



Senator Brian Birdwell's Capitol Update (5-16-17)

Greetings from your Texas Capitol! We're down to the wire, and this will be the first of our final two Capitol Updates for the 85th legislative session. Though the legislature will not formally adjourn *sine die* until May 29th, several critical deadlines for the passage of bills will arise in the next 7-10 days, so things are busy on all fronts. Many constituents who pay close attention to Capitol happenings have asked about the potential of a "special session," and thus I thought it would be good to address that subject here.

Perhaps unlike any other session during my time in the Texas Legislature, numerous key issues remain unfinished despite this late juncture of the session. Bills of great importance to state leaders like Governor Abbott, Lt. Governor Patrick and Speaker Straus—as well as those of importance to individual members of the legislature—are often moved in conjunction with each other, thus ensuring the collective will of the citizens of Texas is met.

At this moment, disagreements on several of these topics have many lawmakers speculating that the limited time left in session will prohibit us from tackling even the biggest subjects, including the finalization of our 2018-19 state budget. Accordingly, many Capitol spectators are talking about the potential of a so-called "special session."

But what is a special session? In short, it is the convening of legislators outside the constitutionally-mandated 140-day regular session that occurs every odd-numbered year. While there is no minimum length for a special session—some end in a just a matter of hours or days—the Texas Constitution states that such a session can last no longer than 30 days. Only the governor can call special sessions, during which, legislators can only take up and consider bills in line with the subject matter the governor specifies.

While I cannot say at this time if a special session will be called, I know that a great deal of work between the House and Senate must occur in order to avoid it. At the very least, I am confident that the overwhelming majority of us want to complete the business of the citizens we represent and get back to our districts, and I am hopeful that it's this spirit that helps us complete our work in the coming days.

Despite the rigorous and—at times—contentious nature of the closing days of session, today is an extremely special day for the Birdwell family, as Mel and I are celebrating our 30th wedding anniversary. For those of you who know my wife, you know that she truly is my "better half." From my service in the United States Army to my time in the Texas Senate, and all in between, Mel has stood by my side and been an outstanding wife, mother and friend. I look forward to the next 30 years!

Now, on to the Update...



Visiting with system and campus leaders from Texas State Technical College on "TSTC Day" at the Capitol. We're so proud of the outstanding work being done at their campuses statewide.

UPDATE: Convention of States

Even before the official start of the 85th legislative session, my Pre-Session Capitol Update highlighted what would be one of my main legislative efforts for 2017: the passage of [Senate Joint Resolution 2](#) for Texas to call for an Article V convention of states. I'm proud to report that SJR 2 has passed both the Senate and the House, and is now enrolled with the Secretary of State*. As the eleventh state to pass such a resolution, I believe Texas has opened the door to what will be a snowball effect among other states. Just days after Texas passed SJR 2, Missouri followed suit, and several other states are poised to do the same.

The legislature also considered two items related to my SJR 2: Senate Bill 21 and Senate Joint Resolution 38.

- **SB 21 (by Birdwell)** – Commonly known as the “faithful delegate bill,” SB 21 specifies the actions for which the legislature is responsible in the event of a convention of states, including the processes for appointing delegates to the convention and ensuring their fidelity to Texas citizens through the direction of the legislature. This bill is in conference committee in order for the House and Senate to iron out their differences on the law, and I am confident it will make its way to Governor Abbott’s desk soon.
- **SJR 38 (by Sen. Craig Estes, R-Wichita Falls)** – Early in our efforts to educate legislators on the Article V process, many of my fellow senators expressed concern about longstanding and arguably “outdated” calls for an Article V convention of states, some of which were more than a century old. To refocus the effort of the elements of SJR 2, SJR 38 rescinds all prior such calls made by the Texas Legislature, with the exception of the “Balanced Budget Amendment” call made in 1977. Many members felt that since the BBA call is only a few states short of the necessary 34, it would not be appropriate for Texas to withdraw its support.

I maintain my sincere belief that the Article V convention of states is one of, if not the remaining tool for the citizens to wrest control of their overreaching and tone-deaf federal government. The passage of SJR 2 could not have occurred without the support of Representatives Phil King and Rick Miller, as well as the thousands of grassroots Texans who have supported this cause. I applaud Governor Greg Abbott for his early and continual support of our efforts, and thank Lt. Governor Dan Patrick and Speaker Joe Straus for assisting these measures through the legislative process.

**Unlike bills, joint resolutions and concurrent resolutions from the legislature do not require the signature of the governor.*



Discussing SB 179—also known as David’s Law, detailed below—with bill-author José Menéndez on the Senate floor.

Senate Passes “David’s Law”

In early May, the Senate took up [Senate Bill 179](#) by Senator José Menéndez (D-San Antonio). Commonly referred to as "David's Law," SB 179 seeks to combat bullying and cyberbullying by providing parents, school administrators, and law enforcement additional resources and mechanisms to encourage early intervention, while also providing necessary and appropriate punishment, to deter such behavior.

As you may have read in a previous post, I voted against the version of SB 179 that passed out of the Senate Committee on State Affairs in April. My chief concern with the bill as then-written was that it created a new criminal penalty by presuming a direct causal relationship between an individual's words and the decision of another to inflict upon one's self severe harm or commit suicide. While I believe bullying of any kind is detestable and should not be tolerated, it is often only one of many factors that can lead to such action. This assumption of causation between the two actions would have set a dangerous precedent in the law, which I could not support.

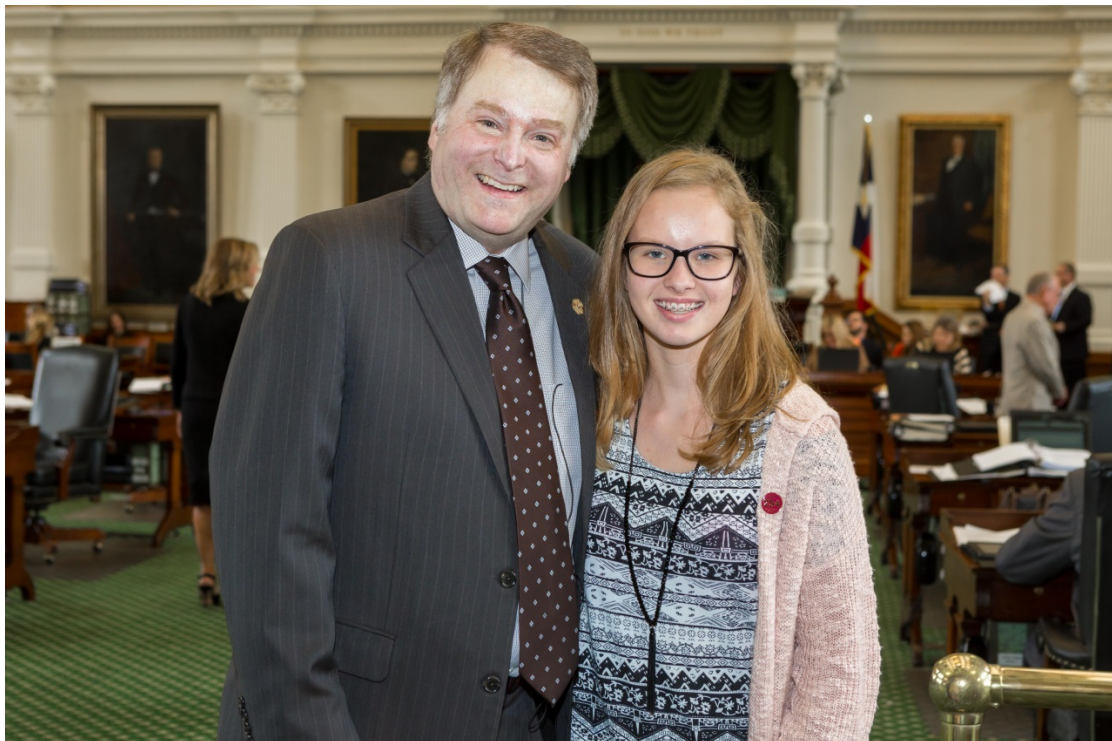
However, understanding the importance of the issue, I was determined to not give up on this piece of legislation and continued to work with Senator Menéndez to craft an appropriate criminal penalty to deter

cyberbullying but one that does not presume causality. After much collaboration, Senator Menéndez accepted my proposed changes as an amendment on the Senate floor. Moreover, rather than creating a new criminal penalty all together, my amendment modernizes and builds upon an existing criminal offense concerning harassment. By including 21st century technologies in its application (e.g. text messaging or social media), an offense constituting harassment now applies to cyberbullying. Further, my amendment guarantees a greater severity in punishment if it is found that an individual is repeatedly cyberbullying a child with the intent for the child to commit suicide or engage in conduct causing serious bodily injury.

By revising SB 179 in this manner, we are eliminating the causality presumption outlined in the original bill, while still maintaining an adequate criminal penalty deterrent for cyberbullying and an increased penalty for the most abhorrent forms of cyberbullying. Upon adoption of my amendment, David's Law passed unanimously out of the full Senate. As I did in my original post, I again commend Senator Menéndez for the hard work he has put into this legislation and thank him for working with me to pass the best law possible. It brought me great pride to vote for SB 179, as I believe it will provide greater resources to prevent and deter bullying, and send a strong message that this conduct will not be tolerated in the State of Texas.

First Bill to Governor – HB 1345

[House Bill 1345](#), authored and sponsored by Representative Tony Dale (R-Cedar Park) and myself, respectively, is on Governor Abbott's desk and awaiting his signature. The first of my legislation sent to the governor this session, HB 1345 is a simple yet critical bill seeking to ensure Texas driver's licenses are as secure as possible. Currently, Chapter 521 of the Transportation Code requires all Texas driver's licenses to display "a color photograph" of the face of the license holder. Our bill strikes the word "color" from statute, affording the Texas Department of Public Safety (DPS) the opportunity to vet and procure the highest quality security for driver's licenses. While color photographs have for decades been the logical choice for government-issued identification cards, recent industry advances have introduced new and varying technologies such as laser-engraving, a process by which a grayscale image is actually engraved into the identification card. Security experts contend that technologies like these are far superior to traditional laminated photographs due to their extreme difficulty of being altered or replicated. Whether we're using identification cards for insignificant events—renting a car, checking into a hotel—or for more serious affairs—boarding a flight, casting a vote—the security of our driver's licenses is a critical responsibility of the DPS. HB 1345 will ensure the DPS is equipped to make the best decision about these identification cards, be it with new technology or traditional methods.



Working with Elizabeth Lewis, daughter of Hill County Judge Justin Lewis, during her time as an honorary Senate Page in early May.

As always, I hope our Capitol Update is informative and that you'll share it with your friends, family and colleagues in Senate District 22, who may subscribe to the Capitol Update [by clicking here](#). You can follow us on Twitter and Facebook, or keep in touch with legislative happenings via www.capitol.state.tx.us. Additionally, keep an eye out for our last Capitol Update of the legislative session, which will come just before Memorial Day weekend, and our "Session Wrap-Up" edition of the Update later in June.

Thanks for your interest!

God bless,

Brian Birdwell
State Senator, District 22

Austin: (512) 463-0122 // Waco: (254) 776-6225 // Granbury: (817) 573-9622
Brian.Birdwell@senate.texas.gov // www.senate.texas.gov