

## **BILL ANALYSIS**

C.S.H.B. 63  
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Human Services  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Many people nationally have raised concerns that the current system for reporting alleged child abuse 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 the Department of Family and Protective Services (DFPS) more complicated, prevents comprehensive investigations, and creates needless hours of investigating false accusations due to the fact that DFPS cannot verify a caller's identity, as current law allows an individual to make an anonymous, as opposed to a confidential, report to DFPS, 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, DFPS should be required to obtain the caller's identity for the purposes of conducting an accurate, robust investigation. C.S.H.B. 63 seeks to address these issues by preventing DFPS from accepting an anonymous report outright. Instead, the legislation takes in all reporting as privileged and confidential so that the individual and their contact information can be verified later. In the event of an emergency, an anonymous report can still be made to 9-1-1. The legislation also increases certain protections for parents involved in preliminary investigations.

### **CRIMINAL JUSTICE IMPACT**

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that rulemaking authority is expressly granted to the Department of Family and Protective Services in SECTION 2 of this bill.

### **ANALYSIS**

C.S.H.B. 63 amends the Family Code to include the following among the information required to be identified by an individual making a report of child abuse or neglect:

- the facts that caused the individual to believe the child has been abused or neglected and the source of the information;
- the individual's name and telephone number; and
- the individual's home address or, if the individual is a professional required to report, the individual's business address and profession.

The bill requires the Department of Family and Protective Services (DFPS) representative or other person receiving a report of child abuse or neglect to use the person's best efforts to obtain all the information required to be identified by the reporting individual.

C.S.H.B. 63 requires a DFPS representative who receives a report of child abuse or neglect by means of the DFPS toll-free telephone number operated for that purpose from an individual who

is unwilling to provide their name and telephone number to notify the individual of the following information:

- DFPS is not authorized to accept an anonymous report of abuse or neglect;
- the individual may report the abuse or neglect by calling 9-1-1 or making a report to any local or state law enforcement agency; and
- the identity of an individual making a report of child abuse or neglect is confidential and may be disclosed only as provided by applicable law or to a law enforcement officer for the purposes of conducting a criminal investigation of the report.

C.S.H.B. 63 requires the DFPS representative or other person receiving a report of abuse or neglect that is made orally to take the following actions:

- make an audio recording of the report; and
- notify the individual making the report that the report is being recorded and that making a false report is a criminal offense punishable as a state jail felony or a third degree felony.

C.S.H.B. 63 authorizes a DFPS employee to have access to the identity of the person making a report of alleged or suspected abuse or neglect only under the following circumstances:

- 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;
- the employee supervises, directly or indirectly, such an employee; or
- the employee has any other legitimate professional interest in an investigation, case, or other process involving the child 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.

The bill requires DFPS to adopt rules to implement such provisions and conditions any action DFPS might take with respect to an investigation of an anonymous report on a DFPS representative providing to a parent or other person having legal custody of the child who is under investigation the following information:

- information regarding the representative's identity;
- the summary required to be given to a legal guardian who is under investigation on investigation procedures; and
- a reasonable amount of time to read or review the summary.

C.S.H.B. 63 requires DFPS to conduct a preliminary investigation to determine whether there is evidence to corroborate the report if:

- an individual makes an anonymous report of child abuse or neglect to a 9-1-1 service or a local or state law enforcement agency; and
- the service or agency refers the report to DFPS.

### **EFFECTIVE DATE**

On passage, or, if the bill does not receive the necessary vote, September 1, 2023.

### **COMPARISON OF INTRODUCED AND SUBSTITUTE**

While C.S.H.B. 63 may differ from the introduced in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

Both the introduced and the substitute include provisions relating to reports of child abuse or neglect and certain preliminary investigations of those reports, however their provisions differ as follows:

- the introduced includes provisions prohibiting a law enforcement officer from accompanying a DFPS representative on a visit to the child's home during a preliminary investigation and a DFPS representative from taking certain actions relating to applicable interviews and examinations, whereas the substitute does not include these prohibitions;
- instead, the substitute conditions the authorization for a DFPS employee to have access to the identity of a person making a report of child abuse or neglect on certain prerequisites being met related to the employee's relationship to the child's case and requires DFPS to adopt rules to implement these provisions; and
- the substitute also includes a provision not in the introduced conditioning any action a DFPS representative might take with respect to the investigation of an anonymous report on the representative providing to a parent or other person having legal custody of the child who is under investigation certain information identifying the representative and outlining the investigation process and child placement resources.

The substitute changes the bill's effective date to provide for its possible immediate effect, contingent on receiving the requisite constitutional vote, whereas the introduced provided only for the bill to take effect September 1, 2023, with no possibility for immediate effect.