

BILL ANALYSIS

Senate Research Center

H.B. 2053
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Health & Human Services
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

H.B. 2053 amends the Family Code to require the Department of Family and Protective Services (DFPS), if at any time during an investigation of a report of child abuse or neglect to which DFPS has assigned the highest priority, DFPS is unable to locate the child who is the subject of the report of abuse or neglect or the child's family, to notify the Department of Public Safety of the State of Texas (DPS) that the location of the child and the child's family is unknown. The bill requires DPS to conduct an investigation to determine the location of the child and the child's family using all available resources, including the use of the child safety check alert list. The bill requires DPS, if DPS locates the child and the child's family, to notify DFPS of their location.

H.B. 2053 specifies that the child safety check alert list created as part of the Texas Crime Information Center to help locate a child's family for purposes of investigating a report of child abuse or neglect is also created to help locate a child for purposes of such an investigation. The bill requires DFPS, if DFPS is unable to locate a child or the child's family after exhausting all available means, to notify DPS that DFPS is unable to locate the child or the child's family and requires DPS, on receiving such notice, to notify the Texas Crime Information Center to place the child and the child's family on a child safety check alert list. The bill removes statutory provisions relating to an application requesting issuance of a court order requiring the appropriate law enforcement agency to notify the Texas Crime Information Center to place members of a family DFPS is attempting to locate on a child safety check alert list.

H.B. 2053 removes a provision requiring the child safety check alert list to include the minimum criteria for an entry as established by the center and expands the information required to be included on the alert list to include, if available, the physical description of the child who is the subject of the report DFPS is attempting to investigate and the family member alleged to have abused or neglected a child according to the report; a description of the motor vehicle in which the child is suspected to be transported, including the vehicle's make, color, style of body, model year, and vehicle identification number; the case number assigned by DFPS; the telephone number for the DFPS employee responsible for the investigation at which the employee can be reached 24 hours a day; the date and time when and the location where the child was last seen; and any other information required for an entry as established by the center.

H.B. 2053 removes a provision requiring a law enforcement officer who encounters a person listed on the child safety check alert list who is alleged to have abused or neglected a child, or encounters a child listed on the alert list who is the subject of a report of child abuse or neglect DFPS is attempting to investigate, to request information from the person or the child regarding the child's well-being and current residence and instead requires such an officer to immediately detain all individuals in the officer's presence that are described in the child safety check alert list and take temporary custody of the child who is the subject of a report of child abuse or neglect; to immediately take into investigative detention all motor vehicles described in the child safety check alert list; to immediately notify DFPS of the detention, including the location of the detention; and to hold all persons detained at the location of the initial contact by the law enforcement officer. The bill requires a law enforcement officer who detains a child or the child's family under such circumstances to report to the Texas Crime Information Center that the child has been located.

H.B. 2053 prohibits the transportation of a detained person from the location of the detention unless the person is lawfully arrested and prohibits the detention of a person for more than three

hours. The bill requires the law enforcement officer to obtain the child's current address and any other relevant information, report that information to DFPS, and release the detained individuals and motor vehicles if DFPS notifies the law enforcement officer that DFPS is unable to respond to the location of the detention within three hours of initial detention. The bill establishes that the requirement to detain an individual or motor vehicle under the bill's provisions does not preclude the enforcement of any other state or federal law. The bill removes a provision authorizing a law enforcement officer to take possession of a child without a court order under certain circumstances and requiring the officer to obtain the child's current address and any other relevant information and report such information to DFPS if those circumstances do not exist.

H.B. 2053 amends current law relating to the protection of certain children who may be subject to child abuse or neglect through the operation of the child safety check alert list.

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 261.301, Family Code, by adding Subsection (i), as follows:

(i) Requires the Department of Family and Protective Services (DFPS) to, if at any time during an investigation of a report of child abuse or neglect to which DFPS has assigned the highest priority DFPS is unable to locate the child who is the subject of the report of abuse or neglect or the child's family, notify the Department of Public Safety of the State of Texas (DPS) that the location of the child and the child's family is unknown. Requires DPS to conduct an investigation to determine the location of the child and the child's family using all available resources to locate the child and the child's family, including use of the child safety check alert list under Section 261.3022. Requires DPS, if DPS locates the child and the child's family, to notify DFPS of the location of the child and the child's family.

SECTION 2. Amends Section 261.3022, Family Code, as follows:

Sec. 261.3022. CHILD SAFETY CHECK ALERT LIST. (a) Requires DPS, subject to the availability of funds, to create a child safety check alert list as part of the Texas Crime Information Center to help locate a child or the child's family for purposes of investigating a report of child abuse or neglect.

(b) Requires DFPS, if the child safety check alert list is established and DFPS is unable to locate a child or the child's family for purposes of investigating a report of child abuse or neglect, after DFPS has attempted to locate the child or the child's family for at least seven days, to notify DPS that DFPS is unable to locate the child or the child's family. Requires DPS, on receiving the notice, to notify the Texas Crime Information Center to place the child and the child's family on a child safety check alert list. Requires that the alert list include, if available:

- (1) the name and physical description of the family member alleged to have abused or neglected a child according to the report DFPS is attempting to investigate;
- (2) the name and physical description of the child who is the subject of the report;
- (3) a code identifying the type of child abuse or neglect alleged to have been committed against the child;
- (4) the family's last known address;

(5) a description of the motor vehicle, including the vehicle's make, color, style of body, model year, and vehicle identification number, in which the child is suspected to be transported;

(6) the case number assigned by DFPS;

(7) the telephone number for DFPS employee responsible for the investigation at which the employee can be reached 24 hours a day;

(8) the date and time when and location where the child was last seen; and

(9) any other information required for an entry as established by the center, rather than the minimum criteria for an entry as established by the center.

Makes a nonsubstantive change.

Deletes existing text authorizing DFPS, if the child safety check alert list is established and DFPS is unable to locate a family for purposes of investigating a report of child abuse or neglect, after DFPS has exhausted all means available to DFPS for locating the family, to seek assistance under this section from the appropriate county attorney, district attorney, or criminal district attorney with responsibility for representing DFPS as provided by Section 264.009 (Legal Representation of Department).

Deletes existing Subsection (c) authorizing the county attorney, district attorney, or criminal district attorney, as applicable, if DFPS requests assistance, to file an application with the court requesting the issuance of an ex parte order requiring the Texas Crime Information Center to place the members of the family DFPS is attempting to locate on a child safety check alert list. Deletes existing text requiring that the application include a summary of the report of child abuse or neglect DFPS is attempting to investigate and DFPS's efforts to locate the family.

Deletes existing Subsection (d) text requiring the court, if the court determines after a hearing that DFPS has exhausted all means available to DFPS for locating the family, to approve the application and order the appropriate law enforcement agency to approve the application and order the appropriate law enforcement agency to notify the Texas Crime Information Center to place the family on a child safety check alert list.

SECTION 3. Amends Section 261.3023, Family Code, as follows:

Sec. 261.3023. LAW ENFORCEMENT RESPONSE TO CHILD SAFETY CHECK ALERT. (a) Requires a law enforcement officer, if the officer encounters a person listed on the Texas Crime Information Center's child safety check alert list who is alleged to have abused or neglected a child, or encounters a child listed on the alert list who is the subject of a report of child abuse or neglect DFPS is attempting to investigate, to:

(1) immediately detain all individuals in the officer's presence that are described in the child safety check alert list and take temporary custody of the child who is the subject of a report of child abuse or neglect;

(2) immediately take into investigative detention all motor vehicles described in the child safety check alert list;

(3) immediately notify DFPS of the detention, including the location of the detention; and

(4) hold all persons detained at the location of the initial contact by the law enforcement officer.

Deletes existing text requiring a law enforcement officer, if the officer encounters a person listed on the Texas Crime Information Center's child safety check alert list who is alleged to have abused or neglected a child, or encounters a child listed on the alert list who is the subject of a report of child abuse or neglect DFPS is attempting to investigate, to request information from the person or the child regarding the child's well-being and current residence.

(b) Prohibits a person detained under Subsection (a) from being transported from the location of the detention unless the person is lawfully arrested or the law enforcement officer detaining the person believes the detention area is unsafe. Prohibits a person from being detained under Subsection (a) for more than three hours. Requires the law enforcement officer to, if DFPS notifies the law enforcement officer that DFPS is unable to respond to the location of the detention within three hours of initial detention, obtain the child's current address and any other relevant information, report that information to DFPS, and release the detained individuals and motor vehicles.

(c) Provides that the requirement to detain an individual or motor vehicle under this section does not preclude the enforcement of any other state or federal law. Deletes existing text authorizing the law enforcement officer, if the law enforcement officer determines that the circumstances described by Section 262.104 (Taking Possession of a Child in Emergency Without a Court Order) exist, to take possession of the child without a court order as authorized by that section if the officer is able to locate the child. Deletes existing text requiring the officer, if the circumstances described by Section 262.104 do not exist, to obtain the child's current address and any other relevant information and report that information to DFPS.

SECTION 4. Amends Section 261.3024(a), Family Code, to require a law enforcement officer who locates a child listed on the Texas Crime Information Center's child safety check alert list who is the subject of a report of child abuse or neglect DFPS is attempting to investigate and who detains the child or the child's family under Section 261.3023 or reports the child's current address and other relevant information to DFPS under Section 261.3023 to report to the Texas Crime Information Center that the child has been located.

SECTION 5. Effective date: September 1, 2015.