

By: Klick, et al.

H.B. No. 2055

Substitute the following for H.B. No. 2055:

By: Shaheen

C.S.H.B. No. 2055

A BILL TO BE ENTITLED

1 AN ACT

2 relating to investigations of child abuse and neglect and the
3 procedures for adding names to or removing names from the central
4 registry of child abuse and neglect.

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

6 SECTION 1. Section 261.002, Family Code, is amended by
7 amending Subsections (a) and (b) and adding Subsections (a-1),
8 (a-2), (a-3), and (b-1) to read as follows:

9 (a) The department shall establish and maintain a central
10 registry of the names of persons [~~individuals~~] found by the
11 department to have abused or neglected a child other than persons
12 whose case was assigned the severity code "Low". Except as required
13 for an investigation of a person working at a facility or family
14 home regulated under Chapter 42, Human Resources Code, or as
15 provided by Subsection (a-1), the department shall maintain the
16 person's name in the registry until:

17 (1) the fifth anniversary of the date of the finding
18 for a case assigned the severity code "Moderate";

19 (2) the 15th anniversary of the date of the finding for
20 a case assigned the severity code "Serious";

21 (3) the 30th anniversary of the date of the finding for
22 a case assigned the severity code "Severe" or the 15th anniversary
23 of the date of the finding if the court returned the child to the
24 child's home during the period within which the court must render a

1 final order under Chapter 263; and

2 (4) the 99th anniversary of the date of the finding for
3 a case assigned the severity code "Near Fatal" or "Fatal".

4 (a-1) If the department's finding of abuse or neglect is
5 sustained by an administrative law judge of the State Office of
6 Administrative Hearings, the department shall maintain the
7 person's name in the central registry until the 20th anniversary of
8 the date of the finding or the date designated under Subsection (a),
9 whichever is longer.

10 (a-2) If a person is found by the department to have
11 committed multiple acts of abuse or neglect and the findings are
12 assigned different severity codes, the department shall maintain
13 the person's name in the central registry until the latest date
14 applicable under Subsection (a) or (a-1).

15 (a-3) The department may not maintain a person's name in the
16 central registry after the date the department disposes of the case
17 records related to the investigation.

18 (b) The [~~executive~~] commissioner shall adopt rules
19 necessary to carry out this section. The rules shall:

20 (1) prohibit the department from making a finding of
21 abuse or neglect against a person in a case in which the department
22 is named managing conservator of a child who has a severe emotional
23 disturbance only because the child's family is unable to obtain
24 mental health services for the child;

25 (2) establish guidelines for reviewing the records in
26 the registry and removing those records in which the department was
27 named managing conservator of a child who has a severe emotional

1 disturbance only because the child's family was unable to obtain
2 mental health services for the child;

3 (3) require the department to remove a person's name
4 from the central registry maintained under this section not later
5 than the 10th business day after:

6 (A) the date the department receives notice that
7 a finding of abuse and neglect against the person is overturned in:

8 (i) [~~(A)~~] an administrative review or an
9 appeal of the review conducted under Section 261.309(c);

10 (ii) [~~(B)~~] a review or an appeal of the
11 review conducted by the office of consumer relations [~~affairs~~] of
12 the department; or

13 (iii) [~~(C)~~] a hearing or an appeal
14 conducted by the State Office of Administrative Hearings; or

15 (B) the date the expungement review panel renders
16 a decision to remove a person's name from the registry after
17 conducting an expungement hearing under Subchapter G; and

18 (4) require the department to update any relevant
19 department files to reflect an overturned finding of abuse or
20 neglect against a person not later than the 10th business day after
21 the date the finding is overturned in a review, hearing, or appeal
22 described by Subdivision (3).

23 (b-1) The department shall remove from the central registry
24 the name of any person against whom the department made a finding of
25 abuse or neglect when the person was younger than 18 years of age
26 if:

27 (1) two years have passed since the department made

1 the finding;

2 (2) the department has not made any subsequent finding
3 of abuse or neglect against the person;

4 (3) the person has not had a juvenile offender
5 adjudication for any act other than the same incident that resulted
6 in the finding made by the department; and

7 (4) the person has not had any criminal adjudications
8 for an offense involving child abuse or neglect other than the
9 incident that resulted in the finding made by the department.

10 SECTION 2. Subchapter A, Chapter 261, Family Code, is
11 amended by adding Section 261.0021 to read as follows:

12 Sec. 261.0021. NOTICE BEFORE ADDING ALLEGED OFFENDER TO
13 CENTRAL REGISTRY. Before the department may add a person's name and
14 information regarding the reported case of abuse or neglect to the
15 central registry maintained under Section 261.002, the department
16 shall provide written notice to the person that the person's name
17 will be added to the registry. The notice must include:

18 (1) a clear statement of what the central registry is;
19 and

20 (2) an explanation of the consequences of being listed
21 in the central registry, including any possible negative impact on
22 the person's ability to obtain employment or certain licenses and
23 to have future contact with children, including any limitation on
24 volunteering or involvement in school activities.

25 SECTION 3. Subchapter D, Chapter 261, Family Code, is
26 amended by adding Sections 261.3081 and 261.317 to read as follows:

27 Sec. 261.3081. SEVERITY CODES. (a) The department shall

1 assign a severity code as provided by this section to each
2 substantiated finding of abuse or neglect made by the department in
3 an investigation relating to a person described in Sections
4 261.001(5)(A)-(D).

5 (b) The department shall assign the severity code "Low" to
6 an isolated incident where there was a threat of harm but no injury
7 to the child and the incident was due to an accident or parental
8 mistake that does not pose an ongoing risk of harm beyond the
9 incident. The "Low" severity code is limited to substantiated
10 findings of neglectful supervision. The department may not use the
11 severity code "Low" in an investigation of a school under Section
12 261.406 in which the department substantiated findings of abuse or
13 neglect.

14 (c) The department shall assign the severity code
15 "Moderate" to an incident of abuse or neglect in which there is a
16 low or moderate risk of future harm to a child, there are no
17 unmanaged dangers in the home, the incident does not result in
18 removal, and the department closes the investigation with a
19 recommendation for community services. The severity code
20 "Moderate" is limited to substantiated findings of emotional abuse,
21 neglectful supervision, and physical abuse consisting of an
22 isolated incident of inappropriate discipline that does not require
23 care by a medical provider or result in substantial injury to the
24 child.

25 (d) The department shall assign the severity code "Serious"
26 to an incident of abuse or neglect in which there is a high risk of
27 future harm to a child, there are unmanaged dangers in the home, and

1 without services to the family removal of the child from the home
2 would be necessary. The severity code "Serious" is limited to
3 substantiated findings of emotional abuse, neglectful supervision,
4 refusal to accept parental responsibility, medical or physical
5 neglect if the incident did not result in any harm or injury to the
6 child, and physical abuse excluding circumstances of physical abuse
7 that resulted in serious injury to a child.

8 (e) The department shall assign the severity code "Severe"
9 to an incident of abuse or neglect in which there is a very high risk
10 of future harm to a child, there are unmanaged dangers in the home,
11 and a court in a suit affecting the parent-child relationship
12 renders an order removing the child from the home. The severity
13 code "Severe" is limited to substantiated findings of sexual abuse,
14 physical abuse that resulted in serious injury to the child,
15 medical or physical neglect that resulted or could have resulted in
16 impairment to the child's overall health or well-being, sex or
17 labor trafficking, forced marriage, and abandonment.

18 (f) The department shall assign the severity code "Near
19 Fatal" to an incident of abuse or neglect that meets the definition
20 of near fatality in Section [264.5031](#).

21 (g) The department shall assign the severity code "Fatal" to
22 an incident of abuse or neglect that results in a child fatality.

23 (h) This section does not apply to a person alleged to have
24 abused or neglected a child at a facility or family home regulated
25 under Chapter [42](#), Human Resources Code.

26 (i) The commissioner may adopt rules to implement this
27 section.

1 employees and a representative of the public appointed by the
2 commissioner. The representative of the public shall serve a
3 two-year term and may serve for not more than three terms.

4 (c) A person may not serve as a public member of the
5 expungement review panel if the person:

6 (1) has been convicted of or indicted for an offense
7 involving child abuse or neglect;

8 (2) has been determined by the department to have
9 engaged in child abuse or neglect; or

10 (3) is under investigation by the department for child
11 abuse or neglect.

12 (d) The public member of the expungement review panel is a
13 department volunteer for the purposes of Section [411.114](#),
14 Government Code.

15 (e) The members of the expungement review panel are immune
16 from civil or criminal liability for any act or omission that
17 relates to their duty or responsibility as a member of the review
18 panel if they acted in good faith and within the scope of their
19 responsibility, as provided in Section [40.061](#), Human Resources
20 Code.

21 Sec. 261.604. REQUEST FOR REMOVAL OF NAME. (a) A person
22 who desires to have the person's name removed from the central
23 registry shall submit a written request to the commissioner that
24 includes a letter describing the reason for the request.

25 (b) Only the following persons may make a request to have
26 their name removed from the central registry as provided by this
27 subchapter:

1 (1) a parent, guardian, or managing or possessory
2 conservator of the child;

3 (2) a member of the child's family or household as
4 defined by Chapter 71; and

5 (3) a person with whom the child's parent cohabits.

6 (c) A person may not make a request under this section
7 before the third anniversary of the date the department made the
8 most recent finding of child abuse or neglect against the person.

9 (d) The expungement review panel shall deny a person's
10 request under this section if, after the person submits the
11 request, the department makes a finding of child abuse or neglect
12 against the person.

13 (e) If the expungement review panel denies a request under
14 this section after a hearing, the person may not submit a subsequent
15 request until the first anniversary of the date the review panel
16 rendered a decision on the person's last request.

17 (f) A person who has been determined by the department to
18 have engaged in child abuse or neglect is not eligible for a review
19 under this subchapter if:

20 (1) the incident of abuse or neglect resulted in a
21 child fatality or near fatality;

22 (2) a court ordered termination of the parent-child
23 relationship as a result of the abuse or neglect; or

24 (3) the person has been convicted of an offense
25 involving child abuse or neglect.

26 Sec. 261.605. HEARING DATE AND NOTICE; LIMITATION. (a) On
27 receipt of a request under Section 261.604(a), the commissioner

1 shall notify the expungement review panel of the request. The
2 review panel shall set a date for a hearing on the request. The
3 review panel shall hold the hearing not later than the 60th day
4 after the date the commissioner receives the request, unless the
5 panel has good cause for holding the hearing after that date.

6 (b) The expungement review panel shall send written notice
7 of the date, time, and location of the hearing to the requestor and
8 the regional office that conducted the original investigation.

9 Sec. 261.606. REVIEW HEARING. (a) At the hearing, the
10 person requesting the review may present evidence supporting
11 removal of the person's name from the central registry. The person
12 has the burden of providing the expungement review panel with the
13 basis for granting the request and may present evidence including:

14 (1) completion of treatment services or programs
15 related to the finding;

16 (2) letters of support from professionals or others;

17 (3) evidence of activities that would reflect upon the
18 person's changed behavior or circumstances such as therapy,
19 employment, or education; and

20 (4) any other relevant evidence that shows changed
21 circumstances.

22 (b) The regional office of the department that conducted the
23 original investigation may:

24 (1) present evidence in support of or in opposition to
25 the request; and

26 (2) make a recommendation regarding the request.

27 Sec. 261.607. EXPUNGEMENT REVIEW PANEL'S DECISION. (a)

1 Unless the expungement review panel has good cause for an
2 extension, the panel shall render a written decision on the request
3 that includes the review panel's reasons for the decision not later
4 than the 45th day after the date of the hearing. The review panel's
5 decision must be by majority vote.

6 (b) The expungement review panel shall provide the written
7 decision to the person requesting the review and to the
8 department's commissioner, deputy commissioner, chief of staff,
9 and associate commissioner for child protective investigations.

10 (c) The expungement review panel shall consider the
11 following factors in making its decision:

12 (1) the department's findings regarding the nature and
13 severity of the incident of abuse or neglect and the circumstances
14 surrounding the incident;

15 (2) the number of findings of abuse or neglect
16 involving the person;

17 (3) the person's age at the time of the incident, and
18 whether the person was a child at the time of the incident;

19 (4) whether the circumstances that contributed to the
20 incident of abuse or neglect still exist;

21 (5) actions taken by the person since the incident to
22 prevent the reoccurrence of abuse or neglect, including
23 participation in and completion of services and programs related to
24 the allegations; and

25 (6) any other relevant information that shows that the
26 person no longer poses a risk to the safety and well-being of the
27 alleged victim, other children, and vulnerable adults.

1 Sec. 261.608. LIMIT ON NUMBER OF REVIEW HEARINGS. A person
2 may not have more than four hearings under this subchapter.

3 Sec. 261.609. CONFIDENTIALITY. The review conducted under
4 this subchapter is confidential and not subject to disclosure under
5 Chapter 552, Government Code.

6 Sec. 261.610. RULEMAKING. The commissioner may adopt rules
7 to implement this subchapter.

8 SECTION 5. Section 261.002, Family Code, as amended by this
9 Act, and Section 261.3081, Family Code, as added by this Act, apply
10 only to a finding of abuse or neglect made by the Department of
11 Family and Protective Services on or after May 1, 2022. A finding
12 made by the Department of Family and Protective Services before
13 that date is governed by the law in effect prior to the effective
14 date of this Act, and the former law is continued in effect for that
15 purpose.

16 SECTION 6. This Act takes effect September 1, 2021.