

BILL ANALYSIS

Senate Research Center
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H.B. 1793
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Criminal Justice
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Every year, approximately 800,000 children go missing in the United States, many of whom become vulnerable to child sex trafficking. Recently, the Texas Legislature sought to provide law enforcement agencies better tools to identify children who were at high risk for trafficking and other exploitative crimes. These law enforcement agencies have expressed the need to refine the parameters for data collection to include children younger than 14 years of age categorized as being at high risk for such crimes.

H.B. 1793 mandates law enforcement to consider age as a factor and report accordingly. The age "under 14" is recommended to reflect current criteria set for the amber alert reporting system and the age under which there cannot be a defense to sexual assault of a child. The ability to report based on age will more accurately identify high risk children.

H.B. 1793 also uses the term "high risk" instead of "endangered" to be consistent with other law enforcement reporting requirements. Finally, H.B. 1793 transfers the oversight of the missing or exploited children prevention grant program in S.B. 742 (83rd Legislature, Regular Session, 2013) from the Department of Public Safety of the State of Texas to the Office of the Governor, as this agency is more aligned to handle grants and their funding.

H.B. 1793 amends current law relating to reports of certain missing children and to the administration of missing or exploited children prevention grants.

RULEMAKING AUTHORITY

Rulemaking authority previously granted to the public safety director of the Department of Public Safety of the State of Texas is modified in SECTION 2 (Article 63.0091, Code of Criminal Procedure) of this bill.

Rulemaking authority previously granted to the Department of Public Safety of the State of Texas is rescinded in SECTION 4 (Section 772.0072, Government Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Article 63.009(a), Code of Criminal Procedure, to require local law enforcement agencies, on receiving a report of a missing child or a missing person, to immediately start an investigation in order to determine the present location of the child or person, if the subject of the report is a child and the child is at a high risk of harm or is otherwise in danger, rather than if the subject of the report is a child and the well-being of the child is in danger, or if the subject of the report is a person who is known by the agency to have or is reported to have chronic dementia, including Alzheimer's dementia, whether caused by illness, brain defect, or brain injury.

SECTION 2. Amends Article 63.0091, Code of Criminal Procedure, as follows:

Art. 63.0091. LAW ENFORCEMENT REQUIREMENTS REGARDING REPORTS OF CERTAIN MISSING CHILDREN. (a) Requires the public safety director of the Department of Public Safety of the State of Texas (DPS) to adopt rules regarding the procedures for a local law enforcement agency on receiving a report of a missing child

who is under 14 years of age and otherwise determined by the local law enforcement agency or DPS to be at a high risk of human trafficking, sexual assault, exploitation, abuse, or neglectful supervision. Makes a nonsubstantive change.

(b) Requires that the rules adopted under this article require that in entering information regarding the report into the national crime information center missing person file as required by Article 63.009(a)(3) for a missing child described by Subsection (a), the local law enforcement agency indicate, in the manner specified in the rules, that the child is at a high risk of harm, rather than endangered, and include relevant information regarding any prior occasions on which the child was reported missing. Makes a nonsubstantive change.

(c) Provides that, if at the time the initial entry into the national crime information center missing person file is made, the local law enforcement agency has not determined that the requirements of this article apply to the report of the missing child, the information required by Subsection (b) must be added to the entry promptly after the agency investigating the report or DPS determines that the missing child is described by Subsection (a).

SECTION 3. Amends Subchapter A, Chapter 63, Code of Criminal Procedure, by adding Article 63.0092, as follows:

Art. 63.0092. OPTION TO DESIGNATE MISSING CHILD AS HIGH RISK. (a) Provides that this article applies to a report of a missing child who is at least 14 years of age and who a local law enforcement agency or DPS determines is at a high risk of human trafficking, sexual assault, exploitation, abuse, or neglectful supervision.

(b) Authorizes the local law enforcement agency, in entering information regarding a report described by Subsection (a) into the national crime information center missing person file as required by Article 63.009(a)(3), to indicate that the child is at a high risk of harm and to include any other relevant information.

SECTION 4. Transfers Section 411.0133, Government Code, to Chapter 772, Government Code, redesignates it as Section 772.0072, Government Code, and amends it, as follows:

Sec. 772.0072. MISSING OR EXPLOITED CHILDREN PREVENTION GRANTS. Redesignates existing Section 411.0133 as Section 772.0072. (a) Redefines "nonprofit organization" in this section.

(b) Makes no change to this subsection.

(c) Authorizes the criminal justice division established under Section 772.006 (Governor's Criminal Justice Division), rather than DPS, to award a grant to a nonprofit organization described by Subsection (b) that is operating in this state to provide programs and information described by that subsection to assist DPS in the performance of its duties related to missing or exploited children, including any duty related to the missing children and missing persons information clearinghouse under Chapter 63 (Missing Children and Missing Persons), Code of Criminal Procedure. Makes nonsubstantive changes.

(d) Deletes existing Subsection (d) authorizing DPS to adopt rules to implement this section.

SECTION 5. Provides that Articles 63.009(a) and 63.0091, Code of Criminal Procedure, as amended by this Act, and Article 63.0092, Code of Criminal Procedure, as added by this Act, apply only to a missing child report that is received by a law enforcement agency on or after the effective date of this Act. Makes application of this Act prospective.

SECTION 6. Effective date: September 1, 2015.