

By: Meza, A. Johnson of Harris, et al.

H.B. No. 4055

A BILL TO BE ENTITLED

AN ACT

relating to reporting and investigating certain cases of child abuse or neglect involving a pregnant woman's use of a controlled substance.

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

SECTION 1. Section 261.101, Family Code, is amended by adding Subsection (b-2) to read as follows:

(b-2) A professional providing prenatal, mental health, or other medical care to a woman who voluntarily discloses to the professional that the woman illegally used a controlled substance, as defined by Chapter 481, Health and Safety Code, during pregnancy is not required to make a report under this section if:

(1) the woman provides proof that:

(A) she is currently enrolled in or has recently completed a substance abuse treatment program; or

(B) she made reasonable efforts to enroll in a substance abuse program within five days of the date she made a disclosure described by this subsection; or

(2) the professional determines:

(A) there is no immediate risk of harm to the child from the exposure to the controlled substance; and

(B) the woman does not otherwise pose an immediate risk of harm to the child.

SECTION 2. Section 261.301, Family Code, is amended by

1 amending Subsection (a) and adding Subsection (a-1) to read as
2 follows:

3 (a) Except as provided by Subsection (a-1), with ~~[with]~~
4 assistance from the appropriate state or local law enforcement
5 agency as provided by this section, the department shall make a
6 prompt and thorough investigation of a report of child abuse or
7 neglect allegedly committed by a person responsible for a child's
8 care, custody, or welfare. The investigation shall be conducted
9 without regard to any pending suit affecting the parent-child
10 relationship.

11 (a-1) The department may not investigate a report of child
12 abuse or neglect allegedly committed by a woman based on the woman's
13 illegal use of a controlled substance, as defined by Chapter 481,
14 Health and Safety Code, during pregnancy if the woman enrolls in and
15 successfully completes a substance abuse treatment program under
16 the supervision of the referring or treating professional.

17 SECTION 3. This Act takes effect September 1, 2021.