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S.B. No. 1672

A BILL TO BE ENTITLED

AN ACT

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

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

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

(a) The department shall establish and maintain a central registry of the names of persons [~~individuals~~] found by the department to have abused or neglected a child other than persons whose case was assigned the severity code "Low". Except as provided by Subsection (a-1), the department shall maintain the person's name in the registry until:

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

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

(3) the 30th anniversary of the date of the finding for a case assigned the severity code "Severe" or the 15th anniversary of the date of the finding if the court returned the child to the child's home during the period within which the court must render a final order under Chapter 263; and

(4) the 99th anniversary of the date of the finding for

1 a case assigned the severity code "Near Fatal" or "Fatal".

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

8 (a-2) The department may not maintain a person's name in the  
9 central registry after the date the department disposes of the case  
10 records related to the investigation.

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

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

18 (2) establish guidelines for reviewing the records in  
19 the registry and removing those records in which the department was  
20 named managing conservator of a child who has a severe emotional  
21 disturbance only because the child's family was unable to obtain  
22 mental health services for the child;

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

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

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

3            (ii) [~~(B)~~] a review or an appeal of the  
4 review conducted by the office of consumer relations [~~affairs~~] of  
5 the department; or

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

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

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

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

20            (1) two years have passed since the department made  
21 the finding;

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

24            (3) the person has not had a juvenile offender  
25 adjudication for any act other than the incident that resulted in  
26 the finding made by the department; and

27            (4) the person has not had any criminal adjudications

1 for an offense involving child abuse or neglect other than the  
2 incident that resulted in the finding made by the department.

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

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

11 (1) a clear statement of what the central registry is;  
12 and

13 (2) the consequences of being listed in the central  
14 registry, including any possible negative impact on the person's  
15 ability to obtain employment or certain licenses and to have future  
16 contact with children, including any limitation on volunteering or  
17 involvement in school activities.

18 SECTION 3. Subchapter D, Chapter 261, Family Code, is  
19 amended by adding Section 261.3081 to read as follows:

20 Sec. 261.3081. SEVERITY CODES. (a) The department shall  
21 assign a severity code as provided by this section to each  
22 substantiated finding of abuse or neglect made by the department in  
23 an investigation relating to a person described in Sections  
24 261.001(5)(A)-(D).

25 (b) The department shall assign the severity code "Low" to  
26 an isolated incident where there was a threat of harm but no injury  
27 to the child and the incident was due to an accident or parental

1 mistake that does not pose an ongoing risk of harm beyond the  
2 incident. The "Low" severity code is limited to substantiated  
3 findings of neglectful supervision. The department may not use the  
4 severity code "Low" in an investigation of a school under Section  
5 261.406 in which the department substantiated findings of abuse or  
6 neglect.

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

18 (d) The department shall assign the severity code "Serious"  
19 to an incident of abuse or neglect in which there is a high risk of  
20 future harm to a child, there are unmanaged dangers in the home, and  
21 without services to the family removal of the child from the home  
22 would be necessary. The severity code "Serious" is limited to  
23 substantiated findings of emotional abuse, neglectful supervision,  
24 refusal to accept parental responsibility, medical or physical  
25 neglect if the incident did not result in any harm or injury to the  
26 child, and physical abuse excluding circumstances of physical abuse  
27 that resulted in serious injury to a child.

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

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

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

16       (h) This section does not apply to a person alleged to have  
17 abused or neglected a child at a child-care facility as defined by  
18 Section [42.002](#)(3), Human Resources Code.

19       (i) The commissioner may adopt rules to implement this  
20 section.

21       SECTION 4. Subchapter [D](#), Chapter [261](#), Family Code, is  
22 amended by adding Section 261.317 to read as follows:

23       Sec. 261.317. RECORDS RETENTION; EXPUNCTION. (a) The  
24 department may retain records related to an investigation under  
25 this chapter in accordance with the department's records retention  
26 schedule after a person's name has been removed from the central  
27 registry in order to perform background checks required under

1 Section 42.056, Human Resources Code, and to conduct risk and  
2 safety assessments.

3 (b) The department shall comply with a court order directing  
4 expunction of the department's records concerning a person for whom  
5 the department maintains records.

6 SECTION 5. Chapter 261, Family Code, is amended by adding  
7 Subchapter G to read as follows:

8 SUBCHAPTER G. REMOVING NAMES FROM CENTRAL REGISTRY OF ABUSE AND  
9 NEGLECT

10 Sec. 261.601. DEFINITION. In this subchapter, "central  
11 registry" means the central registry of the names of persons found  
12 by the department to have abused or neglected a child maintained by  
13 the department under Section 261.002.

14 Sec. 261.602. NONAPPLICABILITY OF SUBCHAPTER. This  
15 subchapter does not apply to persons alleged to have abused or  
16 neglected a child in a child-care facility as defined by Section  
17 42.002(3), Human Resources Code, or to school investigations  
18 conducted under Section 261.406.

19 Sec. 261.603. EXPUNGEMENT REVIEW PANEL; MEMBERS. (a) The  
20 department shall establish an expungement review panel to review  
21 requests to have a person's name removed from the central registry.

22 (b) The expungement review panel is composed of department  
23 employees and a representative of the public appointed by the  
24 commissioner. Members of the review panel serve two-year terms and  
25 may serve for not more than three terms.

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

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

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

5           (3) is under investigation by the department for child  
6 abuse or neglect.

7           (d) The public member of the expungement review panel is a  
8 department volunteer for the purposes of Section 411.114,  
9 Government Code.

10           (e) The members of the expungement review panel are immune  
11 from civil or criminal liability for any act or omission that  
12 relates to their duty or responsibility as a member of the review  
13 panel if they acted in good faith and within the scope of their  
14 responsibility, as provided in Section 40.061, Human Resources  
15 Code.

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

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

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

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

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



1       (c) A person may not make a request under this section  
2 before the third anniversary of the date the department made the  
3 finding of child abuse or neglect.

4       (d) If the expungement review panel denies a request under  
5 this section after a hearing, the person may not submit a subsequent  
6 request until the first anniversary of the date the review panel  
7 rendered a decision on the person's last request.

8       (e) A person who has been determined by the department to  
9 have engaged in child abuse or neglect is not eligible for a review  
10 under this subchapter if:

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

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

15           (3) following the date of the department's  
16 determination, the department makes another substantiated finding  
17 of abuse and neglect by the person or the person had a criminal  
18 adjudication for an offense involving child abuse or neglect.

19       Sec. 261.605. HEARING DATE AND NOTICE; LIMITATION. (a) On  
20 receipt of a request under Section 261.604(a), the commissioner  
21 shall notify the expungement review panel of the request. The  
22 review panel shall set a date for a hearing on the request. The  
23 review panel shall hold the hearing not later than the 60th day  
24 after the date the commissioner receives the request, unless the  
25 panel has good cause for holding the hearing after that date.

26       (b) The expungement review panel shall send written notice  
27 of the date, time, and location of the hearing to the requestor and

1 the regional office that conducted the original investigation.

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

7 (1) completion of treatment services or programs  
8 related to the finding;

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

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

13 (4) any other relevant evidence that shows changed  
14 circumstances.

15 (b) The regional office of the department that conducted the  
16 original investigation may:

17 (1) present evidence in support of or in opposition to  
18 the request; and

19 (2) make a recommendation regarding the request.

20 Sec. 261.607. EXPUNGEMENT REVIEW PANEL'S DECISION. (a)  
21 Not later than the 45th day after the date of the hearing, the  
22 expungement review panel shall render a written decision on the  
23 request that includes the review panel's reasons for the decision.  
24 The review panel's decision must be by majority vote.

25 (b) The expungement review panel shall provide the written  
26 decision to the person requesting the review and to the  
27 department's commissioner, deputy commissioner, chief of staff,

1 and associate commissioner for child protective investigations.

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

4 (1) the nature and severity of the allegations of  
5 abuse or neglect and the circumstances surrounding the allegations;

6 (2) the number of findings of abuse or neglect  
7 involving the person;

8 (3) whether the person was a child at the time the  
9 finding of abuse or neglect was made and the person's age at the  
10 time of the incident;

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

13 (5) actions taken by the person since the incident to  
14 prevent the reoccurrence of abuse or neglect, including  
15 participation in and completion of services and programs related to  
16 the allegations; and

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

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

22 Sec. 261.609. CONFIDENTIALITY. The review conducted under  
23 this subchapter is confidential and not subject to disclosure under  
24 Chapter 552, Government Code.

25 Sec. 261.610. RULEMAKING. The commissioner may adopt rules  
26 to implement this subchapter.

27 SECTION 6. This Act takes effect immediately if it receives

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1 a vote of two-thirds of all the members elected to each house, as  
2 provided by Section 39, Article III, Texas Constitution. If this  
3 Act does not receive the vote necessary for immediate effect, this  
4 Act takes effect September 1, 2021.