



STATE OF TEXAS
OFFICE OF THE GOVERNOR

RICK PERRY
GOVERNOR

June 17, 2001

The Honorable Henry Cuellar, Ph.D.
Secretary of State
State Capitol, Room 1E.8
Austin, Texas 78701

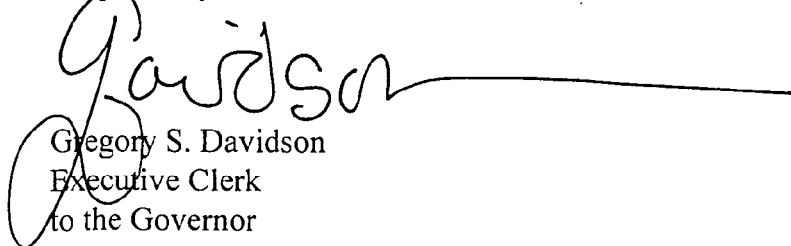
Dear Mr. Secretary:

After due and deliberate consideration, and in accordance with Article IV, Section 14 of the Texas Constitution, Governor Rick Perry hereby announces his intention to veto the following legislation from the 77th Texas Legislative session:

House Bill No. 236 by Hinojosa.

Official copies of all legislation referenced above are attached to this letter of transmittal.

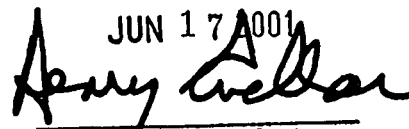
Respectfully submitted,


Gregory S. Davidson
Executive Clerk
to the Governor

GSD/gsd

Attachment

FILED IN THE OFFICE OF THE
SECRETARY OF STATE
1:40pm O'CLOCK

JUN 17 2001

Secretary of State

PROCLAMATION

BY THE

Governor of the State of Texas

TO ALL TO WHOM THESE PRESENTS SHALL COME:

Pursuant to Article IV, Section 14, of the Texas Constitution, I, Rick Perry, Governor of Texas, do hereby disapprove of and veto House Bill No. 236 passed by the Seventy-Seventh Texas Legislature, Regular Session, because of the following objections:

I support legislation that improves Texas' criminal justice system, measures that make it fairer to defendants and that ensure justice is achieved – not just for defendants but victims as well. That is why I have signed legislation to provide for genetic testing in cases where it can resolve a question of guilt or innocence and legislation that established for the first time statewide standards for the appointment of defense attorneys for indigent defendants facing a death sentence. Both of those laws, I believe, protect victims and defendants.

To characterize House Bill No. 236 as a law to ban the execution of the mentally retarded is misleading. This legislation is not about whether to execute mentally retarded murderers. We do not execute mentally retarded murderers today. It is about who determines whether a defendant is mentally retarded in the Texas justice system.

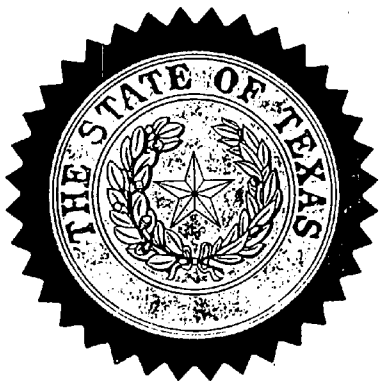
Texas' criminal justice system already has numerous safeguards to ensure that defendants who have subaverage intellectual capacity and who also have significant impairments in adaptive functioning – components of the definition of mental retardation under Texas law – are not executed. Juries in Texas consider both of these factors, as well as others, when issues of mental defects – whether they be mental illness, retardation or other deficits – are raised at trial. They are considered in separate pretrial competency hearings in front of a jury, in the guilt-innocence phase of the actual trial, and again in the sentencing phase of a trial.

My opposition to this legislation focuses on a serious legal flaw in the bill. House Bill No. 236 would create a system whereby the jury and judge are asked to make the same determination based on two different sets of facts. In addition to fundamentally undermining confidence in the jury system, this provision could trigger innumerable retrials. Also of grave concern is the fact that the provision that sets up this legally flawed process never received a public hearing during the legislative process.

House Bill No. 236 would take the Texas criminal justice system down an unprecedented and unwise course by undermining the jury system in capital murder trials. It would do so by giving judges the power to overturn a jury's determination of whether a murderer is mentally retarded. And it would do so only when a defendant or defense attorney disagrees with a jury's conclusion.

A cornerstone of Texas criminal jurisprudence is the principle that a jury is the proper and final decision-maker about the facts in a trial. Even when a criminal case is appealed, the courts recognize that a jury's decision about the facts of a case is presumed correct.

Since the Legislature by its adjournment has prevented the return of this bill, I am filing these objections in the office of the Secretary of State and giving notice thereof by this public proclamation according to the aforementioned constitutional provision.



IN TESTIMONY WHEREOF, I have signed my name officially and caused the Seal of the State to be affixed hereto at Austin, this 17th day of June, 2001.

Rick Perry

Rick Perry
Governor of Texas

ATTESTED BY:

Henry Cuellar

Henry Cuellar, Ph.D.
Secretary of State

June 17, 2001
Austin, Texas

FILED IN THE OFFICE OF THE
SECRETARY OF STATE
1:40 pm O'CLOCK

JUN 17 2001

Secretary of State