86R15316 MCK-D

By:  White H.B. No. 1115

Substitute the following for H.B. No. 1115:

By:  Allen C.S.H.B. No. 1115

A BILL TO BE ENTITLED

AN ACT

relating to law enforcement agency policies regarding the placement of a child taken into possession by a peace officer during a person's arrest and placement information provided to the person.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1.  Chapter 2, Code of Criminal Procedure, is amended by adding Article 2.274 to read as follows:

Art. 2.274.  POLICY REGARDING SAFE PLACEMENT OF CHILD. (a) In this article, "law enforcement agency" has the meaning assigned by Article 2.1386.

(b)  Each law enforcement agency shall adopt a written policy regarding the safe placement of a child who is in the care, custody, or control of a person at the time the person is arrested. The policy must require that:

(1)  the arresting peace officer attempt to locate an adult authorized to be in possession of the child to whom the officer may release the child;

(2)  before releasing the child to an adult located under Subdivision (1), the officer:

(A)  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 verify that the adult:

(i)  does not have an outstanding warrant;

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

(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

(iv)  has not previously been finally convicted of any felony under Section 20A.03 or 21.02, Penal Code, or listed in Article 42A.054(a); and

(B)  verify that the adult is at least 18 years of age; and

(3)  the law enforcement agency periodically inform the arrested person about the care and custody status of the person's child.

(c)  Each law enforcement agency shall enter into an agreement with the Department of Family and Protective Services that provides the procedures for the law enforcement agency to release a child to the care of the department.

SECTION 2.  Chapter 493, Government Code, is amended by adding Section 493.032 to read as follows:

Sec. 493.032.  INFORMATION ABOUT CHILD OF INCARCERATED PARENT. The department shall periodically inform a person who is confined in a facility operated by or under contract with the department and is the parent of a child for whom the Department of Family and Protective Services has been named temporary managing conservator of the care and custody status of the person's child.

SECTION 3.  Subchapter C, Chapter 40, Human Resources Code, is amended by adding Section 40.074 to read as follows:

Sec. 40.074.  INFORMATION ABOUT CHILD OF INCARCERATED PARENT. (a) The department shall periodically inform the law enforcement agency that arrested a person who is the parent of a child for whom the department has been named temporary managing conservator of the care and custody status of the person's child.

(b)  If the law enforcement agency described by Subsection (a) notifies the department that the arrested person is confined in a county jail, the department shall periodically inform the sheriff's office of the county in which the person is confined of the care and custody status of the person's child.

(c)  If the law enforcement agency described by Subsection (a) notifies the department that the arrested person is confined in a facility operated by or under contract with the Texas Department of Criminal Justice, the department shall periodically inform the Texas Department of Criminal Justice of the care and custody status of the person's child.

SECTION 4.  Subchapter C, Chapter 351, Local Government Code, is amended by adding Section 351.048 to read as follows:

Sec. 351.048.  INFORMATION ABOUT CHILD OF INCARCERATED PARENT. The sheriff of a county shall periodically inform a person who is confined in the county jail and is the parent of a child for whom the Department of Family and Protective Services has been named temporary managing conservator of the care and custody status of the person's child.

SECTION 5.  Not later than June 1, 2020, each law enforcement agency in this state shall adopt the policy and enter into the agreement required by Article 2.274, Code of Criminal Procedure, as added by this Act.

SECTION 6.  This Act takes effect September 1, 2019.