

SUBJECT: Revised offense for failing to secure child passenger in a motor vehicle

COMMITTEE: Criminal Jurisprudence — favorable, without amendment

VOTE: 10 ayes — Gallego, Christian, Fletcher, Hodge, Kent, Miklos, Moody,
Pierson, Vaught, Vo

0 nays

1 absent — Riddle

WITNESSES: For — Michael Blake, The Texas Police Chiefs Association; Bryon Borchers; Christi Borchers; Todd Maxson, Texas Medical Association, Texas Pediatric Society, Texas Academy of Family Physicians; Anne O’Ryan, AAA Texas; Karen Slay, Texas PTA; (*Registered, but did not testify*: Jay Barksdale, Dallas Regional Chamber; Ed Berger, Seton Family of Hospitals; Shane Casady, Driscoll Children’s Hospital; Susan Douglass, University Health System Emergency Nurses Association; Marisa Finley, Scott & White Center for Healthcare Policy; Terri Ford, Cook Children’s Health Care System; Greg Herzog, Texas Medical Association; Mazie Jamison, Children’s Medical Center of Dallas; Tammy Jones, Covenant Children’s Hospital; Marshall Kenderdine, Texas Academy of Family Physicians; Carrie Kroll, Texas Pediatric Society; Gwen T. Martin, Safe Kids Tarrant County; Melanie Mino; Julie Poindexter, Northwest Texas Healthcare System; Denise Rose, Texas Hospital Association; Gabriela Saenz, Christus Health; Rebekah Schroeder, Texas Children’s Hospital; Bryan Sperry, Children’s Hospital Association of Texas; Tareka Wheeler, Safe Kids Austin)

Against — None

On — Johnny Humphreys, Department of State Health Services; Beth Warren, Texas Department of Public Safety; (*Registered, but did not testify*: Carlos Lopez, Texas Department of Transportation)

BACKGROUND: Under Transportation Code, sec. 545.412 a person commits an offense by operating a passenger vehicle, transporting a child younger than five years of age and less than 36 inches in height, and not keeping the child secured in a child passenger safety seat during the vehicle’s operation. An offense

is a misdemeanor punishable by a fine of at least \$100 and not more than \$200.

“Child passenger safety seat system” is defined as an infant or child passenger restraint system that meets the federal standards for crash-tested restraint systems as set by the National Highway Traffic Safety Administration.

Local Government Code, sec. 133.003 lists the types of criminal fees payable to the comptroller.

DIGEST:

HB 528 would amend Transportation Code, sec. 545.412 to provide that a person would commit an offense by operating a passenger vehicle, transporting a child younger than eight years of age, unless the child was taller than four feet nine inches, and not keeping the child secured in a child passenger safety seat during the vehicle’s operation. An offense would be a misdemeanor punishable by a fine of not more than \$25.

A municipality or county would remit each fine collected for this offense to the comptroller for deposit in a separate account in the General Revenue Fund, to be appropriated only to the Texas Department of Transportation and used to purchase and distribute child passenger safety seat systems for low-income families.

Local Government Code, sec. 133.003 would be amended to include fines collected for child safety seat offenses as one of the criminal fees payable to the comptroller.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2009, and would apply only to offenses committed on or after this date. For an offense that would not have been an offense before this bill took effect, if the child who was the subject of the offense was secured by a safety belt, the offense could be prosecuted only if the offense occurred on or after June 1, 2010, and before June 1, 2010, a law enforcement officer could not arrest or issue a notice to appear to a person committing the offense, but could issue a warning to comply.

**SUPPORTERS
SAY:**

By requiring safety seats for children under eight years of age, HB 528 would reduce the risk of serious injury and save lives. Current law allows children to be restrained by just a safety belt once they are over 36 inches

in height. However, safety belts were not designed for children, and do not fit appropriately until a child reaches four feet, nine inches tall. In car crashes, children under this height are likely to suffer severe head, spinal cord, and internal organ injuries. Safety seats reduce the risk of these injuries by 59 percent.

HB 528 would educate parents and help them protect their children. While current law does not represent best practices, this bill is intended to inform parents of the best way to keep children safe in vehicles. The fine would be used to fund safety seats for low-income families, rather than as mere punishment.

HB 528 would help families and the state save money on personal injury and public medical costs, as well as work losses. Treating one child with injuries sustained without a safety seat costs approximately \$22,000. In comparison, safety seats can be purchased for as little as \$15.

OPPONENTS
SAY:

While child safety is critical, using the criminal justice system is not the best way to promote good public policy or change behavior. Motivating parents to secure their children in safety seats would be accomplished better by providing public services and education, rather than through the threat of punishment.

NOTES:

The companion bill, SB 61 by Zaffirini, passed the Senate by 23-8 (Averitt, Estes, Fraser, Harris, Jackson, Nelson, Ogden, Seliger) on April 30.