

## **BILL ANALYSIS**

Senate Research Center  
81R1798 SJM-F

S.B. 828  
By: Whitmire  
State Affairs  
3/12/2009  
As Filed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Current law as it relates to the charge of abuse of office does not allow for the aggregation of the amounts of separate transactions in order to enhance the degree of the offense. Therefore, the degree of the crime actually committed may not be accurately reflected in the charge. Allowing a series of abusive offenses to be aggregated to accurately reflect the degree of the offense would allow for a punishment that more appropriately punishes those crimes.

As proposed, S.B. 828 enables the aggregation of the value when funds or services are utilized in conduct that is an abuse of official capacity.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 39.02, Penal Code, by adding Subsections (e) and (f), as follows:

(e) Authorizes that the conduct, if separate transactions that violate Subsection (a)(2) (related to a public servant intentionally or knowingly misusing government property, services, personnel, or anything of value belonging to the government when committing an offense) are conducted pursuant to one scheme or continuing course of conduct, be considered as one offense and the value of the funds involved in the transactions aggregated in determining the classification of the offense.

(f) Prohibits the value of the use of a thing of value misused under Subsection (a)(2) from exceeding the fair market value of the thing at the time of the offense or the cost of replacing the thing within a reasonable time after the offense if the fair market value of the thing cannot be ascertained.

SECTION 2. Makes application of this Act prospective.

SECTION 3. Effective date: September 1, 2009.