

BILL ANALYSIS

H.B. 475
By: Hull
Human Services
Committee Report (Unamended)

BACKGROUND AND PURPOSE

The Forensic Assessment Center Network (FACN) was established by the Department of Family and Protective Services (DFPS) in 2006 to make expert pediatricians available for consultation in investigations of suspected child abuse and neglect. The FACN contracts with medical specialists and child abuse pediatricians in a network to review medical records that are sent by DFPS or other medical professionals to help make a determination on whether abuse or neglect might have occurred or even to provide a second opinion in medical cases.

Although past legislation has greatly improved the process used for FACN consults, there is still a lack of transparency and parental rights to records and numerous conflicts that impede fairness during an investigation. Current law does not directly require the FACN to provide all medical documents to the parents of a child for the consults given, even though such information is supposed to be HIPAA compliant, as it is part of the child's medical record. H.B. 475 seeks to improve the transparency of this process by establishing requirements for the disclosure of medical records and other relevant documentation to a parent or legal guardian, or their attorney, in a child abuse or neglect investigation involving an FACN consult. The bill also prevents a medical professional from providing a forensic review or consult if they are a member of a multidisciplinary team on the case consult or have otherwise been involved in reviewing the case.

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 this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

H.B. 475 amends the Family Code to require the Department of Family and Protective Services (DFPS), when referring a child abuse or neglect case to a physician for specialty consultation or forensic assessment, to make the referral to a physician who was not involved in reviewing the case, including as a member of an investigation review team or a multidisciplinary team. The bill also prohibits any health care practitioner who was involved in reviewing the case from providing forensic assessment services in connection with the investigation.

H.B. 475 requires DFPS to do the following with respect to child abuse or neglect cases involving health care specialty consultation:

- before referring a child's case for a specialty consultation, provide to the child's parent or legal guardian or, if represented by an attorney, the attorney of the parent or legal

guardian all medical records, including radiographs, images, and other documents used by DFPS and the Forensic Assessment Center Network during the investigation; and

- for a case in which a blind peer review process is used to resolve disagreement among consulted physicians in the assessment of the causes of the child's injuries or in the presence of an applicable health condition, provide to the child's parent or legal guardian, or their attorney if applicable, the information used to resolve the case, including the names of the physicians, the physicians' opinions, the possible conflicting conditions, all assessments conducted on the child, and all medical records related to the child.

The bill prohibits DFPS, a referring provider, including a hospital, and the network from obstructing, preventing, or inhibiting a child's parent or legal guardian, or their attorney if applicable, from obtaining all medical records and documentation necessary to request an alternative opinion, including access to the child for that purpose.

H.B. 475 clarifies that provisions relating to the mitigation of provider conflicts in forensic assessment consultations for abuse or neglect investigations may not be construed to restrict the ability of the child's parent or legal guardian, or their attorney if applicable, to receive all medical records and documentation relating to a case in which the network is consulted.

EFFECTIVE DATE

September 1, 2023.