SUBJECT: Punishment for "chunking" in certain juvenile facilities

COMMITTEE: Juvenile Justice and Family Issues — favorable, without amendment

VOTE: 8 ayes — Goodman, A. Reyna, E. Reyna, P. King, Menendez, Morrison, Naishtat, Tillery

0 nays

1 absent — Nixon

SENATE VOTE: On final passage, May 3 — 30-0, on Local and Uncontested Calendar

WITNESSES: None

BACKGROUND: Penal Code, sec. 22.11 establishes a third-degree felony (punishable by two to 10 years in prison and an optional fine of up to $10,000) if a person, while imprisoned or confined in a secure correctional or Texas Youth Commission (TYC) facility and with the intent to harass, alarm, or annoy another person, causes the other person to contact the bodily fluids or wastes of the actor or any other person. This practice more commonly is known as "chunking." It is a third-degree felony if a prisoner assaults a public servant, while chunking a fellow inmate is a class A misdemeanor (up to one year in jail and/or a maximum fine of $4,000) under Penal Code, sec. 22.01(a)(3).

DIGEST: SB 1270 would extend the third-degree felony penalty for "chunking" to a person who committed it while imprisoned or confined in a secure detention or correctional facility operated by a juvenile board, including a residential alcohol and drug treatment center.

The bill would take effect September 1, 2001.

SUPPORTERS SAY: SB 1270 rightfully would extend current law protections to employees and others at certain juvenile facilities from unsanitary bodily secretions and waste thrown by inmates. "Chunking" by inmates in adult correctional facilities has become such a problem that guards seldom patrol certain prison areas without the use of cumbersome protective raincoats. However, this

practice is not limited to the adult inmate population. Because bodily fluids and waste can carry infectious diseases, people who are exposed to them often must face the inconvenience of preventive medical treatment.

SB 1270 would help deter those in all types of juvenile facilities from this conduct by stacking an additional two to 10 years on their sentences. The stacked sentence would not run concurrently with any other sentence. Officials currently have little leverage to deter bad behavior, so the only alternative is to create the prospect of additional confinement time and conviction of a felony as a deterrent.

OPPONENTS SAY:

SB 1270 would create a new criminal offense for juvenile offenders to solve what essentially is an internal discipline problem. While such “chunking”is disgusting, this conduct does not justify a harsh penalty of two to 10 years of added confinement, especially for young offenders. Juvenile facility officials may employ other punishment, such as a reduction of privileges, to deter such behavior rather than stacking on additional confinement time. Unlike TYC facilities, juvenile detention facilities, such as alcohol and drug treatment centers, often are lower-security, local residential facilities for which such a harsh penalty would be inappropriate.