

SIXTY-FIFTH DAY

THURSDAY, MAY 6, 1999

PROCEEDINGS

The Senate met at 10:00 a.m. pursuant to adjournment and was called to order by the President.

The roll was called and the following Senators were present: Armbrister, Barrientos, Bernsen, Bivins, Brown, Cain, Carona, Duncan, Ellis, Fraser, Gallegos, Harris, Haywood, Jackson, Lindsay, Lucio, Madla, Moncrief, Nelson, Nixon, Ogden, Ratliff, Shapiro, Shapleigh, Sibley, Truan, Wentworth, West, Whitmire, Zaffirini.

Absent-excused: Luna.

The President announced that a quorum of the Senate was present.

The Reverend James W. Abington, Bannockburn Baptist Church, Austin, offered the invocation as follows:

Heavenly Father, on this national day of prayer we acknowledge Your infinite greatness and our absolute dependency upon You. We confess that we are ever unworthy of Your presence, coming to You as sinful human beings in need of divine mercy and gracious forgiveness. We turn from our sins and place ourselves in Your loving and secure care. Thank You for reaching us right where we are:

for giving strength when we thought there was none left;
for being available when we realized our need for You, and
really looked to You;
for being faithful when it looked as if Earth and hell
changed places;
for understanding and correcting when we have failed with
our foolish, self-centered plans.

We remember before Your throne the grieving people of Colorado, Oklahoma, Northeast Texas, and wherever hearts need Your supernatural touch and humbly submit ourselves to Your ways, appealing for Your wisdom for this day. Amen.

On motion of Senator Truan and by unanimous consent, the reading of the Journal of the proceedings of yesterday was dispensed with and the Journal was approved.

LEAVE OF ABSENCE

On motion of Senator Barrientos, Senator Luna was granted leave of absence for today on account of illness.

CO-AUTHORS OF SENATE BILL 1356

On motion of Senator Barrientos and by unanimous consent, Senators Gallegos and Truan will be shown as Co-authors of **SB 1356**.

**INTRODUCTION OF
BILLS AND RESOLUTIONS POSTPONED**

Senator Truan moved to postpone the introduction of bills and resolutions on first reading until the end of today's session.

The motion prevailed without objection.

**HOUSE CONCURRENT RESOLUTION 115
ON SECOND READING**

On motion of Senator Nelson and by unanimous consent, Senate Rule 5.14(a) and the regular order of business were suspended to take up for consideration at this time on its second reading:

HCR 115, Designating the first Thursday of May 1999 as "A Day of Prayer in Texas."

The resolution was read second time and was adopted by a viva voce vote.

HOUSE BILL 1477 REREFERRED

Senator Harris submitted a Motion In Writing requesting that **HB 1477** be withdrawn from the Committee on Intergovernmental Relations and rereferred to the Committee on Jurisprudence.

The Motion In Writing prevailed without objection.

REPORT OF COMMITTEE ON NOMINATIONS

Senator Wentworth submitted the following report from the Committee on Nominations:

We, your Committee on Nominations, to which were referred the following appointments, have had same under consideration and report them back to the Senate with a recommendation that they be confirmed.

Members, Texas State Board of Public Accountancy: Billy M. Atkinson, Jr., Fort Bend County; Kimberly Dryden, Randall County; April L. Eyeington, Brazos County; Eduardo B. Franco, Dallas County; Robert C. Mann, Tarrant County.

Members, State Board of Dental Examiners: James Kevin Irons, D.M.D., Travis County; Amy Landess Juba, Potter County; Martha Lynn Manley Malik, D.D.S., Victoria County; Kent T. Starr, D.D.S., McLennan County; Nathaniel George Tippit, Jr., D.D.S., Harris County.

Commissioners, Texas Funeral Service Commission: John Q. Taylor King, Ph.D., Travis County; Roy H. Kiser, Hale County; Martha J. Rhymes, Gregg County; Jim C. Wright, Wheeler County.

Directors, Texas Turnpike Authority division of the Texas Department of Transportation Board: Glenn Jarvis, Hidalgo County; Manuel Zuniga, Travis County.

Member, Gulf States Marine Fisheries Commission: L. Don Perkins, Harris County.

Members, Coastal Water Authority Board of Directors: Buster E. French, Liberty County; Darryl L. King, Harris County; Gary R. Nelson, Chambers County.

Members, Brazos River Authority Board of Directors: Joe B. Hinton, McLennan County; Andrew Jackson, Fort Bend County; Celeste L. Kotter, Falls County; Robert Bruce Lane, Bosque County; Steve D. Peña, Williamson County; M. Lance Phillips, Limestone County; Janet Kay Sparks, Johnson County.

Members, Motor Vehicle Board of the Texas Department of Transportation: Patricia Fincher Harless, Harris County; Robena Jackson, Travis County; Kevin D. Pagan, Hidalgo County; Joe Wayne Park, Dallas County; Jimmy C. Payton, Sr., Tarrant County.

Members, Air Conditioning and Refrigeration Contractors Advisory Board: Guy F. Ellyson, Harris County; Cassie L. Hughes, Callahan County; David D. Muñoz, Comal County; Lee Jaye Rosenberg, Bexar County.

NOTICE OF CONSIDERATION OF NOMINATIONS

Senator Wentworth gave notice that he would tomorrow at the conclusion of morning call submit to the Senate for consideration nominations to agencies, boards, and commissions of the state.

SENATE BILL 287 WITH HOUSE AMENDMENTS

Senator Brown called **SB 287** from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the House amendments before the Senate.

Amendment

Amend **SB 287** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED AN ACT

relating to the Texas parks and wildlife capital account.

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

SECTION 1. Section 11.043, Parks and Wildlife Code, is amended to read as follows:

Sec. 11.043. TEXAS PARKS AND WILDLIFE CONSERVATION AND CAPITAL ACCOUNT. (a) The Texas parks and wildlife conservation and capital account is a separate account in the general revenue fund.

(b) The account consists of the amount of credits made to the department under Section 151.801, Tax Code, after allocations to the state parks account and the Texas recreation and parks account, proceeds of revenue bonds issued under Section 13.0045, or any other source authorized by law.

(c) Except as provided by Subsection (d), money in the account may be spent only for acquisition and development, maintenance, or operation of parks, fisheries, and wildlife projects that have been individually approved by the commission. Projects that directly provide hunting, fishing, or outdoor recreation opportunity to the

public shall be given preference for funding under this section. Approved projects may include:

- (1) acquiring land or facilities for use in any department program;
- (2) developing and improving any land or facility owned or controlled by the department;
- (3) servicing the debt on Texas park development bonds issued under Article III, Section 49-e, of the Texas Constitution or any other bonds issued for parks, fisheries, or wildlife projects; ~~and~~
- (4) local park grants in Chapter 24 of this code;
- (5) initiating or participating in partnerships to enhance conservation of historical, cultural, or natural resources;
- (6) operational and maintenance costs in association with any parks, fisheries, wildlife projects, or department law enforcement efforts in support of this code; and
- (7) meeting the requirements for providing matching money for any federal grants for parks, fisheries, or wildlife projects.

(d) The proceeds of bonds issued under Section 13.0045 and deposited to the account may be spent to finance parks and wildlife projects, including the repair, renovation, improvement, and equipping of parks and wildlife facilities.

(e) The comptroller may invest money in the account.

SECTION 2. This Act takes effect September 1, 1999.

SECTION 3. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Floor Amendment No. 1

Amend **CSSB 287** (House Committee Report) in SECTION 1 of the bill, amended Section 11.043(c), Parks and Wildlife Code (page 1, line 18), before the period at the end of the first sentence of that section, by inserting "and of public access roads to a park, fishery, or wildlife project not owned by the state that have been individually approved by the commission".

The amendments were read.

Senator Brown moved that the Senate do not concur in the House amendments, but that a conference committee be appointed to adjust the differences between the two Houses on the bill.

The motion prevailed.

The President asked if there were any motions to instruct the conference committee on **SB 287** before appointment.

There were no motions offered.

The President announced the appointment of the following conferees on the part of the Senate on the bill: Senators Brown, Chair; Lucio, Armbrister, Haywood, and Barrientos.

SENATE RESOLUTION 763

Senator Barrientos offered the following resolution:

WHEREAS, The discipline of clinical nutrition applies principles derived from the sciences of biochemistry and physiology to promote good health and thereby contribute to the urgent, nationwide effort to contain the cost of health care; and

WHEREAS, Clinical nutrition therapy, while recognizing individual biochemical differences and specific nutritional needs, develops an appropriate intervention program using safe and effective food supplements as a cost-effective means of achieving and maintaining the nutritional balance required for mental and physical health; and

WHEREAS, Certified clinical nutritionists and clinical nutrition specialists must hold a baccalaureate degree in nutrition or a related science, and many practitioners also have earned advanced degrees; these health care professionals work both in private settings and in collaboration with other providers to correct nutritional deficiencies and, in doing so, help to avoid the need for more costly medical interventions; and

WHEREAS, The dedication of a special day to focus attention on the many benefits that the science of nutrition brings to individuals, the discipline's importance in the proper training of all health care providers, and the value of expanded public access to clinical nutritionists would contribute greatly to the health and well-being of the citizens of this state; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 76th Legislature, hereby designate May 6, 1999, Clinical Nutrition Day in Texas and encourage all citizens, health care providers, and policymakers to avail themselves of this opportunity to learn more about the positive impact that clinical nutrition can make in the daily lives of all of our state's citizens; and, be it further

RESOLVED, That the Texas State Chapter of the International and American Associations of Clinical Nutritionists and its members be commended for their significant contributions to the well-being of the citizens of this state; and, be it further

RESOLVED, That an official copy of this Resolution be prepared for the Texas State Chapter of the International and American Associations of Clinical Nutritionists as an expression of high regard for the profession of clinical nutrition by the Senate of the State of Texas.

The resolution was again read.

The resolution was previously adopted on Tuesday, April 27, 1999.

GUESTS PRESENTED

Senator Barrientos was recognized and introduced to the Senate Dr. Frank McGehee of Huntsville, President of the Texas State Chapter of the International and American Associations of Clinical Nutritionists, accompanied by a delegation of clinical nutritionists.

The Senate welcomed its guests.

SENATE BILL 494 WITH HOUSE AMENDMENT

Senator Harris called **SB 494** from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.

Floor Amendment No. 1

Amend **SB 494** as follows:

(1) In the instructional language at the beginning of SECTION 14 of the bill, strike "and 443.027" and substitute "443.027, and 443.028" (house committee printing, page 8, line 15).

(2) Insert the following at the end of SECTION 14 of the bill (house committee printing, page 9, between lines 25 and 26):

Sec. 443.028. CHAPEL. The board may establish and maintain a chapel in the Capitol.

The amendment was read.

Senator Harris moved to concur in the House amendment to **SB 494**.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Luna.

SENATE BILL 254 WITH HOUSE AMENDMENT

Senator Madla called **SB 254** from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.

Amendment

Amend **SB 254** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED AN ACT

relating to the authority of the director of the Texas Department of Public Safety to permit the use of triplicate or single prescription forms under the Texas Controlled Substances Act.

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

SECTION 1. Section 481.002(47), Health and Safety Code, is amended to read as follows:

(47) "Official prescription form" means a prescription form that contains the prescription information required by Section 481.075 [~~and to which is affixed a prescription sticker~~].

SECTION 2. Section 481.074(n), Health and Safety Code, is amended to read as follows:

(n) A pharmacist may permit the delivery of a controlled substance to a person not known to the pharmacist, a pharmacist intern, or the authorized delivery person without first requiring the identification of the person to whom the controlled substance is delivered if the pharmacist determines that an emergency exists and that the controlled substance is needed for the immediate well-being of the patient for whom the controlled substance is prescribed. If a pharmacist permits delivery of a controlled substance under this subsection, the pharmacist shall retain in the records of the pharmacy for a period of not less than two years all information relevant to the delivery known to the pharmacist, including the name, address, and date of birth or age

of the person to whom the controlled substance is delivered. [~~The pharmacist shall also retain in the records of the pharmacy for a period of not less than two years the patient identification number of the person to whom the controlled substance is delivered if the person has such a number and that number is required by the prescribing practitioner.~~]

SECTION 3. Sections 481.075(a)-(e), (i), and (k)-(m), Health and Safety Code, are amended to read as follows:

(a) A practitioner who prescribes a controlled substance listed in Schedule II shall, except as provided by rule adopted under Section 481.0761, record the prescription on an official [a] prescription form that includes the information required by this section [~~and affix to the form a prescription sticker issued by the director under this section~~].

(b) Each official prescription form [~~sticker~~] must be sequentially numbered [~~and produced in a manner that makes impossible removal of the sticker from the prescription form to which it is affixed~~].

(c) The director shall issue official prescription forms [~~stickers~~] to practitioners for a fee covering the actual cost of printing, processing, and mailing the forms [~~stickers~~] at 100 [~~stickers~~] a package. Before mailing or otherwise delivering prescription forms [~~stickers~~] to a practitioner, the director shall print on each form [~~sticker~~] the number of the form [~~sticker~~] and any other information the director determines is necessary.

(d) A person may not obtain an official [~~a~~] prescription form [~~sticker~~] unless the person is a practitioner as defined by Section 481.002(39)(A) or an institutional practitioner.

(e) Each official prescription form used to prescribe a Schedule II controlled substance must contain:

(1) information provided by the prescribing practitioner, including:

(A) the date the prescription is written;

(B) the controlled substance prescribed;

(C) the quantity of controlled substance prescribed, shown numerically followed by the number written as a word;

(D) the intended use of the controlled substance or the diagnosis for which it is prescribed and the instructions for use of the substance;

(E) the practitioner's name, address, and Federal Drug Enforcement Administration number; and

(F) the name, address, and date of birth or age [~~—and patient identification number~~] of the person for whom the controlled substance is prescribed;

(2) information provided by the dispensing pharmacist, including the date the prescription is filled; and

(3) the signatures of the prescribing practitioner and the dispensing pharmacist.

(i) Each dispensing pharmacist shall:

(1) fill in on the official prescription form each item of information given orally to the dispensing pharmacy under Subsection (h), the date the prescription is filled, and the dispensing pharmacist's signature;

(2) retain with the records of the pharmacy for at least two years:

(A) the official prescription form; and

(B) the name or other patient identification required by Section 481.074(m) or (n); and

(3) send all information required by the director, including any information required to complete an official prescription form, to the director by electronic transfer~~[- a universal claim form customarily used by pharmaceutical service providers;]~~ or another [other] form approved by the director, including a universal claim form customarily used by pharmaceutical services providers, not later than the 30th day after the date the prescription is filled or not later than the 30th day after the completion of a prescription dispensed under Section 481.074(f).

(k) Not later than the 30th day after the date a practitioner's department registration number, Federal Drug Enforcement Administration number, or license to practice has been denied, suspended, canceled, surrendered, or revoked, the practitioner shall return to the department all official prescription forms [stickers] in the practitioner's possession that have not been used for prescriptions.

(l) Each prescribing practitioner:

(1) may use an official [a] prescription form [sticker] only to prescribe a controlled substance;

(2) shall date or sign an official prescription form only on the date the prescription is issued; and

(3) shall take reasonable precautionary measures to ensure that an official [a] prescription form [sticker] issued to the practitioner is not used by another person to violate this subchapter or a rule adopted under this subchapter.

(m) A pharmacy in this state may fill a prescription for a controlled substance listed in Schedule II issued by a practitioner in another state if:

(1) a ~~[substantial]~~ share of the pharmacy's business involves the dispensing and delivery or mailing of controlled substances;

(2) the prescription is issued by a prescribing practitioner in the other state in the ordinary course of practice; and

(3) the prescription is filled in compliance with a written plan providing the manner in which the pharmacy may fill a Schedule II prescription issued by a practitioner in another state that:

(A) is submitted by the pharmacy to the director; and

(B) is approved by the director in consultation with the Texas State Board of Pharmacy.

SECTION 4. Sections 481.076(g) and (h), Health and Safety Code, are amended to read as follows:

(g) If the director permits access to information under Subsection (a)(3)(A) relating to a person licensed or regulated by an agency listed in Subsection (a)(1), the director shall notify that agency of the disclosure of the information not later than the 10th working day after the date the information is disclosed ~~[unless:~~

~~[(1) the person to whom the information is disclosed requests the director to withhold notification to the agency; and~~

~~[(2) the director determines that notification is reasonably likely to interfere with an administrative or criminal investigation or prosecution].~~

(h) If the director withholds notification to an agency under Subsection (f)~~[(g)]~~, the director shall notify the agency of the disclosure of the information and the reason for withholding notification when the director determines that notification is no longer likely to interfere with an administrative or criminal investigation or prosecution.

SECTION 5. The following Health and Safety Code sections are repealed:

- (1) Sections 481.002(51), (53), (54), and (55);
- (2) Section 481.075(n);
- (3) Section 481.076(j); and
- (4) Section 481.0761(g).

SECTION 6. Section 40, Chapter 745, Acts of the 75th Legislature, Regular Session, 1997, is amended to read as follows:

Sec. 40. The changes in law made by this Act relating to a prescription written under the triplicate prescription program take effect September 1, 1999, except that Section 481.0761, Health and Safety Code, as added by this Act, takes effect September 1, 1997. The director of the Department of Public Safety by rule may permit the use of triplicate or single prescription forms during a period of transition[~~, but not after March 1, 1999~~].

SECTION 7. This Act takes effect September 1, 1999.

SECTION 8. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

The amendment was read.

On motion of Senator Madla, the Senate concurred in the House amendment to **SB 254** by a viva voce vote.

CAPITOL PHYSICIAN

The "Doctor for the Day," Dr. Lee R. Schreiber of Bonham, was introduced to the Senate by Senator Cain.

The Senate expressed appreciation and gratitude to Dr. Schreiber for participating in the "Capitol Physician" program sponsored by the Texas Academy of Family Physicians.

SENATE BILL 691 WITH HOUSE AMENDMENT

Senator Lucio called **SB 691** from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.

Floor Amendment No. 1

Amend **SB 691** by adding the following appropriately numbered SECTION to the bill and by renumbering subsequent SECTIONS of the bill accordingly:

SECTION __. Subchapter D, Chapter 326, Local Government Code, is amended by adding Section 326.072 to read as follows:

Sec. 326.072. GIFTS, GRANTS, AND DONATIONS. A district may accept and administer a gift, grant, or donation from any source to carry out the purposes of this chapter.

The amendment was read.

Senator Lucio moved to concur in the House amendment to **SB 691**.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Luna.

GUESTS PRESENTED

Senator Brown was recognized and introduced to the Senate a group of seventh- and eighth-grade students from Brazosport Christian School in Lake Jackson, accompanied by their teachers and principal.

The Senate welcomed its guests.

CONCLUSION OF MORNING CALL

The President at 10:33 a.m. announced the conclusion of morning call.

SENATE BILL 1823 ON SECOND READING

On motion of Senator Truan and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

SB 1823, Relating to the form of a proposal guaranty for a contract of the Texas Department of Transportation.

The bill was read second time.

Senator Truan offered the following committee amendment to the bill:

Committee Amendment No. 1

Amend **SB 1823** by striking lines 7 through 9 and substituting new language to read as follows:

Sec. 223.014. FORM OF PROPOSAL GUARANTY. If the department by rule requires a proposal guaranty as a condition of bidding for a contract, the rule must allow a bidder to submit a bid guaranty in the form of:

The committee amendment was read and was adopted by a viva voce vote.

Senator Truan offered the following amendment to the bill:

Floor Amendment No. 1

Amend Committee Report for **SB 1823**, page 1, line 26, in Subsection (2), after the word "state" and before the period (.), add the words "and approved by the department" so the full subsection reads:

(2) a bid bond issued by a surety authorized to do business in this state and approved by the department.

(3) The department may accept a bid bond for a project if the department estimates the contract costs to be less than five million dollars.

The amendment was read and was adopted by a viva voce vote.

On motion of Senator Truan and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to engrossment by a viva voce vote.

SENATE BILL 1823 ON THIRD READING

Senator Truan moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 1823** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 1.

Nays: Wentworth.

Absent-excused: Luna.

SB 1823 was read third time and was passed by a viva voce vote.

SENATE BILL 1539 ON THIRD READING

On motion of Senator Gallegos and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its third reading and final passage:

SB 1539, Relating to local control of police officer employment matters by certain municipalities.

The bill was read third time and was passed by a viva voce vote.

RECORD OF VOTES

Senators Fraser, Harris, Jackson, Shapiro, and Sibley asked to be recorded as voting "Nay" on the final passage of the bill.

COMMITTEE SUBSTITUTE SENATE BILL 266 ON THIRD READING

On motion of Senator Armbrister and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its third reading and final passage:

CSSB 266, Relating to participation by private school students in University Interscholastic League sponsored activities.

The bill was read third time and was passed by a viva voce vote.

RECORD OF VOTES

Senators Barrientos, Bernsen, Cain, Duncan, Gallegos, Moncrief, West, and Whitmire asked to be recorded as voting "Nay" on the final passage of the bill.

(Senator Whitmire in Chair)

COMMITTEE SUBSTITUTE HOUSE BILL 713 ON SECOND READING

On motion of Senator Ellis and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

CSHB 713, Relating to student financial aid, including the consolidation or repeal of student aid and grant programs and the creation of grant programs to provide financial assistance to students at institutions of higher education who meet certain academic, citizenship, financial need, and other requirements.

The bill was read second time.

Senator Ratliff offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSHB 713**, adding an appropriately numbered SECTION to read as follows:

"SECTION _____. This Act takes effect only if a specific appropriation for the implementation of this Act is provided in **HB 1** (General Appropriations Act), Acts of the 76th Legislature, Regular Session, 1999. If no specific appropriation is provided in **HB 1**, the General Appropriations Act, this Act has no effect."

The amendment was read and was adopted by a viva voce vote.

On motion of Senator Ellis and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading by a viva voce vote.

**COMMITTEE SUBSTITUTE
HOUSE BILL 713 ON THIRD READING**

Senator Ellis moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 713** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 1.

Nays: Wentworth.

Absent-excused: Luna.

CSHB 713 was read third time and was passed by the following vote: Yeas 30, Nays 0.

Absent-excused: Luna.

**COMMITTEE SUBSTITUTE
SENATE BILL 629 ON SECOND READING**

On motion of Senator Cain and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

CSSB 629, Relating to contract claims against a unit of state government.

The bill was read second time.

Senator Cain offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSSB 629** by striking all below the enacting clause and substituting:
SECTION 1. Subtitle F, Title 10, Government Code, is amended by adding Chapter 2260 to read as follows:

CHAPTER 2260. RESOLUTION OF CERTAIN
CONTRACT CLAIMS AGAINST THE STATE
SUBCHAPTER A. GENERAL PROVISIONS

Sec. 2260.001. DEFINITIONS. In this chapter:

(1) "Contract" means a written contract between a unit of state government and a contractor for:

- (A) goods;
- (B) services; or
- (C) a project as defined by Section 2166.001.

(2) "Contractor" means an independent contractor who has entered into a contract directly with a unit of state government. The term does not include:

- (A) a contractor's subcontractor, officer, employee, agent, or other person furnishing goods or services to a contractor;
- (B) an employee of a unit of state government; or
- (C) a student at an institution of higher education.

(3) "Institution of higher education" has the meaning assigned by Section 61.003, Education Code.

(4) "Unit of state government" means the state or an agency, department, commission, bureau, board, office, council, court, or other entity that is in any branch of state government and that is created by the constitution or a statute of this state, including a university system or institution of higher education. The term does not include a county, municipality, court of a county or municipality, special purpose district, or other political subdivision of this state. The term does not include the Texas Department of Transportation.

Sec. 2260.002. APPLICABILITY. This chapter does not apply to a claim for personal injury or wrongful death arising from the breach of a contract.

Sec. 2260.003. DAMAGES. (a) The total amount of money recoverable on a claim for breach of contract under this chapter may not, after deducting the amount specified in Subsection (b), exceed the balance due and owing on the contract price, including orders for additional work.

(b) Any amount owed the unit of state government for work not performed under a contract or in substantial compliance with its terms shall be deducted from the amount in Subsection (a).

Sec. 2260.004. REQUIRED CONTRACT PROVISION. (a) Each unit of state government that enters into a contract to which this chapter applies shall include as a term of the contract a provision stating that the dispute resolution process used by the unit of state government under this chapter must be used to attempt to resolve a dispute arising under the contract.

(b) The attorney general shall provide assistance to a unit of state government in developing the contract provision required by this section.

Sec. 2260.005. EXCLUSIVE PROCEDURE. The procedures contained in this chapter are exclusive and required prerequisites to suit in accordance with Chapter 107, Civil Practice and Remedies Code.

Sec. 2260.006. SOVEREIGN IMMUNITY. This chapter does not waive sovereign immunity to suit or liability.

[Sections 2260.007-2260.050 reserved for expansion]

SUBCHAPTER B. NEGOTIATION OF CLAIM

Sec. 2260.051. CLAIM FOR BREACH OF CONTRACT; NOTICE. (a) A contractor may make a claim against a unit of state government for breach of a contract between the unit of state government and the contractor. The unit of state government may assert a counterclaim against the contractor.

(b) A contractor must provide written notice to the unit of state government of a claim for breach of contract not later than the 180th day after the date of the event giving rise to the claim.

(c) The notice must state with particularity:

- (1) the nature of the alleged breach;
- (2) the amount the contractor seeks as damages; and
- (3) the legal theory of recovery.

(d) A unit of state government must assert, in a writing delivered to the contractor, any counterclaim not later than the 90th day after the date of notice under Subsection (b). A unit of state government that does not comply with this subsection waives the right to assert the counterclaim.

Sec. 2260.052. NEGOTIATION. (a) The chief administrative officer or, if designated in the contract, another officer of the unit of state government shall examine the claim and any counterclaim and negotiate with the contractor in an effort to resolve them. Except as provided by Subsection (b), the negotiation must begin not later than the 60th day after the later of:

- (1) the date of termination of the contract;
- (2) the completion date in the original contract; or
- (3) the date the claim is received.

(b) A unit of state government against which a claim is filed is entitled to delay the beginning of negotiation until after the 180th day after the date of the event giving rise to the claim.

(c) Each unit of state government with rulemaking authority shall develop rules to govern the negotiation of a claim under this section. If a unit of state government does not have rulemaking authority, that unit shall follow the rules adopted by the attorney general.

Sec. 2260.053. PARTIAL RESOLUTION OF CLAIM. (a) If the negotiation under Section 2260.052 results in the resolution of some disputed issues by agreement or in a settlement, the parties shall reduce the agreement or settlement to writing and each party shall sign the agreement or settlement.

(b) A partial settlement or resolution of a claim does not waive a party's rights under this chapter as to the parts of the claim that are not resolved.

Sec. 2260.054. PAYMENT OF CLAIM FROM APPROPRIATED FUNDS. A unit of state government may pay a claim resolved in accordance with this subchapter only from money appropriated to it for payment of contract claims or for payment of the contract that is the subject of the claim. If money previously appropriated for payment of contract claims or payment of the contract is insufficient to pay the claim or settlement, the balance of the claim may be paid only from money appropriated by the legislature for payment of the claim.

Sec. 2260.055. INCOMPLETE RESOLUTION. If a claim is not entirely resolved under Section 2260.052 on or before the 270th day after the date the claim is filed with the unit of state government, unless the parties agree in writing to an extension of time, the contractor may file a request for a hearing under Subchapter C.

[Sections 2260.056-2260.100 reserved for expansion]

SUBCHAPTER C. CONTESTED CASE HEARING

Sec. 2260.101. DEFINITION. In this subchapter, "office" means the State Office of Administrative Hearings.

Sec. 2260.102. REQUEST FOR HEARING. (a) If a contractor is not satisfied with the results of negotiation with a unit of state government under Section 2260.052, the contractor may file a request for a hearing with the unit of state government.

(b) The request must:

(1) state the factual and legal basis for the claim; and

(2) request that the claim be referred to the State Office of Administrative Hearings for a contested case hearing.

(c) On receipt of a request under Subsection (a), the unit of state government shall refer the claim to the State Office of Administrative Hearings for a contested case hearing under Chapter 2001, Government Code, as to the issues raised in the request.

Sec. 2260.103. HEARING FEE. (a) The chief administrative law judge of the office may set a fee for a hearing before the office under this subchapter.

(b) The chief administrative law judge of the office shall set the fee in an amount that:

(1) is not less than \$250; and

(2) allows the office to recover all or a substantial part of its costs in holding hearings.

(c) The chief administrative law judge of the office by rule may establish a graduated fee scale, increasing the fee in relation to the amount in controversy.

(d) The office may:

(1) assess the fee against the party who does not prevail in the hearing; or

(2) apportion the fee against the parties in an equitable manner.

Sec. 2260.104. HEARING. (a) An administrative law judge of the office shall conduct a hearing in accordance with the procedures adopted by the chief administrative law judge of the office.

(b) Within a reasonable time after the conclusion of the hearing, the administrative law judge shall issue a written decision containing the administrative law judge's findings and recommendations.

(c) The administrative law judge shall base the decision on the pleadings filed with the office and the evidence received.

(d) The decision must include:

(1) the findings of fact and conclusions of law on which the administrative law judge's decision is based; and

(2) a summary of the evidence.

Sec. 2260.105. PAYMENT OF CLAIM. (a) The unit of state government shall pay the amount of the claim or part of the claim if the administrative law judge finds, by a preponderance of the evidence, that under the laws of this state the claim or part of the claim is valid.

(b) A unit of state government shall pay a claim under this subchapter from money appropriated to it for payment of contract claims or for payment of the contract that is the subject of the claim. If money previously appropriated for payment of contract claims or payment of the contract is insufficient to pay the claim, the balance of the claim may be paid only from money appropriated by the legislature for payment of the claim.

Sec. 2260.106. PREJUDGMENT INTEREST. Chapter 304, Finance Code, applies to a judgment awarded to a claimant under this chapter, except that the applicable rate of interest may not exceed six percent.

Sec. 2260.107. EXECUTION ON STATE PROPERTY NOT AUTHORIZED. This chapter does not authorize execution on property owned by the state or a unit of state government.

SECTION 2. This Act takes effect September 1, 1999.

SECTION 3. (a) This Act applies only to a claim pending or arising on or after the effective date of this Act, without regard to whether the contract was entered into before, on, or after that date.

(b) Notwithstanding Section 2260.051(b), Government Code, as added by this Act, a claimant must provide written notice to the unit of state government for a claim pending before the effective date of this Act not later than the 180th day after that date.

SECTION 4. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

The amendment was read and was adopted by a viva voce vote.

On motion of Senator Cain and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to engrossment by a viva voce vote.

COMMITTEE SUBSTITUTE SENATE BILL 629 ON THIRD READING

Senator Cain moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 629** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 1.

Nays: Wentworth.

Absent-excused: Luna.

CSSB 629 was read third time and was passed by a viva voce vote.

GUESTS PRESENTED

Senator Barrientos was recognized and introduced to the Senate Nicholas McKim, Leanna McGrath, Vivian Gonzales, Brian Lopez, and Ashley Muriella, from Fulmore Middle School in Austin, accompanied by their mentors, Ryan Botkin, Desiree Botkin, Rod Johnson, Patricia de la Pena, and Lillian Alaniz, from the Bracewell and Patterson law firm in Austin.

The Senate welcomed its guests.

COMMITTEE SUBSTITUTE SENATE BILL 1591 ON SECOND READING

On motion of Senator Zaffirini and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

CSSB 1591, Relating to implementing national standards for the electronic processing of health care and health payment information.

The bill was read second time and was passed to engrossment by a viva voce vote.

**COMMITTEE SUBSTITUTE
SENATE BILL 1591 ON THIRD READING**

Senator Zaffirini moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 1591** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 1.

Nays: Wentworth.

Absent-excused: Luna.

CSSB 1591 was read third time and was passed by the following vote: Yeas 30, Nays 0.

Absent-excused: Luna.

SENATE BILL 1877 ON SECOND READING

On motion of Senator Ogden and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

SB 1877, Relating to the board of supervisors and the powers of the Brookshire-Katy Drainage District; providing a civil penalty.

The bill was read second time.

Senator Ogden offered the following committee amendment to the bill:

Committee Amendment No. 1

Amend **SB 1877** as follows:

(1) In SECTION 5 of the bill, following Section 6A(a) (Senate Introduced Version, on page 5, between lines 13 and 14), insert a new Subsection (b), to read as follows:

(b) Plans and specifications for drainage facilities or improvements located within the corporate limits of a municipality and also within the District, but outside of District-owned property or facilities, shall only require approval of the municipality.

(2) Reletter subsequent subsections appropriately.

The committee amendment was read and was adopted by a viva voce vote.

Senator Ogden offered the following amendment to the bill:

Floor Amendment No. 1

Amend **SB 1877** (Senate Committee Report) in SECTION 4 of the bill, in amended Section 5, Chapter 203, Acts of the 57th Legislature, Regular Session, 1961, as follows:

(1) On page 2, line 46, between "levied" and the comma, insert "or increased".

(2) On page 2, line 47, between "election" and the period, insert "as provided by Section 49.107, Water Code".

The amendment was read and was adopted by a viva voce vote.

On motion of Senator Ogden and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to engrossment by a viva voce vote.

SENATE BILL 1877 ON THIRD READING

Senator Ogden moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 1877** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 1.

Nays: Wentworth.

Absent-excused: Luna.

SB 1877 was read third time and was passed by the following vote: Yeas 30, Nays 0.

Absent-excused: Luna.

GUESTS PRESENTED

Senator Shapiro, joined by Senator Shapleigh, was recognized and introduced to the Senate a group of students from Frances E. Norton Elementary School in Allen, accompanied by David Kerr, Mayor Pro Tempore of Allen; their teachers, Mrs. Lusby, Mr. Williams, and Mrs. Forndel; and their principal, Dr. Harris.

The Senate welcomed its guests.

**COMMITTEE SUBSTITUTE
SENATE BILL 349 ON SECOND READING**

On motion of Senator Nixon and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

CSSB 349, Relating to allowing certain trailers to travel at the posted speed limit.

The bill was read second time and was passed to engrossment by a viva voce vote.

**COMMITTEE SUBSTITUTE
SENATE BILL 349 ON THIRD READING**

Senator Nixon moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 349** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 1.

Nays: Wentworth.

Absent-excused: Luna.

CSSB 349 was read third time and was passed by a viva voce vote.

**COMMITTEE SUBSTITUTE
SENATE BILL 1511 ON SECOND READING**

On motion of Senator Ogden and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

CSSB 1511, Relating to the creation of a county assistance district in certain counties in which a rapid transit or regional transportation authority is located; authorizing a sales and use tax.

The bill was read second time.

Senator Ogden offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSSB 1511** in SECTION 1 of the bill, proposed Section 384.010, Local Government Code (page 2, lines 53-56, senate committee report), by striking Subsection (c) and substituting the following:

(c) The ballot for an election to change the tax shall be printed to permit voting for or against the proposition: "The change of the sales and use tax for the _____ county assistance district (insert name of district) from the rate of _____ of one percent (insert one-fourth, three-eighths, or one-half, as appropriate) to the rate of _____ of one percent (insert one-fourth, three-eighths, or one-half, as appropriate).

The amendment was read and was adopted by a viva voce vote.

Senator Cain offered the following amendment to the bill:

Floor Amendment No. 2

Amend **CSSB 1511** in SECTION 1 of the bill, proposed Section 384.002, Local Government Code (page 1, line 19, senate committee report), by striking "25,000" and substituting "45,000".

The amendment was read and was adopted by a viva voce vote.

On motion of Senator Ogden and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to engrossment by a viva voce vote.

**COMMITTEE SUBSTITUTE
SENATE BILL 1511 ON THIRD READING**

Senator Ogden moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 1511** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 1.

Nays: Wentworth.

Absent-excused: Luna.

CSSB 1511 was read third time and was passed by the following vote: Yeas 30, Nays 0.

Absent-excused: Luna.

(Senator Brown in Chair)

**COMMITTEE SUBSTITUTE
SENATE BILL 1027 ON SECOND READING**

On motion of Senator Lucio and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

CSSB 1027, Relating to tech-prep education.

The bill was read second time.

Senator Lucio offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSSB 1027** to read as follows:

On page 2, subsection (c), strike all language on lines 10-12, and insert the following new language: "According to the terms of a written agreement between a governing board and the fiscal agent a consortium director shall be selected."

The amendment was read and was adopted by a viva voce vote.

Senator Lucio offered the following amendment to the bill:

Floor Amendment No. 2

Amend **CSSB 1027** to read as follows:

On page 2, subsection (d), lines 18-19, strike language after the word "serves" and before the word "under".

The amendment was read and was adopted by a viva voce vote.

On motion of Senator Lucio and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to engrossment by a viva voce vote.

RECORD OF VOTE

Senator Shapiro asked to be recorded as voting "Nay" on the passage of the bill to engrossment.

**COMMITTEE SUBSTITUTE
SENATE BILL 1027 ON THIRD READING**

Senator Lucio moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 1027** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 2.

Yeas: Armbrister, Barrientos, Bernsen, Bivins, Brown, Cain, Carona, Duncan, Ellis, Fraser, Gallegos, Harris, Haywood, Jackson, Lindsay, Lucio, Madla, Moncrief, Nelson, Nixon, Ogden, Ratliff, Shapleigh, Sibley, Truan, West, Whitmire, Zaffirini.

Nays: Shapiro, Wentworth.

Absent-excused: Luna.

CSSB 1027 was read third time and was passed by a viva voce vote.

RECORD OF VOTE

Senator Shapiro asked to be recorded as voting "Nay" on the final passage of the bill.

**COMMITTEE SUBSTITUTE
SENATE BILL 29 ON SECOND READING**

On motion of Senator Shapiro and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

CSSB 29, Relating to the civil commitment of sexually violent predators; providing a penalty.

The bill was read second time.

Senator Shapiro offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSSB 29** by striking everything below the enacting clause and substituting the following:

SECTION 1. The Health and Safety Code is amended by adding Title 11 to read as follows:

TITLE 11. CIVIL COMMITMENT
OF SEXUALLY VIOLENT PREDATORS
CHAPTER 841. CIVIL COMMITMENT OF SEXUALLY
VIOLENT PREDATORS
SUBCHAPTER A. GENERAL PROVISIONS

Sec. 841.001. LEGISLATIVE FINDINGS. The legislature finds that a small but extremely dangerous group of sexually violent predators exists and that those predators have a behavioral abnormality that is not amenable to traditional mental illness treatment modalities and that makes the predators likely to engage in repeated predatory acts of sexual violence. The legislature finds that the existing involuntary commitment provisions of Subtitle C, Title 7, are inadequate to address the risk of repeated predatory behavior that sexually violent predators pose to society. The legislature further finds that treatment modalities for sexually violent predators are different from the traditional treatment modalities for persons appropriate for involuntary commitment under Subtitle C, Title 7. Thus, the legislature finds that a civil commitment procedure for the long-term supervision and treatment of sexually violent predators is necessary and in the interest of the state.

Sec. 841.002. DEFINITIONS. In this chapter:

(1) "Attorney representing the state" means an attorney employed by the prison prosecution unit to initiate and pursue a civil commitment proceeding under this chapter.

(2) "Behavioral abnormality" means a congenital or acquired condition that, by affecting a person's emotional or volitional capacity, predisposes the person to commit a sexually violent offense, to the extent that the person becomes a menace to the health and safety of another person.

(3) "Case manager" means a person employed by or under contract with the council to perform duties related to outpatient treatment and supervision of a person committed under this chapter.

(4) "Council" means the Interagency Council on Sex Offender Treatment.

(5) "Predatory act" means an act that is committed for the purpose of victimization and that is directed toward:

(A) a stranger;

(B) a person of casual acquaintance with whom no substantial relationship exists; or

(C) a person with whom a relationship has been established or promoted for the purpose of victimization.

(6) "Repeat sexually violent offender" has the meaning assigned by Section 841.003.

(7) "Secure correctional facility" means a county jail or a confinement facility operated by or under contract with any division of the Texas Department of Criminal Justice.

(8) "Sexually violent offense" means:

(A) an offense under Section 21.11(a)(1), 22.011, or 22.021, Penal Code;

(B) an offense under Section 20.04(a)(4), Penal Code, if the defendant committed the offense with the intent to violate or abuse the victim sexually;

(C) an offense under Section 30.02, Penal Code, if the offense is punishable under Subsection (d) of that section and the defendant committed the offense with the intent to commit an offense listed in Paragraph (A) or (B);

(D) an attempt, conspiracy, or solicitation, as defined by Chapter 15, Penal Code, to commit an offense listed in Paragraph (A), (B), or (C);

(E) an offense under prior state law that contains elements substantially similar to the elements of an offense listed in Paragraph (A), (B), (C), or (D); or

(F) an offense under the law of another state, federal law, or the Uniform Code of Military Justice that contains elements substantially similar to the elements of an offense listed in Paragraph (A), (B), (C), or (D).

(9) "Sexually violent predator" has the meaning assigned by Section 841.003.

(10) "Tracking service" means an electronic monitoring service, global positioning satellite service, or other appropriate technological service that is designed to track a person's location.

Sec. 841.003. SEXUALLY VIOLENT PREDATOR. (a) A person is a sexually violent predator for the purposes of this chapter if the person:

(1) is a repeat sexually violent offender; and

(2) suffers from a behavioral abnormality that makes the person likely to engage in a predatory act of sexual violence.

(b) A person is a repeat sexually violent offender for the purposes of this chapter if the person is convicted of more than one sexually violent offense and a sentence is imposed for at least one of the offenses or if:

(1) the person:

(A) is convicted of a sexually violent offense, regardless of whether the sentence for the offense was ever imposed or whether the sentence was probated and the person was subsequently discharged from community supervision;

(B) enters a plea of guilty or nolo contendere for a sexually violent offense in return for a grant of deferred adjudication;

(C) is adjudged not guilty by reason of insanity of a sexually violent offense; or

(D) is adjudicated by a juvenile court as having engaged in delinquent conduct constituting a sexually violent offense and is committed to the Texas Youth Commission under Section 54.04(d)(3) or (m), Family Code; and

(2) after the date on which under Subdivision (1) the person is convicted, receives a grant of deferred adjudication, is adjudged not guilty by reason of insanity, or is adjudicated by a juvenile court as having engaged in delinquent conduct, the person commits a sexually violent offense for which the person:

(A) is convicted, but only if the sentence for the offense is imposed; or

(B) is adjudged not guilty by reason of insanity.

Sec. 841.004. PRISON PROSECUTION UNIT. A special division of the prison prosecution unit, separate from that part of the unit responsible for prosecuting criminal cases, is responsible for initiating and pursuing a civil commitment proceeding under this chapter.

Sec. 841.005. OFFICE OF STATE COUNSEL FOR OFFENDERS. The Office of State Counsel for Offenders shall represent a person subject to a civil commitment proceeding under this chapter.

Sec. 841.006. APPLICATION OF CHAPTER. This chapter does not:

(1) prohibit a person committed under this chapter from filing at any time a petition for release under this chapter; or

(2) create for the committed person a cause of action against another person for failure to give notice within a period required by Subchapter B.

Sec. 841.007. DUTIES OF INTERAGENCY COUNCIL ON SEX OFFENDER TREATMENT. The Interagency Council on Sex Offender Treatment is responsible for providing appropriate and necessary treatment and supervision through the case management system.

[Sections 841.008-841.020 reserved for expansion]

SUBCHAPTER B. NOTICE OF POTENTIAL PREDATOR; INITIAL DETERMINATIONS

Sec. 841.021. NOTICE OF POTENTIAL PREDATOR. (a) Before the person's anticipated release date, the Texas Department of Criminal Justice shall give to the multidisciplinary team established under Section 841.022 written notice of the anticipated release of a person who:

(1) is serving a sentence for a sexually violent offense; and

(2) may be a repeat sexually violent offender.

(b) Before the person's anticipated discharge date, the Texas Department of Mental Health and Mental Retardation shall give to the multidisciplinary team established under Section 841.022 written notice of the anticipated discharge of a person who:

(1) is committed to the department after having been adjudged not guilty by reason of insanity of a sexually violent offense; and

(2) may be a repeat sexually violent offender.

(c) The Texas Department of Criminal Justice or the Texas Department of Mental Health and Mental Retardation, as appropriate, shall give the notice described by Subsection (a) or (b) not later than the first day of the 16th month before the person's anticipated release or discharge date, but under exigent circumstances may give the notice at any time before the anticipated release or discharge date. The notice must contain the following information:

(1) the person's name, identifying factors, anticipated residence after release or discharge, and criminal history;

(2) documentation of the person's institutional adjustment and actual treatment; and

(3) an assessment of the likelihood that the person will commit a sexually violent offense after release or discharge.

Sec. 841.022. MULTIDISCIPLINARY TEAM. (a) The executive director of the Texas Department of Criminal Justice and the commissioner of the Texas Department of Mental Health and Mental Retardation jointly shall establish a multidisciplinary team to review available records of a person referred to the team under Section 841.021. The team must include:

(1) two persons from the Texas Department of Mental Health and Mental Retardation;

(2) three persons from the Texas Department of Criminal Justice, one of whom must be from the victim services office of that department;

(3) one person from the Texas Department of Public Safety; and

(4) one person from the council.

(b) The multidisciplinary team may request the assistance of other persons in making a determination under this section.

(c) Not later than the 30th day after the date the multidisciplinary team receives notice under Section 841.021(a) or (b), the team shall:

(1) determine whether the person is a repeat sexually violent offender and whether the person is likely to commit a sexually violent offense after release or discharge;

(2) give notice of that determination to the Texas Department of Criminal Justice or the Texas Department of Mental Health and Mental Retardation, as appropriate; and

(3) recommend the assessment of the person for a behavioral abnormality, as appropriate.

Sec. 841.023. ASSESSMENT FOR BEHAVIORAL ABNORMALITY. (a) Not later than the 30th day after the date of a recommendation under Section 841.022(c), the Texas Department of Criminal Justice or the Texas Department of Mental Health and Mental Retardation, as appropriate, shall determine whether the person suffers from a behavioral abnormality that makes the person likely to engage in a predatory act of sexual violence. To aid in the determination, the department required to make the determination shall use an expert to examine the person. That department may contract for the expert services required by this subsection. The expert shall make a clinical assessment based on testing for psychopathy, a clinical interview, and other appropriate assessments and techniques to aid in the determination.

(b) If the Texas Department of Criminal Justice or the Texas Department of Mental Health and Mental Retardation determines that the person suffers from a behavioral abnormality, the department making the determination shall give notice of that determination and provide corresponding documentation to the attorney representing the state not later than the 30th day after the date of a recommendation under Section 841.022(c).

[Sections 841.024-841.040 reserved for expansion]

SUBCHAPTER C. PETITION ALLEGING PREDATOR STATUS

Sec. 841.041. PETITION ALLEGING PREDATOR STATUS. (a) If a person is referred to the attorney representing the state under Section 841.023, the attorney may file, in a Montgomery County district court other than a family district court, a petition alleging that the person is a sexually violent predator and stating facts sufficient to support the allegation.

(b) A petition described by Subsection (a) must be filed not later than the 60th day after the date the person is referred to the attorney representing the state.

[Sections 841.042-841.060 reserved for expansion]

SUBCHAPTER D. TRIAL

Sec. 841.061. TRIAL. (a) Not later than the 60th day after the date a petition is filed under Section 841.041, the judge shall conduct a trial to determine whether the person is a sexually violent predator.

(b) The person or the state is entitled to a jury trial on demand. A demand for a jury trial must be filed in writing not later than the 10th day before the date the trial is scheduled to begin.

(c) The person and the state are entitled to an immediate examination of the person by an expert.

(d) Additional rights of the person at the trial include the following:

(1) the right to appear at the trial;

(2) the right to present evidence on the person's behalf;

(3) the right to cross-examine a witness who testifies against the person; and

(4) the right to view and copy all petitions and reports in the court file.

(e) The attorney representing the state may rely on the petition filed under Section 841.041 and supplement the petition with documentary evidence or live testimony.

Sec. 841.062. DETERMINATION OF PREDATOR STATUS. (a) The judge or jury shall determine whether, beyond a reasonable doubt, the person is a sexually violent predator. Either the state or the person is entitled to appeal the determination.

(b) A jury determination that the person is a sexually violent predator must be by unanimous verdict.

Sec. 841.063. CONTINUANCE. The judge may continue a trial conducted under Section 841.061 if the person is not substantially prejudiced by the continuance and:

(1) on the request of either party and a showing of good cause; or

(2) on the judge's own motion in the due administration of justice.

Sec. 841.064. MISTRIAL. A trial following a mistrial must begin not later than the 90th day after the date a mistrial was declared in the previous trial, unless the later trial is continued as provided by Section 841.063.

[Sections 841.065-841.080 reserved for expansion]

SUBCHAPTER E. CIVIL COMMITMENT

Sec. 841.081. CIVIL COMMITMENT OF PREDATOR. If at a trial conducted under Subchapter D the judge or jury determines that the person is a sexually violent predator, the judge shall commit the person for outpatient treatment and supervision to be coordinated by the case manager. The outpatient treatment and supervision must begin on the person's release from a secure correctional facility or discharge from a state hospital and must continue until the person's behavioral abnormality has changed to the extent that the person is no longer likely to engage in a predatory act of sexual violence.

Sec. 841.082. COMMITMENT REQUIREMENTS. (a) Before entering an order directing a person's outpatient civil commitment, the judge shall impose on the person requirements necessary to ensure the person's compliance with treatment and supervision and to protect the community. The requirements shall include:

(1) requiring the person to reside in a particular location;
(2) prohibiting the person's contact with a victim or potential victim of the person;

(3) prohibiting the person's use of alcohol or a controlled substance;
(4) requiring the person's participation in a specific course of treatment;
(5) requiring the person to submit to tracking under a particular type of tracking service and to any other appropriate supervision;

(6) prohibiting the person from changing the person's residence without prior authorization from the judge and from leaving the state without that authorization;

(7) if determined appropriate by the judge, establishing a child safety zone in the same manner as a child safety zone is established by a judge under Section 13B, Article 42.12, Code of Criminal Procedure, and requiring the person to comply with requirements related to the safety zone;

(8) requiring the person to notify the case manager within 48 hours of any change in the person's status that affects proper treatment and supervision, including a change in the person's physical health or job status and including any incarceration of the person; and

(9) any other requirements determined necessary by the judge.

(b) The judge shall provide a copy of the requirements imposed under Subsection (a) to the person and to the council. The council shall provide a copy of those requirements to the case manager and to the service providers.

(c) Immediately after the person's commitment, the judge shall transfer jurisdiction of the case to a district court, other than a family district court, having jurisdiction in the county in which the defendant is residing.

Sec. 841.083. TREATMENT; SUPERVISION. (a) The council shall approve and contract for the provision of a treatment plan for the committed person to be developed by the treatment provider. A treatment plan may include the monitoring of the person with a polygraph or plethysmograph. The treatment provider may receive annual compensation in an amount not to exceed \$6,000 for providing the required treatment.

(b) The case manager shall provide supervision to the person. The provision of supervision shall include tracking services and, if required by court order, supervised housing.

(c) The council shall enter into an interagency agreement with the Department of Public Safety for the provision of tracking services. The Department of Public Safety shall contract with the General Services Commission for the equipment necessary to implement those services.

(d) The council shall contract for any necessary supervised housing. The committed person may not be housed for any period of time in a mental health facility, state school, or community center. In this subsection:

(1) "Community center" means a center established under Subchapter A, Chapter 534.

(2) "Mental health facility" has the meaning assigned by Section 571.003.

(3) "State school" has the meaning assigned by Section 531.002.

(e) The case manager shall:

(1) coordinate the outpatient treatment and supervision required by this chapter, including performing a periodic assessment of the success of that treatment and supervision;

(2) make timely recommendations to the judge on whether to allow the committed person to change residence or to leave the state and on any other appropriate matters; and

(3) provide a report to the council, semiannually or more frequently as necessary, which must include:

(A) any known change in the person's status that affects proper treatment and supervision; and

(B) any recommendations made to the judge.

Sec. 841.084. PROVIDER STATUS REPORTS. A treatment provider or a supervision provider other than the case manager shall submit, monthly or more frequently if required by the case manager, a report to the case manager stating whether the person is complying with treatment or supervision requirements, as applicable.

Sec. 841.085. CRIMINAL PENALTY. A person commits an offense if the person violates a requirement imposed under Section 841.082. An offense under this section is a felony of the third degree.

[Sections 841.086-841.100 reserved for expansion]

SUBCHAPTER F. COMMITMENT REVIEW

Sec. 841.101. BIENNIAL EXAMINATION. (a) A person committed under Section 841.081 shall receive a biennial examination. The council shall contract for an expert to perform the examination.

(b) In preparation for a judicial review conducted under Section 841.102, the case manager shall provide a report of the biennial examination to the judge. The report must include consideration of whether to modify a requirement imposed on the person under this chapter and whether to release the person from all requirements imposed on the person under this chapter. The case manager shall provide a copy of the report to the council.

Sec. 841.102. BIENNIAL REVIEW. (a) The judge shall conduct a biennial review of the status of the committed person.

(b) The person is entitled to be represented by counsel at the biennial review, but the person is not entitled to be present at that review.

(c) The judge shall set a hearing if the judge determines at the biennial review that:

(1) a requirement imposed on the person under this chapter should be modified; or

(2) probable cause exists to believe that the person's behavioral abnormality has changed to the extent that the person is no longer likely to engage in a predatory act of sexual violence.

Sec. 841.103. HEARING. (a) At a hearing set by the judge under Section 841.102, the person and the state are entitled to an immediate examination of the person by an expert.

(b) If the hearing is set under Section 841.102(c)(1), hearsay evidence is admissible if it is considered otherwise reliable by the judge.

(c) If the hearing is set under Section 841.102(c)(2), the committed person is entitled to be present and to have the benefit of all constitutional protections provided to the person at the initial civil commitment proceeding. On the request of the person or the attorney representing the state, the court shall conduct the hearing before a jury. The burden of proof at that hearing is on the state to prove beyond a reasonable doubt that the person's behavioral abnormality has not changed to the extent that the person is no longer likely to engage in a predatory act of sexual violence.

[Sections 841.104-841.120 reserved for expansion]

SUBCHAPTER G. PETITION FOR RELEASE

Sec. 841.121. AUTHORIZED PETITION FOR RELEASE. (a) If the case manager determines that the committed person's behavioral abnormality has changed to the extent that the person is no longer likely to engage in a predatory act of sexual violence, the case manager shall authorize the person to petition the court for release.

(b) The petitioner shall serve a petition under this section on the court and the attorney representing the state.

(c) The judge shall set a hearing on a petition under this section not later than the 30th day after the date the judge receives the petition. The petitioner and the state are entitled to an immediate examination of the petitioner by an expert.

(d) On request of the petitioner or the attorney representing the state, the court shall conduct the hearing before a jury.

(e) The burden of proof at the hearing is on the state to prove beyond a reasonable doubt that the petitioner's behavioral abnormality has not changed to the extent that the petitioner is no longer likely to engage in a predatory act of sexual violence.

Sec. 841.122. RIGHT TO FILE UNAUTHORIZED PETITION FOR RELEASE. On a person's commitment and annually after that commitment, the case manager shall provide the person with written notice of the person's right to file with the court and without the case manager's authorization a petition for release.

Sec. 841.123. REVIEW OF UNAUTHORIZED PETITION FOR RELEASE. (a) If the committed person files a petition for release without the case manager's authorization, the person shall serve the petition on the court and the attorney representing the state.

(b) On receipt of a petition for release filed by the committed person without the case manager's authorization, the judge shall attempt as soon as practicable to review the petition.

(c) Except as provided by Subsection (d), the judge shall deny without a hearing a petition for release filed without the case manager's authorization if the petition is frivolous or if:

(1) the petitioner previously filed without the case manager's authorization another petition for release; and

(2) the judge determined on review of the previous petition or following a hearing that:

(A) the petition was frivolous; or

(B) the petitioner's behavioral abnormality had not changed to the extent that the petitioner was no longer likely to engage in a predatory act of sexual violence.

(d) The judge is not required to deny a petition under Subsection (c) if probable cause exists to believe that the petitioner's behavioral abnormality has changed to the extent that the petitioner is no longer likely to engage in a predatory act of sexual violence.

Sec. 841.124. HEARING ON UNAUTHORIZED PETITION FOR RELEASE.

(a) If as authorized by Section 841.123 the judge does not deny a petition for release filed by the committed person without the case manager's authorization, the judge shall conduct as soon as practicable a hearing on the petition.

(b) The petitioner and the state are entitled to an immediate examination of the person by an expert.

(c) On request of the petitioner or the attorney representing the state, the court shall conduct the hearing before a jury.

(d) The burden of proof at the hearing is on the state to prove beyond a reasonable doubt that the petitioner's behavioral abnormality has not changed to the extent that the petitioner is no longer likely to engage in a predatory act of sexual violence.

[Sections 841.125-841.140 reserved for expansion]

SUBCHAPTER H. MISCELLANEOUS PROVISIONS

Sec. 841.141. RULEMAKING AUTHORITY. (a) The council by rule shall administer this chapter. Rules adopted by the council under this section must be consistent with the purposes of this chapter.

(b) The council by rule shall develop standards of care and case management for persons committed under this chapter.

Sec. 841.142. RELEASE OR EXCHANGE OF INFORMATION. (a) To protect the public and to enable a determination relating to whether a person is a sexually violent predator, any entity that possesses relevant information relating to the person shall release the information to an entity charged with making a determination under this chapter.

(b) To protect the public and to enable the provision of supervision and treatment to a person who is a sexually violent predator, any entity that possesses relevant information relating to the person shall release the information to the case manager.

(c) On the written request of any attorney for another state or a political subdivision in another state, the Texas Department of Criminal Justice, the council, a service provider contracting with one of those agencies, the multidisciplinary team, and the attorney representing the state shall release to the attorney any available information relating to a person that is sought in connection with an attempt to civilly commit the person as a sexually violent predator in another state.

(d) To protect the public and to enable a determination relating to whether a person is a sexually violent predator or to enable the provision of supervision and treatment to a person who is a sexually violent predator, the Texas Department of Criminal Justice, the council, a service provider contracting with one of those agencies, the multidisciplinary team, and the attorney representing the state may exchange any available information relating to the person.

(e) Information subject to release or exchange under this section includes information relating to the supervision, treatment, criminal history, or physical or mental health of the person, as appropriate, regardless of whether the information is otherwise confidential and regardless of when the information was created or collected. The person's consent is not required for release or exchange of information under this section.

Sec. 841.143. REPORT, RECORD, OR STATEMENT SUBMITTED TO COURT. (a) A psychological report, drug and alcohol report, treatment record, diagnostic report, medical record, or victim impact statement submitted to the court under this chapter is part of the record of the court.

(b) Notwithstanding Subsection (a), the report, record, or statement must be sealed and may be opened only:

- (1) on order of the judge;
- (2) as provided by this chapter; or
- (3) in connection with a criminal proceeding as otherwise provided by law.

Sec. 841.144. COUNSEL. (a) At all stages of the civil commitment proceedings under this chapter, a person subject to a proceeding is entitled to the assistance of counsel.

(b) If the person is indigent, the court shall appoint counsel through the Office of State Counsel for Offenders to assist the person.

Sec. 841.145. EXPERT. (a) A person who is examined under this chapter may retain an expert to perform an examination or participate in a civil commitment proceeding on the person's behalf.

(b) On the request of an indigent person examined under this chapter, the judge shall determine whether expert services for the person are necessary. If the judge determines that the services are necessary, the judge shall appoint an expert to perform an examination or participate in a civil commitment proceeding on the person's behalf.

(c) The court shall approve reasonable compensation for expert services rendered on behalf of an indigent person on the filing of a certified compensation claim supported by a written statement specifying:

- (1) time expended on behalf of the person;
- (2) services rendered on behalf of the person;
- (3) expenses incurred on behalf of the person; and
- (4) compensation received in the same case or for the same services from any other source.

(d) The court shall ensure that an expert retained or appointed under this section has for purposes of examination reasonable access to a person examined under this chapter, as well as to all relevant medical and psychological records and reports.

Sec. 841.146. CIVIL COMMITMENT PROCEEDING; PROCEDURE AND COSTS. (a) On request, a person subject to a civil commitment proceeding under this chapter and the attorney representing the state are entitled to a jury trial or a hearing before a jury for that proceeding, except for a proceeding set by the judge under Section 841.102(c)(1). The number and selection of jurors are governed by Chapter 33, Code of Criminal Procedure.

(b) A civil commitment proceeding is subject to the rules of procedure and appeal for civil cases.

(c) In an amount not to exceed \$1,600, the state shall pay the costs of a civil commitment proceeding conducted under Subchapter D. For any civil commitment proceeding conducted under this chapter, the state shall pay the costs of state or appointed counsel or experts and the costs of the person's outpatient treatment and supervision.

Sec. 841.147. IMMUNITY. The following persons are immune from liability for good faith conduct under this chapter:

- (1) an employee or officer of the Texas Department of Criminal Justice, the Texas Department of Mental Health and Mental Retardation, or the council;
- (2) a member of the multidisciplinary team established under Section 841.022;
- (3) the attorney representing the state; and

(4) a person contracting, appointed, or volunteering to perform a service under this chapter.

SECTION 2. Sections 51.13(a) and (b), Family Code, are amended to read as follows:

(a) Except as provided by Subsection (d), an order of adjudication or disposition in a proceeding under this title is not a conviction of crime. Except as provided by Chapter 841, Health and Safety Code, an order of adjudication or disposition ~~[-and]~~ does not impose any civil disability ordinarily resulting from a conviction or operate to disqualify the child in any civil service application or appointment.

(b) The adjudication or disposition of a child or evidence adduced in a hearing under this title may be used only in subsequent:

- (1) proceedings under this title in which the child is a party;
- (2) ~~[or in subsequent]~~ sentencing proceedings in criminal court against the child to the extent permitted by the Texas Code of Criminal Procedure, 1965; or
- (3) civil commitment proceedings under Chapter 841, Health and Safety Code.

SECTION 3. Section 61.066, Human Resources Code, is amended to read as follows:

Sec. 61.066. COMMITMENT RECORDS. A commitment to the commission may not be received in evidence or used in any way in any proceedings in any court except in:

- (1) subsequent proceedings under Title 3[;] of the Family Code against the same child;
- (2) ~~[-and except in]~~ imposing sentence in any criminal proceedings against the same person; or
- (3) subsequent civil commitment proceedings under Chapter 841, Health and Safety Code, regarding the same person.

SECTION 4. Title 11, Health and Safety Code, as added by this Act, applies only to an individual who on or after January 1, 2000, is serving a sentence in the Texas Department of Criminal Justice or is committed to the Texas Department of Mental Health and Mental Retardation for an offense committed before, on, or after the effective date of this Act.

SECTION 5. This Act takes effect September 1, 1999.

SECTION 6. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

The amendment was read and was adopted by a viva voce vote.

Senator Ratliff offered the following amendment to the bill:

Floor Amendment No. 2

Amend **CSSB 29**, adding an appropriately numbered SECTION to read as follows:

"SECTION _____. This Act takes effect only if a specific appropriation for the implementation of this Act is provided in **HB 1** (General Appropriations Act), Acts of the 76th Legislature, Regular Session, 1999. If no specific appropriation is provided in **HB 1**, the General Appropriations Act, this Act has no effect."

The amendment was read and was adopted by a viva voce vote.

Senator Shapleigh offered the following amendment to the bill:

Floor Amendment No. 3

Amend Floor Amendment No. 1 to **CSSB 29** as follows:

In SECTION 1 of the Amendment, amend proposed Section 841.123(d) by deleting the words "is not required to" (FLOOR AMENDMENT, page 15, line 11) and replacing them with the words "may not".

The amendment was read and was adopted by a viva voce vote.

On motion of Senator Shapiro and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to engrossment by a viva voce vote.

**COMMITTEE SUBSTITUTE
SENATE BILL 29 ON THIRD READING**

Senator Shapiro moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 29** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 1.

Nays: Wentworth.

Absent-excused: Luna.

CSSB 29 was read third time and was passed by a viva voce vote.

GUESTS PRESENTED

Senator Nixon was recognized and introduced to the Senate family members of James Byrd, Jr., of Jasper: Renee Mullins, his daughter, and Darrell Verrett, his nephew.

The Senate welcomed its guests and extended its condolences.

(President in Chair)

**COMMITTEE SUBSTITUTE
SENATE BILL 1224 ON SECOND READING**

On motion of Senator Shapiro and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

CSSB 1224, Relating to sex offender registration and to provisions of the sex offender registration law for which a person who is in noncompliance commits a criminal offense.

The bill was read second time.

Senator Shapiro offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSSB 1224** by adding an appropriately numbered SECTION to read as follows and by renumbering existing SECTIONS accordingly:

SECTION __. Chapter 62, Code of Criminal Procedure, as added by Chapter 668, Acts of the 75th Legislature, Regular Session, 1997, is amended by adding Article 62.062 to read as follows:

Art. 62.062. REGISTRATION OF PERSONS REGULARLY VISITING LOCATION. (a) A person subject to this chapter who on at least three occasions during any month spends more than 48 consecutive hours in a municipality or county in this state, other than the municipality or county in which the person is registered under this chapter, before the last day of that month shall report that fact to:

(1) the local law enforcement authority of the municipality in which the person is a visitor; or

(2) if the person is a visitor in a location that is not a municipality, the local law enforcement authority of the county in which the person is a visitor.

(b) A person described by Subsection (a) shall provide the local law enforcement authority with:

(1) all information the person is required to provide under Article 62.02(b);

(2) the address of any location in the municipality or county, as appropriate, at which the person was lodged during the month; and

(3) a statement as to whether the person intends to return to the municipality or county during the succeeding month.

(c) This article does not impose on a local law enforcement authority requirements of public notification or notification to schools relating to a person about whom the authority is not otherwise required by this chapter to make notifications.

The amendment was read and was adopted by a viva voce vote.

Senator Shapiro offered the following amendment to the bill:

Floor Amendment No. 2

Amend **CSSB 1224** (Senate Committee Printing) by adding appropriately numbered SECTIONS to read as follows and renumbering existing SECTIONS accordingly:

SECTION _____. (a) Chapter 62, Code of Criminal Procedure, as amended by Chapter 668, Acts of the 75th Legislature, Regular Session, 1997, is amended by adding Article 62.0451 to read as follows:

Art. 62.0451. ADDITIONAL PUBLIC NOTICE FOR INDIVIDUALS SUBJECT TO CIVIL COMMITMENT. (a) On receipt of notice under this chapter that a person subject to registration who is civilly committed as a sexually violent predator is due to be released from a penal institution or intends to move to a new residence in this state, the department shall, not later than the seventh day after the date on which the person is released or the 10th day after the date on which the person moves, provide written notice mailed or delivered to at least each residential address within a one-mile radius, in an area that has not been subdivided, or a three-block area, in an area that has been subdivided, of the place where the person intends to reside.

(b) The department shall include in the notice any information that is public information under this chapter. The department may not include any information that is not public information under this chapter.

(c) The department shall establish procedures for a person with respect to whom notice is provided under this article to pay to the department all costs incurred by the department in providing the notice. The person shall pay those costs in accordance with the procedures established under this subsection.

(d) The department's duty to provide notice under this article in regard to a particular person ends on the date on which a court releases the person from all requirements of the civil commitment process.

(b) Chapter 62, Code of Criminal Procedure, as amended by Chapter 668, Acts of the 75th Legislature, Regular Session, 1997, is amended by adding Article 62.061 to read as follows:

Art. 62.061. VERIFICATION OF INDIVIDUALS SUBJECT TO COMMITMENT. (a) Notwithstanding Article 62.06, if an individual subject to registration under this chapter is civilly committed as a sexually violent predator, the person shall report to the local law enforcement authority with whom the person is required to register not less than once in each 30-day period following the date the person first registered under this chapter to verify the information in the registration form maintained by the authority for that person. For purposes of this subsection, a person complies with a requirement that the person register within a 30-day period following a date if the person registers at any time on or after the 27th day following that date but before the 33rd day after that date.

(b) On the date that a court releases a person described by Subsection (a) from all requirements of the civil commitment process:

(1) the person's duty to verify registration as a sex offender is no longer imposed by this article; and

(2) the person is required to verify registration as provided by Article 62.06.

(c) Chapter 62, Code of Criminal Procedure, as amended by Chapter 668, Acts of the 75th Legislature, Regular Session, 1997, is amended by adding Article 62.101 to read as follows:

Art. 62.101. FAILURE TO COMPLY: INDIVIDUALS SUBJECT TO COMMITMENT. (a) A person commits an offense if the person, after commitment as a sexually violent predator but before the person is released from all requirements of the civil commitment process, fails to comply with any requirement of this chapter.

(b) An offense under this section is a felony of the second degree.

(d) Articles 62.0451, 62.061, and 62.101, Code of Criminal Procedure, as added by this section, take effect on January 1, 2000, but only if an Act of the 76th Legislature, Regular Session, 1999, establishing a process for the civil commitment of sex offenders becomes law before that date. If an Act of the 76th Legislature, Regular Session, 1999, relating to establishing a process for the civil commitment of sex offenders does not become law before January 1, 2000, Articles 62.061 and 62.101, as added by this section, have no effect.

SECTION __. Subsections (b) and (c), Article 62.10, Code of Criminal Procedure, are amended to read as follows:

(b) An offense under this article is:

(1) a state jail felony if the actor is a person whose duty to register expires under Article 62.12(b);

(2) a felony of the third degree if the actor is a person whose duty to register expires under Article 62.12(a) and who is required to verify registration once each year under Article 62.06; and

(3) a felony of the second degree if the actor is a person whose duty to register expires under Article 62.12(a) and who is required to verify registration once each 90-day period under Article 62.06.

(c) If it is shown at the trial of a person for an offense under this article that the person has previously been convicted of an offense under this article, the punishment for the offense is increased to the punishment for the next highest degree of felony [~~person shall be punished for a felony of the third degree~~].

The amendment was read and was adopted by a viva voce vote.

On motion of Senator Shapiro and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to engrossment by a viva voce vote.

**COMMITTEE SUBSTITUTE
SENATE BILL 1224 ON THIRD READING**

Senator Shapiro moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 1224** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 1.

Nays: Wentworth.

Absent-excused: Luna.

CSSB 1224 was read third time and was passed by a viva voce vote.

**COMMITTEE SUBSTITUTE
SENATE BILL 1356 ON SECOND READING**

On motion of Senator Barrientos and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

CSSB 1356, Relating to providing certain students with an equal opportunity to enroll in or receive a competitive scholarship for a graduate or professional degree program.

The bill was read second time and was passed to engrossment by a viva voce vote.

**COMMITTEE SUBSTITUTE
SENATE BILL 1356 ON THIRD READING**

Senator Barrientos moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 1356** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 1.

Nays: Wentworth.

Absent-excused: Luna.

CSSB 1356 was read third time and was passed by the following vote: Yeas 30, Nays 0.

Absent-excused: Luna.

**COMMITTEE SUBSTITUTE
SENATE BILL 1380 ON SECOND READING**

On motion of Senator Shapleigh and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

CSSB 1380, Relating to review of criminal history record information of certified public school educators, persons admitted to educator preparation programs, and persons seeking educator certification and to designation of State Board for Educator Certification investigators as peace officers.

The bill was read second time.

Senator Ratliff offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSSB 1380**, adding an appropriately numbered SECTION to read as follows:

"SECTION _____. This Act takes effect only if a specific appropriation for the implementation of this Act is provided in **HB 1** (General Appropriations Act), Acts of the 76th Legislature, Regular Session, 1999. If no specific appropriation is provided in **HB 1**, the General Appropriations Act, this Act has no effect."

The amendment was read and was adopted by a viva voce vote.

On motion of Senator Shapleigh and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to engrossment by a viva voce vote.

**COMMITTEE SUBSTITUTE
SENATE BILL 1380 ON THIRD READING**

Senator Shapleigh moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 1380** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 1.

Nays: Wentworth.

Absent-excused: Luna.

CSSB 1380 was read third time and was passed by a viva voce vote.

**COMMITTEE SUBSTITUTE
SENATE BILL 791 ON SECOND READING**

On motion of Senator Nixon and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

CSSB 791, Relating to specific information logo signs in certain counties.

The bill was read second time and was passed to engrossment by a viva voce vote.

RECORD OF VOTES

Senators Bivins and Nelson asked to be recorded as voting "Nay" on the passage of the bill to engrossment.

**COMMITTEE SUBSTITUTE
SENATE BILL 791 ON THIRD READING**

Senator Nixon moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 791** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 27, Nays 3.

Yeas: Armbrister, Barrientos, Bernsen, Brown, Cain, Carona, Duncan, Ellis, Fraser, Gallegos, Harris, Haywood, Jackson, Lindsay, Lucio, Madla, Moncrief, Nixon, Ogden, Ratliff, Shapiro, Shapleigh, Sibley, Truan, West, Whitmire, Zaffirini.

Nays: Bivins, Nelson, Wentworth.

Absent-excused: Luna.

CSSB 791 was read third time and was passed by the following vote: Yeas 28, Nays 2.

Yeas: Armbrister, Barrientos, Bernsen, Brown, Cain, Carona, Duncan, Ellis, Fraser, Gallegos, Harris, Haywood, Jackson, Lindsay, Lucio, Madla, Moncrief, Nixon, Ogden, Ratliff, Shapiro, Shapleigh, Sibley, Truan, Wentworth, West, Whitmire, Zaffirini.

Nays: Bivins, Nelson.

Absent-excused: Luna.

GUESTS PRESENTED

Senator Zaffirini was recognized and introduced to the Senate a group of seventh- and eighth-grade students from Los Obispos Middle School in Laredo, accompanied by their teacher, Nora Van Dyke.

The Senate welcomed its guests.

HOUSE BILL 2719 ON SECOND READING

On motion of Senator Lucio and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

HB 2719, Relating to the promotion of Texas agricultural products; providing a penalty.

The bill was read second time.

Senator Ratliff offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 2719**, adding an appropriately numbered SECTION to read as follows:

"SECTION _____. This Act takes effect only if a specific appropriation for the implementation of this Act is provided in **HB 1** (General Appropriations Act), Acts of the 76th Legislature, Regular Session, 1999. If no specific appropriation is provided in **HB 1**, the General Appropriations Act, this Act has no effect."

The amendment was read and was adopted by a viva voce vote.

On motion of Senator Lucio and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading by a viva voce vote.

HOUSE BILL 2719 ON THIRD READING

Senator Lucio moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2719** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 1.

Nays: Wentworth.

Absent-excused: Luna.

HB 2719 was read third time and was passed by a viva voce vote.

NOTICE GIVEN FOR LOCAL AND UNCONTESTED CALENDAR

Senator Harris announced that a Local and Uncontested Calendar had been furnished to each Member of the Senate. He then gave notice that the Local and Uncontested Calendar Session would be held at 10:30 a.m. Monday, May 10, 1999, and that all bills and resolutions would be considered on second and third reading in the order in which they were listed.

(Senator Sibley in Chair)

SENATE RULE 11.18 SUSPENDED (Posting Rule)

On motion of Senator Shapiro and by unanimous consent, Senate Rule 11.18 was suspended in order that the Committee on State Affairs might consider the following bills today: **SB 564, HB 1865.**

SENATE RULE 11.18 SUSPENDED (Posting Rule)

On motion of Senator Madla and by unanimous consent, Senate Rule 11.18 was suspended in order that the Committee on Intergovernmental Relations might consider the following bills today: **SB 429, HB 2235.**

BILLS AND RESOLUTIONS SIGNED

The Presiding Officer announced the signing of the following enrolled bills and resolutions in the presence of the Senate after the captions had been read:

HB 1189, HB 1488, HCR 180, HCR 184, HCR 186, HCR 187, HCR 189, HCR 190, HCR 191, HCR 193, HCR 195, HCR 196, HCR 197, HCR 198, HCR 199, HCR 200, HCR 201, HCR 202, HCR 247, HCR 250, HCR 251.

MOTION TO ADJOURN

On motion of Senator Truan and by unanimous consent, the Senate at 12:13 p.m. agreed to adjourn, upon completion of the introduction of bills and resolutions on first reading, until 9:00 a.m. tomorrow.

(Senator Jackson in Chair)

SENATE RESOLUTION ON FIRST READING

The following resolution was introduced, read first time, and referred to the committee indicated:

SCR 76 by Bivins

Requesting the postmaster general and the members of the Citizens' Stamp Advisory Committee to issue a commemorative U.S. postage stamp honoring the work against child abuse.

To Committee on Administration.

HOUSE BILLS ON FIRST READING

The following bills received from the House were read first time and referred to the committees indicated:

- HB 245** to Committee on Criminal Justice.
- HB 323** to Committee on Intergovernmental Relations.
- HB 494** to Committee on Human Services.
- HB 524** to Committee on Jurisprudence.
- HB 550** to Committee on Finance.
- HB 635** to Committee on Criminal Justice.
- HB 707** to Committee on State Affairs.
- HB 770** to Committee on Intergovernmental Relations.
- HB 772** to Committee on Education.
- HB 779** to Committee on Criminal Justice.
- HB 780** to Committee on Intergovernmental Relations.
- HB 811** to Committee on Health Services.
- HB 865** to Committee on Jurisprudence.
- HB 998** to Committee on Criminal Justice.
- HB 1068** to Committee on State Affairs.
- HB 1097** to Committee on Economic Development.
- HB 1100** to Committee on Criminal Justice.
- HB 1103** to Committee on State Affairs.
- HB 1167** to Committee on Jurisprudence.
- HB 1187** to Committee on Natural Resources.
- HB 1227** to Subcommittee on Infrastructure.
- HB 1260** to Committee on Natural Resources.
- HB 1328** to Committee on State Affairs.
- HB 1409** to Committee on Education.
- HB 1418** to Committee on Education.
- HB 1436** to Subcommittee on Infrastructure.
- HB 1571** to Committee on Administration.
- HB 1573** to Committee on Natural Resources.
- HB 1616** to Subcommittee on Infrastructure.
- HB 1663** to Committee on Jurisprudence.
- HB 1702** to Committee on State Affairs.
- HB 1757** to Committee on State Affairs.
- HB 1851** to Committee on Jurisprudence.
- HB 1874** to Committee on Education.
- HB 1884** to Committee on Jurisprudence.
- HB 1896** to Committee on Criminal Justice.

HB 1912 to Committee on State Affairs.
HB 1916 to Committee on Economic Development.
HB 1921 to Committee on Jurisprudence.
HB 1932 to Subcommittee on Higher Education.
HB 1947 to Committee on Natural Resources.
HB 1956 to Committee on Intergovernmental Relations.
HB 1999 to Committee on Criminal Justice.
HB 2031 to Committee on State Affairs.
HB 2037 to Committee on Health Services.
HB 2049 to Committee on Economic Development.
HB 2105 to Committee on State Affairs.
HB 2146 to Committee on Finance.
HB 2149 to Subcommittee on Infrastructure.
HB 2175 to Committee on Health Services.
HB 2187 to Committee on Criminal Justice.
HB 2207 to Committee on State Affairs.
HB 2224 to Committee on State Affairs.
HB 2246 to Committee on Jurisprudence.
HB 2255 to Committee on Administration.
HB 2260 to Committee on Education.
HB 2275 to Committee on Natural Resources.
HB 2382 to Committee on Health Services.
HB 2401 to Committee on Education.
HB 2409 to Committee on State Affairs.
HB 2424 to Committee on Economic Development.
HB 2441 to Committee on Jurisprudence.
HB 2476 to Subcommittee on Infrastructure.
HB 2526 to Committee on Natural Resources.
HB 2536 to Committee on Intergovernmental Relations.
HB 2553 to Committee on Education.
HB 2563 to Committee on Human Services.
HB 2581 to Subcommittee on Technology and Business Growth.
HB 2611 to Committee on State Affairs.
HB 2619 to Committee on Natural Resources.
HB 2636 to Committee on Health Services.
HB 2660 to Committee on Natural Resources.
HB 2667 to Committee on Health Services.
HB 2685 to Committee on Education.
HB 2717 to Committee on Economic Development.
HB 2725 to Committee on State Affairs.
HB 2735 to Committee on Natural Resources.
HB 2758 to Committee on Administration.
HB 2760 to Subcommittee on Infrastructure.
HB 2764 to Committee on Intergovernmental Relations.
HB 2785 to Committee on Intergovernmental Relations.
HB 2842 to Committee on Economic Development.
HB 2862 to Committee on State Affairs.
HB 2877 to Committee on State Affairs.
HB 2898 to Committee on Intergovernmental Relations.
HB 2914 to Committee on Health Services.
HB 2922 to Committee on State Affairs.

HB 2947 to Committee on Jurisprudence.
HB 2956 to Committee on Natural Resources.
HB 2960 to Committee on Natural Resources.
HB 2992 to Committee on Education.
HB 3014 to Subcommittee on Infrastructure.
HB 3029 to Committee on Economic Development.
HB 3041 to Committee on Economic Development.
HB 3061 to Subcommittee on Infrastructure.
HB 3138 to Committee on Education.
HB 3158 to Committee on Education.
HB 3159 to Committee on Finance.
HB 3209 to Committee on Criminal Justice.
HB 3224 to Committee on State Affairs.
HB 3249 to Committee on Criminal Justice.
HB 3265 to Committee on Administration.
HB 3276 to Committee on Jurisprudence.
HB 3285 to Committee on Health Services.
HB 3418 to Committee on Administration.
HB 3421 to Committee on Finance.
HB 3445 to Committee on Economic Development.
HB 3456 to Committee on Criminal Justice.
HB 3460 to Committee on Natural Resources.
HB 3492 to Committee on Criminal Justice.
HB 3539 to Committee on Criminal Justice.
HB 3547 to Committee on Economic Development.
HB 3598 to Committee on Criminal Justice.
HB 3620 to Committee on Natural Resources.
HB 3624 to Committee on Economic Development.
HB 3635 to Committee on Intergovernmental Relations.
HB 3682 to Committee on State Affairs.
HB 3685 to Committee on State Affairs.
HB 3694 to Committee on Administration.
HB 3740 to Committee on Human Services.
HB 3741 to Committee on Human Services.
HB 3757 to Committee on State Affairs.
HB 3776 to Committee on Finance.
HB 3798 to Committee on Natural Resources.
HB 3812 to Committee on Natural Resources.
HB 3814 to Committee on Natural Resources.
HB 3817 to Committee on Natural Resources.
HB 3818 to Committee on Natural Resources.
HB 3823 to Committee on Natural Resources.

MEMORIAL RESOLUTIONS

SR 867 - by Ellis: In memory of Clarence Joseph Jupiter of New Orleans, Louisiana.

SR 876 - by Cain: In memory of the life of Bill Eugene Smelley of Quinlan.

SR 877 - by Cain: In memory of the life of Tom Ellis White of Wolfe City.

SR 878 - by Cain: In memory of the life of John L. Southall of Greenville.

SR 879 - by Cain: In memory of the life of Richard Emmett Shipp of Hunt County.

WELCOME AND CONGRATULATORY RESOLUTIONS

SCR 77 - by Ratliff: Congratulating Paris Junior College on the occasion of its 75th anniversary.

SR 859 - by Shapiro: Congratulating Alma and Bud Duncan of Plano.

SR 860 - by Barrientos: Welcoming the members of the Esparza family to San Antonio.

SR 861 - by Ellis: Congratulating Adam Funk of Houston.

SR 862 - by Ellis: Congratulating Daniel Epstein of Houston.

SR 863 - by Ellis: Congratulating Leo Nay IV of Houston.

SR 864 - by Ellis: Congratulating Michael Turner of Houston.

SR 865 - by Ellis: Congratulating Brett Biggart.

SR 866 - by Ellis: Congratulating Brian Freilich.

SR 868 - by Ellis: Congratulating Robert Terrell White of Austin.

SR 869 - by Ellis: Congratulating Rosemary Garza.

SR 870 - by Ellis: Congratulating Dawn Garrison.

SR 871 - by Ellis: Congratulating Alex Ibanez.

SR 872 - by Ellis: Congratulating Shelley Davis.

SR 873 - by Ellis: Congratulating Monica Epps.

SR 874 - by Cain: Congratulating Lillie Kimble of Brownwood.

SR 875 - by Cain: Congratulating Ethel Warren Calloway of Tyler.

SR 880 - by Ratliff: Congratulating Matt Rolston.

SR 881 - by Ratliff: Congratulating Adam Crump.

SR 882 - by Ratliff: Congratulating Roddy Simpson.

SR 883 - by Ratliff: Congratulating Will Means.

MISCELLANEOUS RESOLUTION

SR 887 - by Truan: Recognizing the Corpus Christi Senior Orchestra as Goodwill Ambassadors of Texas.

ADJOURNMENT

Pursuant to a previously adopted motion, the Senate at 12:22 p.m. adjourned until 9:00 a.m. tomorrow.

APPENDIX

COMMITTEE REPORTS

The following committee reports were received by the Senate:

May 6, 1999

HUMAN SERVICES — HB 330, HB 985, HB 1145, HB 1237, HB 1715, HB 2866, HB 3778

HEALTH SERVICES — HB 1491

HUMAN SERVICES — HB 2304 (Amended), CSHB 1396

ECONOMIC DEVELOPMENT — HB 2320, HB 2223, HB 3023, HB 1431, HB 2296, CSHB 749, SB 1819, SB 1617 (Amended)

EDUCATION — HB 889, HB 2622, CSHB 1297, HB 368, HB 2568, HB 2555, HB 1869, SB 1780, SB 1897

FINANCE — SB 1491 (Amended), CSHB 1161, CSHB 1676, HB 2107 (Amended), HB 2108 (Amended), HB 2821 (Amended)

NATURAL RESOURCES — HB 1244 (Amended), HB 2104 (Amended), HB 690 (Amended), HB 1975 (Amended), CSSB 1316

HEALTH SERVICES — CSSB 1156, CSHB 1748, CSHB 1572

INTERGOVERNMENTAL RELATIONS — SB 1895, SB 1896, HB 313, HB 434, HB 516, HB 1207, HB 1588, HB 1877, HB 2200, HB 2209, HB 2314, HB 2374, HB 2416, HB 2490, HB 2626, HB 2662, HB 2724, HB 3122, HB 3133, HB 3232, HB 3299, HB 3377, HB 3531, HB 3532, HB 3771, HB 3772

FINANCE — CSSB 1878

ADMINISTRATION — HB 469, HB 1351, HB 1615, HB 3477

SENT TO GOVERNOR

May 6, 1999

SB 109, SB 112, SB 124, SB 221, SB 401, SB 780, SB 979, SB 1252, SB 1467, SB 1545, SB 1585, SB 1594, SB 1746