

By: Uresti

S.B. No. 1050

A BILL TO BE ENTITLED

AN ACT

relating to the release of certain information relating to child fatalities resulting from abuse or neglect.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 261.201(a), Family Code, is amended to read as follows:

(a) Except as provided by Section 261.203, the [The] following information is confidential, is not subject to public release under Chapter 552, Government Code, and may be disclosed only for purposes consistent with this code and applicable federal or state law or under rules adopted by an investigating agency:

(1) a report of alleged or suspected abuse or neglect made under this chapter and the identity of the person making the report; and

(2) except as otherwise provided in this section, the files, reports, records, communications, audiotapes, videotapes, and working papers used or developed in an investigation under this chapter or in providing services as a result of an investigation.

SECTION 2. Subchapter C, Chapter 261, Family Code, is amended by adding Section 261.203 to read as follows:

Sec. 261.203. INFORMATION RELATING TO CHILD FATALITY. (a) Not later than the fifth day after the date the department is notified of a child fatality in which there is a reasonable suspicion that the fatality was caused by abuse or neglect, the

1 department, on request, shall release the following information  
2 about the fatality:

3 (1) the age and sex of the child;

4 (2) the date of death;

5 (3) whether the state was the managing conservator of  
6 the child at the time of the child's death;

7 (4) whether the child resided with the child's parent  
8 or guardian at the time of the child's death; and

9 (5) whether an investigation of the child's death is  
10 being conducted by the department or a law enforcement agency.

11 (b) If, after a child abuse or neglect investigation is  
12 completed, the department, a medical examiner, or a justice of the  
13 peace determines that abuse or neglect led to a child's death, the  
14 department shall release the following information on request,  
15 after providing the notice required by Subsection (d) and redacting  
16 the information required by Subsection (e):

17 (1) the information described by Subsection (a);

18 (2) for cases in which the child's death occurred while  
19 the child was living with the child's parent or guardian:

20 (A) any previous report of abuse or neglect of  
21 the deceased child made while the child was living with that parent  
22 or guardian;

23 (B) the results of the investigation of any  
24 report under Paragraph (A);

25 (C) any risk or safety assessment completed by  
26 the department relating to the deceased child;

27 (D) all medical records of the deceased child,

1 excluding mental health records, related to the child's death and  
2 of any previous injury that reflects a pattern of abuse or neglect;  
3 and

4 (E) copies of any police report concerning the  
5 person the department determines abused or neglected the child; and

6 (3) for a case in which the child's death occurred  
7 while the state was the managing conservator of the child, the  
8 following documents relating to the substitute care provider with  
9 whom the child was placed:

10 (A) records relating to the substitute care  
11 provider's initial licensing and license renewals, including the  
12 type of license held;

13 (B) any reported licensing violations, including  
14 notice of any action taken by the department regarding a violation;  
15 and

16 (C) records of the training completed by the  
17 substitute care provider.

18 (c) The department shall release the information required  
19 by Subsection (b) not later than the 10th day after the date the  
20 department receives a request for the information or the date the  
21 investigation is completed, whichever is later.

22 (d) After receiving a request for information required by  
23 Subsection (b), the department shall notify and provide a copy of  
24 the request to the attorney ad litem for the deceased child, if any.

25 (e) Before the department may release a document under  
26 Subsection (b), the department must redact the following  
27 information:

1           (1) the name, address, telephone number, ethnicity,  
2 religion, or other identifying information of any person or  
3 institution, other than the department or a law enforcement agency;

4           (2) any information that would, after consultation  
5 with the appropriate prosecuting attorney, jeopardize a criminal  
6 investigation or judicial proceeding; and

7           (3) any information that is privileged or confidential  
8 under other state or federal law.

9           SECTION 3. Section 261.203, Family Code, as added by this  
10 Act, applies only to information relating to a child fatality that  
11 occurs on or after the effective date of this Act. Information  
12 relating to a child fatality that occurred before the effective  
13 date of this Act is governed by the law as it existed on the date the  
14 child fatality occurred, and the former law is continued in effect  
15 for that purpose.

16           SECTION 4. This Act takes effect September 1, 2009.