; Frost; Gallego; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Herrero; Hochberg; Hodge; Homer; Jones, J.; King, T.; Laney; Leibowitz; Martinez; Martinez Fischer; McClendon; McReynolds; Menendez; Moreno, J.; Moreno, P.; Noriega, M.; Oliveira; Peña; Puente; Quintanilla; Raymond; Rodriguez; Rose; Solis; Strama; Thompson; Turner; Veasey; Villarreal; Vo.

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

Absent, Excused — Delisi; Olivo; Pitts; Riddle.

Amendment No. 20

Representative Goodman offered the following amendment to **CSSB 6**:

Amend **CSSB 6**, in Section 1.33 of the bill, by striking amended Section 264.106(c), Family Code (House committee printing page 41, lines 3-7), and substituting:

(c) An independent administrator may not:

(1) directly provide substitute care services; or

(2) be governed by a board that has a member who has a financial interest in a substitute care or case management provider with whom the independent administrator subcontracts.

Amendment No. 20 was adopted.

Amendment No. 21

Representative Dukes offered the following amendment to **CSSB 6**:

Amend **CSSB 6** (House committee printing) as follows:

(1) On page 38, between lines 4 and 5, insert:

Sec. 45.151. CONTRACT OR GRANT REQUIREMENTS. A contract or grant made under this chapter must provide as a requirement in the contract or a condition of the grant that:

(1) the project timeline and schedule related to the purpose of the contract or grant must remain unchanged;

(2) the anticipated savings from entering into the contract or making the grant must be undiminished;

(3) the state's investment in any asset, including intellectual property, that is a subject of the contract or grant must be protected and the asset and service-oriented architecture must be employed during performance as required by criteria stated in the request for proposals for the contract or in the grant application; and

(4) while the contract or grant is in force, no function to be performed by the contractor or grant recipient will be performed by the state unless a complete analysis has been performed of the costs that would be incurred by the state in performing the function.

Sec. 45.152. CAPACITY TO RESUME FUNCTIONS. The commission or department shall:

(1) maintain personnel sufficient to monitor the provision of services privatized under this chapter to ensure that services are provided adequately; and

(2) retain the functional capacity to resume performing each function privatized under this chapter for at least two years after the date the function is first privatized under this chapter in the event the privatization fails for any cause.

(2) On page 38, line 5, strike "45.151" and substitute "45.153".

(3) On page 44, line 4, strike "Subsection (j)" and substitute "Subsections (j) and (l)".

(4) On page 44, between lines 13 and 14, insert:

(k) A contract or grant made under this section must provide as a requirement in the contract or a condition of the grant that:

(1) the project timeline and schedule related to the purpose of the contract or grant must remain unchanged;

(2) the anticipated savings from entering into the contract or making the grant must be undiminished;

(3) the state's investment in any asset, including intellectual property, that is a subject of the contract or grant must be protected and the asset and service-oriented architecture must be employed during performance as required by criteria stated in the request for proposals for the contract or in the grant application; and

(4) while the contract or grant is in force, no function to be performed by the contractor or grant recipient will be performed by the state unless a complete analysis has been performed of the costs that would be incurred by the state in performing the function.

(1) The commission or department shall:

(1) maintain personnel sufficient to monitor the provision of services privatized under this section to ensure that services are provided adequately; and

(2) retain the functional capacity to resume performing each function privatized under this section for at least two years after the date the function is first privatized under this section in the event the privatization fails for any cause.

Representative Hupp moved to table Amendment No. 21.

A record vote was requested.

The motion to table prevailed by (Record 325): 83 Yeas, 61 Nays, 2 Present, not voting.

Yeas — Allen, R.; Anderson; Baxter; Berman; Blake; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Callegari; Campbell; Casteel; Chisum; Cook, B.; Corte; Crabb; Crownover; Davis, J.; Dawson; Denny; Driver; Eissler; Elkins; Flynn; Gattis; Geren; Goodman; Goolsby; Griggs; Grusendorf; Haggerty; Hamric; Hardcastle; Harper-Brown; Hartnett; Hegar; Hilderbran; Hill; Hope; Hopson; Howard; Hughes; Hunter; Hupp; Isett; Jackson; Jones, D.; Keel; Keffer, B.; Keffer, J.; King, P.; Kolkhorst; Krusee; Kuempel; Laubenberg; Madden; McCall; Merritt; Miller; Mowery; Naishtat; Nixon; Orr; Otto; Paxton; Phillips; Pickett; Reyna; Smith, T.; Smith, W.; Smithee; Solomons; Straus; Swinford; Talton; Taylor; Truitt; Van Arsdale; West; Wong; Woolley; Zedler.

Nays — Allen, A.; Alonzo; Anchia; Bailey; Burnam; Castro; Chavez; Coleman; Cook, R.; Davis, Y.; Deshotel; Dukes; Dunnam; Dutton; Edwards; Eiland; Escobar; Farabee; Farrar; Flores; Frost; Gallego; Giddings; Gonzales; Gonzalez Tourelles; Guillen; Hamilton; Herrero; Hochberg; Hodge; Homer; Jones, J.; King, T.; Laney; Leibowitz; Luna; Martinez; Martinez Fischer; McClendon; McReynolds; Menendez; Moreno, J.; Moreno, P.; Noriega, M.; Oliveira; Peña; Puente; Quintanilla; Raymond; Ritter; Rodriguez; Rose; Seaman; Solis; Strama; Thompson; Turner; Uresti; Veasey; Villarreal; Vo.

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

Absent, Excused — Delisi; Olivo; Pitts; Riddle.

STATEMENT OF VOTE

I was shown voting yes on Record No. 325. I intended to vote no.

Hopson

Amendment No. 22

Representative Dukes offered the following amendment to **CSSB 6**:

Amend **CSSB 6** (House Committee Printing) as follows:

(1) On page 38, between lines 4 and 5, insert:

Sec. 45.151. PROHIBITION ON CERTAIN CONTRACTS. (a) The department may not accept a bid under this chapter from a person or award to a person a contract under this chapter that includes proposed financial participation by the person if:

(1) the person participated in preparing the bid specifications or request for proposals on which the bid or contract is based; and

(2) the bid specifications or request for proposals on which the bid or contract is based:

(A) requires a work plan, project design, or other criteria for participation in the contract that is specific to that person or likely to limit or exclude competitors who provide similar goods or services; or

(B) includes a scope of required goods or services that is so narrowly defined that it is specific to that person or likely to limit or exclude competitors who provide similar goods or services.

(b) The department may not accept a bid under this chapter from or award a contract under this chapter to an individual or business entity that is barred from participating in state contracts under Section 2155.077.

(c) The department may not accept a bid under this chapter from or award a contract under this chapter to an individual or business entity that was awarded a contract valued at \$1 billion dollars or more during the four year period immediately before the date of the issuance of relevant requests for proposals under Section 45.054, Human Resources Code.

(d) If the department determines that an individual or business entity holding a contract under this chapter was ineligible to have the contract accepted or awarded under Subsection (a), (b), or (c), the department may immediately terminate the contract without further obligation to the vendor.

Sec. 45.152. SUBCONTRACTOR PAYMENT. The existence of a dispute between the department and a contractor regarding a contract under this chapter does not justify nonpayment of a subcontractor for work completed by the subcontractor under the contract if the subcontractor has completed the work in a satisfactory manner and the work has been approved by the department and the contractor.

(2) On page 38, line 5, strike "45.151" and substitute "45.153".

Amendment No. 22 was withdrawn.

Amendment No. 23

Representative Goodman offered the following amendment to **CSSB 6**:

Amend **CSSB 6**, in Section 1.36 of the bill, in added Section 264.107(c), Family Code (House committee printing page 46, line 10), by striking "2012" and substituting "2009".

Amendment No. 23 was adopted.

Amendment No. 24

Representative Veasey offered the following amendment to **CSSB 6**:

Amend **CSSB 6** (House Committee Printing) as follows:

(1) In Section 264.752, Family Code, as added in SECTION 1.44(a) of the bill (page 56, between lines 15 and 16), insert the following:

(b) To the extent permitted by federal law, the department shall use federal funds available under Title IV-E, Social Security Act (42 U.S.C. Section 670 et seq.), to administer the program under this subchapter.

(2) In Section 264.752(b), Family Code, as added in SECTION 1.44(a) of the bill (page 56, line 16), strike "(b)" and substitute "(c)".

(3) In SECTION 1.44 of the bill, immediately following Subsection (c) of that SECTION (page 59, between lines 8 and 9), insert the following:

(d) As soon as possible after the effective date of this Act, the Department of Family and Protective Services shall take all necessary actions to apply for a federal waiver under Title IV-E, Social Security Act (42 U.S.C. Section 670 et seq.), to use federal funds available under that title to implement the relative and other designated caregiver placement program under Subchapter I, Chapter 264, Family Code, as added by this section.

Amendment No. 24 was adopted.

Amendment No. 25

Representative Veasey offered the following amendment to **CSSB 6**:

Amend **CSSB 6** (House Committee Printing) by striking Section 264.755, Family Code, as added in SECTION 1.44(a) of the bill (page 57, line 4, through page 58, line 14), and substituting the following:

Sec. 264.755. CAREGIVER ASSISTANCE AGREEMENT. (a) The department shall, subject to the availability of funds, enter into a caregiver assistance agreement with each relative or other designated caregiver to provide monetary assistance and additional support services to the caregiver.

(b) Monetary assistance provided under this section must include a one-time cash payment of not more than \$1,000 for each child placed with a caregiver who has a household income that is at or below 200 percent of the federal poverty level. The cash payment must be provided on the initial placement of each child with the caregiver and is provided to assist the caregiver in purchasing essential child-care items such as furniture and clothing.

(c) Monetary assistance other than the assistance provided under Subsection (b) and additional support services must be based on a family's need, as determined by rules adopted by the executive commissioner, and may include:

(1) case management services and training and information about the child's needs until the caregiver is appointed permanent managing conservator;

(2) referrals to appropriate state agencies administering public benefits or assistance programs for which the child, the caregiver, or the caregiver's family may qualify;

(3) family counseling not provided under the Medicaid program for the caregiver's family for a period not to exceed two years from the date of initial placement;

(4) if the caregiver meets the eligibility criteria determined by rules adopted by the executive commissioner, reimbursement of all child-care expenses incurred while the child is under 13 years of age, or under 18 years of age if the child has a developmental disability, and while the department is the child's managing conservator;

(5) if the caregiver meets the eligibility criteria determined by rules adopted by the executive commissioner, reimbursement of 50 percent of child-care expenses incurred after the caregiver is appointed permanent managing conservator of the child while the child is under 13 years of age, or under 18 years of age if the child has a developmental disability; and

(6) reimbursement of other expenses, as determined by rules adopted by the executive commissioner, not to exceed \$500 per year for each child.

(Speaker in the chair)

Amendment No. 25 was withdrawn.

Amendment No. 26

Representative Y. Davis offered the following amendment to **CSSB 6**:

Amend **CSSB 6** as follows:

(1) On page 99, line 16, between "(b)" and "Section" insert "Except as provided by Subsection (c) of this section,".

(2) On page 99, between lines 18-19, insert the following:

(c) A person who is qualified for a license under Section 43.004(4)(C) or (D), Human Resources Code, as it existed prior to the effective date of this section and who is licensed or has applied for a license as a child-care administrator prior to the effective date of this section is eligible for a child-care administrator license under Section 43.004(a), Human Resources Code, as amended by this section or license renewal.

Amendment No. 26 was adopted.

Amendment No. 27

Representative Dutton offered the following amendment to **CSSB 6**:

Amend **CSSB 6**, in Article 1 of the bill, by adding the following appropriately numbered SECTION and renumbering the SECTIONS in that article accordingly:

SECTION _____. (a) Section 261.302, Family Code, is amended by amending Subsections (a) and (e) and adding Subsections (f), (g), and (h) to read as follows:

(a) The investigation may include:

(1) a visit to the child's home, unless the alleged abuse or neglect can be confirmed or ~~clearly~~ ruled out without a home visit; and

(2) an interview with and examination of the subject child, only if the investigating agency suspects or has reason to suspect the child has been psychologically, emotionally, or sexually abused [which may include a medical, psychological, or psychiatric examination].

(e) ~~An interview with a child conducted by the department or another person under the direction of the department, other than a law enforcement agency investigator, [alleged to be a victim of physical abuse or sexual abuse] shall be audiotaped or videotaped during the investigative stage [unless the investigating agency determines that good cause exists for not audiotaping or videotaping the interview in accordance with rules of the agency. Good cause may include, but is not limited to, such considerations as the age of the child and the nature and seriousness of the allegations under investigation. Nothing in this subsection shall be construed as prohibiting the investigating agency from audiotaping or videotaping an interview of a child on any case for which such audiotaping or videotaping is not required under this subsection]. The department or other entity shall preserve a recording of each initial telephone call by a person reporting abuse or neglect of a child. The department shall record and preserve all interviews and documents pertaining to an investigation, including original notes. The fact that the investigating agency failed to audiotape or videotape an interview is admissible at the trial of the offense that is the subject of the interview.~~

(f) Except as provided by Subsection (g), an investigation that includes an examination of the subject child or any other child in the home as authorized by Subsections (a)(2) and (c) may not include a medical, psychological, or psychiatric examination of the child unless:

(1) the child's parent, conservator, or legal guardian consents in writing to the examination; or

(2) a court orders the examination.

(g) If during the investigation a representative of a law enforcement agency is not present and the department investigator believes that a child needs emergency medical attention before a law enforcement agency representative could arrive, the investigator may call for assistance from emergency medical services personnel, as defined by Section 773.003, Health and Safety Code. Emergency medical services personnel may examine and provide emergency medical services to the child, but the department may not conduct any other medical, psychological, or psychiatric examination of the child, unless the examination is permitted under Subsection (f).

(h) This section may not be construed to limit the authority of a law enforcement agency to perform the agency's duties under any other law.

(b) Section 261.302, Family Code, as amended by this article, applies only to an investigation of an allegation of child abuse or neglect initiated on or after the effective date of this Act. An investigation of an allegation of child abuse or

neglect initiated before the effective date of this Act is governed by the law in effect on the date the investigation was initiated, and the former law is continued in effect for that purpose.

Amendment No. 27 was withdrawn.

Amendment No. 28

Representative Dutton offered the following amendment to **CSSB 6**:

Amend **CSSB 6** in Article 1 of the bill, by adding the following appropriately numbered SECTIONS and renumbering subsequent SECTIONS in that article accordingly:

SECTION __. Section 261.302(e), Family Code, is amended to read as follows:

(e) An interview with a child conducted by the department during the investigation stage shall be audiotaped or videotaped. An interview with a child alleged to be a victim of physical abuse or sexual abuse conducted by an investigating agency other than the department shall be audiotaped or videotaped unless the investigating agency determines that good cause exists for not audiotaping or videotaping the interview in accordance with rules of the agency. Good cause may include, but is not limited to, such considerations as the age of the child and the nature and seriousness of the allegations under investigation. Nothing in this subsection shall be construed as prohibiting the investigating agency from audiotaping or videotaping an interview of a child on any case for which such audiotaping or videotaping is not required under this subsection. The fact that the investigating agency failed to audiotape or videotape an interview is admissible at the trial of the offense that is the subject of the interview.

SECTION __. Sections 261.310(a) and (d), Family Code, are amended to read as follows:

(a) The department shall by rule develop and adopt [~~voluntary~~] standards for persons who investigate suspected child abuse or neglect at the state or local level. The standards shall encourage professionalism and consistency in the investigation of suspected child abuse or neglect.

(d) The standards shall [~~recommend~~]:

(1) recommend that videotaped and audiotaped interviews [~~with a suspected victim~~] be uninterrupted;

(2) recommend a maximum number of interviews with and examinations of a suspected victim;

(3) provide procedures to preserve evidence, including the original recordings of the intake telephone calls, original notes, videotapes, and audiotapes, for one year; and

(4) provide that an investigator of suspected child abuse or neglect make a reasonable effort to locate and inform each parent of a child of any report of abuse or neglect relating to the child.

Amendment No. 28 was adopted.

Amendment No. 29

Representative Uresti offered the following amendment to **CSSB 6**:

Amend **CSSB 6** by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill appropriately:

SECTION _____. Subchapter D, Chapter 261, Family Code, is amended by adding Section 261.3012 to read as follows:

Sec. 261.3012. COMPLETION OF PAPERWORK. An employee of the department who responds to a report that is assigned the highest priority in accordance with department rules adopted under Section 261.301(d) shall identify, to the extent reasonable under the circumstances, forms and other paperwork that can be completed by members of the family of the child who is the subject of the report. The department employee shall request the assistance of the child's family members in completing that documentation but remains responsible for ensuring that the documentation is completed in an appropriate manner.

Amendment No. 29 was adopted.

Amendment No. 30

Representative Dutton offered the following amendment to **CSSB 6**:

Amend **CSSB 6** by adding the following appropriately numbered sections to Article 1 of the bill and renumbering the remaining sections of the article as appropriate:

SECTION _____. Section 261.302, Family Code, is amended by adding Subsection (b-1) to read as follows:

(b-1) Except as provided by this subsection, the department may transport a child as provided by Subsection (b)(3) only if the department makes a reasonable documented effort to notify the parent or other person having custody of the child of the transport before the child is transported. The department may transport a child without giving prior notice if the department:

(1) determines and documents, based on the department's preliminary investigation, that the notification would place another child at risk of harm;

(2) obtains an emergency order under Section 262.102; or

(3) takes possession of the child without a court order under Section 262.104.

SECTION _____. Section 262.105(a), Family Code, is amended to read as follows:

(a) Except as provided by Section 262.1051, when [When] a child is taken into possession without a court order, the person taking the child into possession, without unnecessary delay, shall:

(1) file a suit affecting the parent-child relationship;

(2) request the court to appoint an attorney ad litem for the child; and

(3) request an initial hearing to be held by no later than the first working day after the date the child is taken into possession.

SECTION _____. Subchapter B, Chapter 262, Family Code, is amended by adding Sections 262.1051 and 262.1052 to read as follows:

Sec. 262.1051. RETURN OF CHILD AFTER TAKING POSSESSION WITHOUT COURT ORDER. If the Department of Family and Protective Services takes possession of a child under Section 262.104, the department is not required to file suit under Section 262.105 if:

(1) based on further investigation, the department determines that the child's safety can be assured without court intervention;

(2) the child is returned to a parent or placed with another person determined to be suitable by the department and agreed to by a parent not later than the first day after the date the child is taken into possession; and

(3) the department prepares a report describing in detail:

(A) the facts that warranted taking possession of the child without a court order;

(B) the results of the department's investigation; and

(C) the basis for the department's determination that the child's safety can be assured without court intervention.

Sec. 262.1052. REVIEW OF EMERGENCY REMOVALS BY DEPARTMENT WITHOUT COURT INTERVENTION. The Department of Family and Protective Services shall:

(1) file the report required by Section 262.1051 with the Health and Human Services Commission's office of inspector general;

(2) compile and maintain separate statistical information, on both regional and statewide bases, with regard to:

(A) all cases in which a child is transported without prior notification to a parent or other person having custody of the child as provided by Section 261.302(b-1); and

(B) all cases in which a child is returned or placed without court intervention as provided by Section 262.1051; and

(3) on request by a committee of the legislature, prepare an analysis of the reports and information required by this section in the manner specified by the committee.

SECTION _____. Subchapter C, Chapter 40, Human Resources Code, is amended by adding Section 40.073 to read as follows:

Sec. 40.073. PARENTAL ADVISORY COMMITTEE. (a) The Parental Advisory Committee shall advise the department on policies affecting parents and their involvement with the department, including:

(1) investigations of allegations of abuse or neglect;

(2) designations of alternative placements for children; and

(3) standards for persons who investigate reports of abuse or neglect on the state or local level.

(b) The Parental Advisory Committee consists of members appointed by the governor. The governor shall establish:

(1) the qualifications for committee members;

(2) the terms for committee members; and

(3) the number of committee members.

(c) Chapter 2110, Government Code, does not apply to the committee.

(d) A committee member may not receive compensation for serving on the committee but is entitled to reimbursement of travel expenses incurred by the member while conducting the business of the committee as provided by the General Appropriations Act.

Amendment No. 30 was adopted.

Amendment No. 31

Representative Uresti offered the following amendment to **CSSB 6**:

Amend **CSSB 6** by adding the following appropriately numbered SECTION to the bill and renumbering the remaining SECTIONS of the bill as appropriate:

SECTION ___. Subchapter D, Chapter 261, Family Code, is amended by adding Section 261.3016 to read as follows:

Sec. 261.3016. TRAINING OF PERSONNEL RECEIVING REPORTS OF ABUSE AND NEGLECT. The department shall develop, in cooperation with local law enforcement officials and the Commission on State Emergency Communications, a training program for department personnel who receive reports of abuse and neglect. The training program must include information on:

(1) the proper methods of screening reports of abuse and neglect; and
(2) ways to determine the seriousness of a report, including determining whether a report alleges circumstances that could result in the death of or serious harm to a child or whether the report is less serious in nature.

Amendment No. 31 was adopted.

Amendment No. 32

Representative Dutton offered the following amendment to **CSSB 6**:

Amend **CSSB 6**, in Article 1 of the bill, by adding the following appropriately numbered SECTION and renumbering the SECTIONS in that article accordingly:

SECTION ___. (a) Sections 262.112(a) and (b), Family Code, are amended to read as follows:

(a) The Department of Family and Protective ~~[and Regulatory]~~ Services and the parent, conservator, or legal guardian are ~~[is]~~ entitled to an expedited hearing under this chapter in any proceeding in which a hearing is required if the department determines that a child should be removed from the child's home because of an immediate danger to the physical health or safety of the child.

(b) In any proceeding in which an expedited hearing is held under Subsection (a), the department, parent, conservator, guardian, or other party to the proceeding is entitled to an expedited appeal on a ruling by a court that the child may or may not be removed from the child's home.

(b) Section 262.112, Family Code, as amended by this article, applies only to an investigation of an allegation of child abuse or neglect initiated on or after the effective date of this Act. An investigation of an allegation of child abuse or neglect initiated before the effective date of this Act is governed by the law in effect on the date the investigation was initiated, and the former law is continued in effect for that purpose.

Amendment No. 32 was withdrawn.

Amendment No. 33

Representative Dutton offered the following amendment to **CSSB 6**:

Amend **CSSB 6** as follows:

(1) On page 15, line 8, between "PROCEDURE." and "As", insert "(a)".

(2) On page 16, between lines 16 and 17, insert the following:

(b) The child placement resources form described by Subsection (a)(2) must include information on the periods of time by which the department must complete a background check subject to the requirements of Section 262.1002 and place the child with the designated person subject to the requirements of Section 262.1001.

(3) In Article 1 of the bill, insert the following appropriately numbered SECTION and renumber the SECTIONS of the article accordingly:

SECTION __. (a) Subchapter B, Chapter 262, Family Code, is amended by adding Sections 262.1001 and 262.1002 to read as follows:

Sec. 262.1001. DESIGNATION OF ALTERNATIVE PLACEMENT OF CHILD. (a) Because placing a child in the care of a person designated by the child's parent, conservator, or legal guardian is in the child's best interest, a governmental entity that determines after an investigation that a child should be removed from the child's home and that a suit affecting the parent-child relationship has been or will be filed by the entity as provided by this chapter with regard to the child shall inform the child's parent, conservator, or legal guardian that the person may designate another person who is related to the child by blood, adoption, or marriage or who has a significant, long-standing relationship with the child or the child's family to care for the child preceding the filing of and during the pendency of a suit affecting the parent-child relationship.

(b) A governmental entity that places a child with a person designated by the child's parent, conservator, or legal guardian as provided by this section shall:

(1) develop a written child protection plan for the child as provided by Subsection (c);

(2) provide to the person designated by the child's parent, conservator, or legal guardian a copy of the child protection plan in a language understandable by the person and explain the plan to the person in that language; and

(3) if the child is being regularly breast-fed, to the extent possible, provide to the child's mother scheduled visitation periods at appropriate intervals to allow the mother to continue breast-feeding the child, unless the court finds after a hearing that the mother is not fit for these visitation periods.

(c) The child protection plan required by Subsection (b) must include reasonable restrictions on contacts with the child and other terms designed to reasonably ensure the safety of the child. The plan must be signed by the department, the designated person, each member of the designated person's household who is at least 18 years of age, and the child's parent, conservator, or legal guardian. Each person who signs the plan must agree that if there is an alleged violation of the plan, all parties will attend a court hearing to be held not later than the date of the next review hearing or as soon as practicable. At the

conclusion of the hearing, the court shall determine whether a violation of the plan has occurred and issue necessary orders to restore compliance with the plan or place the child in the custody of the department.

(d) Each party to the plan must agree to the plan before the department may release the child to the designated person.

Sec. 262.1002. LIMITATION ON PLACEMENT WITH DESIGNATED PERSON. (a) Except as provided by Subsection (c), the department may not place a child with a person designated by the child's parent, conservator, or legal guardian under Section 262.1001 if the department determines that the designated person or another person in the designated person's household:

(1) is registered in the department's statewide central registry system with a finding that the department confirmed or had reason to believe that the parent abused or neglected a child;

(2) is the subject of a report of abuse or neglect of a child being investigated by the department;

(3) has been convicted of a felony; or

(4) has previously voluntarily relinquished parental rights as the result of an allegation of child abuse or neglect.

(b) A law enforcement agency in this state on the request of the department shall assist in conducting a criminal background check on the designated person or any other person in the designated person's household.

(c) The department may place a child with a designated person prohibited from placement under Subsection (a) if the department determines that placement of the child with the designated person will not endanger the child. The child protection plan under Section 262.1001 must address any issues with regard to the placement of the child under this subsection.

(b) Section 262.109, Family Code, is amended by adding Subsection (e) to read as follows:

(e) In addition to the notice required by Subsection (c), the department must provide to the child's parent, conservator, or legal guardian the standard child placement resources form to be completed by the parent, conservator, or legal guardian as provided by Section 262.1001. The department shall inform the parent, conservator, or legal guardian of a location that is available to the person to submit the information in the form 24 hours a day either in person or by facsimile machine or by e-mail.

(c) Sections 262.1001, 262.1002, and 262.109(e), Family Code, as added by this article, apply only to the removal of a child from the child's residence that occurs on or after the effective date of this Act. The removal of a child from the child's residence that occurred before the effective date of this Act is governed by the law in effect on the date the child was removed, and the former law is continued in effect for that purpose.

Amendment No. 33 was adopted.

Amendment No. 34

Representative Uresti offered the following amendment to **CSSB 6**:

Amend **CSSB 6** by adding the following appropriately numbered SECTION and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Subchapter B, Chapter 262, Family Code, is amended by adding Section 262.1041 to read as follows:

Sec. 262.1041. RELEASE OF CHILD BY LAW ENFORCEMENT OR JUVENILE PROBATION OFFICER. (a) A law enforcement or juvenile probation officer who takes possession of a child under this chapter may release the child to:

(1) a child-placing agency licensed by the Department of Family and Protective Services under Chapter 42, Human Resources Code, if the agency is authorized by the department to take possession of the child;

(2) the Department of Family and Protective Services; or

(3) any other person authorized by law to take possession of the child.

(b) A child-placing agency or other authorized person who takes possession of a child under this section shall:

(1) immediately notify the Department of Family and Protective Services that the agency or other authorized person has taken possession of the child; and

(2) with the assistance of the law enforcement or juvenile probation officer who releases the child to the agency or other authorized person, complete a form prescribed by the Department of Family and Protective Services that contains basic information regarding the child and the circumstances under which the officer took possession of the child and promptly submit the completed form to the department.

Amendment No. 34 was adopted.

Amendment No. 35

Representative Uresti offered the following amendment to **CSSB 6**:

Amend **CSSB 6**, in Article 1 of the bill, by adding the following appropriately numbered section to the article and renumbering the remaining sections of the article as appropriate:

SECTION 1.____. Subchapter A, Chapter 264, Family Code, is amended by adding Section 264.013 to read as follows:

Sec. 264.013. EXCHANGE OF INFORMATION WITH OTHER STATES. The department shall enter into agreements with other states to allow for the exchange of information relating to a child for whom the department is or was the managing conservator. The information may include the child's health passport and education passport.

Amendment No. 35 was adopted.

Amendment No. 36

Representative Uresti offered the following amendment to **CSSB 6**:

Amend **CSSB 6**, in Article 1 of the bill, by adding the following appropriately numbered section to the article and renumbering the remaining sections of the article as appropriate:

SECTION 1. _____. Subchapter B, Chapter 264, Family Code, is amended by adding Section 264.117 to read as follows:

Sec. 264.117. NOTICE TO ATTORNEY AD LITEM. (a) The department shall notify the attorney ad litem for a child in the conservatorship of the department about each event involving the child that the department reports in the child's case file.

(b) The department shall give a child's attorney ad litem written notice at least 48 hours before the date the department changes the child's residential care provider. The department may change the child's residential care provider without notice if the department determines that an immediate change is necessary to protect the child.

Amendment No. 36 was adopted.

Amendment No. 37

Representative Uresti offered the following amendment to **CSSB 6**:

Amend **CSSB 6** by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill appropriately:

SECTION _____. Subtitle E, Title 5, Family Code, is amended by adding Chapter 267 to read as follows:

CHAPTER 267. CHILD ABUSE PREVENTION PILOT PROJECT AND TASK FORCE

Sec. 267.001. DEFINITION. In this chapter, "department" means the Department of Family and Protective Services.

Sec. 267.002. ESTABLISHMENT OF CHILD ABUSE PREVENTION PILOT PROJECT. The department, in consultation with the child abuse prevention services task force established under Section 267.006, shall establish the child abuse prevention pilot project under this chapter to reduce the increasing incidences and financial and emotional costs of child abuse and neglect in this state by:

(1) developing intervention programs in different geographic regions of this state; and

(2) evaluating the success of those programs.

Sec. 267.003. MEMORANDUM OF UNDERSTANDING WITH INSTITUTION OF HIGHER EDUCATION. The department shall enter into a memorandum of understanding with an institution of higher education in this state to monitor the implementation and effectiveness of the pilot project. The memorandum of understanding must require the institution to:

(1) track the number of abuse allegations, confirmed victims, and child deaths in the communities served by the pilot project programs before, during, and after the implementation of the pilot project programs; and

(2) report to the department and the child abuse prevention services task force established under Section 267.006 regarding the results of the pilot project programs every six months following the date on which the pilot project programs are implemented or at any other time required by the task force.

Sec. 267.004. PILOT PROJECT PROGRAM LOCATIONS. (a) The department shall establish programs under the pilot project in four locations. Two of the locations must be urban areas and two of the locations must be rural areas.

(b) Within each location, the department shall:

(1) engage and build trust with the communities in which programs are established using a locality development approach; and

(2) gather community-specific data on gaps and overlaps in services currently offered in the location.

Sec. 267.005. PILOT PROJECT INTERVENTION PROGRAMS. (a) The pilot project programs shall use intervention methods that in studies conducted in this state or nationwide have been shown to be the most effective in reducing child abuse and neglect.

(b) The intervention methods used in the pilot project programs may include methods that have been shown to be successful at:

(1) detecting risks of child abuse;

(2) decreasing:

(A) child maltreatment;

(B) child sexual abuse;

(C) substance abuse by parents;

(D) domestic violence;

(E) subsequent pregnancies;

(F) parental depression and stress; and

(G) reliance on public assistance;

(3) enhancing parenting skills; and

(4) increasing the cognitive development of children.

(c) One of the pilot project programs must be a voluntary in-home visitation program that incorporates the following best practices components:

(1) comprehensive multiple interventions addressing behavior in multiple settings, including school, home, and community;

(2) varied teaching methods involving interactive and hands-on experiences;

(3) sufficient intervention to prevent the dissipation of its effects over time;

(4) a theory-driven and scientific justification for interventions;

(5) positive relationships developed between the participants and the providers;

(6) prevention measures designed to target the community and tailored to the community's needs;

(7) clear and realistic goals and documented results;

(8) professional and well-trained staff;

(9) a focus on both the child and the parent; and

(10) links to quality child care and other services.

(d) One of the pilot project programs must be a parent support group, a crisis nursery, or another intervention program that the task force established under Section 267.006 determines to have shown the most promise and potential for cost-effectiveness.

Sec. 267.006. CHILD ABUSE PREVENTION SERVICES TASK FORCE.

(a) In this section, "task force" means the child abuse prevention services task force established under this section.

(b) The child abuse prevention services task force shall create a strategic plan to improve the availability of child abuse prevention services in this state and to advise the department on the implementation of the child abuse prevention pilot project.

(c) The task force is composed of an odd number of members jointly nominated by the presiding officer of each house of representatives and senate standing committee having jurisdiction over family protective services and approved by the governor.

(d) Each member of the task force must have demonstrated experience regarding the prevention of child abuse or neglect.

(e) Membership on the task force must include:

(1) two researchers from nationally or state-recognized child abuse prevention programs at institutions of higher education;

(2) two researchers from nationally or state-recognized health care programs at institutions of higher education;

(3) two representatives of child advocacy organizations in this state;

(4) two members of the legislature; and

(5) two providers of recognized child abuse and neglect prevention programs.

(f) The task force shall:

(1) examine the provision of child abuse prevention services in this state and identify opportunities to coordinate and consolidate the delivery of those services;

(2) identify federal, state, and community sources of funding for child abuse prevention services;

(3) create a strategic plan that would result in the extension of child abuse prevention services to more at-risk families in this state; and

(4) regarding the pilot project established under this chapter, advise the department on the:

(A) locations for the pilot project programs;

(B) intervention models to be used in the pilot project programs;

(C) development of the request for proposal process to be used for participation in the pilot project;

(D) selection of an institution of higher education to measure the outcomes of the pilot project programs; and

(E) expansion of or a change in a particular intervention method used under a pilot project program.

(g) The department shall provide administrative support and services to the task force.

(h) Not later than September 1, 2006, the task force shall present to the department the strategic plan created under Subsection (f)(3).

Sec. 267.007. REPORT ON STRATEGIC PLAN BY DEPARTMENT. (a) Not later than the 90th day after the date on which the task force presents to the department its strategic plan under Section 267.006(h), the department shall submit to the governor, the lieutenant governor, the speaker of the house of representatives, and the presiding officer of each house of representatives and senate standing committee having jurisdiction over family protective services a written report concerning the strategic plan of the task force. The report must include recommendations for:

(1) implementing the strategic plan of the task force, if appropriate;
(2) modifications to the strategic plan of the task force; and
(3) legislation that the task force considers necessary to implement the strategic plan.

(b) This section expires September 1, 2007.

Amendment No. 37 was adopted.

(Talton in the chair)

Amendment No. 38

Representative Dukes offered the following amendment to **CSSB 6**:

Amend **CSSB 6** (House Committee Printing) as follows:

(1) On page 38, between lines 4 and 5, insert:

Sec. 45.151. PROHIBITION ON CERTAIN CONTRACTS. (a) The department may not accept a bid under this chapter from a person or award to a person a contract under this chapter that includes proposed financial participation by the person if:

(1) the person participated in preparing the bid specifications or request for proposals on which the bid or contract is based; and

(2) the bid specifications or request for proposals on which the bid or contract is based:

(A) requires a work plan, project design, or other criteria for participation in the contract that is specific to that person or likely to limit or exclude competitors who provide similar goods or services; or

(B) includes a scope of required goods or services that is so narrowly defined that it is specific to that person or likely to limit or exclude competitors who provide similar goods or services.

(b) The department may not accept a bid under this chapter from or award a contract under this chapter to an individual or business entity that is barred from participating in state contracts under Section 2155.077.

(c) The department may not accept a bid under this chapter from or award a contract under this chapter to an individual or business entity that was awarded a contract valued at \$1 billion dollars or more during the four year period immediately before the date of the issuance of relevant requests for proposals under Section 45.054, Human Resources Code.

(d) If the department determines that an individual or business entity holding a contract under this chapter was ineligible to have the contract accepted or awarded under Subsection (a), (b), or (c), the department may immediately terminate the contract without further obligation to the vendor.

Sec. 45.152. SUBCONTRACTOR PAYMENT. The existence of a dispute between the department and a contractor regarding a contract under this chapter does not justify nonpayment of a subcontractor for work completed by the subcontractor under the contract if the subcontractor has completed the work in a satisfactory manner and the work has been approved by the department and the contractor.

(2) On page 38, line 5, strike "45.151" and substitute "45.153".

Amendment No. 38 was adopted.

Amendment No. 39

Representative Uresti offered the following amendment to **CSSB 6**:

Amend **CSSB 6**, in Article 1 of the bill, by adding the following appropriately numbered section to the article and renumbering the remaining sections of the article as appropriate:

SECTION 1. Chapter 264, Family Code, is amended by adding Subchapter J to read as follows:

SUBCHAPTER J. FAMILY DRUG COURT PROGRAM

Sec. 264.801. FAMILY DRUG COURT PROGRAM DEFINED. In this subchapter, "family drug court program" means a program that has the following essential characteristics:

(1) the integration of substance abuse treatment services in the processing of civil cases in the child welfare system with the goal of family reunification;

(2) the use of a comprehensive case management approach involving department caseworkers, court-appointed case managers, and court-appointed special advocates to rehabilitate a parent who has had a child removed from the parent's care by the department because of suspected child abuse or neglect and who is suspected of substance abuse;

(3) early identification and prompt placement of eligible parents who volunteer to participate in the program;

(4) comprehensive substance abuse needs assessment and referral to an appropriate substance abuse treatment agency;

(5) a progressive treatment approach with specific requirements that a parent must meet to advance to the next phase of the program;

(6) monitoring of abstinence through periodic alcohol or other drug testing;

(7) ongoing judicial interaction with program participants;

(8) monitoring and evaluation of program goals and effectiveness;

(9) continuing interdisciplinary education to promote effective program planning, implementation, and operations; and

(10) development of partnerships with public agencies and community organizations.

Sec. 264.802. AUTHORITY TO ESTABLISH PROGRAM. The commissioners court of a county may establish a family drug court program for persons who:

(1) have had a child removed from their care by the department; and
 (2) are suspected by the department or a court of having a substance abuse problem.

Sec. 264.803. OVERSIGHT. (a) The lieutenant governor and the speaker of the house of representatives may assign to appropriate legislative committees duties relating to the oversight of family drug court programs established under this subchapter.

(b) A legislative committee or the governor may request the state auditor to perform a management, operations, or financial or accounting audit of a family drug court program established under this subchapter.

Sec. 264.804. PARTICIPANT PAYMENT FOR TREATMENT AND SERVICES. A family drug court program may require a participant to pay the cost of all treatment and services received while participating in the program, based on the participant's ability to pay.

Sec. 264.805. FUNDING. A county creating a family drug court under this chapter shall explore the possibility of using court improvement project funds to finance the family drug court in the county. The county shall also explore the availability of federal and state matching funds to finance the court.

Amendment No. 39 was adopted.

Amendment No. 40

Representative Burnam offered the following amendment to **CSSB 6**:

Amend **CSSB 6** (House Committee Report) by adding the following appropriately numbered SECTIONS to ARTICLE 1 of the bill and renumbering subsequent SECTIONS of ARTICLE 1 of the bill appropriately:

SECTION ____. Chapter 61, Education Code, is amended by adding Subchapter EE to read as follows:

SUBCHAPTER EE. REPAYMENT OF CERTAIN SOCIAL WORKER EDUCATION LOANS IN CERTAIN COUNTIES; PILOT PROGRAM

Sec. 61.9741. APPLICABILITY. This subchapter applies only to a county with a population of less than two million in which a municipality with a population of more than one million is located.

Sec. 61.9742. REPAYMENT ASSISTANCE AUTHORIZED. (a) The board shall establish a pilot program under which the board provides, in accordance with this subchapter and board rules, assistance in the repayment of education loans for social workers who apply and qualify for the assistance.

(b) The provision of financial assistance in the repayment of education loans under this subchapter promotes a public purpose.

Sec. 61.9743. ELIGIBILITY. To be eligible to receive repayment assistance, a person:

(1) must apply to the board;

(2) must have graduated from an accredited public or private institution of higher education in or outside this state with a baccalaureate or graduate degree in social work;

(3) must currently work as an entry-level investigator for the Department of Family and Protective Services and have worked in that position for at least one year; and

(4) may not have received any funds from the Department of Family and Protective Services available under Title IV-D, federal Social Security Act (42 U.S.C. Section 670 et seq.).

Sec. 61.9744. LIMITATIONS. The amount of loan repayment assistance received by a social worker under this subchapter in one year may not exceed the lesser of \$3,300 or 20 percent of the total amount of the social worker's outstanding education loans, including scheduled interest payments that would become due if the loan is not prepaid, when the social worker enters into the agreement.

Sec. 61.9745. ELIGIBLE LOANS. (a) The board may provide repayment assistance for the repayment of any education loan received by the social worker through any lender for education while enrolled at an institution of higher education described by Section 61.9743(2) in a baccalaureate or graduate degree program in social work.

(b) The board may not provide repayment assistance for an education loan that is in default at the time of the social worker's application.

Sec. 61.9746. REPAYMENT. (a) The board shall deliver any repayment assistance made under this subchapter in a lump sum payable to the lender and the social worker and in accordance with any applicable federal law.

(b) Loan repayment assistance received under this subchapter may be applied to the principal amount of the loan and to interest that accrues.

Sec. 61.9747. ADVISORY COMMITTEE. The board may appoint an advisory committee from outside the board's membership to assist the board in performing the board's duties under this subchapter.

Sec. 61.9748. ACCEPTANCE OF GIFTS. The board may solicit and accept gifts, grants, and donations for the purposes of this subchapter.

Sec. 61.9749. RULES. The board shall adopt rules necessary for the administration of this subchapter.

Sec. 61.9750. REPORT TO LEGISLATURE. Not later than December 1, 2008, the board shall submit to the legislature a report regarding the loan repayment assistance pilot program administered by the board under this subchapter. The report must include:

(1) the number of persons receiving loan repayment assistance under this subchapter;

(2) an evaluation of the effectiveness of the pilot program in encouraging social workers to maintain employment with the Department of Family and Protective Services and any other benefits or problems that result from the pilot program; and

(3) the board's recommendations regarding the elimination, continuation, or expansion of the pilot program.

Sec. 61.9751. EXPIRATION OF SUBCHAPTER. This subchapter expires September 1, 2009.

SECTION _____. The Texas Higher Education Coordinating Board shall adopt the rules for the repayment assistance pilot program under Subchapter EE, Chapter 61, Education Code, as added by this Act, not later than December 1, 2005.

Amendment No. 40 was adopted.

Amendment No. 41

Representative Dukes offered the following amendment to **CSSB 6**:

Amend **CSSB 6** (House Committee Printing) in Article 1 of the bill by adding the following appropriately numbered SECTION to the article and renumbering subsequent SECTIONS of the article accordingly:

SECTION 1.____. Subchapter B, Chapter 40, Human Resources Code, is amended by adding Section 40.0323 to read as follows:

Sec. 40.0323. CASELOAD LIMITATION FOR CERTAIN EMPLOYEES.
(a) In this section, "investigative caseworker" means a caseworker of the investigations division of the child protective services program who spends more than 80 percent of the caseworker's time investigating cases of child abuse, neglect, or exploitation.

(b) Notwithstanding Section 531.048(d), Government Code, and subject to Subsection (d), the department shall ensure that the average caseload for investigative caseworkers does not exceed 20 cases at any time.

(b-1) Notwithstanding Section 531.048(d), Government Code, and Subsection (b) and subject to Subsection (d), the department shall ensure that:

(1) beginning September 1, 2007, the average caseload for investigative caseworkers does not exceed 44 cases at any time;

(2) beginning September 1, 2009, the average caseload for investigative caseworkers does not exceed 38 cases at any time;

(3) beginning September 1, 2011, the average caseload for investigative caseworkers does not exceed 32 cases at any time; and

(4) beginning September 1, 2013, the average caseload for investigative caseworkers does not exceed 26 cases at any time.

(b-2) Subsection (b-1) and this subsection expire September 1, 2015.

(c) In determining the average number of cases for investigative caseworkers for purposes of this section, the department may not consider cases that are:

(1) more than 60 days old; or

(2) 90 percent completed, as determined by rules adopted by the executive commissioner.

(d) The commissioner may temporarily waive the limit on the average caseload for investigative caseworkers established by this section under circumstances, such as high turnover rates, specified by rules adopted by the executive commissioner.

(Speaker in the chair)

Representative Gattis moved to table Amendment No. 41.

A record vote was requested.

The motion to table prevailed by (Record 326): 75 Yeas, 63 Nays, 2 Present, not voting.

Yeas — Allen, R.; Anderson; Berman; Blake; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Callegari; Campbell; Chisum; Cook, B.; Corte; Crownover; Davis, J.; Dawson; Denny; Driver; Edwards; Eissler; Elkins; Flynn; Gattis; Geren; Goodman; Griggs; Hamric; Hardcastle; Harper-Brown; Hartnett; Hegar; Hilderbran; Hill; Hope; Howard; Hughes; Hunter; Hupp; Isett; Jackson; Jones, D.; Keel; Keffer, B.; Keffer, J.; King, P.; Kolkhorst; Krusee; Kuempel; Laubenberg; Madden; McCall; Miller; Morrison; Mowery; Nixon; Orr; Otto; Paxton; Phillips; Reyna; Seaman; Smith, T.; Smith, W.; Smithee; Solomons; Straus; Swinford; Talton; Taylor; Truitt; Van Arsdale; West; Woolley; Zedler.

Nays — Allen, A.; Alonzo; Anchia; Bailey; Baxter; Casteel; Castro; Chavez; Coleman; Cook, R.; Davis, Y.; Deshotel; Dukes; Dunnam; Eiland; Escobar; Farabee; Farrar; Flores; Frost; Gallego; Giddings; Gonzales; Gonzalez Tourelles; Guillen; Haggerty; Hamilton; Herrero; Hochberg; Hodge; Homer; Hopson; Jones, J.; King, T.; Laney; Leibowitz; Luna; Martinez; Martinez Fischer; McClendon; McReynolds; Menendez; Merritt; Moreno, J.; Moreno, P.; Naishtat; Noriega, M.; Oliveira; Peña; Pickett; Puente; Quintanilla; Raymond; Ritter; Rodriguez; Rose; Solis; Strama; Thompson; Turner; Veasey; Villarreal; Vo.

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

Absent, Excused — Delisi; Olivo; Pitts; Riddle.

Absent — Burnam; Crabb; Dutton; Goolsby; Grusendorf; Wong.

STATEMENT OF VOTE

When Record No. 326 was taken, I was in the house but away from my desk. I would have voted yes.

Goolsby

Amendment No. 42

Representative Farabee offered the following amendment to **CSSB 6**:

Amend **CSSB 6** as follows:

(1) In SECTION 1.13(a) of the bill, in the introductory language (House committee report page 9, line 14), between "(d)," and "(f)", insert "(e)".

(2) In SECTION 1.13(a) of the bill, in amended Section 261.301, Family Code (House committee report page 10, between lines 5 and 6), insert the following:

(e) As necessary to provide for the protection of the child, the department or designated agency shall determine:

- (1) the nature, extent, and cause of the abuse or neglect;
- (2) the identity of the person responsible for the abuse or neglect;
- (3) the names and conditions of the other children in the home;

(4) an evaluation of the parents or persons responsible for the care of the child;

(5) the adequacy of the home environment, including whether illegal drugs are being used or sold in the home;

(6) the relationship of the child to the persons responsible for the care, custody, or welfare of the child; and

(7) all other pertinent data.

Amendment No. 43

Representative Gattis offered the following amendment to Amendment No. 42:

Amend Amendment No. 42 by Farabee on page 1, line 19, by striking "illegal drugs are" and substituting "there is observable evidence of illegal drugs".

Amendment No. 43 was adopted.

Amendment No. 42, as amended, was adopted.

Amendment No. 44

Representative Farrar offered the following amendment to **CSSB 6**:

Amend **CSSB 6** on page 28, by inserting the following subsection after line 22 and appropriately renumbering the remaining subsections:

(2) All substitute care and case management services shall, to the best extent possible, honor the cultural and religious affiliations of the child placed in their care regardless of the religious affiliation of the agency.

Amendment No. 44 was adopted.

Amendment No. 45

Representative Van Arsdale offered the following amendment to **CSSB 6**:

Amend **CSSB 6** as follows:

(1) In SECTION 1.11(a) of the bill, in the introductory language (House committee printing page 7, line 27), strike "(d) and (e)" and substitute "(a-1), (d), and (e)".

(2) In SECTION 1.11(a) of the bill, in amended Section 261.107, Family Code (House committee printing page 8, between lines 8 and 9), insert the following:

(a-1) In addition to any other person, Subsection (a) applies to a medical professional who knowingly or intentionally makes a report as provided in this chapter based on a claim that the child is the subject of medical neglect if the professional knows that the claim is false or lacks factual foundation. This subsection shall be construed and enforced in a manner that discourages medical professionals from making or threatening to make reports based on claims of medical neglect in circumstances in which reasonable persons could disagree regarding the best medical treatment for a child.

(3) In SECTION 1.11(b) of the bill, in the transition language (House committee printing page 8, line 18), strike "Section 261.107(d)" and substitute "Sections 261.107(a-1) and (d)".

Amendment No. 46

Representative Van Arsdale offered the following amendment to Amendment No. 45:

Amend Floor Amendment No. 45 by Van Arsdale as follows:

(1) Strike page 1, lines 8-17, of the amendment and substitute the following:

(a-1) A medical professional commits an offense if the professional knowingly or intentionally threatens a child's parent or managing conservator with making a report as provided in this chapter on the basis of a claim that the child is the subject of medical neglect if the professional knows that the claim is false, lacks factual foundation, or is based on circumstances in which reasonable persons could disagree regarding the best medical treatment for a child. An offense under this subsection is a Class A misdemeanor.

(2) Add the following appropriately numbered items to the amendment:

() On page 8, line 5 of the bill, strike "section" and substitute "subsection [section]".

() On page 8, line 10 of the bill, strike "this section" and substitute "Subsection (a)".

Amendment No. 46 was adopted.

Amendment No. 45, as amended, was adopted.

Amendment No. 47

Representative Goodman offered the following amendment to **CSSB 6**:

Amend **CSSB 6** as follows:

(1) In ARTICLE 1 of the bill (House committee printing, page 82, between lines 19 and 20), add the following appropriately numbered SECTION and renumber subsequent SECTIONS of ARTICLE 1 accordingly:

SECTION 1. Subchapter B, Chapter 42, Human Resources Code, is amended by adding Section 42.025 to read as follows:

Sec. 42.025. STATE ADVISORY COMMITTEE ON LICENSING. (a) The executive commissioner shall establish a State Advisory Committee on Licensing.

(b) The advisory committee shall be composed of members from the public and private sectors, including:

(1) representatives of each type of licensed residential child-care facility;

(2) a department employee who performs functions relating to licensing; and

(3) a representative of the community.

(c) The department shall provide staff necessary for the advisory committee.

(d) The advisory committee shall meet at least annually.

(e) The advisory committee shall receive and review the annual report required under Section 42.023 and make recommendations to the department with respect to:

(1) improving consistency in the enforcement of licensing requirements;

(2) the provision of advanced training;
(3) the revision of licensing standards; and
(4) technical assistance necessary to improve the quality of care based on the information reported regarding violations of licensing standards.

(f) Chapter 2110, Government Code, does not apply to the committee.

(g) This section expires and the advisory committee is abolished September 1, 2009.

(2) In SECTION 1.70(a) of the bill, in the introductory language (House committee printing, page 83, line 9), between "(g-1)," and "(h-1)", insert "(g-2),".

(3) In Section 1.70(a) of the bill, strike added Section 42.042(g-1), Human Resources Code (House committee printing, page 83, lines 14-21), and substitute the following:

(g-1) In promulgating minimum standards under this section, the department shall assign a tested weighted value for each standard that correlates to that standard's potential impact on the health and safety of children.

(g-2) In developing a methodology to classify and assign weighted values to designate the risk associated with each minimum standard under Subsection (g-1), the department shall consult with the State Advisory Committee on Licensing established under Section 42.025. This subsection expires September 1, 2009.

Amendment No. 47 was adopted.

Amendment No. 48

Representative Uresti offered the following amendment to **CSSB 6**:

Amend **CSSB 6** (House Committee Printing) in Article 2 of the bill by adding the following appropriately numbered SECTIONS to the article and renumbering subsequent SECTIONS of the article accordingly:

SECTION 2. __. Subchapter D, Chapter 48, Human Resources Code, is amended by adding Section 48.1521 to read as follows:

Sec. 48.1521. REPORTS OF CRIMINAL CONDUCT TO LAW ENFORCEMENT AGENCY. If during the course of the department's or another state agency's investigation of reported abuse, neglect, or exploitation a caseworker of the department or other state agency, as applicable, or the caseworker's supervisor has cause to believe that the elderly or disabled person has been abused, neglected, or exploited by another person in a manner that constitutes a criminal offense under any law, including Section 22.04, Penal Code, the caseworker or supervisor shall:

(1) immediately notify an appropriate law enforcement agency; and
(2) provide the law enforcement agency with a copy of the investigation report of the department or other state agency, as applicable, in a timely manner.

SECTION 2. __. Section 48.157, Human Resources Code, is repealed.

Amendment No. 48 was adopted.

Amendment No. 49

Representative Hilderbran offered the following amendment to **CSSB 6**:

Amend **CSSB 6** (House Committee Report) by adding the following appropriately numbered ARTICLE to the bill and renumbering subsequent ARTICLES of the bill appropriately:

ARTICLE __. CERTAIN REQUIREMENTS AND LIMITATIONS RELATING
TO MARRIAGE; PROVIDING CRIMINAL PENALTIES

SECTION __.01. Article 38.10, Code of Criminal Procedure, is amended to read as follows:

Art. 38.10. EXCEPTIONS TO THE SPOUSAL ADVERSE TESTIMONY PRIVILEGE. The privilege of a person's spouse not to be called as a witness for the state does not apply in any proceeding in which the person is charged with:

(1) a crime committed against the person's spouse, a minor child, or a member of the household of either spouse; or

(2) an offense under Section 25.01, Penal Code (Bigamy).

SECTION __.02. Sections 22.011(e) and (f), Penal Code, are amended to read as follows:

(e) It is an affirmative defense to prosecution under Subsection (a)(2) that:

(1) the actor was not more than three years older than the victim and at the time of the offense:

(A) was not required under Chapter 62, Code of Criminal Procedure, [~~as added by Chapter 668, Acts of the 75th Legislature, Regular Session, 1997,~~] to register for life as a sex offender; or

(B) was not a person who under Chapter 62, Code of Criminal Procedure, had a reportable conviction or adjudication for an offense under this section; and

(2) the victim:

(A) was a child of 14 years of age or older; and

(B) was not a person whom the actor was prohibited from marrying or purporting to marry or with whom the actor was prohibited from living under the appearance of being married under Section 25.01.

(f) An offense under this section is a felony of the second degree, except that an offense under this section is a felony of the first degree if the victim was a person whom the actor was prohibited from marrying or purporting to marry or with whom the actor was prohibited from living under the appearance of being married under Section 25.01.

SECTION __.03. Sections 25.01(c) and (e), Penal Code, are amended to read as follows:

(c) It is a defense to prosecution under Subsection (a)(1) that the actor reasonably believed at the time of the commission of the offense that the actor and the person whom the actor married or purported to marry or with whom the actor lived under the appearance of being married were legally eligible to be married because the actor's prior [his] marriage was void or had been dissolved by death, divorce, or annulment. For purposes of this subsection, an actor's belief is reasonable if the belief is substantiated by a certified copy of a death certificate or other signed document issued by a court.

(e) An offense under this section is a felony of the third degree, except that if at the time of the commission of the offense, the person whom the actor marries or purports to marry or with whom the actor lives under the appearance of being married is:

(1) 16 years of age, the offense is a felony of the second degree; or
(2) younger than 16 years of age, the offense is a felony of the first degree [Class A misdemeanor].

SECTION __.04. Sections 25.02(a) and (c), Penal Code, are amended to read as follows:

(a) A person [An individual] commits an offense if the person [he] engages in sexual intercourse or deviate sexual intercourse with another [a] person [he] knows to be, without regard to legitimacy:

(1) the actor's [his] ancestor or descendant by blood or adoption;
 (2) the actor's current or former [his] stepchild or stepparent [~~while the marriage creating that relationship exists~~];
 (3) the actor's [his] parent's brother or sister of the whole or half blood;
 (4) the actor's [his] brother or sister of the whole or half blood or by adoption; [~~or~~]
 (5) the children of [his] brother or sister of the whole or half blood or by adoption; or
 (6) the son or daughter of the actor's aunt or uncle of the whole or half blood or by adoption.

(c) An offense under this section is a felony of the third degree, unless the offense is committed under Subsection (a)(6), in which event the offense is a felony of the second degree.

SECTION __.05. Section 2.004, Family Code, is amended by amending Subsection (b) and adding Subsections (c) and (d) to read as follows:

(b) The application form must contain:

(1) a heading entitled "Application for Marriage License, _____ County, Texas";
 (2) spaces for each applicant's full name, including the woman's maiden surname, address, social security number, if any, date of birth, and place of birth, including city, county, and state;
 (3) a space for indicating the document tendered by each applicant as proof of identity and age;
 (4) spaces for indicating whether each applicant has been divorced within the last 30 days;
 (5) printed boxes for each applicant to check "true" or "false" in response to the following statement: "I am not presently married and the other applicant is not presently married.";
 (6) printed boxes for each applicant to check "true" or "false" in response to the following statement: "The other applicant is not related to me as:
 (A) an ancestor or descendant, by blood or adoption;
 (B) a brother or sister, of the whole or half blood or by adoption;
 (C) a parent's brother or sister, of the whole or half blood or by adoption; [~~or~~]"

(D) a son or daughter of a brother or sister, of the whole or half blood or by adoption;

(E) a current or former stepchild or stepparent; or

(F) a son or daughter of a parent's brother or sister, of the whole or half blood or by adoption.";

(7) printed boxes for each applicant to check "true" or "false" in response to the following statement: "I am not presently delinquent in the payment of court-ordered child support.";

(8) a printed oath reading: "I SOLEMNLY SWEAR (OR AFFIRM) THAT THE INFORMATION I HAVE GIVEN IN THIS APPLICATION IS CORRECT.";

(9) spaces immediately below the printed oath for the applicants' signatures;

(10) a certificate of the county clerk that:

(A) each applicant made the oath and the date and place that it was made; or

(B) an applicant did not appear personally but the prerequisites for the license have been fulfilled as provided by this chapter;

(11) spaces for indicating the date of the marriage and the county in which the marriage is performed; and

(12) a space for the address to which the applicants desire the completed license to be mailed.

(c) An applicant commits an offense if the applicant knowingly provides false information under Subsection (b)(1), (2), (3), or (4). An offense under this subsection is a Class C misdemeanor.

(d) An applicant commits an offense if the applicant knowingly provides false information under Subsection (b)(5) or (6). An offense under this subsection is a Class A misdemeanor.

SECTION __.06. Section 2.005, Family Code, is amended by adding Subsection (c) to read as follows:

(c) A person commits an offense if the person knowingly provides false, fraudulent, or otherwise inaccurate proof of an applicant's identity or age under this section. An offense under this subsection is a Class A misdemeanor.

SECTION __.07. Section 2.007, Family Code, is amended to read as follows:

Sec. 2.007. AFFIDAVIT OF ABSENT APPLICANT. The affidavit of an absent applicant must include:

(1) the absent applicant's full name, including the maiden surname of a female applicant, address, date of birth, place of birth, including city, county, and state, citizenship, and social security number, if any;

(2) a declaration that the absent applicant has not been divorced within the last 30 days;

(3) a declaration that the absent applicant is:

(A) not presently married; or

(B) married to the other applicant and they wish to marry again;

(4) a declaration that the other applicant is not presently married and is not related to the absent applicant as:

- (A) an ancestor or descendant, by blood or adoption;
- (B) a brother or sister, of the whole or half blood or by adoption;
- (C) a parent's brother or sister, of the whole or half blood or by adoption; ~~or~~
- (D) a son or daughter of a brother or sister, of the whole or half blood or by adoption;
- (E) a current or former stepchild or stepparent; or
- (F) a son or daughter of a parent's brother or sister, of the whole or half blood or by adoption;

(5) a declaration that the absent applicant desires to marry and the name, age, and address of the person to whom the absent applicant desires to be married;

(6) the approximate date on which the marriage is to occur;

(7) the reason the absent applicant is unable to appear personally before the county clerk for the issuance of the license; and

(8) if the absent applicant will be unable to attend the ceremony, the appointment of any adult, other than the other applicant, to act as proxy for the purpose of participating in the ceremony.

SECTION __.08. Sections 2.009(a) and (b), Family Code, are amended to read as follows:

(a) Except as provided by Subsections (b) and (d), the county clerk may not issue a license if either applicant:

- (1) fails to provide the information required by this subchapter;
- (2) fails to submit proof of age and identity;
- (3) is under 16 ~~[14]~~ years of age and has not been granted a court order as provided by Section 2.103;
- (4) is 16 ~~[14]~~ years of age or older but under 18 years of age and has not presented at least one of the following:

- (A) parental consent as provided by Section 2.102;
- (B) documents establishing that a prior marriage of the applicant has been dissolved; or

- (C) a court order as provided by Section 2.103;

(5) checks "false" in response to a statement in the application, except as provided by Subsection (b) or (d), or fails to make a required declaration in an affidavit required of an absent applicant; or

(6) indicates that the applicant has been divorced by a decree of a court of this state within the last 30 days, unless:

- (A) the applicants were divorced from each other; or
- (B) the prohibition against remarriage is waived as provided by Section 6.802.

(b) If an applicant checks "false" in response to the statement "I am not presently married and the other applicant is not presently married," the county clerk shall inquire as to whether the applicant is presently married to the other applicant. If the applicant states that the applicant is currently married to the other

applicant, the county clerk shall record that statement on the license before the administration of the oath. The county clerk may not refuse to issue a license on the ground that the applicants are already married to each other.

SECTION __.09. Section 2.102, Family Code, is amended by amending Subsection (a) and adding Subsections (g) and (h) to read as follows:

(a) If an applicant is 16 [14] years of age or older but under 18 years of age, the county clerk shall issue the license if parental consent is given as provided by this section.

(g) A person commits an offense if the person knowingly provides parental consent for an underage applicant under this section and the person is not a parent or a judicially designated managing conservator or guardian of the applicant. An offense under this subsection is a Class A misdemeanor.

(h) A parent or judicially designated managing conservator or guardian of an applicant commits an offense if the parent, managing conservator, or guardian knowingly provides parental consent under this section for an applicant who is younger than 16 years of age or who is presently married to a person other than the person the applicant desires to marry. An offense under this subsection is a felony of the third degree.

SECTION __.10. Section 2.202, Family Code, is amended by adding Subsections (c) and (d) to read as follows:

(c) Except as provided by Subsection (d), a person commits an offense if the person knowingly conducts a marriage ceremony without authorization under this section. An offense under this subsection is a Class A misdemeanor.

(d) A person commits an offense if the person knowingly conducts a marriage ceremony of a minor whose marriage is prohibited by law or of a person who by marrying commits an offense under Section 25.01, Penal Code. An offense under this subsection is a felony of the third degree.

SECTION __.11. Section 2.302, Family Code, is amended to read as follows:

Sec. 2.302. CEREMONY CONDUCTED BY UNAUTHORIZED PERSON. The validity of a marriage is not affected by the lack of authority of the person conducting the marriage ceremony if:

- (1) there was a reasonable appearance of authority by that person; ~~and~~
- (2) at least one party to the marriage participated in the ceremony in good faith and that party treats the marriage as valid; and
- (3) neither party to the marriage:

(A) is a minor whose marriage is prohibited by law; or

(B) by marrying commits an offense under Section 25.01, Penal

Code.

SECTION __.12. Section 2.401, Family Code, is amended by adding Subsection (d) to read as follows:

(d) A person may not be a party to an informal marriage or execute a declaration of an informal marriage if the person is presently married to a person who is not the other party to the informal marriage or declaration of an informal marriage, as applicable.

SECTION __.13. Section 2.402(b), Family Code, is amended to read as follows:

(b) The declaration form must contain:

(1) a heading entitled "Declaration and Registration of Informal Marriage, _____ County, Texas";

(2) spaces for each party's full name, including the woman's maiden surname, address, date of birth, place of birth, including city, county, and state, and social security number, if any;

(3) a space for indicating the type of document tendered by each party as proof of age and identity;

(4) printed boxes for each party to check "true" or "false" in response to the following statement: "The other party is not related to me as:

(A) an ancestor or descendant, by blood or adoption;

(B) a brother or sister, of the whole or half blood or by adoption;

(C) a parent's brother or sister, of the whole or half blood or by adoption; [~~or~~]

(D) a son or daughter of a brother or sister, of the whole or half blood or by adoption;

(E) a current or former stepchild or stepparent; or

(F) a son or daughter of a parent's brother or sister, of the whole or half blood or by adoption."

(5) a printed declaration and oath reading: "I SOLEMNLY SWEAR (OR AFFIRM) THAT WE, THE UNDERSIGNED, ARE MARRIED TO EACH OTHER BY VIRTUE OF THE FOLLOWING FACTS: ON OR ABOUT (DATE) WE AGREED TO BE MARRIED, AND AFTER THAT DATE WE LIVED TOGETHER AS HUSBAND AND WIFE AND IN THIS STATE WE REPRESENTED TO OTHERS THAT WE WERE MARRIED. SINCE THE DATE OF MARRIAGE TO THE OTHER PARTY I HAVE NOT BEEN MARRIED TO ANY OTHER PERSON. THIS DECLARATION IS TRUE AND THE INFORMATION IN IT WHICH I HAVE GIVEN IS CORRECT.";

(6) spaces immediately below the printed declaration and oath for the parties' signatures; and

(7) a certificate of the county clerk that the parties made the declaration and oath and the place and date it was made.

SECTION __.14. Section 2.403, Family Code, is amended to read as follows:

Sec. 2.403. PROOF OF IDENTITY AND AGE; OFFENSE. (a) The county clerk shall require proof of the identity and age of each party to the declaration of informal marriage to be established by a certified copy of the party's birth certificate or by some certificate, license, or document issued by this state or another state, the United States, or a foreign government.

(b) A person commits an offense if the person knowingly provides false, fraudulent, or otherwise inaccurate proof of the person's identity or age under this section. An offense under this subsection is a Class A misdemeanor.

SECTION __.15. Section 6.101, Family Code, is amended to read as follows:

Sec. 6.101. ANNULMENT OF MARRIAGE OF PERSON UNDER AGE 16 [44]. (a) The court may grant an annulment of a licensed marriage of a person under 16 [44] years of age unless a court order has been obtained as provided in Subchapter B, Chapter 2.

(b) A petition for annulment under this section may be filed by a next friend for the benefit of a person under 16 [44] years of age or on the petition of the parent or the judicially designated managing conservator or guardian, whether an individual, authorized agency, or court, of the person.

(c) A suit by a parent, managing conservator, or guardian of the person may be brought at any time before the person is 16 [44] years of age.

(d) A suit under this section to annul the marriage of a person 16 [44] years of age or older that was entered into before the person was 16 [44] years of age is barred unless the suit is filed within the later of:

(1) 90 days after the date the petitioner knew or should have known of the marriage; or

(2) 90 days after the date of the 16th [~~14th~~] birthday of the underage party.

SECTION __.16. Section 6.102(a), Family Code, is amended to read as follows:

(a) The court may grant an annulment of a licensed or informal marriage of a person 16 [44] years of age or older but under 18 years of age that occurred without parental consent or without a court order as provided by Subchapters B and E, Chapter 2.

SECTION __.17. Subchapter C, Chapter 6, Family Code, is amended by adding Sections 6.205 and 6.206 to read as follows:

Sec. 6.205. MARRIAGE TO MINOR. A marriage is void if either party to the marriage is younger than 16 years of age.

Sec. 6.206. MARRIAGE TO STEPCHILD OR STEPPARENT. A marriage is void if a party is a current or former stepchild or stepparent of the other party.

SECTION __.18. Under the terms of Section 22.109(b), Government Code, Rule 504(b)(1), Texas Rules of Evidence, is disapproved to the extent that the rule conflicts with Article 38.10, Code of Criminal Procedure, as amended by this article.

SECTION __.19. The changes in law made by this article in amending Article 38.10, Code of Criminal Procedure, and Sections 22.011, 25.01, and 25.02, Penal Code, apply only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is covered by the law in effect at the time the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense was committed before that date.

SECTION __.20. The changes in law made by this article to Sections 2.004, 2.005, 2.007, 2.009, and 2.102, Family Code, apply only to an application for a marriage license filed on or after the effective date of this Act. An

application filed before the effective date of this Act is governed by the law in effect on the date the application was filed, and the former law is continued in effect for that purpose.

SECTION __.21. The changes in law made by this article to Sections 2.202 and 2.302, Family Code, apply only to a marriage ceremony that is conducted on or after the effective date of this Act. A marriage ceremony conducted before the effective date of this Act is governed by the law in effect on the date the ceremony was conducted, and the former law is continued in effect for that purpose.

SECTION __.22. Section 2.401(d), Family Code, as added by this article, applies to an informal marriage or a declaration of an informal marriage regardless of when the informal marriage was entered into or the declaration was executed.

SECTION __.23. The changes in law made by this article to Sections 2.402(b) and 2.403, Family Code, apply to a declaration of an informal marriage executed on or after the effective date of this Act. A declaration executed before the effective date of this Act is governed by the law in effect on the date the declaration was executed, and the former law is continued in effect for that purpose.

SECTION __.24. The changes in law made by this article by the amendment of Sections 6.101 and 6.102(a), Family Code, and the enactment of Sections 6.205 and 6.206, Family Code, apply only to a marriage entered into on or after the effective date of this Act. A marriage entered into before the effective date of this Act is governed by the law in effect on the date the marriage was entered into, and the former law is continued in effect for that purpose.

Amendment No. 50

Representative Hilderbran offered the following amendment to Amendment No. 49:

Amend the Hilderbran amendment No. 49 as follows:
on page 2, line 28, after the word (age), and before the (,), insert the words "or older"

Amendment No. 50 was adopted.

Amendment No. 49, as amended, was adopted.

Amendment No. 51

Representative Uresti offered the following amendment to **CSSB 6**:

Amend **CSSB 6** as follows:

(1) In Article 3 of the bill, strike the recital to SECTION 3.07 (House committee report, page 135, lines 4 and 5) and substitute the following:

SECTION 3.07. Sections 875(c) and (j), Texas Probate Code, are amended to read as follows:

(c) A sworn, written application for the appointment of a temporary guardian shall be filed before the court appoints a temporary guardian. The application must state:

- (1) the name and address of the person who is the subject of the guardianship proceeding;
- (2) the danger to the person or property alleged to be imminent;
- (3) the type of appointment and the particular protection and assistance being requested;
- (4) the facts and reasons supporting the allegations and requests;
- (5) the name, address, and qualification of the proposed temporary guardian;
- (6) the name, address, and interest of the applicant; and
- (7) if applicable, that the proposed temporary guardian is a private professional guardian who is certified under Subchapter C, Chapter 111, Government Code, and has complied with the requirements of Section 697 of this code.

(2) In Article 3 of the bill, add the following appropriately numbered SECTIONS and renumber subsequent SECTIONS of the article accordingly:

SECTION 3.____. Sections 531.121(3) and (5), Government Code, are amended to read as follows:

(3) "Guardianship program" has the meaning assigned by Section 111.001 [~~601, Texas Probate Code~~].

(5) "Private professional guardian" has the meaning assigned by Section 111.001 [~~601, Texas Probate Code~~].

SECTION 3.____. The heading to Section 531.122, Government Code, is amended to read as follows:

Sec. 531.122. ADVISORY BOARD; MEMBERSHIP [~~AND DUTIES~~].

SECTION 3.____. Sections 531.122(a), (b), and (d), Government Code, are amended to read as follows:

(a) The Guardianship Advisory Board [~~shall advise the commission in adopting standards under Section 531.124 and in administering the commission's duties under this subchapter.~~

~~[(b) The advisory board~~ is composed of one representative from each of the health and human services regions, as defined by the commission, three public representatives, and one representative of the Department of Aging and Disability [~~Protective and Regulatory~~] Services. The representatives of the health and human services regions are appointed by a majority vote of the judges of the statutory probate courts in each region. If a health and human services region does not contain a statutory probate court, the representative shall be appointed by a majority vote of the judges of the statutory probate courts in the state. The public representatives are appointed by the executive commissioner and the representative of the Department of Aging and Disability [~~Protective and Regulatory~~] Services is appointed by the commissioner of aging and disability services [~~Board of Protective and Regulatory Services~~].

(d) A member of the advisory board serves at the pleasure of a majority of the judges of the statutory probate courts that appointed the member, of the executive commissioner, or of the commissioner of aging and disability services [~~Board of Protective and Regulatory Services~~], as appropriate.

SECTION 3.____. Section 531.1235, Government Code, is amended to read as follows:

Sec. 531.1235. ADVISORY BOARD; [ADDITIONAL] DUTIES; STATEWIDE GUARDIANSHIP SYSTEM. (a) The advisory board shall advise the commission in administering the commission's duties under this subchapter. In addition [~~to performing the duties described by Section 531.122~~], the advisory board shall:

(1) advise the commission and the Department of Aging and Disability [~~Protective and Regulatory~~] Services with respect to a statewide guardianship program and develop a proposal for a statewide guardianship program; and

(2) review and comment on the guardianship policies of all health and human services agencies and recommend changes to the policies the advisory board considers necessary or advisable.

(b) The advisory board shall prepare an annual report with respect to the recommendations of the advisory board under Subsection (a). The advisory board shall file the report with the commission, the Department of Aging and Disability [~~Protective and Regulatory~~] Services, the governor, the lieutenant governor, and the speaker of the house of representatives not later than December 15 of each year.

SECTION 3.____. Section 531.124, Government Code, is amended to read as follows:

Sec. 531.124. COMMISSION DUTIES. (a) With the advice of the advisory board, the commission shall[~~]:~~

~~[(1) adopt minimum standards for the provision of guardianship and related services by:~~

~~[(A) a guardianship program;~~

~~[(B) a person who provides guardianship and related services on behalf of a guardianship program or local guardianship center, including a person who serves as a volunteer guardian; and~~

~~[(C) a person who serves as a private professional guardian; and~~

~~[(2)]~~ develop and, subject to appropriations, implement a plan to:

~~(1) [(A)]~~ ensure that each incapacitated individual in this state who needs a guardianship or another less restrictive type of assistance to make decisions concerning the incapacitated individual's own welfare and financial affairs receives that assistance; and

~~(2) [(B)]~~ foster the establishment and growth of local volunteer guardianship programs.

(b) ~~[The commission shall design the standards under Subsection (a)(1) to protect the interests of an incapacitated individual or other individual who needs assistance in making decisions concerning the individual's own welfare or financial affairs.~~

~~[(e)]~~ The advisory board shall annually review and comment on the minimum standards adopted under Section 111.041 [~~Subsection (a)(1)~~] and the plan implemented under Subsection (a)[~~(2)~~] and shall include its conclusions in the report submitted under Section 531.1235.

SECTION 3.____. Section 601, Texas Probate Code, is amended by adding Subdivision (12-a) and amending Subdivisions (13) and(24) to read as follows:

(12-a) "Guardianship Certification Board" means the Guardianship Certification Board established under Chapter 111, Government Code.

(13) "Guardianship program" has the meaning assigned by Section 111.001, Government Code ~~[means a local, county, or regional program that provides guardianship and related services to an incapacitated person or other person who needs assistance in making decisions concerning the person's own welfare or financial affairs].~~

(24) "Private professional guardian" has the meaning assigned by Section 111.001, Government Code ~~[means a person, other than an attorney or a corporate fiduciary, who is engaged in the business of providing guardianship services].~~

SECTION 3.____. Section 682, Texas Probate Code, is amended to read as follows:

Sec. 682. APPLICATION; CONTENTS. Any person may commence a proceeding for the appointment of a guardian by filing a written application in a court having jurisdiction and venue. The application must be sworn to by the applicant and state:

- (1) the name, sex, date of birth, and address of the proposed ward;
- (2) the name, relationship, and address of the person the applicant desires to have appointed as guardian;
- (3) whether guardianship of the person or estate, or both, is sought;
- (4) the nature and degree of the alleged incapacity, the specific areas of protection and assistance requested, and the limitation of rights requested to be included in the court's order of appointment;
- (5) the facts requiring that a guardian be appointed and the interest of the applicant in the appointment;
- (6) the nature and description of any guardianship of any kind existing for the proposed ward in any other state;
- (7) the name and address of any person or institution having the care and custody of the proposed ward;
- (8) the approximate value and description of the proposed ward's property, including any compensation, pension, insurance, or allowance to which the proposed ward may be entitled;
- (9) the name and address of any person whom the applicant knows to hold a power of attorney signed by the proposed ward and a description of the type of power of attorney;
- (10) if the proposed ward is a minor and if known by the applicant:
 - (A) the name of each parent of the proposed ward and state the parent's address or that the parent is deceased;
 - (B) the name and age of each sibling, if any, of the proposed ward and state the sibling's address or that the sibling is deceased; and
 - (C) if each of the proposed ward's parents and siblings are deceased, the names and addresses of the proposed ward's next of kin who are adults;

(11) if the proposed ward is a minor, whether the minor was the subject of a legal or conservatorship proceeding within the preceding two-year period and, if so, the court involved, the nature of the proceeding, and the final disposition, if any, of the proceeding;

(12) if the proposed ward is an adult and if known by the applicant:

(A) the name of the proposed ward's spouse, if any, and state the spouse's address or that the spouse is deceased;

(B) the name of each of the proposed ward's parents and state the parent's address or that the parent is deceased;

(C) the name and age of each of the proposed ward's siblings, if any, and state the sibling's address or that the sibling is deceased;

(D) the name and age of each of the proposed ward's children, if any, and state the child's address or that the child is deceased; and

(E) if the proposed ward's spouse and each of the proposed ward's parents, siblings, and children are deceased, or, if there is no spouse, parent, adult sibling, or adult child, the names and addresses of the proposed ward's next of kin who are adults;

(13) facts showing that the court has venue over the proceeding; and

(14) if applicable, that the person whom the applicant desires to have appointed as a guardian is a private professional guardian who is certified under Subchapter C, Chapter 111, Government Code, and has complied with the requirements of Section 697 of this code.

SECTION 3.____. Section 696, Texas Probate Code, is amended to read as follows:

Sec. 696. APPOINTMENT OF PRIVATE PROFESSIONAL GUARDIANS. A court may not appoint a private professional guardian to serve as a guardian or permit a private professional guardian to continue to serve as a guardian under this code if the private professional guardian:

(1) has not complied with the requirements of Section 697 of this code;

or

(2) is not certified as provided by Section 697B of this code.

SECTION 3.____. Subpart A, Part 3, Texas Probate Code, is amended by adding Sections 696A and 696B to read as follows:

Sec. 696A. APPOINTMENT OF PUBLIC GUARDIANS. (a) An individual employed by or contracting with a guardianship program must be certified as provided by Section 697B of this code to provide guardianship services to a ward of the guardianship program.

(b) An employee of the Department of Aging and Disability Services must be certified as provided by Section 697B of this code to provide guardianship services to a ward of the department.

Sec. 696B. APPOINTMENT OF FAMILY MEMBERS OR FRIENDS. A family member or friend of an incapacitated person is not required to be certified under Subchapter C, Chapter 111, Government Code, or any other law to serve as the person's guardian.

SECTION 3.____. Subsections (a), (c), and (e), Section 697, Texas Probate Code, are amended to read as follows:

(a) A private professional guardian must apply annually to the clerk of the county having venue over the proceeding for the appointment of a guardian for a certificate of registration [~~certification~~]. The application must include a sworn statement containing the following information concerning a private professional guardian or each person who represents or plans to represent the interests of a ward as a guardian on behalf of the private professional guardian:

- (1) educational background and professional experience;
- (2) three or more professional references;
- (3) the names of all of the wards the private professional guardian or person is or will be serving as a guardian;
- (4) the aggregate fair market value of the property of all wards that is being or will be managed by the private professional guardian or person;
- (5) place of residence, business address, and business telephone number; and
- (6) whether the private professional guardian or person has ever been removed as a guardian by the court or resigned as a guardian in a particular case, and, if so, a description of the circumstances causing the removal or resignation, and the style of the suit, the docket number, and the court having jurisdiction over the proceeding.

(c) The term of the registration [~~certification~~] begins on the date that the requirements are met and extends through December 31 of the initial year. After the initial year of registration [~~certification~~], the term of the registration [~~certification~~] begins on January 1 and ends on December 31 of each year. A renewal application must be completed during December of the year preceding the year for which the renewal is requested.

(e) Not later than February 1 of each year, the clerk shall submit to the Guardianship Certification Board and the Health and Human Services Commission the names and business addresses of private professional guardians who have satisfied the registration [~~certification~~] requirements under this section during the preceding year.

SECTION 3.____. Subpart A, Part 3, Texas Probate Code, is amended by adding Sections 697A and 697B to read as follows:

Sec. 697A. LIST OF CERTAIN PUBLIC GUARDIANS MAINTAINED BY COUNTY CLERKS. (a) Each guardianship program operating in a county shall submit annually to the county clerk a statement containing the name, address, and telephone number of each individual employed by or volunteering or contracting with the program to provide guardianship services to a ward or proposed ward of the program.

(b) The Department of Aging and Disability Services, if the department files an application for and is appointed to serve as guardian for one or more incapacitated persons residing in the county as provided by Subchapter E, Chapter 161, Human Resources Code, shall submit annually to the county clerk the information required under Subsection (a) of this section for each department employee who is or will be providing guardianship services in the county on the department's behalf.

(c) Not later than February 1 of each year, the county clerk shall submit to the Guardianship Certification Board the information received under this section during the preceding year.

Sec. 697B. CERTIFICATION REQUIREMENT FOR PRIVATE PROFESSIONAL GUARDIANS AND PUBLIC GUARDIANS. (a) The following persons must be certified under Subchapter C, Chapter 111, Government Code:

- (1) an individual who is a private professional guardian;
- (2) an individual who will represent the interests of a ward as a guardian on behalf of a private professional guardian;
- (3) an individual providing guardianship services to a ward of a guardianship program on the program's behalf, except as provided by Subsection (d) of this section; and
- (4) an employee of the Department of Aging and Disability Services providing guardianship services to a ward of the department.

(b) A person whose certification has expired must obtain a new certification under Subchapter C, Chapter 111, Government Code, to be allowed to provide or continue to provide guardianship services to a ward under this code.

(c) The court shall notify the Guardianship Certification Board if the court becomes aware of a person who is not complying with the terms of a certification issued under Subchapter C, Chapter 111, Government Code, or with the standards and rules adopted under that subchapter.

(d) An individual volunteering with a guardianship program is not required to be certified as provided by this section to provide guardianship services on the program's behalf.

SECTION 3.____. Sections 698(a) and (c), Texas Probate Code, are amended to read as follows:

(a) The clerk of the county having venue over the proceeding for the appointment of a guardian shall obtain criminal history record information that is maintained by the Department of Public Safety or the Federal Bureau of Investigation identification division relating to:

- (1) a private professional guardian;
- (2) each person who represents or plans to represent the interests of a ward as a guardian on behalf of the private professional guardian; ~~or~~
- (3) each person employed by a private professional guardian who will:
 - (A) have personal contact with a ward or proposed ward;
 - (B) exercise control over and manage a ward's estate; or
 - (C) perform any duties with respect to the management of a ward's estate;

(4) each person employed by or volunteering or contracting with a guardianship program to provide guardianship services to a ward of the program on the program's behalf; or

(5) an employee of the Department of Aging and Disability Services who is or will be providing guardianship services to a ward of the department.

(c) The court shall use the information obtained under this section only in determining whether to appoint, remove, or continue the appointment of a private professional guardian, a guardianship program, or the Department of Aging and Disability Services.

SECTION 3.____. Title 2, Government Code, is amended by adding Subtitle J to read as follows:

SUBTITLE J. GUARDIANSHIPS

CHAPTER 111. GUARDIANSHIP CERTIFICATION BOARD

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 111.001. DEFINITIONS. In this chapter:

(1) "Administrative director" means the administrative director of the courts as appointed by Chapter 72.

(2) "Board" means the Guardianship Certification Board.

(3) "Corporate fiduciary" has the meaning assigned by Section 601, Texas Probate Code.

(4) "Director" means the administrative officer of the board, as provided by Section 111.021.

(5) "Guardian" has the meaning assigned by Section 601, Texas Probate Code.

(6) "Guardianship program" means a local, county, or regional program that provides guardianship and related services to an incapacitated person or other person who needs assistance in making decisions concerning the person's own welfare or financial affairs.

(7) "Incapacitated person" has the meaning assigned by Section 601, Texas Probate Code.

(8) "Office of Court Administration" means the Office of Court Administration of the Texas Judicial System.

(9) "Private professional guardian" means a person, other than an attorney or a corporate fiduciary, who is engaged in the business of providing guardianship services.

(10) "Statutory probate court" has the meaning assigned by Section 601, Texas Probate Code.

(11) "Ward" has the meaning assigned by Section 601, Texas Probate Code.

Sec. 111.002. RULES. The supreme court may adopt rules consistent with this chapter, including rules governing the certification of individuals providing guardianship services.

Sec. 111.003. SUNSET PROVISION. The board is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the board is abolished and this chapter expires September 1, 2015.

[Sections 111.004-111.010 reserved for expansion]

SUBCHAPTER B. ADMINISTRATIVE PROVISIONS

Sec. 111.011. BOARD. (a) The Guardianship Certification Board is composed of:

(1) 11 members appointed by the presiding judge of the statutory probate courts, elected as provided by Chapter 25; and

(2) four public members appointed by the supreme court from a list of nominees submitted by the governor.

(b) The presiding judge of the statutory probate courts shall appoint members under Subsection (a)(1) from the different geographical areas of this state.

(c) In making an appointment under Subsection (a)(2), the supreme court may reject one or more of the nominees on a list submitted by the governor and request a new list of different nominees.

(d) To be eligible for appointment to the board other than as a public member, an individual must have demonstrated experience working with:

(1) a guardianship program;

(2) an organization that advocates on behalf of or in the interest of elderly individuals;

(3) an organization that advocates on behalf of or in the interest of individuals with mental illness or mental retardation or individuals with physical disabilities; or

(4) incapacitated individuals.

(e) The public members of the board must be:

(1) caretakers of individuals with mental illness or mental retardation or individuals with physical disabilities; or

(2) persons who advocate on behalf of or in the interest of individuals with mental illness or mental retardation or individuals with physical disabilities.

(f) Appointments to the board shall be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointees.

(g) The members of the board serve for staggered six-year terms, with the terms of one-third of the members expiring on February 1 of each odd-numbered year. Board members receive no compensation but are entitled to reimbursement of actual and necessary expenses incurred in the performance of their duties.

(h) The board shall elect from among its members a presiding officer and other officers considered necessary.

(i) The board shall meet at least quarterly at the call of the presiding officer.

(j) Any action taken by the board must be approved by a majority vote of the members present.

Sec. 111.012. ADMINISTRATIVE ATTACHMENT. (a) The board is administratively attached to the Office of Court Administration.

(b) Notwithstanding any other law, the Office of Court Administration shall:

(1) provide administrative assistance, services, and materials to the board, including budget planning and purchasing;

(2) accept, deposit, and disburse money made available to the board;

(3) pay the salaries and benefits of the director and any employees employed under Section 111.021;

(4) reimburse the travel expenses and other actual and necessary expenses of the board, director, and employees employed under Section 111.021 incurred in the performance of a function of the board, as provided by the General Appropriations Act; and

(5) provide the board with adequate computer equipment and support.

Sec. 111.013. ELIGIBILITY OF PUBLIC MEMBERS. A person is not eligible for appointment as a public member of the board if the person or the person's spouse:

(1) is certified by the board;

(2) is registered, certified, or licensed by a regulatory agency in the field of guardianship;

(3) is employed by or participates in the management of a business entity or other organization regulated by the board or receiving money from the Office of Court Administration;

(4) owns or controls, directly or indirectly, more than a 10 percent interest in a business entity or other organization regulated by the board or receiving money from the Office of Court Administration; or

(5) uses or receives a substantial amount of tangible goods, services, or funds from the Office of Court Administration, other than compensation or reimbursement authorized by law for board membership, attendance, or expenses.

Sec. 111.014. MEMBERSHIP AND EMPLOYEE RESTRICTIONS.

(a) In this section, "Texas trade association" means a cooperative and voluntarily joined statewide association of business or professional competitors in this state designed to assist its members and its industry or profession in dealing with mutual business or professional problems and in promoting their common interest.

(b) A person may not be a member of the board or may not be the director or an employee employed under Section 111.021 in a "bona fide executive, administrative, or professional capacity," as that phrase is used for purposes of establishing an exemption to the overtime provisions of the federal Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.), if:

(1) the person is an officer, employee, or paid consultant of a Texas trade association in the field of guardianship; or

(2) the person's spouse is an officer, manager, or paid consultant of a Texas trade association in the field of guardianship.

(c) A person may not be a member of the board if the person is required to register as a lobbyist under Chapter 305 because of the person's activities for compensation on behalf of a profession related to the operation of the board.

Sec. 111.015. GROUNDS FOR REMOVAL FROM BOARD. (a) It is a ground for removal from the board that a member:

(1) does not have at the time of appointment the qualifications required by Section 111.011;

(2) does not maintain during service on the board the qualifications required by Section 111.011;

(3) is ineligible for membership under Section 111.013 or 111.014;

(4) cannot, because of illness or disability, discharge the member's duties for a substantial part of the member's term; or

(5) is absent from more than half of the regularly scheduled board meetings that the member is eligible to attend during a calendar year without an excuse approved by a majority vote of the board.

(b) The validity of an action of the board is not affected by the fact that it is taken when a ground for removal of a board member exists.

(c) If the director has knowledge that a potential ground for removal exists, the director shall notify the presiding officer of the board of the potential ground. The presiding officer shall then notify the presiding judge of the statutory probate courts and the chief justice of the supreme court that a potential ground for removal exists. If the potential ground for removal involves the presiding officer, the director shall notify the next highest ranking officer of the board, who shall then notify the presiding judge of the statutory probate courts and the chief justice of the supreme court that a potential ground for removal exists.

Sec. 111.016. POWERS AND DUTIES OF BOARD. (a) The board is charged with the executive functions necessary to carry out the purposes of this chapter under rules adopted by the supreme court.

(b) The board shall:

(1) administer and enforce this chapter;

(2) develop and recommend proposed rules and procedures to the supreme court as necessary to implement this chapter;

(3) set the amount of each fee prescribed by Section 111.042, subject to the approval of the supreme court;

(4) establish the qualifications for obtaining certification or recertification under Section 111.042;

(5) issue certificates to individuals who meet the certification requirements of Section 111.042; and

(6) perform any other duty required by this chapter or other law.

(c) The board may appoint any necessary or proper subcommittee.

(d) The board shall maintain:

(1) a complete record of each board proceeding; and

(2) a complete record of each certification issued, renewed, suspended, or revoked under Section 111.042.

Sec. 111.017. TRAINING. (a) A person who is appointed to and qualifies for office as a member of the board may not vote, deliberate, or be counted as a member in attendance at a meeting of the board until the person completes a training program that complies with this section.

(b) The training program must provide the person with information regarding:

(1) this chapter;

(2) the role and functions of the board;

(3) the current budget for the board;

(4) the results of the most recent formal audit of the board; and

(5) any applicable ethics policies adopted by the board.

(c) A person appointed to the board is entitled to reimbursement, as provided by the General Appropriations Act, for the travel expenses incurred in attending the training program regardless of whether the attendance at the program occurs before or after the person qualifies for office.

Sec. 111.018. USE OF TECHNOLOGY. The Office of Court Administration shall research and propose appropriate technological solutions to improve the board's ability to perform its functions. The technological solutions must:

(1) ensure that the public is able to easily find information about the board on the Internet;

(2) ensure that persons who want to use the board's services are able to:

(A) interact with the board through the Internet; and

(B) access any service that can be provided effectively through the Internet; and

(3) be cost-effective and developed through the board's planning processes.

Sec. 111.019. ALTERNATIVE DISPUTE RESOLUTION PROCEDURES.

(a) The board shall develop and implement a policy to encourage the use of appropriate alternative dispute resolution procedures to assist in the resolution of internal and external disputes under the board's jurisdiction.

(b) The procedures relating to alternative dispute resolution under this section must conform, to the extent possible, to any model guidelines issued by the State Office of Administrative Hearings for the use of alternative dispute resolution by state agencies.

Sec. 111.020. PUBLIC ACCESS. The board shall develop and implement policies that provide the public with a reasonable opportunity to appear before the board and to speak on any issue under the jurisdiction of the board.

Sec. 111.021. DIRECTOR; EMPLOYEES FOR BOARD. (a) The administrative director shall employ a director from a list of candidates submitted by the board. The administrative director may request an additional list of candidates if the administrative director does not select any of the initial candidates recommended by the board.

(b) The list may contain the hiring preference of the board.

(c) The director is the administrative officer of the board and is charged with carrying out the duties and functions conferred on the director by the board, this subchapter, and other law.

(d) The director may hire employees as necessary to assist the board in performing its duties and functions.

Sec. 111.022. DIVISION OF RESPONSIBILITIES. The board shall develop and implement policies that clearly separate the policy-making responsibilities of the board and the management responsibilities of the director and any employees employed under Section 111.021.

Sec. 111.023. QUALIFICATIONS AND STANDARDS OF CONDUCT INFORMATION. The director or the director's designee shall provide to members of the board and to any employees employed under Section 111.021, as often as necessary, information regarding the requirements for office or

employment under this chapter, including information regarding a person's responsibilities under applicable laws relating to standards of conduct for state officers or employees.

[Sections 111.024-111.040 reserved for expansion]

SUBCHAPTER C. REGULATION OF CERTAIN GUARDIANS

Sec. 111.041. STANDARDS FOR CERTAIN GUARDIANSHIPS AND ALTERNATIVES TO GUARDIANSHIP. (a) The board shall adopt minimum standards for:

(1) the provision of guardianship services or other similar but less restrictive types of assistance or services by:

(A) guardianship programs; and

(B) private professional guardians; and

(2) the provision of guardianship services by the Department of Aging and Disability Services.

(b) The board shall design the standards to protect the interests of an incapacitated person or other person needing assistance making decisions concerning the person's own welfare or financial affairs.

Sec. 111.042. CERTIFICATION REQUIRED FOR CERTAIN GUARDIANS. (a) To provide guardianship services in this state, the following individuals must hold a certificate issued under this section:

(1) an individual who is a private professional guardian;

(2) an individual who will provide those services to a ward of a private professional guardian or the Department of Aging and Disability Services on the guardian's or department's behalf; and

(3) an individual, other than a volunteer, who will provide those services to a ward of a guardianship program on the program's behalf.

(b) An applicant for a certificate under this section must:

(1) apply to the board on a form prescribed by the board; and

(2) submit with the application a nonrefundable application fee in an amount determined by the board, subject to the approval of the supreme court.

(c) The supreme court may adopt rules and procedures for issuing a certificate and for renewing, suspending, or revoking a certificate issued under this section. Any rules adopted by the supreme court under this section must:

(1) ensure compliance with the standards adopted under Section 111.041;

(2) provide that the board establish qualifications for obtaining and maintaining certification;

(3) provide that the board issue certificates under this section;

(4) provide that a certificate expires on the second anniversary of the date the certificate is issued;

(5) prescribe procedures for accepting complaints and conducting investigations of alleged violations of the minimum standards adopted under Section 111.041 or other terms of the certification by certificate holders; and

(6) prescribe procedures by which the board, after notice and hearing, may suspend or revoke the certificate of a holder who fails to substantially comply with appropriate standards or other terms of the certification.

(d) If the requirements for issuing a certificate under this section include passage of an examination covering guardianship education requirements:

(1) the board shall develop and the director shall administer the examination; or

(2) the board shall direct the director to contract with another person or entity the board determines has the expertise and resources to develop and administer the examination.

(e) In lieu of the certification requirements imposed under this section, the board may issue a certificate to an individual to engage in business as a guardian or to provide guardianship services in this state if the individual:

(1) submits an application to the board in the form prescribed by the board;

(2) pays a fee in a reasonable amount determined by the board, subject to the approval of the supreme court;

(3) is certified, registered, or licensed as a guardian by a national organization or association the board determines has requirements at least as stringent as those prescribed by the board under this subchapter; and

(4) is in good standing with the organization or association with whom the person is licensed, certified, or registered.

(f) An application fee or other fee collected under this section shall be deposited to the credit of the guardianship certification account in the general revenue fund and may be appropriated only to the Office of Court Administration for the administration and enforcement of this chapter.

(g) The Texas Department of Licensing and Regulation shall advise and assist the board as necessary in administering the certification process established under this section.

Sec. 111.043. INFORMATION FROM PRIVATE PROFESSIONAL GUARDIANS. In addition to the information submitted under Section 697(e), Texas Probate Code, the director may require a private professional guardian or a person who represents or plans to represent the interests of a ward as a guardian on behalf of the private professional guardian to submit information considered necessary to monitor the person's compliance with the applicable standards adopted under Section 111.041 or with the certification requirements of Section 111.042.

Sec. 111.044. ANNUAL DISCLOSURE. Not later than January 31 of each year, each guardianship program and private professional guardian shall provide to the board a report containing for the preceding year:

(1) the total number of wards served by the guardianship program or private professional guardian, as applicable;

(2) the total amount of money received from this state for the provision of guardianship services; and

(3) the total amount of money received from any other public source, including a county or the federal government, for the provision of guardianship services.

SECTION 3.____. PROPOSED RULES AND PROCEDURES. Not later than March 1, 2006, the Guardianship Certification Board established under Chapter 111, Government Code, as added by this Act, shall develop rules and procedures for consideration by the supreme court as required by Chapter 111, Government Code, as added by this Act.

SECTION 3.____. APPOINTMENT OF BOARD MEMBERS. (a) As soon as practicable after the effective date of this Act, the presiding judge of the statutory probate courts shall appoint 11 members to the Guardianship Certification Board in accordance with Chapter 111, Government Code, as added by this Act. In making the initial appointments, the presiding judge shall designate three members for terms expiring February 1, 2007, four members for terms expiring February 1, 2009, and four members for terms expiring February 1, 2011.

(b) As soon as practicable after the effective date of this Act, the supreme court shall appoint four members to the Guardianship Certification Board in accordance with Chapter 111, Government Code, as added by this Act. In making the initial appointments, the supreme court shall designate two members for terms expiring February 1, 2007, one member for a term expiring February 1, 2009, and one member for a term expiring February 1, 2011.

SECTION 3.____. EFFECTIVE DATE OF CERTIFICATION. A person is not required to hold a certificate issued under Subchapter C, Chapter 111, Government Code, as added by this Act, to provide or continue to provide guardianship services to a ward before September 1, 2007.

Amendment No. 51 was adopted.

Amendment No. 52

Representative Naishtat offered the following amendment to **CSSB 6**:

Amend **CSSB 6** in SECTION 2.09 of the bill by striking added Section 48.208(e-1), Human Resources Code (House committee printing, page 115, lines 14-27, and page 116, lines 1-2), and substituting the following:

(e-1) The court may extend an emergency order issued under this section once for an additional period not to exceed 14 days and may extend an extension issued under this section for an additional period not to exceed an additional 14 days if the court receives a medical report signed by a physician stating that the person is physically or mentally incapable of consenting to services and the court, after a hearing, finds that the immediate danger to the health or safety of the elderly or disabled person continues to exist. The medical report must be based on an examination the physician performed not earlier than the date the court granted the initial emergency order. An extension order [may be removed for not more than 14 additional days. A renewal order] that ends on a Saturday, Sunday or legal holiday is automatically extended to 4 p.m. on the first succeeding business day. The court may shorten the term of [modify] or terminate the emergency order on petition of the department, the elderly or disabled [incapacitated] person, or any person interested in the elderly or disabled person's [his] welfare.

Amendment No. 52 was adopted.

Amendment No. 53

Representative Villarreal offered the following amendment to **CSSB 6**:

Amend **CSSB 6** as follows:

SECTION 1. Section 42.052, Human Resources Code, is amended to add the following appropriately numbered sections.

(a) Notwithstanding any other law and subject to this section, the Department of Family and Protective Services shall ensure that, to the extent federal child care development funds dedicated to quality improvement activities are used to improve quality and availability of child care, those funds are used only for quality child care programs.

SECTION 2. RESTRICTIONS ON USE OF CERTAIN DEDICATED CHILD-CARE FUNDS. If the state is required to dedicate more than four percent of the amount of federal child-care development funds for the purposes provided by 42 U.S.C. Section 9858e, the department, unless otherwise required by federal law, shall ensure that any amount of the dedicated funds in excess of four percent is used to establish and implement the grant program for quality improvement activities under the following section.

(a) Subject to the availability of funds under this section or from another source, the department by rule shall establish a program under the department awards grants to child-care providers and local community-based organizations for use in providing quality improvement activities to improve the quality and availability of child-care services.

(c) The department by rule shall prescribe eligibility criteria for receipt of a grant under the program.

(d) In developing the program under this section, the department shall adopt a list of quality improvement activities for which a provider or organization is eligible to receive funding through the program. The list of activities must include:

- (1) comprehensive consumer education encompassing:
 - (A) parent education programs;
 - (B) publication of quality indicators to evaluate child-care services;
 - (C) data collection regarding child-care and early childhood education programs; and
 - (D) parent referral services;
- (2) professional development activities for providers, including:
 - (A) training, educational materials, or technical assistance;
 - (B) scholarship information and assistance; and
 - (C) strategies to increase salaries or other forms of compensation;
- (3) teacher training programs, mentoring programs, or other programs or activities that promote early development of language, literacy, and mathematical skills in young children;
- (4) programs or activities that promote inclusive child care;
- (5) activities promoted by the Healthy Child Care America program and other activities designed to promote the social and emotional development of young children;

(6) use of infant and toddler specialists to educate parents and provide training and technical assistance to child-care providers; and

(7) other activities the department determines will increase parental choice and improve the quality and availability of subsidized child-care services.

(e) The department shall allocate funds to local organizations for these purpose, subject to guidelines established by the department. To the extent allowed by federal law, the department may allocate federal child-care development funds for the purposes of the program.

(f) In developing and administering the program, the department shall ensure that local providers and organizations have the option to choose which of the quality improvement activities described by Subsection (d) the provider or organization wants to provide under the program.

(g) In awarding grants under the program, the department shall give priority to quality improvement activities for programs that serve infants and toddlers younger than three years of age.

(h) The department shall submit to the legislature an annual report regarding the operation of the program during the preceding year. At a minimum, the report must include the number and total amount of grants awarded during the period covered by the report.

SECTION 3. As soon as practicable after the effective date of this Act, the department shall adopt rules necessary for the implementation of Section.

Amendment No. 53 was withdrawn.

Amendment No. 54

Representative Villarreal offered the following amendment to **CSSB 6**:

Amend **CSSB 6** as follows.

SECTION 1. Section 42.073(c), Human Resources Code, is amended to read as follows:

(c) An order is valid for 30 days after the effective date of the order.

SECTION 2. Section 42.073(c), Human Resources Code, as amended by this Act, applies only to an order suspending a license, listing, or registration issued on or after the effective date of this Act. An order issued before the effective date of this Act is governed by the law in effect on the date the order was issued, and the former law is continued in effect for that purpose.

Amendment No. 54 was adopted.

Amendment No. 55

Representative Villarreal offered the following amendment to **CSSB 6**:

Amend **CSSB 6** in Article 1 of the bill by adding the following appropriately numbered SECTION and renumbering subsequent SECTIONS accordingly:

SECTION 1.____. (a) Section 42.052, Human Resources Code, is amended by adding Subsection (1) to read as follows:

(1) The department may create a tiered child-care licensing system that allows child-care facilities to voluntarily obtain licensure levels that require higher child-care quality than the department's minimum licensing standards. The executive commissioner shall adopt rules regarding the system. In adopting the rules, the executive commissioner may consider:

(1) standards used for determining reimbursement rates under the designated vendor program as provided by Section 2308.315, Government Code; and

(2) standards used in the quality rating system under Section 29.160, Education Code.

(b) The Department of Family and Protective Services shall develop recommendations regarding incentives for child-care facilities to voluntarily obtain higher levels of licensure created under Section 42.052(1), Human Resources Code, as added by this section. Not later than November 1, 2006, the department shall report those recommendations to the legislature.

Amendment No. 55 was adopted.

Amendment No. 56

Representative Uresti offered the following amendment to **CSSB 6**:

Amend **CSSB 6** by adding to the transitional material the following appropriately numbered section and renumbering subsequent sections of the bill accordingly:

SECTION _____. (a) In this section:

(1) "Commission" means the Health and Human Services Commission.

(2) "Health and human services agencies" has the meaning assigned by Section 531.001, Government Code.

(3) "Training for child protective services" means training administered by a state agency or an institution of higher education that is provided to individuals working or interested in working in the field of child protective services and that is intended to assist the individuals in performing that work more effectively or efficiently.

(b) The commission shall study the feasibility of providing a financial incentive to individuals to assist the individuals in receiving training for child protective services.

(c) The study must:

(1) consider the feasibility of creating a private foundation to solicit and receive money that will be used to assist those individuals;

(2) consider possible means of providing a financial incentive, including educational or living stipends or reimbursement of tuition costs, to assist those individuals and determine the most effective means to deliver the incentives;

(3) suggest criteria that those individuals must meet to receive the financial incentives;

(4) estimate the initial cost and annual cost to this state of providing the financial incentives to those individuals; and

(5) estimate the savings and costs associated with improved training of those individuals that may result from providing the financial incentives.

(d) In conducting the study under Subsection (b) of this section, the commission may cooperate as necessary with any appropriate state agency.

(e) Not later than September 1, 2006, the commission shall report the results of the study to the standing committees of the senate and house of representatives with primary jurisdiction over health and human services programs or appropriations.

Amendment No. 56 was adopted.

Amendment No. 57

Representative Uresti offered the following amendment to **CSSB 6**:

Amend **CSSB 6** in Article 1 of the bill, by adding the following appropriately numbered SECTION and renumbering the subsequent SECTIONS in that article accordingly:

SECTION 1.__. Section 262.2015(b), Family Code, is amended to read as follows:

(b) The court may find under Subsection (a) that a parent has subjected the child to aggravated circumstances if:

(1) the parent abandoned the child without identification or a means for identifying the child;

(2) the child is a victim of serious bodily injury or sexual abuse inflicted by the parent or by another person with the parent's consent;

(3) the parent has engaged in conduct against the child that would constitute an offense under the following provisions of the Penal Code:

(A) Section 19.02 (murder);

(B) Section 19.03 (capital murder);

(C) Section 19.04 (manslaughter);

(D) Section 21.11 (indecent with a child);

(E) Section 22.011 (sexual assault);

(F) Section 22.02 (aggravated assault);

(G) Section 22.021 (aggravated sexual assault);

(H) Section 22.04 (injury to a child, elderly individual, or disabled individual);

(I) Section 22.041 (abandoning or endangering child);

(J) Section 25.02 (prohibited sexual conduct);

(K) Section 43.25 (sexual performance by a child); or

(L) Section 43.26 (possession or promotion of child pornography);

(4) the parent voluntarily left the child alone or in the possession of another person not the parent of the child for at least six months without expressing an intent to return and without providing adequate support for the child;

(5) the parent's parental rights with regard to another child have been involuntarily terminated based on a finding that the parent's conduct violated Section 161.001(1)(D) or (E) or a substantially equivalent provision of another state's law; [✗]

(6) the parent has been convicted for:

(A) the murder of another child of the parent and the offense would have been an offense under 18 U.S.C. Section 1111(a) if the offense had occurred in the special maritime or territorial jurisdiction of the United States;

(B) the voluntary manslaughter of another child of the parent and the offense would have been an offense under 18 U.S.C. Section 1112(a) if the offense had occurred in the special maritime or territorial jurisdiction of the United States;

(C) aiding or abetting, attempting, conspiring, or soliciting an offense under Subdivision (A) or (B); or

(D) the felony assault of the child or another child of the parent that resulted in serious bodily injury to the child or another child of the parent; or

(7) the parent's parental rights with regard to two other children have been involuntarily terminated.

Amendment No. 57 was adopted.

Amendment No. 58

Representative Uresti offered the following amendment to **CSSB 6**:

Amend **CSSB 6** in Article 1 of the bill by adding the following appropriately numbered SECTION and renumbering subsequent SECTIONS accordingly:

SECTION 1. __. (a) Section 42.056, Human Resources Code, is amended by adding Subsections (a-1), (d), (e), and (f) and amending Subsection (b) to read as follows:

(a-1) In accordance with rules adopted by the executive commissioner, the director, owner, or operator of a residential child-care facility shall submit to the department for use in conducting background and criminal history checks the name of each prospective employee who will provide direct care or have direct access to a child in the residential child-care facility.

(b) The department shall conduct background and criminal history checks using:

(1) the information provided under Subsections [Subsection] (a) and (a-1);

(2) the information made available by the Department of Public Safety under Section 411.114, Government Code, and [or] by the Federal Bureau of Investigation or other criminal justice agency under Section 411.087, Government Code; and

(3) the department's records of reported abuse and neglect.

(d) A person described by Subsection (a) or (a-1) may not provide direct care or have direct access to a child in a residential child-care facility before completion of the person's background check and criminal history check.

(e) The department shall provide the results of a background or criminal history check conducted under this section regarding a prospective employee to a director, owner, or operator of a residential child-care facility within 24 hours. If the residential child-care facility does not receive the results of the background or criminal history check within that time, the facility may obtain that information

for the facility's employee, subcontractor, or volunteer directly from the Department of Public Safety. If the information obtained verifies that the person does not have a criminal record, the facility may allow the person to have unsupervised client contact until the department has performed the department's own criminal history check and notified the facility.

(f) As part of a background check under this section, the department shall provide any relevant information available in the department's records regarding a person's previous employment in a residential child-care facility to the person submitting the request.

(b) The director, owner, or operator of a residential child-care facility shall begin providing information to the Department of Family and Protective Services as required by Subsection (a-1), Section 42.056, Human Resources Code, as added by this section, as soon as possible after the effective date of this section and not later than January 1, 2006.

Amendment No. 58 was adopted.

Amendment No. 59

Representative Uresti offered the following amendment to **CSSB 6**:

Amend **CSSB 6** in Article 1 of the bill (Committee Printing) by adding the following appropriately numbered SECTIONS and renumbering subsequent SECTIONS accordingly:

SECTION 1. ____. (a) Chapter 102, Code of Criminal Procedure, is amended by adding Article 102.0186 to read as follows:

Art. 102.0186. ADDITIONAL COSTS ATTENDANT TO CERTAIN CHILD SEXUAL ASSAULT AND RELATED CONVICTIONS. (a) A person convicted of an offense under Sections 21.11, 22.011(a)(2), 22.021(a)(1)(B), 43.25, 43.251, or 43.26, Penal Code, shall pay \$100 on conviction of the offense.

(b) Costs imposed under this article are imposed without regard to whether the defendant is placed on community supervision after being convicted of the offense or receives deferred adjudication for the offense.

(c) The clerks of the respective courts shall collect the costs and pay them to the county treasurer or to any other official who discharges the duties commonly delegated to the county treasurer for deposit in a fund to be known as the county child abuse prevention fund. A fund designated by this subsection may be used only to fund child abuse prevention programs in the county where the court is located.

(d) The county child abuse prevention fund shall be administered by or under the direction of the commissioners court.

(b) The change in law made by this section applies only to an offense committed on or after the effective date of this section. An offense committed before the effective date of this section 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 section, an offense was committed before the effective date of this section if any element of the offense was committed before that date.

SECTION 1. ____. Section 102.021, Government Code, is amended to read as follows:

Sec. 102.021. COURT COSTS ON CONVICTION. A person convicted of an offense shall pay, in addition to all other costs:

(1) court costs on conviction of a felony (Sec. 133.102, Local Government Code) ... \$133;

(2) court costs on conviction of a Class A or Class B misdemeanor (Sec. 133.102, Local Government Code) ... \$83;

(3) court costs on conviction of a nonjailable misdemeanor offense, including a criminal violation of a municipal ordinance, other than a conviction of an offense relating to a pedestrian or the parking of a motor vehicle (Sec. 133.102, Local Government Code) ... \$40;

(4) court costs on certain convictions in statutory county courts (Sec. 51.702, Government Code) ... \$15;

(5) court costs on certain convictions in certain county courts (Sec. 51.703, Government Code) ... \$15;

(6) a time payment fee if convicted of a felony or misdemeanor for paying any part of a fine, court costs, or restitution on or after the 31st day after the date on which a judgment is entered assessing the fine, court costs, or restitution (Sec. 133.103, Local Government Code) ... \$25;

(7) a fee for services of prosecutor (Art. 102.008, Code of Criminal Procedure) ... \$25;

(8) fees for services of peace officer:

(A) issuing a written notice to appear in court for certain violations (Art. 102.011, Code of Criminal Procedure) ... \$5;

(B) executing or processing an issued arrest warrant or capias (Art. 102.011, Code of Criminal Procedure) ... \$50;

(C) summoning a witness (Art. 102.011, Code of Criminal Procedure) ... \$5;

(D) serving a writ not otherwise listed (Art. 102.011, Code of Criminal Procedure) ... \$35;

(E) taking and approving a bond and, if necessary, returning the bond to courthouse (Art. 102.011, Code of Criminal Procedure) ... \$10;

(F) commitment or release (Art. 102.011, Code of Criminal Procedure) ... \$5;

(G) summoning a jury (Art. 102.011, Code of Criminal Procedure) ... \$5;

(H) attendance of a prisoner in habeas corpus case if prisoner has been remanded to custody or held to bail (Art. 102.011, Code of Criminal Procedure) ... \$8 each day;

(I) mileage for certain services performed (Art. 102.011, Code of Criminal Procedure) ... \$0.29 per mile; and

(J) services of a sheriff or constable who serves process and attends examining trial in certain cases (Art. 102.011, Code of Criminal Procedure) ... not to exceed \$5;

(9) services of a peace officer in conveying a witness outside the county (Art. 102.011, Code of Criminal Procedure) ... \$10 per day or part of a day, plus actual necessary travel expenses;

(10) overtime of peace officer for time spent testifying in the trial or traveling to or from testifying in the trial (Art. 102.011, Code of Criminal Procedure) ... actual cost;

(11) court costs on an offense relating to rules of the road, when offense occurs within a school crossing zone (Art. 102.014, Code of Criminal Procedure) ... \$25;

(12) court costs on an offense of passing a school bus (Art. 102.014, Code of Criminal Procedure) ... \$25;

(13) court costs on an offense of truancy or contributing to truancy (Art. 102.014, Code of Criminal Procedure) ... \$20;

(14) cost for visual recording of intoxication arrest before conviction (Art. 102.018, Code of Criminal Procedure) ... \$15;

(15) cost of certain evaluations (Art. 102.018, Code of Criminal Procedure) ... actual cost;

(16) additional costs attendant to certain intoxication convictions under Chapter 49, Penal Code, for emergency medical services, trauma facilities, and trauma care systems (Art. 102.0185, Code of Criminal Procedure) ... \$100;

(16A) additional costs attendant to certain child sexual assault and related convictions, for child abuse prevention programs (Art. 102.0186, Code of Criminal Procedure) ... \$100;

(17) cost for DNA testing for certain felonies (Art. 102.020, Code of Criminal Procedure) ... \$250;

(18) court cost on an offense of public lewdness or indecent exposure (Art. 102.020, Code of Criminal Procedure) ... \$50;

(19) court cost on conviction of a misdemeanor under Subtitle C, Title 7, Transportation Code (Sec. 542.403, Transportation Code) ... \$3;

(20) cost for impoundment of vehicle (Sec. 601.263, Transportation Code) ... \$15 per day; and

(21) a civil and criminal enforcement cost on conviction of an offense of, or related to, the nonpayment of a toll in certain counties (Sec. 284.2031, Transportation Code) ... \$1.

Amendment No. 59 was adopted.

Amendment No. 60

Representative Talton offered the following amendment to **CSSB 6**:

Amend **CSSB 6**, in Article 1 of the bill, by adding the following appropriately numbered SECTION to that article and renumbering the subsequent SECTIONS of that article as appropriate:

SECTION ____. Subchapter B, Chapter 264, Family Code, is amended by adding Section 264.1064 to read as follows:

Sec. 264.1064. FOSTER PARENT DISQUALIFICATION. (a) The department shall require an applicant who is applying to serve as a foster parent or a foster parent whose performance is being evaluated by the department to state whether the applicant or foster parent is homosexual or bisexual.

(b) If the applicant or foster parent states that the applicant or foster parent is homosexual or bisexual, the department may not:

- (1) allow the applicant to serve as a foster parent;
- (2) place a child with the foster parent; or
- (3) allow a child to remain in foster care with the foster parent.

(c) Notwithstanding an applicant's or foster parent's statement that the applicant or foster parent is not homosexual or bisexual, if the department determines after a reasonable investigation that an applicant or a foster parent is homosexual or bisexual, the department may not:

- (1) allow the applicant to serve as a foster parent;
- (2) place a child with the foster parent; or
- (3) allow a child to remain in foster care with the foster parent.

Amendment No. 60 - Point of Order

Representative Dunnam raised a point of order against further consideration of Amendment No. 60 under Rule 11, Section 2 of the House Rules on the grounds that the amendment is not germane.

The speaker overruled the point of order.

AMENDMENT NO. 60 - DEBATE

REPRESENTATIVE HUPP: Members, I'm speaking against the amendment and frankly it pains me to do so because I've seen personally a number of what I would consider problems with this type of placement. But I'll tell you, there are two things that are a major problem with this amendment. Number one, it's just not workable. It's not workable. It's like homosexuals in the Army, it's not workable. It's don't ask, don't tell—it doesn't work. Secondly, and this is a biggie, it's got a big fiscal note attached to it. We're talking about 8.6 million right off the bat, 7 point something million after that, 7 million, 7 million, 3 million—it has a big fiscal note.

REPRESENTATIVE LUNA: Mr. Speaker?

MR. SPEAKER: Ms. Luna, for what purpose?

LUNA: Will the gentlewoman yield?

HUPP: Of course.

MR. SPEAKER: The lady yields.

LUNA: Madam Chair, and I do know that you have a fiscal note in front of you, but the things that go into the cost to the agency on this would involve all of the factors in moving all of the children that might potentially already be in a foster home or the department having to go in and make all of these determinations, don't you agree that it could turn things just into chaos for many placements for many children?

HUPP: We're looking at a potential of about 1,200 homes that could potentially be closed over a three-month period. Now, I got to tell you, when I read that it gives me the willies because it tells me that potentially children are being placed in homes that perhaps I would not want to see them placed. So, again, I've got to make it real clear, it pains me to be up against this bill, but it's got a big fat fiscal note and it's not doable and that's pretty much it.

LUNA: And in fact, the money that we've put aside to do all of the reform measures that we're talking about, and all of the other things that are implicated in your bill, we don't have a whole lot of extra money that we're throwing around into the CPS reform, do we?

HUPP: No, no this was a very well-crafted bill that I'm afraid this would just suck a huge amount of money away from.

LUNA: We don't have money to waste or take a risk that there would be money—extra money—this fiscal note is a very valid concern.

HUPP: This is a bill, this is a bill, it's not an amendment. This is a bill that needs to be heard as such, but thank you for your questions.

REPRESENTATIVE ZEDLER: Mr. Speaker? Does the lady yield?

HUPP: Absolutely.

MR. SPEAKER: The lady yields, Mr. Zedler.

ZEDLER: I question how it could have a big fiscal note. Let me ask you this, do they, when they talk to people about whether they can be foster parents, do they ask them other questions about their home environment and that kind of thing?

HUPP: Uh-huh. Yes, they currently do.

ZEDLER: They do? Then how does it cost millions more to ask this other question?

HUPP: Well, let me read what it says. And this is from last, I think this is from last session, okay? But it's effectively the same bill—they report that 2,200 children were living in 1,500 foster homes with single parents as of February 1, 2003. There were 1,000 foster children in 850 PRS homes, so many in foster homes, private child placement agency homes, all of these homes they figured would be closed, potentially, after a three-month period of time during that fiscal year. It also estimates that substitute care workers would require 4.6 hours to move each child to a new placement, it goes on with similar explanations.

ZEDLER: Quite frankly, I have a hard time believing that in view of the fact that if people can't be foster parents who are involved in all kinds of other behavior, like drugs, alcoholism, that kind of thing, to ask this? I'm sorry, that doesn't seem to really ring true there.

HUPP: One of the issues—let me answer one of your questions here, Mr. Zedler, I apologize. It was just brought to my attention that one of the issues with this, one of the costs to the bill, is that if any of these employees are in a group home situation or in a residential treatment center they would potentially have to close down the entire treatment center and disrupt all of those children. Again, understand this is something that I am philosophically with you on this, I've seen some problems, I do think it needs to be addressed, but when I'm staring at a big fat fiscal note, I can't support the amendment. It needs to be held out and debated as a bill.

ZEDLER: Again, since we look in the behavior and the background of people, I have trouble believing that this one issue would cause that kind of fiscal note.

MR. SPEAKER: Mr. Anchia, for what purpose?

REPRESENTATIVE ANCHIA: Mr. Speaker, will the gentlelady yield?

MR. SPEAKER: Do you yield, Ms. Hupp? The lady yields.

ANCHIA: Thank you, Madam Chair. I just wanted to go over the fiscal note with you. You articulated, and I think I have the same figures that you do. For 2004, the fiscal note alone is about \$8.6 million?

HUPP: Yeah.

ANCHIA: And it continues thereafter for 2005 being over \$7 million; 2006, 7 million; 2007, another 7 million; and 2008, another 7 million? My math roughly on that is close to \$40 million, does that square with your reading?

HUPP: That's what it's adding up to, yes, sir.

ANCHIA: Could you articulate for us again what some of the impacts would be to the system?

HUPP: Probably not. Obviously, it impacts the bill, potentially, incredibly. Now, I'm going to say again, that I'm philosophically with what this bill is trying to get at and I'll tell you why, when I first came into this body I had a circumstance where a 12-year-old heterosexual boy was adopted out to a homosexual male couple in New York. This was back in '97 and Mr. Chisum may remember that circumstance. Now, there was a lot of problems with that. Okay, I'm being told not to kill you with this here. It was a concern and I will tell you, but in this bill it doesn't even leave it open to a relative. I mean if a relative happens to be a homosexual, you've got a homosexual uncle or something, and they're—

ANCHIA: Is there any empirical data to support that same-sex parents are bad parents?

HUPP: I don't know, but to be honest with you, please don't take me down that road in this argument because we will be here all night.

ANCHIA: I understand that we need to focus on the general welfare of the system and I understand that this kills essentially the financial structure for the CPS system and for your bill.

HUPP: Oh, you said that so well.

ANCHIA: For that reason, I am also sort of, from a fiscal perspective, very concerned about this and I appreciate that, thank you.

Amendment No. 61

Representative Villarreal offered the following amendment to Amendment No. 60:

Amend Amendment No. 60 to **CSSB 6** by Talton as follows:

(1) On page 1, line 6, strike "DISQUALIFICATION. (a)" and substitute "INFORMATION.".

(2) On page 1, lines 9-10, strike "whether the applicant or foster parent is homosexual or bisexual" and substitute "the sexual orientation of the applicant or foster parent".

(3) On page 1, strike lines 11 through 26.

Representative Talton moved to table Amendment No. 61.

REMARKS ORDERED PRINTED

Representative Leibowitz moved to print remarks regarding the fiscal note on Amendment No. 60.

The motion prevailed.

A record vote was requested.

The motion to table prevailed by (Record 327): 94 Yeas, 43 Nays, 1 Present, not voting.

Yeas — Allen, A.; Anderson; Bailey; Baxter; Berman; Blake; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Campbell; Chisum; Cook, B.; Cook, R.; Corte; Crabb; Crownover; Dawson; Denny; Driver; Dunnam; Edwards; Elkins; Farabee; Farrar; Flynn; Frost; Gallego; Gattis; Geren; Goolsby; Griggs; Grusendorf; Guillen; Haggerty; Hamilton; Hamric; Hardcastle; Harper-Brown; Hartnett; Hegar; Herrero; Hilderbran; Hill; Hope; Howard; Hughes; Hupp; Isett; Jackson; Keffer, B.; Keffer, J.; King, P.; King, T.; Kolkhorst; Krusee; Kuempel; Laney; Laubenberg; Leibowitz; Madden; Martinez; McCall; McReynolds; Merritt; Miller; Moreno, J.; Morrison; Mowery; Nixon; Orr; Otto; Paxton; Phillips; Pickett; Quintanilla; Reyna; Ritter; Rose; Smith, T.; Smith, W.; Smithee; Swinford; Talton; Taylor; Truitt; Turner; Van Arsdale; West; Woolley; Zedler.

Nays — Alonzo; Anchia; Casteel; Castro; Chavez; Coleman; Davis, J.; Davis, Y.; Deshotel; Dukes; Dutton; Eiland; Escobar; Flores; Giddings; Gonzales; Gonzalez Toureilles; Goodman; Hochberg; Hodge; Hunter; Jones, D.; Keel; Luna; Martinez Fischer; McClendon; Menendez; Moreno, P.; Naishtat; Noriega, M.; Oliveira; Puente; Rodriguez; Seaman; Solis; Strama; Straus; Thompson; Uresti; Veasey; Villarreal; Vo; Wong.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Delisi; Olivo; Pitts; Riddle.

Absent — Allen, R.; Eissler; Homer; Hopson; Jones, J.; Peña; Raymond; Solomons.

STATEMENTS OF VOTE

When Record No. 327 was taken, I was temporarily out of the house chamber. I would have voted yes.

R. Allen

I was shown voting yes on Record No. 327. I intended to vote no.

Burnam

When Record No. 327 was taken, my vote failed to register. I would have voted yes.

Eissler

When Record No. 327 was taken, my vote failed to register. I would have voted yes.

Raymond

I was shown voting no on Record No. 327. I intended to vote yes.

Seaman

When Record No. 327 was taken, I was in the house but away from my desk. I would have voted yes.

Solomons

MESSAGE FROM THE SENATE

A message from the senate was received at this time (see the addendum to the daily journal, Messages from the Senate, Message No. 3).

CSSB 6 - (consideration continued)

AMENDMENT NO. 60 - DEBATE

REPRESENTATIVE TALTON: Thank you, Mr. Speaker, members. I was just handed this by Representative Hupp regarding the fiscal note. The fiscal note, members, was on another bill and had nothing to do with this amendment.

A record vote was requested.

Amendment No. 60 was adopted by (Record 328): 81 Yeas, 58 Nays, 1 Present, not voting.

Yeas — Anderson; Baxter; Berman; Blake; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Callegari; Campbell; Chisum; Cook, B.; Cook, R.; Corte; Crabb; Crownover; Dawson; Denny; Driver; Edwards; Eissler; Elkins; Farabee; Flynn; Frost; Gattis; Geren; Goodman; Goolsby; Griggs; Grusendorf; Guillen; Haggerty; Hardcastle; Harper-Brown; Hilderbran; Hill; Hope; Howard; Hughes; Hupp; Isett; Jackson; Keffer, B.; Keffer, J.; King, P.; King, T.; Kolkhorst; Krusee; Kuempel; Laubenberg; Madden; McReynolds; Merritt; Miller; Morrison; Mowery; Nixon; Orr; Otto; Paxton; Phillips; Quintanilla; Raymond; Reyna; Rose; Seaman; Smith, T.; Smith, W.; Smithee; Solomons; Swinford; Talton; Taylor; Truitt; Turner; Van Arsdale; West; Woolley; Zedler.

Nays — Allen, A.; Allen, R.; Alonzo; Anchia; Bailey; Burnam; Casteel; Castro; Chavez; Coleman; Davis, J.; Davis, Y.; Deshotel; Dukes; Dunnam; Dutton; Eiland; Escobar; Farrar; Flores; Gallego; Giddings; Gonzales; Gonzalez Toureilles; Hamric; Hartnett; Hegar; Herrero; Hochberg; Hodge; Hunter; Jones, D.; Keel; Laney; Leibowitz; Luna; Martinez; Martinez Fischer; McCall; McClendon; Menendez; Moreno, J.; Moreno, P.; Naishtat; Noriega, M.; Oliveira; Pickett; Puente; Ritter; Rodriguez; Solis; Strama; Thompson; Uresti; Veasey; Villarreal; Vo; Wong.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Delisi; Olivo; Pitts; Riddle.

Absent — Hamilton; Homer; Hopson; Jones, J.; Peña; Straus.

STATEMENTS OF VOTE

I was shown voting no on Record No. 328. I intended to vote yes.

Flores

When Record No. 328 was taken, I was in the house but away from my desk. I would have voted yes.

Hamilton

I was shown voting no on Record No. 328. I intended to vote yes.

Hegar

When Record No. 328 was taken, my vote failed to register. I would have voted yes.

Homer

When Record No. 328 was taken, my vote failed to register. I would have voted yes.

Hopson

I was shown voting no on Record No. 328. I intended to vote yes.

Leibowitz

When Record No. 328 was taken, I was in the house but away from my desk. I would have voted no.

Straus

REASON FOR VOTE

The author of the bill, Representative Hupp, asked us to debate and discuss the amendment (a separate bill) outside of this **SB 6** because of the large fiscal note of approximately 8.5 million to 7 million per year beginning in 2006.

It was clear from the debate that the cost was astronomical and that the agency would have to consider becoming an investigatory agency into the sexual preference of foster parents.

It was also clear that women who roomed together in college or men also would be suspect. It was clear that single men or women would be suspect.

I believe a lot of work needs to be done on the cost and investigation of sexual preference. I vote for **SB 6** with the cost and restriction of investigations.

Casteel

Amendment No. 62

Representative Veasey offered the following amendment to **CSSB 6**:

Amend **CSSB 6** in SECTION 1.44(a) of the bill by striking Section 264.755, Family Code (page 57, line 4 through page 58, line 14), and substituting the following:

Sec. 264.755. CAREGIVER ASSISTANCE AGREEMENT. (a) The department shall, subject to the availability of funds, enter into a caregiver assistance agreement with each relative or other designated caregiver to provide monetary assistance and additional support services to the caregiver. The monetary assistance and support services shall be based on a family's need, as determined by rules adopted by the executive commissioner.

(b) Monetary assistance provided under this section must include a one-time cash payment of not more than \$1,000 for each child placed with a caregiver. The cash payment must be provided on the initial placement of each child with the caregiver and is provided to assist the caregiver in purchasing essential child-care items such as furniture and clothing.

(c) Monetary assistance and additional support services provided under this section may include:

(1) case management services and training and information about the child's needs until the caregiver is appointed permanent managing conservator;

(2) referrals to appropriate state agencies administering public benefits or assistance programs for which the child, the caregiver, or the caregiver's family may qualify;

(3) family counseling not provided under the Medicaid program for the caregiver's family for a period not to exceed two years from the date of initial placement;

(4) if the caregiver meets the eligibility criteria determined by rules adopted by the executive commissioner, reimbursement of all child-care expenses incurred while the child is under 13 years of age, or under 18 years of age if the child has a developmental disability, and while the department is the child's managing conservator;

(5) if the caregiver meets the eligibility criteria determined by rules adopted by the executive commissioner, reimbursement of 50 percent of child-care expenses incurred after the caregiver is appointed permanent managing conservator of the child while the child is under 13 years of age, or under 18 years of age if the child has a developmental disability; and

(6) reimbursement of other expenses, as determined by rules adopted by the executive commissioner, not to exceed \$500 per year for each child.

(Phillips in the chair)

Amendment No. 62 was adopted.

Amendment No. 63

Representative McClendon offered the following amendment to **CSSB 6**:

Amend **CSSB 6** in Article 1 of the bill by adding the following appropriately numbered SECTION to the article and renumbering subsequent SECTIONS of the article accordingly:

SECTION 1. ____. Subchapter C, Chapter 40, Human Resources Code, is amended by adding Section 40.072 to read as follows:

Sec. 40.072. CHILD PROTECTIVE SERVICES LOCAL OVERSIGHT COUNCIL PILOT PROGRAM. (a) The executive commissioner by rule shall develop and the department shall implement a pilot program to create child protective services local oversight council in Bexar County.

(b) The executive commissioner and the department shall provide for the appointment of council members so that the council is an effective multidisciplinary team. The council must include:

(1) the director of the child protective services region that includes Bexar County;

(2) local judges;

(3) representatives of local law enforcement and human services agencies;

(4) community leaders;

(5) child protective services division staff members; and

(6) a director of a local public health region or district that includes Bexar County.

(c) The council shall:

(1) review local child protective services matters, including:

(A) local fiscal and personnel decisions;

(B) case management services; and

(C) community relations development;

(2) recommend to the director of the child protective services region policies designed to:

(A) address local concerns regarding child abuse and neglect; and

(B) provide more efficient and effective service delivery in Bexar County; and

(3) review the implementation of policies recommended by the council under Subdivision (2).

(d) Not later than January 1, 2007, the department shall submit to the legislature a report concerning the effectiveness of the pilot program in reducing the incidence of child abuse and neglect in Bexar County.

(e) This section expires and the council is abolished September 1, 2007.

Amendment No. 63 was adopted.

Amendment No. 64

Representative Kolkhorst offered the following amendment to **CSSB 6**:

Amendment to **CSSB 6**, Section 1.45, page 60, line 16

(5) development of protocols for use psychotropic medications for foster children based on the recommendations and best practices manual developed by an ad hoc work group consisting of experts from the fields of pharmacy, psychiatry, pediatrics, family practice, and internal medicine and staff from the commission.

Is amended to read:

No ad hoc working group, or other group or team set up to develop protocols for the use of psychotropic medications in foster children shall receive donations, gifts, or other funding from pharmaceutical companies or other groups who could be understood to have a financial stake in the use of such medications. No member of any team for developing psychotropic drug protocols shall have:

(a) a history of employment by a pharmaceutical company in the past three years;

(b) a financial interest in a pharmaceutical company;

(c) or shall have conducted studies, clinical trials, or other activities funded by a pharmaceutical company for at least three years.

Amendment No. 64 was adopted.

(Speaker in the chair)

A record vote was requested.

CSSB 6, as amended, was passed to engrossment by (Record 329): 126 Yeas, 16 Nays, 2 Present, not voting.

Yeas — Allen, A.; Allen, R.; Anderson; Bailey; Baxter; Berman; Blake; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Callegari; Campbell; Casteel; Castro; Chavez; Chisum; Cook, B.; Cook, R.; Corte; Crabb; Crownover; Davis, J.; Dawson; Denny; Driver; Dukes; Dutton; Edwards; Eiland; Eissler; Elkins; Escobar; Farabee; Flores; Flynn; Frost; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goodman; Goolsby; Griggs; Grusendorf; Guillen; Haggerty; Hamilton; Hamric; Hardcastle; Harper-Brown; Hartnett; Hegar; Hilderbran; Hill; Hodge; Homer; Hope; Hopson; Howard; Hughes; Hunter; Hupp; Isett; Jackson; Jones, D.; Keel; Keffer, B.; Keffer, J.; King, P.; King, T.; Kolkhorst; Krusee; Kuempel; Laney; Laubenberg; Luna; Madden; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miller; Moreno, P.; Morrison; Mowery; Naishtat; Nixon; Noriega, M.; Oliveira; Orr; Otto; Paxton; Pickett; Puente; Quintanilla; Raymond; Reyna; Ritter; Rose; Seaman; Smith, T.; Smith, W.; Smithee; Solis; Solomons; Strama; Straus; Swinford; Talton; Taylor; Truitt; Turner; Uresti; Van Arsdale; Veasey; Villarreal; Vo; West; Wong; Woolley; Zedler.

Nays — Alonzo; Anchia; Coleman; Davis, Y.; Deshotel; Dunnam; Farrar; Gallego; Herrero; Hochberg; Leibowitz; Martinez; Moreno, J.; Peña; Rodriguez; Thompson.

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

Absent, Excused — Delisi; Olivo; Pitts; Riddle.

Absent — Jones, J.; Phillips.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 329. I intended to vote no.

Castro

I was shown voting no on Record No. 329. I intended to vote yes.

Deshotel

I was shown voting yes on Record No. 329. I intended to vote no.

Hamilton

When Record No. 329 was taken, my vote failed to register. I would have voted yes.

Phillips

REASON FOR VOTE

Though the bill has positive elements, I voted no because I am opposed to several provisions, most notably the privatization provisions.

Gallego

GENERAL STATE CALENDAR HOUSE BILLS SECOND READING

The following bills were laid before the house and read second time:

HB 137 ON SECOND READING **(by Paxton, Woolley, Van Arsdale, Hughes, and B. Keffer)**

HB 137, A bill to be entitled An Act relating to "Welcome to Texas" signs.

Amendment No. 1

Representative Farrar offered the following amendment to **HB 137**:

Amend **HB 137** on page 1, between lines 15 and 16, by inserting the following:

(c) Beginning on February 1, 2009, a "Welcome to Texas" sign erected by the department must include the following elements:

(1) a depiction of the state flag;

(2) the phrase "Drive Friendly—The Texas Way"; and

(3) the phrase "Welcome to Texas—Proud to be the Home of Presidents Dwight D. Eisenhower, Lyndon B. Johnson, George H.W. Bush, and George W. Bush."

(d) Subsection (b) and this subsection expire on January 1, 2009.

Amendment No. 1 was adopted.

HB 137, as amended, was passed to engrossment. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. Members registering votes are as follows: Burnam recorded voting no.)

CSHB 167 ON SECOND READING **(by W. Smith)**

CSHB 167, A bill to be entitled An Act relating to the use of the development project fund by a municipal development district.

(J. Keffer in the chair)

CSHB 167 was passed to engrossment. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

CSHB 182 ON SECOND READING

(by Mowery, Wong, Truitt, et al.)

CSHB 182, A bill to be entitled An Act relating to the determination through binding arbitration of certain ad valorem tax protests brought by property owners.

CSHB 182 was passed to engrossment. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. Members registering votes are as follows: Leibowitz recorded voting no.)

CSHB 197 ON SECOND READING

(by Guillen)

CSHB 197, A bill to be entitled An Act relating to the punishment for the offense of criminal mischief.

CSHB 197 was passed to engrossment. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

CSHB 356 ON SECOND READING

(by Callegari)

CSHB 356, A bill to be entitled An Act relating to the repeal of the statutory provision regarding the adoption and use by the Texas Water Development Board of a capital spending plan for certain state-funded water-related programs under the board's jurisdiction.

Representative Callegari moved to postpone consideration of **CSHB 356** until 10 a.m. April 28.

The motion prevailed.

HB 409 ON SECOND READING

(by Goodman)

HB 409, A bill to be entitled An Act relating to the appeal of certain orders regarding children in the conservatorship of the Department of Family and Protective Services.

HB 409 was passed to engrossment. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

CSHB 467 ON SECOND READING
(by Bailey, Howard, and Olivo)

CSHB 467, A bill to be entitled An Act relating to the financing of water and sewer programs in disadvantaged areas in certain counties.

Amendment No. 1

Representative Dutton offered the following amendment to **CSHB 467**:

Amend **CSHB 467** as follows:

(1) On page 2, between lines 10 and 11, insert the following appropriately numbered section:

SECTION _____. Subchapter K, Chapter 17, Water Code, is amended by adding Section 17.9345 to read as follows:

Sec. 17.9345. SEWER CONNECTIONS IN MUNICIPALITIES IN ECONOMICALLY DISTRESSED AREAS. (a) On request of an owner or occupant of land located in a municipality on which a new residential structure is being constructed and that is adjacent to a street, the municipality shall provide sewer service connections on both sides of the street.

(b) The cost of providing sewer service connections under Subsection (a) shall be borne by the municipality.

(2) Renumber subsequent sections of the bill accordingly.

Amendment No. 1 was adopted.

CSHB 467, as amended, was passed to engrossment. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

CSHB 549 ON SECOND READING
(by Phillips and Guillen)

CSHB 549, A bill to be entitled An Act relating to prohibiting the introduction of certain items in certain local jails.

Amendment No. 1

Representative Guillen offered the following amendment to **CSHB 549**:

Amend **CSHB 549** as follows:

(1) On page 1, lines 22 and 23, strike "an ordinance or order adopted by a commissioner's court or the governing body of a municipality, as appropriate," and substitute "a rule or regulation adopted by the sheriff or jail administrator".

(2) On page 2, between lines 6 and 7, insert the following appropriately numbered section and renumber subsequent sections of the bill accordingly:

SECTION _____. Chapter 38, Penal Code, is amended by adding Section 38.114 to read as follows:

Sec. 38.114. CONTRABAND IN CORRECTIONAL FACILITY. (a) A person commits an offense if the person:

(1) provides contraband to an inmate of a correctional facility;

(2) otherwise introduces contraband into a correctional facility; or

(3) possesses contraband while confined in a correctional facility.

(b) In this section, "contraband":

(1) means:

(A) any item not provided by or authorized by the operator of the correctional facility; or

(B) any item provided by or authorized by the operator of the correctional facility that has been altered to accommodate a use other than the originally intended use; and

(2) does not include any item specifically prohibited under Section 38.11.

(c) An offense under this section is a Class C misdemeanor, unless the offense is committed by an employee or a volunteer of the correctional facility, in which event the offense is a Class B misdemeanor.

Amendment No. 1 was adopted.

CSHB 549, as amended, was passed to engrossment. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

HB 652 ON SECOND READING

(by Bohac)

HB 652, A bill to be entitled An Act relating to the submission of proposed charter amendments to the voters in a home-rule municipality.

Representative Bohac moved to postpone consideration of **HB 652** until 10 a.m. April 21.

The motion prevailed.

CSHB 746 ON SECOND READING

(by Bonnen)

CSHB 746, A bill to be entitled An Act relating to notice of the presumption for theft by check.

CSHB 746 was passed to engrossment. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

CSHB 809 ON SECOND READING

(by Hilderbran, et al.)

CSHB 809, A bill to be entitled An Act relating to excepting certain motor vehicles owned by an individual and used for the production of income from required rendition for ad valorem tax purposes.

(Speaker in the chair)

CSHB 809 was passed to engrossment. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

CSHB 823 ON SECOND READING

(by Keel, Peña, Gonzalez Toureilles, Eissler, Hupp, et al.)

CSHB 823, A bill to be entitled An Act relating to the applicability of the offense of unlawful carrying of weapons to certain persons and to the consequence of certain presumptions in the prosecution of a criminal offense.

Amendment No. 1

Representative Keel offered the following amendment to **CSHB 823**:

Amend **CSHB 823** as follows:

- (1) On page 1, line 11, strike "and".
- (2) On page 1, line 13, strike the period and substitute "; and".
- (3) On page 1, between lines 13 and 14, insert:
(4) not a member of a criminal street gang, as defined by Section 71.01.

Amendment No. 1 was adopted.

CSHB 823, as amended, was passed to engrossment. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. Members registering votes are as follows: Eiland recorded voting no.)

HB 854 ON SECOND READING

(by Madden)

HB 854, A bill to be entitled An Act relating to an action for damages alleging professional negligence by a registered professional land surveyor.

HB 854 was passed to engrossment. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. Members registering their votes are as follows: Leibowitz recorded voting no.)

CSHB 941 ON SECOND READING

(by Geren, Rose, and Menendez)

CSHB 941, A bill to be entitled An Act relating to restrictions on the use of claims history for certain water damage.

CSHB 941 was passed to engrossment. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

HB 1056 ON SECOND READING

(by Goodman)

HB 1056, A bill to be entitled An Act relating to municipal notice provisions relating to substandard buildings.

Amendment No. 1

Representative Goodman offered the following amendment to **HB 1056**:

Amend **HB 1056** on page 1 by striking lines 23-24 and substituting the following:

(3) may file a certified copy of the order in the real property records of each county in which the property is located if the order contains the legal description of the property.

Amendment No. 1 was adopted.

HB 1056, as amended, was passed to engrossment. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

CSHB 1138 ON SECOND READING

(by Flores)

CSHB 1138, A bill to be entitled An Act relating to the operation and regulation of charitable bingo.

CSHB 1138 – STATEMENT OF LEGISLATIVE INTENT

REPRESENTATIVE HOWARD: Representative, on that same vein, to repealing Section 2001.417, the toll-free helpline, it's my understanding that this is a number that's operated to help problem gamblers. Why are you repealing that section?

REPRESENTATIVE FLORES: This is the same thing that happened with Texas Lottery Commission when the Lottery Commission came on line and it basically expired, and there is no more money that is being set aside for it.

HOWARD: There's no money set aside for it, so that means problem gamblers, too bad for you—is that what we're saying?

FLORES: The money that was set aside is no longer being set aside. The first law has expired and it all comes via the Appropriations Committee.

HOWARD: So right now, we just say we don't have any help for you?

FLORES: That is correct.

HOWARD: In Section 1 of your definition of instant bingo, it talks about what games can be played and what games cannot be played. Is there any possible way that those definitions in Section 1 can be construed to include either an 8 liner or a VLT or, in another words, a slot machine?

FLORES: Absolutely not. You look up in B, definition of instant games, they include pull tabs, bingo tickets—

HOWARD: Well, believe it or not, I did look those up and I could not determine that. That's why I am asking you the question because I'm going to have your answer put in the journal, if you don't mind.

FLORES: I don't mind and if your intent is to ask the question, Is this going to be a VLT machine—Is this going to be a one-armed bandit—is this going to be—no, no, no.

REMARKS ORDERED PRINTED

Representative Howard moved to print remarks between Representative Flores and Representative Howard.

The motion prevailed.

Amendment No. 1

Representative Hartnett offered the following amendment to **CSHB 1138**:

Amend **CSHB 1138** on page 1, line 15 by adding after the period the following:

"Instant bingo does not include the use of electronic devices to conduct the games described by Subsection (13-a)(A)."

Amendment No. 1 was adopted.

Amendment No. 2

Representative Haggerty offered the following amendment to **CSHB 1138**:

Amend **CSHB 1138** on Page 8, lines 15 and 19 by striking "~~gross~~" and inserting "gross"

Amendment No. 2 was adopted.

Amendment No. 3

Representative Haggerty offered the following amendment to **CSHB 1138**:

Amend **CSHB 1138** on Page 9, line 6 by striking "four quarters" and inserting "license period"

Amendment No. 3 was adopted.

Amendment No. 4

Representative Haggerty offered the following amendment to **CSHB 1138**:

Amend **CSHB 1138** on Page 13 by striking line 14 and renumbering the remaining Subsections

Amendment No. 4 was adopted.

Amendment No. 5

Representative Solomons offered the following amendment to **CSHB 1138**:

Amend **CSHB 1138** as follows:

On page 13, strike line 15.

Amendment No. 5 was adopted.

Amendment No. 6

Representative Solomons offered the following amendment to **CSHB 1138**:

Amend **CSHB 1138** as follows:

(1) On page 2, line 20, strike "and".

(2) On page 2, in between lines 20 and 21, add a new Subsection (2) to read as follows: "(2) the net proceeds reported by licensed authorized organizations from their bingo operations; and" and renumber accordingly.

Amendment No. 6 was adopted.

Amendment No. 7

Representative Solomons offered the following amendment to **CSHB 1138**:

Amend **CSHB 1138** by deleting SECTION 7 of the bill in its entirety.

Amendment No. 7 was withdrawn.

CSHB 1138, as amended, was passed to engrossment. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. Members registering votes are as follows: Anderson, Flynn, Gattis, Harper-Brown, Howard, Jackson, Leibowitz, Merritt, Paxton, Smithee, Solomons, and Van Arsdale recorded voting no.)

HB 1239 ON SECOND READING (by Hodge, Keel, and Escobar)

HB 1239, A bill to be entitled An Act relating to the implementation of unified drug enforcement strategies.

(Elkins in the chair)

Amendment No. 1

Representative Keel offered the following amendment to **HB 1239**:

Amend **HB 1239** (House Committee printing) on page 1, line 21, by striking "Article 14.03," and substituting "Article 14.03(d),".

Amendment No. 1 was adopted.

HB 1239, as amended, was passed to engrossment. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

CSHB 1287 ON SECOND READING (by Leibowitz)

CSHB 1287, A bill to be entitled An Act relating to county abatement of a public nuisance.

CSHB 1287 – STATEMENT OF LEGISLATIVE INTENT

REPRESENTATIVE HOWARD: Representative, one of the actions that I interpret your bill to say is that if it is an offender the county would have the ability to prevent the owner from having access to their own land. Is that correct? Or am I misreading that?

REPRESENTATIVE LEIBOWITZ: Yes, sir, that the first time they give a 30-day notice, then they give a 10-day notice. If there is no response they can block access to the property to prevent future dumping.

HOWARD: Okay, I understand why you wouldn't want the public to have access to the property, but you're now saying you're going to block access to the owner of the property, to have access to his own property. Is that what you intend? I don't think you intend that, do you?

LEIBOWITZ: If the owner is dumping, illegally dumping on the land itself, yes, sir, we're blocking access to the land because we're not going to incur any additional illegal dumping.

HOWARD: I understand the illegal dumping part. What I'm talking about is if you're the owner of a piece of property, whether you did the dumping or someone else did the dumping—what you're saying is you're not going to allow the owner of the property to walk on his own property, to clean it up or anything else?

LEIBOWITZ: No, sir, that's not the intent. The intent is to prevent the owner in the event that he is trying to dump additional materials there, to prevent that dumping from occurring.

HOWARD: Yes, sir, I think that is your intent, and I would agree with that intent but I think the way the bill is written, it can be interpreted that they can't access their property in the future.

LEIBOWITZ: I respectfully disagree. The point is that if the owner is running an illegal dump site, then the goal is to prevent—and has not been responsive to county authorities—the goal is to prevent any additional dumping.

HOWARD: Yes, we had a very similar situation to this in my county. We had an illegal dump site going on.

LEIBOWITZ: Yes, sir.

HOWARD: And we had the health department come out, the sheriff's department come out and actually block the entrance to the property so that other people couldn't come out there and dump. And that's what you're trying to prevent, isn't it?

LEIBOWITZ: That's correct, sir.

HOWARD: But at the same time, they did not prevent the owner of the property to go on to his own property, which happened to have a house on it—and that was his residence—we allowed him to go into his own house, we just prevented people from continuing dumping. And I think that might be a little bit of the problem with the way I interpret your bill there. I know that's not your intent, but it certainly can be construed that way.

LEIBOWITZ: I believe that Chairman Keel has one amendment that may or may not take care of your concerns, sir. But my intent is not to prevent the owner of the property from having access to his own property per legal purposes.

REMARKS ORDERED PRINTED

Representative Howard moved to print remarks between Representative Leibowitz and Representative Howard.

The motion prevailed.

Amendment No. 1

Representative Keel offered the following amendment to **CSHB 1287**:

Amend **CSHB 1287** as follows:

(1) On page 1, lines 20-21, strike "~~demolition, [or] removal, or prohibition or control of access to the premises~~" and substitute "demolition or removal or, in the case of a nuisance under Section 343.011(c)(1), (8), or (9), by prohibition or control of access to the premises,".

(2) On page 2, line 5, between "premises" and the first comma, insert "to prevent a violation of Section 343.011(c)(1), (8), or (9)".

(3) On page 2, line 27, between "nuisance" and the semicolon, insert "described by Section 343.011(c)(1), (8), or (9)".

(4) On page 3, line 14, between "nuisance" and the period, insert "described by Section 343.011(c)(1), (8), or (9)".

Amendment No. 1 was adopted.

Representative Leibowitz moved to postpone consideration of **CSHB 1287** until 11 a.m. tomorrow.

The motion prevailed.

HB 1371 ON SECOND READING

(by J. Jones, Y. Davis, Peña, et al.)

HB 1371, A bill to be entitled An Act relating to certain offenses that involve impersonating a peace officer or other public servant and misrepresenting the nature of certain property.

HB 1371 was passed to engrossment. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

HB 1396 ON SECOND READING

(by Zedler)

HB 1396, A bill to be entitled An Act relating to a pilot program for language interpreter services under the medical assistance program.

Representative Zedler moved to postpone consideration of **HB 1396** until 1 p.m. April 25.

The motion prevailed.

HB 1614 ON SECOND READING
(by Denny, et al.)

HB 1614, A bill to be entitled An Act relating to supervision of a primary election by the county executive committee.

HB 1614 was passed to engrossment. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

CSHB 1642 ON SECOND READING
(by Hartnett)

CSHB 1642, A bill to be entitled An Act relating to the appointment of interpreters for judicial proceedings.

CSHB 1642 was passed to engrossment. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. Members registering votes are as follows: Keel recorded voting no.)

CSHB 1686 ON SECOND READING
(by Oliveira)

CSHB 1686, A bill to be entitled An Act relating to the compensation of presiding judges of administrative judicial regions.

CSHB 1686 was passed to engrossment. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

HB 1913 ON SECOND READING
(by Olivo)

HB 1913, A bill to be entitled An Act relating to the application of the municipal civil service law for firefighters and police officers to certain municipalities.

HB 1913 was passed to engrossment. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

CSHB 1982 ON SECOND READING
(by Blake, McReynolds, B. Cook, and Escobar)

CSHB 1982, A bill to be entitled An Act relating to the creation and operation of a Texas Certified Retirement Community Program.

CSHB 1982 was passed to engrossment. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. Members registering votes are as follows: Truitt recorded voting no.)

CSHB 2051 ON SECOND READING
(by Krusee)

CSHB 2051, A bill to be entitled An Act relating to the adoption of a state scenic byways program.

Representative Krusee moved to postpone consideration of **CSHB 2051** until 10 a.m. April 26.

The motion prevailed.

HB 2134 ON SECOND READING
(by Phillips)

HB 2134, A bill to be entitled An Act relating to the administration of the state infrastructure bank.

HB 2134 - DEBATE

REPRESENTATIVE Y. DAVIS: Representative Phillips, as I read your bill I understand we're creating accounts with money out of what account? Where does the money come from the bank?

REPRESENTATIVE PHILLIPS: This will be—this will be funds that the commission has authority over to allow loans. These will be loans that will be paid back just like—right now the federal government—we put the SIB accounts—the SIB accounts are set up with federal funds. The federal government is no longer putting those in there. They've proven to be beneficial, especially for local governments, your cities, especially my cities, cities across the state, local governments.

Y. DAVIS: But this is federal funds now.

PHILLIPS: No, that's right.

Y. DAVIS: What you're doing is you're going outside the original city bank with use of federal funds and national funds and putting all these state funds in it. Is that correct?

PHILLIPS: We're putting state funds in to allow that—to allow those to be used just like we had in federal funds. It's something that's been doing for all across the nation. Kansas is a really good example where this has happened.

Y. DAVIS: But it says in other state funds deposited into the bank. What are the other state funds? What other funds? Where do they come from?

PHILLIPS: Could you repeat that? I'm having a hard time hearing.

Y. DAVIS: The state funds that are going into this account, where are those funds coming from? Which state funds?

PHILLIPS: These state funds would be those that are already there in the state highway funds to allow those funds to go—

Y. DAVIS: Those that are already where? Are you talking about Fund 6 money? So we're going to take Fund 6 money out and put it into special accounts? Sub accounts?

PHILLIPS: We're going to put them into the SIB accounts. And those are like revolving loans that can be paid back from you local communities after they've built structures.

Y. DAVIS: So how much money are we putting into the—how much money are we putting into the infrastructure, into the bank—into the infrastructure bank?

PHILLIPS: That's what I'm trying to find out exactly. I don't believe there's a limitation to do—I don't think the bill has that limitation in there. But it's going to be the amount that they anticipate would be essentially continued over such as with the federal loans that were in there and the state loans in there.

Y. DAVIS: But if I read your bill, it's no longer associated with the federal program because Texas is not part of the federal program. We're creating one independent of the federal program by putting money, state money, on it. Is that correct?

PHILLIPS: No, it's going to be following—it's gonna follow federal guidelines. In fact, that's in there. It will follow the federal guidelines except for certain provisions of that—except for terms applicable funds deposit accounts described in 22.0276. But the rest of those, they must comply with the federal act.

Y. DAVIS: Larry, let me start over because you—the federal—the state funds are not going to be subject to the same requirements as the original funds were under the federal act. Is that correct?

PHILLIPS: Right, not all the federal acts will—we'll not be responsible to comply with all the federal acts, but we're not doing federal projects.

Y. DAVIS: Okay.

PHILLIPS: —except for—unless they had money originally that came from the federal projects. Then they would have to.

Y. DAVIS: But your bill is removing money. I want to be clear because you keep bringing in the federal program, and the federal program has nothing to do with this. Is that correct?

PHILLIPS: No, it is. This is set up so that we allow—the federal government has encouraged these to be set up in the state. They've had pilot programs, and this thing states that if you want to take advantage of this, we're not having money to put in there. But it states if you want to do this, you can do this to help your local communities.

Y. DAVIS: But you're—the federal program—Texas is not selected to give matching—to give federal dollars to this program. Is that correct?

PHILLIPS: No, what you're talking about is they're not authorized—they are not putting money in at this time into these programs.

Y. DAVIS: Okay, so wait a minute. So the federal money is not going into our state SIB bank. Is that correct?

PHILLIPS: Correct.

Y. DAVIS: This is going to be state money only.

PHILLIPS: Yes.

Y. DAVIS: And it comes out of Fund 6, right?

PHILLIPS: That's my understanding. Yes.

Y. DAVIS: Is there a limit of how much money we can take out of Fund 6 to do these side projects 'cause we've been taking—we took money out of Fund 6 for the burglary bill that came up earlier. We've been taking money out of Fund 6 for other projects. My question is, how much money are we really taking out of Fund 6 and impacting the project that Fund 6 is suppose to do?

PHILLIPS: Well, we're not going to take out any money that's going to impact that because this money is gonna be loaned back within the program. See, this is not money that's gone out that you don't get back. This money is paid back from those local governments.

Y. DAVIS: But to the extent that you take money out of Fund 6, aren't you impacting possible projects that could be constructed and or maintained out of Fund 6?

PHILLIPS: I don't believe that they're going to be putting funds over there to limit that.

Y. DAVIS: I can't hear you. What did you say?

PHILLIPS: I don't think that is going to be a concern that we're going to need to worry about—that they are going to take and damage the system that we already have.

Y. DAVIS: No, but the question is, how much money are we diverting out of Fund 6? With the number of bills that we have had before us, many of them diverted money from Fund 6. My question is, is this a diversion, and, if so, is there a limit to how much we can divert before we start impacting the work that the fund is suppose to do?

PHILLIPS: Again, we're trying to make our system, our entire system, better. This is not money that's diverted that won't be put there. This is money that will be paid back. It's not money that's gone.

Y. DAVIS: Well, if it limits your ability to do a project if the money is not there at the time—we're trying to do projects right now. We're told that we can't meet the needs of transportation, and yet we keep diverting money over. My question is—

PHILLIPS: Okay, go ahead. You need to ask the questions. But I didn't hear the concern. There are other areas that we are talking about diverting the funds. And this diversion is not money that's gone away, that's not going to be put back in here.

Y. DAVIS: But to the extent that we make a loan, do we know when it would be put back in there?

PHILLIPS: Yes, it'll have the payment just like it is set up now. Like I said, with the federal—

Y. DAVIS: But the federal—you see, it was never set up where it would all be state funds. That's my concern, is that we're taking and putting them in sub accounts so you can use them for anything. I mean, who has responsibility to define what these loans can be used for?

PHILLIPS: That's the commission, and those will be things that fall under the federal act.

Y. DAVIS: No federal act.

PHILLIPS: No, it does apply. That's what I said. The bill specifically says that it must comply with the federal law, subject to a few areas that will not apply there.

Y. DAVIS: Okay, subject to the areas that are not a part of it.

PHILLIPS: Section 22.0276—

Y. DAVIS: But the only parts that the federal acts involves are where there's federal money. Is that correct?

PHILLIPS: No. The commission shall manage the bank in compliance with applicable requirements of federal act or any applicable federal regulation or guideline. We must follow their guidelines.

Y. DAVIS: It says in Section 3 that the sub accounts are not capitalized. It says that if they are capitalized with state funds they are not subject to the federal act. That's what your bill analysis in Section 3 says. If it doesn't have federal money and it's state money it's not subject to the federal act.

PHILLIPS: Well, not if they're dispersed through the state infrastructure banks.

Y. DAVIS: I'm sorry.

PHILLIPS: Not if they're—if you go down to Section 4 you can see is says that if it's not dispersed—if it's dispersed through there, then they have to go through the state infrastructure bank.

MR. SPEAKER: Raises a point of order. The gentleman's time has expired. The point of order is well taken and sustained.

REPRESENTATIVE PICKETT: Larry, let me ask you a question that Yvonne did bring up that kinda sparked a question in my mind. Currently, the metropolitan planning organizations, CAMPO, here in the Austin area, their purpose was set up by the federal government, and CAMPO looks at all the monies that are spent for federal dollars past through. Would you have a problem with amending your bill to allow the SIB loans to go through that same process? Because here is the fear that I have, Larry. I want to lay it out on the table.

PHILLIPS: Say that again.

PICKETT: I have a fear that.

PHILLIPS: No, say the amendment again.

PICKETT: I will. Let me get to it all. With the fact that this is not federal funds like currently in the State Infrastructure Bank Loan System, the MPOs won't have any oversight, and TxDOT could use this new money that you're creating to bypass CAMPO, bypass an MPO, and go directly to a city or county and entice them to do a toll without any local representation. Would you consider an amendment that just says that the SIB loans are approved through their local MPOs like we do under the SIB requirements now?

PHILLIPS: Mr. Pickett, not all communities fall under SIB. I mean, not all of them have MPOs.

PICKETT: All areas of Texas are under an MPO.

PHILLIPS: No, that's in a metropolitan area. Those rural areas aren't under MPOs. That would be a question I would have. How would you work that out?

PICKETT: Okay, because I have the same fear that Representative Davis does is that since there will be no oversight, that this could go directly to a toll project without any local discussion about it.

PHILLIPS: I'd be glad to work with you on a third reading amendment to that. Again, as long as we don't set up a requirement that those counties that aren't under an MPO because that would be—

PICKETT: It would be under the same circumstances that the SIB has now, under the MPOs is what I would recommend.

PHILLIPS: Let's get that done on third reading. I'd be happy to work on that with you.

REMARKS ORDERED PRINTED

Representative Pickett moved to print remarks between Representative Phillips and Representative Y. Davis and Representative Phillips and Representative Pickett.

The motion prevailed.

A record vote was requested.

HB 2134 was passed to engrossment by (Record 330): 121 Yeas, 12 Nays, 2 Present, not voting.

Yeas — Allen, A.; Allen, R.; Alonzo; Anderson; Bailey; Baxter; Berman; Blake; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Callegari; Campbell; Casteel; Chisum; Cook, B.; Cook, R.; Corte; Crabb; Crownover; Davis, J.; Dawson; Denny; Deshotel; Driver; Dukes; Dutton; Edwards; Eiland; Eissler; Elkins; Escobar; Farabee; Farrar; Flores; Flynn; Frost; Gallego; Gattis; Geren; Gonzales; Goodman; Griggs; Grusendorf; Guillen; Haggerty; Hamric; Hardcastle; Harper-Brown; Hartnett; Hilderbran; Hill; Hochberg; Hodge; Homer; Hope; Hopson; Howard; Hughes; Hunter; Hupp; Isett; Jackson; Jones, D.; Keffer, B.; Keffer, J.; King, P.; King, T.; Krusee; Kuempel; Laney; Laubenberg; Madden; McCall; McClendon; McReynolds; Menendez; Merritt; Miller; Morrison; Mowery; Nixon; Noriega, M.; Oliveira; Orr; Otto; Paxton; Peña; Phillips; Pickett; Puente; Quintanilla; Raymond; Reyna; Ritter; Rodriguez; Rose; Seaman; Smith,

T.; Smith, W.; Smithee; Solis; Solomons; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Uresti; Van Arsdale; Veasey; Villarreal; Vo; West; Wong; Woolley; Zedler.

Nays — Castro; Chavez; Coleman; Davis, Y.; Dunnam; Herrero; Jones, J.; Keel; Leibowitz; Martinez; Martinez Fischer; Moreno, J.

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

Absent, Excused — Delisi; Olivo; Pitts; Riddle.

Absent — Burnam; Giddings; Gonzalez Toureilles; Goolsby; Hamilton; Hegar; Kolkhorst; Luna; Moreno, P.; Naishtat; Turner.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 330. I intended to vote no.

Baxter

When Record No. 330 was taken, I was in the house but away from my desk. I would have voted yes.

Gonzalez Toureilles

When Record No. 330 was taken, I was in the house but away from my desk. I would have voted no.

Kolkhorst

HB 2197 ON SECOND READING

(by Madden)

HB 2197, A bill to be entitled An Act relating to the availability to the public of photographs of an inmate confined by the Texas Department of Criminal Justice.

HB 2197 was passed to engrossment. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

HB 2474 ON SECOND READING

(by Delisi)

HB 2474, A bill to be entitled An Act relating to the creation of an additional judicial district and the jurisdiction of the existing district courts in Bell County.

HB 2474 was passed to engrossment. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

CSHB 2748 ON SECOND READING
(by Pickett)

CSHB 2748, A bill to be entitled An Act relating to requirements for the issuance of land development permits by political subdivisions.

Representative Pickett moved to postpone consideration of **CSHB 2748** until 10 a.m. April 26.

The motion prevailed.

CSHB 2958 ON SECOND READING
(by Hamric)

CSHB 2958, A bill to be entitled An Act relating to the creation of freight rail districts; authorizing a tax; granting authority to issue bonds or other similar obligations to create public debt; granting the power of eminent domain.

CSHB 2958 was passed to engrossment. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. Members registering votes are as follows: Crabb and Talton recorded voting no.)

FIVE DAY POSTING RULE SUSPENDED

Representative Talton moved to suspend the five day posting rule to allow the Committee on Urban Affairs to consider **HB 1465** and **HB 3182** 15 minutes after adjournment today in E1.026.

The motion prevailed.

COMMITTEE MEETING ANNOUNCEMENT

The following committee meeting was announced:

Urban Affairs, 15 minutes after adjournment today, E1.026, for a public hearing, to consider **HB 1465**, **HB 3182**, and the remainder of the posted bills.

FIVE DAY POSTING RULE SUSPENDED

Representative Madden moved to suspend the five day posting rule to allow the Committee on Corrections to consider **SB 695** at 10:30 a.m. or upon adjournment Thursday, April 21.

The motion prevailed.

COMMITTEE MEETING ANNOUNCEMENT

The following committee meeting was announced:

Corrections, 10:30 a.m. or upon adjournment Thursday, April 21, E2.016, for a public hearing, to consider **SB 695** and posted bills.

FIVE DAY POSTING RULE SUSPENDED

Representative J. Keffer moved to suspend the five day posting rule to allow the Committee on Ways and Means to consider **HJR 89** and **SB 580** at 10:30 a.m. or upon adjournment tomorrow in E2.010.

The motion prevailed.

COMMITTEE MEETING ANNOUNCEMENT

The following committee meeting was announced:

Ways and Means, 10:30 a.m. or upon adjournment tomorrow, E2.010, for a public hearing, to consider **HJR 89**, **SB 580**, and posted bills.

FIVE DAY POSTING RULE SUSPENDED

Representative Mowery moved to suspend the five day posting rule to allow the Committee on Land and Resource Management to consider **HB 2964** at 8 a.m. Thursday, April 21 in E2.014.

The motion prevailed.

COMMITTEE MEETING ANNOUNCEMENT

The following committee meeting was announced:

Land and Resource Management, 8 a.m. April 21, E2.014, for a public hearing, to consider **HB 2964** and posted bills.

FIVE DAY POSTING RULE SUSPENDED

Representative P. King moved to suspend the five day posting rule to allow the Committee on Regulated Industries to consider pending business and take invited testimony over "the price to beat" at 2 p.m. or upon adjournment April 21 in JHR 140.

The motion prevailed.

COMMITTEE MEETING ANNOUNCEMENT

The following committee meeting was announced:

Regulated Industries, 2 p.m. or upon adjournment April 21, JHR 140, for a public hearing, to consider pending business and to take invited testimony on "the price to beat."

FIVE DAY POSTING RULE SUSPENDED

Representative Keel moved to suspend the five day posting rule to allow the Committee on Criminal Jurisprudence to consider **SB 60** upon adjournment today in E2.016.

The motion prevailed.

COMMITTEE MEETING ANNOUNCEMENT

The following committee meeting was announced:

Criminal Jurisprudence, 2 p.m. or upon adjournment today, E2.016, for a public hearing, to consider **SB 60** and posted bills.

FIVE DAY POSTING RULE SUSPENDED

Representative Eiland moved to suspend the five day posting rule to allow the Committee on Pensions and Investments to consider **HCR 143**.

The motion prevailed.

COMMITTEE MEETING ANNOUNCEMENTS

The following committee meetings were announced:

Pensions and Investments, 8 a.m. April 21, E1.010, for a public hearing, to consider **HCR 143** and posted bills.

Business and Industry, 20 minutes after adjournment today, E2.026.

Law Enforcement, upon adjournment today, Desk 56, for a formal meeting, to consider **HB 1037**, **HB 2304**, and pending bills.

Elections, upon adjournment today, Desk 58, for a formal meeting, to consider **HB 1945**, **HB 2068**, **HB 2069**, **HB 2202**, **HB 2322**, **HB 2511**, **HB 1706**, and **HB 2405**.

Juvenile Justice and Family Issues, upon adjournment today, E2.010, for a formal meeting, to consider pending business.

PROVIDING FOR ADJOURNMENT

Representative Escobar moved that, at the conclusion of the reading of bills and resolutions on first reading and referral to committees, the house adjourn until 10 a.m. tomorrow in memory of Laura Canales of Kingsville.

The motion prevailed.

BILLS AND JOINT RESOLUTIONS ON FIRST READING AND REFERRAL TO COMMITTEES CORRECTIONS IN REFERRAL

Bills and joint resolutions were at this time laid before the house, read first time, and referred to committees. Pursuant to Rule 1, Section 4 of the House Rules, the chair at this time corrected the referral of measures to committees. (See the addendum to the daily journal, Referred to Committees, List No. 1.)

ADJOURNMENT

In accordance with a previous motion, the house, at 7:48 p.m., adjourned until 10 a.m. tomorrow.

ADDENDUM

REFERRED TO COMMITTEES

The following bills and joint resolutions were today laid before the house, read first time, and referred to committees, and the following resolutions were today laid before the house and referred to committees. If indicated, the chair today corrected the referral of the following measures:

List No. 1

HB 3558 (By Taylor), Relating to the creation of the Galveston County Management District No. 1; providing authority to levy an assessment, impose a tax, and issue bonds.

To Urban Affairs.

HB 3559 (By Laubenberg), Relating to the creation of the Rockwall County Municipal Utility Districts Nos. 6, 7, 8, and 9; providing authority to impose a tax and issue bonds; granting the power of eminent domain.

To Natural Resources.

HB 3560 (By Bohac), Relating to the boundaries and organization of the Spring Branch Area Community Improvement District.

To Urban Affairs.

HB 3561 (By T. King), Relating to the expansion of the East Medina County Special Utility District and the composition of the district's board of directors.

To Natural Resources.

HB 3562 (By Campbell), Relating to the number of persons who may be appointed to certain positions in police departments covered by municipal civil service.

To Urban Affairs.

HB 3563 (By P. King), Relating to the use of anabolic steroids by public school students.

To State Affairs.

SB 114 to Higher Education.

SB 250 to Transportation.

SB 263 to State Affairs.

SB 327 to Business and Industry.

SB 369 to Transportation.

SB 443 to Licensing and Administrative Procedures.

SB 480 to Energy Resources.

SB 574 to Land and Resource Management.

SB 575 to Energy Resources.

SB 726 to Public Health.

SB 743 to Regulated Industries.

SB 827 to Border and International Affairs.

SB 1103 to Energy Resources.

SB 1567 to Appropriations.

SJR 21 to Financial Institutions.

SJR 40 to Land and Resource Management.

Pursuant to Rule 1, Section 4 of the House Rules, the chair corrects the referral of the following bills and resolutions:

SB 1060 to Urban Affairs.

SB 1061 to Urban Affairs.

SB 1062 to Urban Affairs.

SB 1447 to Pensions and Investments.

SB 1563 to Financial Institutions.

SIGNED BY THE SPEAKER

The following bills and resolutions were today signed in the presence of the house by the speaker:

House List No. 29

HCR 141

MESSAGES FROM THE SENATE

The following messages from the senate were today received by the house:

Message No. 1

MESSAGE FROM THE SENATE

SENATE CHAMBER

Austin, Texas

Tuesday, April 19, 2005

The Honorable Speaker of the House
House Chamber
Austin, Texas

Mr. Speaker:

I am directed by the senate to inform the house that the senate has taken the following action:

THE SENATE HAS PASSED THE FOLLOWING MEASURES:

SB 126 Lindsay
Relating to the discipline of public school students.

SB 286 Wentworth
Relating to requiring public officials to receive training in the requirements of the open meetings and public information laws.

SB 1137 Madla
Relating to the development of the wine industry and other businesses related to agriculture or tourism in this state.

Respectfully,
Patsy Spaw
Secretary of the Senate

Message No. 2

MESSAGE FROM THE SENATE
SENATE CHAMBER
Austin, Texas
Tuesday, April 19, 2005 - 2

The Honorable Speaker of the House
House Chamber
Austin, Texas

Mr. Speaker:

I am directed by the senate to inform the house that the senate has taken the following action:

THE SENATE HAS PASSED THE FOLLOWING MEASURES:

SCR 20 Barrientos
Commending the professionals of the Texas Juvenile Justice System and recognizing April 19 as Texas Juvenile Justice Day 2005.

Respectfully,
Patsy Spaw
Secretary of the Senate

Message No. 3

MESSAGE FROM THE SENATE
SENATE CHAMBER
Austin, Texas
Tuesday, April 19, 2005 - 3

The Honorable Speaker of the House
House Chamber
Austin, Texas

Mr. Speaker:

I am directed by the senate to inform the house that the senate has taken the following action:

THE SENATE HAS PASSED THE FOLLOWING MEASURES:

SB 9 Staples
Relating to homeland security; providing a penalty.

SB 165 Wentworth
Relating to the regulation of private process servers; providing penalties.

SB 251 West, Royce
Relating to the questioning of prospective jurors during voir dire examination.

SB 560 Carona
Relating to discovery in a criminal case.

SB 689 Zaffirini
Relating to a feasibility study regarding the creation of a federal criminal history record clearinghouse at the Department of Public Safety of the State of Texas.

SB 879 Gallegos
Relating to the regulation of firefighters and fire departments by the Texas Commission on Fire Protection.

SB 1263 Whitmire
Relating to the creation of a commission to ensure the quality of forensic science.

SB 1297 Armbrister
Relating to the elements of the criminal offense of discharging used oil into water in the state.

SB 1299 Armbrister
Relating to an exception to the prohibition against commingling used oil with solid waste if the commingling is incident to the dismantling of scrap, used, or obsolete metals.

Respectfully,
Patsy Spaw
Secretary of the Senate

APPENDIX

STANDING COMMITTEE REPORTS

Favorable reports have been filed by committees as follows:

April 18

Defense Affairs and State-Federal Relations - **HB 1391, HB 2337, HB 2401, HB 2807, HB 3113**

Economic Development - **HB 1747, HB 1765, HB 2928**

Elections - **HB 1508, HB 1647, HB 1708, HB 1800**

Environmental Regulation - **HB 2370**

Financial Institutions - **HB 398, HB 727, HB 1893, HB 2232**

Land and Resource Management - **HB 323, HB 2266, HB 2305, HB 3262, SB 177, SB 734**

Licensing and Administrative Procedures - **HB 175, HB 826, HB 2546**

Natural Resources - **HB 578**

Public Health - **HB 1771**

State Affairs - **HB 905, HB 1607, HB 2466, SB 148, SB 587**

Transportation - **HB 2394**

Urban Affairs - **HB 525, HB 1473, HB 1835, HB 2236, SB 245**

Ways and Means - **HB 161, HB 312, HB 587, HB 818, HB 1006, HB 1051, HB 1148, HB 1398, HB 1458, HB 2187, HB 2784, HJR 44, HJR 65, SB 541**

ENGROSSED

**April 18 - HB 135, HB 248, HB 291, HB 649, HB 1126, HB 1185,
HB 2382, HB 3250, HCR 63, HCR 88**