

## **BILL ANALYSIS**

C.S.S.B. 828  
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Criminal Jurisprudence  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Current law regarding the offense of abuse of official capacity does not allow for the aggregation of the amounts of separate transactions committed in such an offense for purposes of increasing the penalty for the offense. Thus, the degree of the crime actually committed may not be accurately reflected in the charge or punishment. Allowing a series of offenses to be aggregated to accurately reflect the degree of the offense would allow for a punishment that more appropriately fits the crime.

C.S.S.B. 828 enables the aggregation of the value involved to affect the punishment of an offense of abuse of official capacity when government property, services, personnel, or anything of value belonging to the government is used in conduct that constitutes the offense.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

C.S.S.B. 828 amends the Penal Code to establish that the illegal conduct of a public servant, in a case involving separate transactions in which the public servant misuses government property, services, personnel, or any other thing of value belonging to the government that has come into the public servant's custody or possession by virtue of the servant's office or employment conducted pursuant to one scheme or continuing course of conduct, may be considered as one offense of abuse of official capacity and that the value of the use of the things misused in the transactions may be aggregated in determining the offense's classification. The bill establishes that the value of the use of the misused thing, for purposes of calculating the punishment of the offense, may not exceed the fair market value of the thing at the time of the offense or, if the fair market value cannot be ascertained, the cost of replacing the thing within a reasonable time after the offense.

### **EFFECTIVE DATE**

September 1, 2009.

### **COMPARISON OF ORIGINAL AND SUBSTITUTE**

C.S.S.B. 828 differs from the original by authorizing the aggregation of the value of the use of the things misused in the separate transactions of an abuse of official capacity offense to determine the classification of the offense, rather than the value of the funds involved in the separate transactions.