

1-1 By: Uresti S.B. No. 1050
1-2 (In the Senate - Filed February 20, 2009; March 13, 2009, read
1-3 first time and referred to Committee on Health and Human Services;
1-4 April 24, 2009, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 9, Nays 0; April 24, 2009,
1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 1050 By: Uresti

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to the release of certain information relating to child
1-11 fatalities resulting from abuse or neglect.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Subsection (a), Section 261.201, Family Code, is
1-14 amended to read as follows:

1-15 (a) Except as provided by Section 261.203, the [The]
1-16 following information is confidential, is not subject to public
1-17 release under Chapter 552, Government Code, and may be disclosed
1-18 only for purposes consistent with this code and applicable federal
1-19 or state law or under rules adopted by an investigating agency:

1-20 (1) a report of alleged or suspected abuse or neglect
1-21 made under this chapter and the identity of the person making the
1-22 report; and

1-23 (2) except as otherwise provided in this section, the
1-24 files, reports, records, communications, audiotapes, videotapes,
1-25 and working papers used or developed in an investigation under this
1-26 chapter or in providing services as a result of an investigation.

1-27 SECTION 2. Subchapter C, Chapter 261, Family Code, is
1-28 amended by adding Section 261.203 to read as follows:

1-29 Sec. 261.203. INFORMATION RELATING TO CHILD FATALITY.

1-30 (a) Not later than the fifth day after the date the department
1-31 receives a request for information about a child fatality with
1-32 respect to which the department is conducting an investigation of
1-33 alleged abuse or neglect, the department shall release:

1-34 (1) the age and sex of the child;

1-35 (2) the date of death;

1-36 (3) whether the state was the managing conservator of
1-37 the child at the time of the child's death; and

1-38 (4) whether the child resided with the child's parent,
1-39 managing conservator, guardian, or other person entitled to
1-40 possession of the child at the time of the child's death.

1-41 (b) If, after a child abuse or neglect investigation is
1-42 completed, the department determines a child's death was caused by
1-43 abuse or neglect, the department shall promptly release the
1-44 following information on request:

1-45 (1) the information described by Subsection (a), if
1-46 not previously released to the person requesting the information;

1-47 (2) for cases in which the child's death occurred while
1-48 the child was living with the child's parent, managing conservator,
1-49 guardian, or other person entitled to possession of the child:

1-50 (A) a summary of any previous reports of abuse or
1-51 neglect of the deceased child or another child made while the child
1-52 was living with that parent, managing conservator, guardian, or
1-53 other person entitled to possession of the child;

1-54 (B) the disposition of any report under Paragraph
1-55 (A);

1-56 (C) a description of the services, if any, that
1-57 were provided by the department to the child or the child's family
1-58 as a result of any report under Paragraph (A); and

1-59 (D) the results of any risk or safety assessment
1-60 completed by the department relating to the deceased child; and

1-61 (3) for a case in which the child's death occurred
1-62 while the child was in substitute care with the department or with a
1-63 residential child-care provider regulated under Chapter 42, Human

2-1 Resources Code, the following information:
2-2 (A) the date the substitute care provider with
2-3 whom the child was residing at the time of death was licensed or
2-4 verified;

2-5 (B) a summary of any previous reports of abuse or
2-6 neglect investigated by the department relating to the substitute
2-7 care provider, including the disposition of any investigation
2-8 resulting from a report;

2-9 (C) any reported licensing violations, including
2-10 notice of any action taken by the department regarding a violation;
2-11 and

2-12 (D) records of any training completed by the
2-13 substitute care provider while the child was placed with the
2-14 provider.

2-15 (c) If the department is unable to release the information
2-16 required by Subsection (b) before the 11th day after the date the
2-17 department receives a request for the information or the date the
2-18 investigation of the child fatality is completed, whichever is
2-19 later, the department shall inform the person requesting the
2-20 information of the date the department will release the
2-21 information.

2-22 (d) After receiving a request for information required by
2-23 Subsection (b), the department shall notify and provide a copy of
2-24 the request to the attorney ad litem for the deceased child, if any.

2-25 (e) Before the department releases any information under
2-26 Subsection (b), the department shall redact from the records any
2-27 information the release of which would:

2-28 (1) identify:

2-29 (A) the individual who reported the abuse or
2-30 neglect; or

2-31 (B) any other individual other than the deceased
2-32 child or an alleged perpetrator of the abuse or neglect;

2-33 (2) jeopardize an ongoing criminal investigation or
2-34 prosecution;

2-35 (3) endanger the life or safety of any individual; or

2-36 (4) violate other state or federal law.

2-37 (f) The executive commissioner of the Health and Human
2-38 Services Commission shall adopt rules to implement this section.

2-39 SECTION 3. Section 261.203, Family Code, as added by this
2-40 Act, applies only to information relating to a child fatality that
2-41 occurs on or after the effective date of this Act. Information
2-42 relating to a child fatality that occurred before the effective
2-43 date of this Act is governed by the law as it existed on the date the
2-44 child fatality occurred, and the former law is continued in effect
2-45 for that purpose.

2-46 SECTION 4. This Act takes effect September 1, 2009.

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