

BILL ANALYSIS

C.S.H.B. 4013
By: Frullo
Homeland Security & Public Safety
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties contend that law enforcement would benefit from clear guidelines regarding the release of a minor the officer took possession of in an emergency without a court order. C.S.H.B. 4013 seeks to provide such guidelines.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 4013 amends the Code of Criminal Procedure to authorize a law enforcement officer who takes possession of a child in an emergency without a court order to release the child to a residential child-care facility licensed by the Department of Family and Protective Services (DFPS) if the facility is authorized by DFPS to take possession of the child, a juvenile probation department, DFPS, or any other person authorized by law to take possession of the child. The bill requires an officer, before releasing a child to a person authorized by law to take possession of the child other than a governmental entity, to do the following: verify with the National Crime Information Center that the child is not a missing child; search the relevant databases of the National Crime Information Center system to verify that the person to whom the child is being released does not have an outstanding warrant, does not have a protective order issued against the person, and is not registered as a sex offender unless the person is the child's parent or guardian and there are no restrictions regarding the person's contact with the child and to obtain any other information DFPS considers relevant to protect the welfare of the child or reflective of the responsibility of the person to whom the child is being released; call the DFPS Texas Abuse and Neglect hotline to determine whether the person to whom the child is being released is listed in the registry as a person who abused or neglected a child; verify that the person to whom the child is being released is at least 18 years of age; and maintain a record regarding the child's placement.

EFFECTIVE DATE

September 1, 2017.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 4013 may differ from the original in minor or nonsubstantive ways, the

following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

SECTION 1. Chapter 2, Code of Criminal Procedure, is amended by adding Article 2.273 to read as follows:

Art. 2.273. RELEASE OF CHILD BY LAW ENFORCEMENT OR JUVENILE PROBATION OFFICER. (a) A law enforcement or juvenile probation officer who takes possession of a child under Section 262.104, Family Code, may release the child to:

(1) a residential child-care facility licensed by the Department of Family and Protective Services under Chapter 42, Human Resources Code, if the facility is authorized by the department to take possession of the child;

(2) a juvenile probation department;

(3) the Department of Family and Protective Services; or

(4) any other person authorized by law to take possession of the child.

(b) Before a law enforcement or juvenile probation officer may release a child to a person authorized by law to take possession of the child other than a governmental entity, the officer shall:

(1) verify with the National Crime Information Center that the child is not a missing child;

(2) search the relevant databases of the National Crime Information Center system, including those pertaining to protection orders, historical protection orders, warrants, sex offender registries, and persons on supervised release to:

(A) verify that the person to whom the child is being released:

(i) does not have an outstanding warrant;

(ii) does not have a protective order issued against the person; and

(iii) is not registered as a sex offender; and

(B) obtain any other information the Department of Family and Protective Services considers:

(i) relevant to protect the welfare of the child; or

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Chapter 2, Code of Criminal Procedure, is amended by adding Article 2.273 to read as follows:

Art. 2.273. RELEASE OF CHILD BY LAW ENFORCEMENT OFFICER. (a) A law enforcement officer who takes possession of a child under Section 262.104, Family Code, may release the child to:

(1) a residential child-care facility licensed by the Department of Family and Protective Services under Chapter 42, Human Resources Code, if the facility is authorized by the department to take possession of the child;

(2) a juvenile probation department;

(3) the Department of Family and Protective Services; or

(4) any other person authorized by law to take possession of the child.

(b) Before a law enforcement officer may release a child to a person authorized by law to take possession of the child other than a governmental entity, the officer shall:

(1) verify with the National Crime Information Center that the child is not a missing child;

(2) search the relevant databases of the National Crime Information Center system, including those pertaining to protection orders, historical protection orders, warrants, sex offender registries, and persons on supervised release to:

(A) verify that the person to whom the child is being released:

(i) does not have an outstanding warrant;

(ii) does not have a protective order issued against the person; and

(iii) is not registered as a sex offender unless the person is the child's parent or guardian and there are no restrictions regarding the person's contact with the child; and

(B) obtain any other information the Department of Family and Protective Services considers:

(i) relevant to protect the welfare of the child; or

(ii) reflective of the responsibility of the person to whom the child is being released;
(3) search the central registry of reported cases of child abuse or neglect established under Section 261.002, Family Code, to determine whether the person to whom the child is being released is listed in the registry as a person who abused or neglected a child;
(4) verify that the person to whom the child is being released is at least 18 years of age; and
(5) complete a form prescribed by the Department of Family and Protective Services that contains information about the child's placement, including:
(A) identifying information about the child, including the child's name and pseudonyms; and
(B) the name and address of the person to whom the child is being released.

SECTION 2. This Act takes effect September 1, 2017.

(ii) reflective of the responsibility of the person to whom the child is being released;
(3) call the Department of Family and Protective Services Texas Abuse and Neglect hotline to determine whether the person to whom the child is being released is listed in the registry as a person who abused or neglected a child;
(4) verify that the person to whom the child is being released is at least 18 years of age; and
(5) maintain a record regarding the child's placement, including:
(A) identifying information about the child, including the child's name or pseudonyms; and
(B) the name and address of the person to whom the child is being released.

SECTION 2. Same as introduced version.