

BILL ANALYSIS

C.S.H.B. 1315
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Human Services
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Under current law, any investigation by law enforcement into the alleged abuse or neglect of a child is strictly confidential. Although there are good reasons for protecting the privacy of the children in such a report and keeping this type of information confidential with respect to the general public, the parents of a child who is the victim of alleged abuse or neglect often need access to this information. Many allegations of child abuse and neglect are investigated by law enforcement and immediately confirmed as either untrue or as unsubstantiated. However, because the police report cannot be released to the parents, the parents are sometimes left wondering what really happened. This can result in enormous amounts of unnecessary stress and anxiety for the parents.

In other cases, an allegation of abuse and neglect is credible, but may not be prosecuted for a number of reasons. In these cases, parents need to see the report so they can understand what happened to their child and how to respond to it. Here again, denying parents information they need to care for their child serves no obvious interest.

C.S.H.B. 1315 authorizes law enforcement to release information of alleged child abuse or neglect to a parent or guardian who is not suspected of causing the abuse or neglect or to the child if the child is at least 18 years of age. The bill requires that any personally identifiable information about a victim or witness who is not the child of the requesting parent to be redacted. The bill protects the identity of the person who reported the abuse or neglect.

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.H.B. 1315 amends the Family Code to require an investigating agency, other than the Department of Family and Protective Services or the Texas Youth Commission, on request, to provide to the parent, managing conservator, or other legal representative of a child who is the subject or reported abuse or neglect, or to the child if the child is at least 18 years of age, information concerning the reported abuse or neglect that would otherwise be confidential. The bill requires the investigating agency to withhold information if the parent, managing conservator, or other legal representative of the child requesting the information is alleged to have committed the abuse or neglect.

C.S.H.B. 1315 requires the custodian of the record or file to redact, before a child or a parent, managing conservator, or other legal representative of a child may inspect or copy a record or file concerning the child, any personally identifiable information about a victim or witness under 18 years of age unless that victim or witness is the child who is the subject of the report or another child of the parent, managing conservator, or other legal representative requesting information; any information that is excepted from required disclosure under public information

or other law; and the identity of the person who made the report.

EFFECTIVE DATE

September 1, 2009.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.H.B. 1315 differs from the original by requiring an investigating agency other than the Department of Family and Protective Services (DFPS) or the Texas Youth Commission, rather than a law enforcement agency investigating a report of abuse or neglect as in the original, to provide to the parent, managing conservator, or other legal representative of a child who is the subject of reported abuse or neglect, or to the child, confidential information concerning the reported abuse or neglect. The substitute adds a provision not in the original specifying that the child may be provided this information only if the child is at least 18 years of age. The substitute differs from the original by requiring the investigating agency to withhold the confidential information if the parent, managing conservator, or other legal representative of the child requesting the information is alleged to have committed the abuse or neglect, whereas the original requires DFPS or the law enforcement agency, as applicable, to withhold the information under such circumstance.