

BILL ANALYSIS

Senate Research Center
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S.B. 384
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Criminal Justice
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As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Under Chapter 261 (Investigation of Report of Child Abuse or Neglect) of the Family Code, citizens have a duty to report child abuse, and the failure to report it is considered a Class A misdemeanor. However, the penalty for a false report of child abuse with intent to deceive is a state jail felony.

To reinforce the gravity of failing to report child abuse, S.B. 384 creates a new offense of failing to report child abuse with intent to deceive that is punishable as a state jail felony. The new offense only applies to professional reporters as defined by Section 261.101 (Persons Required to Report; Time to Report) of the Family Code, such as child care employees, teachers, doctors, social workers, and other professionals who interact with the juvenile population on a regular basis. Deception under these circumstances greatly heightens the risk to children, and the punishment should reflect that increased danger.

As proposed, S.B. 384 amends current law relating to the offense of failure to report abuse or neglect of a child.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 261.109, Family Code, as follows:

Sec. 261.109. FAILURE TO REPORT; PENALTY. (a) Provides that a person commits an offense if the person is required to make a report under Section 261.101(a) (relating to making a report when there is cause to believe a child has been adversely affected by abuse or neglect) and knowingly fails to make a report as provided in this chapter (Investigation of Report of Child Abuse or Neglect). Deletes existing text providing that a person commits an offense if the person has cause to believe that child's physical or mental health or welfare has been or may be adversely affected by abuse or neglect.

(a-1) Provides that a person who is a professional as defined by Section 261.101(b) (establishing procedure for making a report if a professional has cause to believe that a child is a victim of certain offenses; defining "professional") commits an offense if the person is required to make a report under Section 261.101(b) and knowingly fails to make a report as provided in this chapter.

(b) Provides that an offense under Subsection (a), rather than under this section, is a Class A misdemeanor, except that the offense is a state jail felony if it is shown on the trial of the offense that the child was a person with mental retardation who resided in a state supported living center, the ICF-MR component of the Rio Grande State Center, or a facility licensed under Chapter 252 (Intermediate Care Facilities for the Mentally Retarded), Health and Safety Code, and the actor knew that the child had suffered serious bodily injury as a result of the abuse or neglect.

(c) Provides that an offense under Subsection (a-1) is a Class A misdemeanor, except that the offense is a state jail felony if it is shown on the trial of the offense that the actor intended to conceal the abuse or neglect.

SECTION 2. Makes application of this Act prospective.

SECTION 3. Effective date: September 1, 2013.