

BILL ANALYSIS

Senate Research Center

S.B. 1406
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Health & Human Services
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Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

S.B. 1406 allows the Department of Family and Protective Services (DFPS) to fully utilize its resources in the pursuit of ensuring that Texas' most vulnerable children stay safe. The Child Safety Check Alert List (CSCAL) is a tool used by the Department of Public Safety of the State of Texas (DPS) and DFPS to locate children who DFPS is unable to locate during an investigation into abuse or neglect. S.B. 1406 will allow DFPS and DPS to extend the use of CSCAL beyond the investigation phase, into the Family-Based Support Services (FBSS) and conservatorship phases, as well as during alternative response cases. Current law limits DFPS use of CSCAL to the investigation phase.

DFPS statistics show that 12 percent of all CPS-confirmed child sexual abuse cases are not closed after investigation, but are referred to the agency's Family-Based Support Services division. These ongoing cases require continuous monitoring and support; failure to do so will increase the chances of recidivism—the likelihood that the child victim or the child's siblings will be re-victimized. When the child is moved from the address of record and can no longer access the necessary services, the risk of harm rises. Extending CSCAL to the Family-Based Support Services phase allows DFPS to find the child and resume evidence-based support and care. Similarly, a child who is in conservatorship still requires agency support—perhaps more so, as the child is in state custody. DFPS must be able to locate a child in conservatorship of the state, especially when the child's needs are known.

S.B. 1406 allows DFPS to add a child and family members to the Child Safety Check Alert List by utilizing the same channels for children in FBSS and conservatorship as it does for children in investigations: An attorney, upon the request of DFPS, files an application with the court requesting that the child and family members be placed on the CSCAL. The court approves the application and directs the Texas Crime Information Center to place the child and/or family members, as applicable, on the CSCAL.

S.B. 1406 also expands the amount of information that the Texas Crime Information Center will place on the CSCAL. Information will now include the child's name, if applicable, and the name of any "parent, managing conservator, or guardian of the child who cannot be located" for the purposes of investigation or providing support services in an alternative response or in the FBSS or conservator phase. As before, the CSCAL will include a code (if applicable) describing the type of "child abuse or neglect alleged or determined to have been committed against the child," the last known address of the child and family members, and the minimum criteria for an entry as established by the Texas Crime Information Center.

Importantly, S.B. 1406 does not expand the duties of law enforcement related to CSCAL. An officer who encounters a child and/or family member who is listed on CSCAL will continue to "request information from the person or the child regarding the child's well-being and current residence." Similarly, the law enforcement officer will report the child's whereabouts and current address to DFPS and notify the Texas Crime Information Center that the child has been located. Law enforcement will not arrest or detain family members who are found with the child, and law enforcement will not attempt to remove the child from his or her family members. (Original Author's / Sponsor's Statement of Intent)

S.B. 1406 amends current law relating to the protection of certain children 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 261.3022, Family Code, as follows:

Sec. 261.3022. CHILD SAFETY CHECK ALERT LIST. (a) Requires the Department of Public Safety of the State of Texas (DPS) to maintain, rather than create subject to the availability of funds, a child safety check alert list as part of the Texas Crime Information Center (TCIC) to help locate a child or the child's family for purposes of:

- (1) investigating a report of child abuse or neglect;
- (2) providing protective services to a family receiving family-based support services; or
- (3) providing protective services to the family of a child in the managing conservatorship of the Department of Family and Protective Services (DFPS).

(b) Requires DFPS, if DFPS is unable to locate a child or the child's family for a purpose described by Subsection (a) after DFPS has attempted to locate the child for not more than 20 days, to notify DPS that DFPS is unable to locate the child or the child's family. Requires that the notice include the information required by Subsections (c)(1)-(10).

(c) Requires DPS, on receipt of the notice from DFPS, to notify TCIC to place the child and the child's family on a child safety check alert list. Requires that the alert list include the following information if known or readily available:

- (1) the name, sex, race, date of birth, any known identifying numbers, including social security number and driver's license number, and personal descriptions of the family member alleged to have abused or neglected a child according to the report DFPS is attempting to investigate;
- (2) the name, sex, race, date of birth, any known identifying numbers, including social security number and driver's license number, and personal description of any parent, managing conservator, or guardian of the child who cannot be located for the purposes described by Subsection (a);
- (3) the name, sex, race, date of birth, any known identifying numbers, including social security number and driver's license number, and personal descriptions of the child who is the subject of the report or is receiving services described by Subsection (a)(2) or (3);
- (4) if applicable, a code identifying the type of child abuse or neglect alleged or determined to have been committed against the child;
- (5) the family's last known address;
- (6) any known 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;
- (7) the case number assigned by DFPS;

- (8) DFPS's dedicated law-enforcement telephone number for statewide intake;
- (9) the date and time when and the location where the child was last seen; and
- (10) any other information required for an entry as established by the center.

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 text 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 TCIC to place the members of 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 text requiring the court, if the court determines after a hearing that DFPS has exhausted all means available to DFPS for locating family, to approve the application and order the appropriate law enforcement agency to notify TCIC to place the family on a child safety check alert list.

SECTION 2. Amends Section 261.3023(a), Family Code, to require a law enforcement officer, if the officer encounters a person, including a child, listed on TCIC's child safety check alert list, to request information from the person or the child regarding the child's well-being and current residence. Deletes existing text requiring a law enforcement officer, if a law enforcement officer encounters a person, including a child, listed on the TCIC'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.

SECTION 3. Amends Section 261.3024(a), Family Code, to require a law enforcement officer who locates a child listed on the TCIC's child safety check alert list, rather than a law enforcement officer who locates a child listed on the TCIC's child safety check alert list and who is the subject of a report of child abuse or neglect DFPS is attempting to investigate, and who reports the child's current address and other relevant information to DFPS under Section 261.3023 to report to the TCIC that the child has been located.

SECTION 4. Effective date: September 1, 2015.