

BILL ANALYSIS

Senate Research Center

S.B. 1050
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Health & Human Services
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Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

This bill mandates public disclosure of findings and information about children who have died of abuse or neglect. The goal of the bill is to promote public scrutiny of cases in order to improve child welfare policies and practices to ensure child safety.

The National Child Abuse and Neglect Data System reported an estimated 1,530 child fatalities in 2006. This translates to a rate of 2.04 children per 100,000 children in the general population. The National Child Abuse and Neglect Data System defines "child fatality" as the death of a child caused by an injury resulting from abuse or neglect, or where abuse or neglect was a contributing factor.

Little is known about these children, the suffering they endured prior to their deaths, and the steps that might have been taken to protect them, according to a senior attorney at the National Center for Youth Law. The Children's Advocacy Institute has also worked on this legislation.

This legislation will make it possible to get information that is vital to reform, while protecting the privacy rights of those involved.

S.B. 1050 amends current law relating to the release of certain information relating to child fatalities resulting from abuse or neglect.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the executive commissioner of the Health and Human Services Commission in SECTION 2 (Section 261.203, Family Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 261.201(a), Family Code, to provide that except as provided by Section 261.203, certain information is confidential, is not subject to public release under Chapter 552, Government Code, and is authorized to be disclosed only for purposes consistent with this code and applicable federal or state law or under rules adopted by an investigating agency.

SECTION 2. Amends Subchapter C, Chapter 261, Family Code, by adding Section 261.203, as follows:

Sec. 261.203. INFORMATION RELATING TO CHILD FATALITY. (a) Requires the Department of Family and Protective Services (DFPS), not later than the fifth day after the date DFPS receives a request for information about a child fatality with respect to which DFPS is conducting an investigation of alleged abuse or neglect, to release the age and sex of the child, the date of death, whether the state was the managing conservator of the child at the time of the child's death, and whether the child resided with certain persons.

(b) Requires DFPS, if, after a child abuse or neglect investigation is completed, DFPS determines that a child's death was caused by abuse or neglect, to promptly release the following information on request:

(1) the information described by Subsection (a), if not previously released to the person requesting the information;

(2) for cases in which the child's death occurred while the child was living with the child's parent, managing conservator, guardian, or other person entitled to possession of the child: a summary of any previous reports of abuse or neglect of the deceased child or another child made while the child was living with that parent, managing conservator, guardian, or other person entitled to possession of the child; the disposition of any such abuse or neglect report; a description of the services, if any, that were provided by DFPS to the child or the child's family as a result of any such abuse or neglect report; and the results of any risk or safety assessment completed by DFPS relating to the deceased child; and

(3) for a case in which the child's death occurred while the child was in substitute care with DFPS or with a residential child-care provider regulated under Chapter 42 (Regulation of Certain Facilities, Homes, and Agencies That Provide Child-Care Services), Human Resources Code, the following information: the date the substitute care provider with whom the child was residing at the time of death was licensed or verified; a summary of any previous reports of abuse or neglect investigated by DFPS relating to the substitute care provider, including the disposition of any investigation resulting from a report; any reported licensing violations, including notice of any action taken by DFPS regarding a violation; and records of any training completed by the substitute care provider while the child was placed with the provider.

(c) Requires DFPS, if DFPS is unable to release the information required by Subsection (b) before the 11th day after the date DFPS receives a request for the information or the date the investigation of the child fatality is completed, whichever is later, to inform the person requesting the information of the date DFPS will release the information.

(d) Requires DFPS, after receiving a request for information required by Subsection (b), to notify and provide a copy of the request to the attorney ad litem for the deceased child, if any.

(e) Requires DFPS, before DFPS releases any information under Subsection (b), to redact from the records any information the release of which would identify the individual who reported the abuse or neglect or any other individual other than the deceased child or an alleged perpetrator of the abuse or neglect; jeopardize an ongoing criminal investigation or prosecution; endanger the life or safety of any individual; or violate other state or federal law.

(f) Requires the executive commissioner of the Health and Human Services Commission to adopt rules to implement this section.

SECTION 3. Makes application of Section 261.203, Family Code, as added by this Act, prospective.

SECTION 4. Effective date: September 1, 2009.