

## **BILL ANALYSIS**

Senate Research Center

H.B. 63  
By: Swanson et al. (Sparks)  
Health & Human Services  
5/5/2023  
Engrossed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Many people nationally have raised concerns that the current reporting system by Child Protective Services (CPS) is prone to exploitation by misinformed bystanders witnessing a meltdown by a child with a disability, vengeful parents in a custody dispute, and other bad actors. Moreover, the current reporting system makes investigations by CPS and the Department of Family and Protective Services (DFPS) more complicated, prevents a comprehensive investigation, and creates needless hours of investigating false accusations all because the agency often cannot verify the caller's identity. Under the current code, an individual is authorized to make an anonymous to CPS, preventing the investigating authority from having any way to identify the caller.

While the state should ensure that those who report abuse and neglect in good faith are not subject to repercussions, the investigating agency should be required to obtain the caller's identity for the purposes of conducting an accurate, robust investigation.

H.B. 63 prevents CPS and DFPS from accepting an anonymous report outright. Instead, the legislation takes all reporting to privileged confidential so that CPS can verify the individual and their contact information on the back end. In the event of an emergency, an anonymous report can still be made to 9-1-1; however, the legislation ensures that all parents are equipped with their rights in an investigation ahead of time. H.B. 63 further clarifies who at DFPS is allowed to have access to a reporter's information, and tightens the language around confidentiality for reporters during an investigation.

H.B. 63 amends current law relating to reports of child abuse or neglect and certain preliminary investigations of those reports.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the Department of Family and Protective Services in SECTION 2 (Section 261.201, Family Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 261.104, Family Code, as follows:

Sec. 261.104. New heading: CONTENTS OF REPORT; NOTICE. (a) Creates this subsection from existing text. Requires the individual, rather than the person, making a report to identify, if known:

- (1) makes no change to this subdivision;
- (2) makes a nonsubstantive change to this subdivision;
- (3) the facts that caused the individual to believe the child has been abused or neglected and the source of the information;
- (4) the individual's name and telephone number;

(5) the individual's:

(A) home address; or

(B) if the individual is a professional as defined by Section 261.101(b) (relating to defining "professional"), the individual's business address and profession; and

(6) creates this subdivision from existing text.

(b) Requires the Department of Family and Protective Services (DFPS) representative receiving a report of child abuse or neglect, if the individual making the report uses the toll-free telephone number DFPS operates for reporting child abuse or neglect and the individual is unwilling to provide the information described by Subsection (a)(4), to notify the individual that:

(1) DFPS is not authorized to accept an anonymous report of abuse or neglect;

(2) the individual is authorized to report the abuse or neglect by making a report to any local or state law enforcement agency; and

(3) the identity of an individual making a report under Subchapter B (Report of Abuse or Neglect; Immunities) is confidential and is authorized to be disclosed only as provided by Section 261.201 (Confidentiality and Disclosure of Information) or to a law enforcement officer for the purposes of conducting a criminal investigation of the report.

(c) Requires the DFPS representative or other person receiving a report of child abuse or neglect to use the person's best efforts to obtain the information described by Subsection (a).

(d) Requires DFPS or the local or state law enforcement agency receiving a report of abuse or neglect, if the report is made orally, to:

(1) notify the individual making the report that:

(A) the report is being recorded; and

(B) making a false report is a criminal offense under Section 261.107 (False Report; Criminal Penalty; Civil Penalty) punishable as a state jail felony or a third degree felony; and

(2) make an audio recording of the report.

SECTION 2. Amends Section 261.201, Family Code, by adding Subsections (m) and (n), as follows:

(m) Authorizes an employee of DFPS to only have access to the identity of the person making a report of alleged or suspected abuse or neglect under Chapter 261 (Investigation of Report of Child Abuse or Neglect) if:

(1) the employee is directly involved with an investigation, case, or other process involving the child who is the subject of the report or the child's parent or other person having legal custody of the child;

(2) the employee supervises, directly or indirectly, an employee described by Subdivision (1); or

(3) the employee has any other legitimate professional interest in an investigation, case, or other process involving the child who is the subject of the report or the

child's parent or other person having legal custody of the child that necessitates access to the identity of the person who made the report.

(n) Requires DFPS to adopt rules to implement Subsection (m).

SECTION 3. Amends Section 261.304(a), Family Code, as follows:

(a) Requires DFPS, if an individual makes, rather than if DFPS receives, an anonymous report of child abuse or neglect by a person responsible for a child's care, custody, or welfare to a local or state law enforcement agency and the agency refers the report to DFPS, to conduct a preliminary investigation to determine whether there is any evidence to corroborate the report.

SECTION 4. Amends Section 261.307, Family Code, by adding Subsection (c), as follows:

(c) Requires a DFPS representative, before taking any action under Section 261.304 (Investigation of Anonymous Report), to provide to a parent or other person having legal custody of a child who is under investigation:

(1) information regarding the representative's identity;

(2) the summary described by Subsection (a)(1) (relating to requiring DFPS, as soon as possible after initiating an investigation of a parent or other person having legal custody of a child, to provide to the person a summary meeting certain criteria); and

(3) a reasonable amount of time to read or review the summary.

SECTION 5. Effective date: upon passage or September 1, 2023.