

By: Burnam, Kent

H.C.R. No. 22

Substitute the following for H.C.R. No. 22:

By: Hughes

C.S.H.C.R. No. 22

#### HOUSE CONCURRENT RESOLUTION

1           WHEREAS, Farhat Chishty and Aqueel Chishty, both  
2 individually and as next friend for their son, Haseeb Chishty,  
3 allege that:

4           (1) Haseeb Chishty was a disabled adult resident of  
5 the Denton State School, which is under the jurisdiction of the  
6 Department of Aging and Disability Services;

7           (2) Kevin Miller was a direct care aide employed at the  
8 Denton State School;

9           (3) the Department of Aging and Disability Services  
10 and the Denton State School had prior knowledge of Kevin Miller's  
11 inappropriate behavior toward mentally retarded and physically  
12 handicapped residents;

13           (4) although Kevin Miller was not terminated for his  
14 inappropriate behavior, he was placed on decision making leave;

15           (5) when Kevin Miller returned from decision making  
16 leave, the Denton State School transferred him to the housing unit  
17 in which Haseeb Chishty resided;

18           (6) the Denton State School also had prior knowledge  
19 of illicit drug use by direct care aides and other Denton State  
20 School employees;

21           (7) the Denton State School failed to remove Kevin  
22 Miller from the environment in which Haseeb Chishty resided and  
23 failed to have or to enforce policies to protect Haseeb Chishty and  
24 allowed Haseeb Chishty to reside in a dangerous environment;

1           (8) some time before September 27, 2002, Kevin Miller  
2 physically abused Haseeb Chishty and as a result, Haseeb Chishty  
3 sustained life-threatening injuries to his lower abdomen and pelvic  
4 area which have left him unable to eat on his own, speak, walk, or  
5 interact with his family;

6           (9) Kevin Miller may have been in a drug-induced state  
7 at the time he abused Haseeb Chishty;

8           (10) the Department of Aging and Disability Services  
9 and the Denton State School attempted to conceal the source of  
10 Haseeb Chishty's injuries by asserting they were caused by a  
11 vehicle safety belt in August 2002;

12           (11) on or about January 27, 2003, the Department of  
13 Aging and Disability Services and the Denton State School informed  
14 Farhat Chishty that her son may have been physically abused by an  
15 employee who was, at the time the information was provided, on leave  
16 of absence status;

17           (12) Kevin Miller was on leave of absence in January  
18 2003, and when he returned to the Denton State School from his leave  
19 of absence, he was permitted to work with Haseeb Chishty, even  
20 though the Denton State School knew that Kevin Miller may have been  
21 responsible for Haseeb Chishty's abuse;

22           (13) the Chishty family is entitled to an award for  
23 damages, including actual medical expenses, attorney's fees, and  
24 interest on any amounts due as may be authorized by law; and

25           (14) damages may not exceed the limitation on damages  
26 provided by Section 101.023(a), Civil Practice and Remedies Code,  
27 for state agencies, excluding past and future medical bills and

1 attorney's fees; now, therefore, be it

2       RESOLVED by the Legislature of the State of Texas, That  
3 Farhat Chishty and Aqueel Chishty, both individually and as next  
4 friend for their son, Haseeb Chishty, are granted permission to sue  
5 the State of Texas, the Department of Aging and Disability  
6 Services, and the Denton State School subject to Chapter 107, Civil  
7 Practice and Remedies Code; and, be it further

8       RESOLVED, That the commissioner of aging and disability  
9 services and the superintendent of the Denton State School be  
10 served process as provided by Section 107.002(a)(3), Civil Practice  
11 and Remedies Code.