

## **BILL ANALYSIS**

C.S.H.B. 1289  
By: Campos  
Human Services  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

After receiving calls from worried families regarding investigations conducted by the Department of Family and Protective Services (DFPS), and after a review of these constituents' cases and supporting documents, it was discovered that inconsistencies in investigator training are causing unnecessary child removals, traumatized families, and poor evidence being presented to the courts, which has led to cases being overturned. Additionally, a DFPS Administrative Review of Investigation Findings from 2021 indicated that poor investigative legitimacy contributed to overturns of investigative findings that were challenged by parents. C.S.H.B. 1289 seeks to improve the quality of child protective investigations by providing for the development of a training program and prescribing requirements with respect to the training contents.

### **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 commissioner of the Department of Family and Protective Services in SECTION 2 of this bill.

### **ANALYSIS**

C.S.H.B. 1289 amends the Family Code to require the Department of Family and Protective Services (DFPS) to develop a training program for each person who investigates any instance of suspected child abuse or neglect at the state or local level and the person's investigative supervisor. The bill requires the training program to include instruction relating to the following:

- the applicable definitions of abuse and neglect;
- the option for an abbreviated investigation or administrative closure of certain reported cases;
- the required notice to an alleged perpetrator of the right to record an interview;
- the required provision of information on investigation procedures and child placement resources;
- the required notice of the right to request an administrative review of DFPS's findings;
- certain investigative standards, including case file documentation;
- the required assessment of certain proposed relative or other designated caregiver placements;
- DFPS's policies on investigation dispositions and risk findings appropriate to the type of investigation, identifying a potential relative placement before an adversary hearing, and notifying a kinship provider of the appeal process for a denied home assessment for potential placement with the provider;
- the procedures for defining, identifying, and supporting protective capabilities of youths 13 years of age or older;

- the burdens of proof applied to the evaluation and production of evidence;
- the rights provided by the Fourth Amendment to the U.S. Constitution, the appropriate manner of informing an alleged perpetrator of those rights, and the search and seizure elements of those rights; and
- information on available community resources for a child's identified risk factors to avoid delay in referrals for services and to resources.

C.S.H.B. 1289 additionally requires the training program to provide to DFPS investigators advanced training on investigative techniques and protocols, including the following:

- techniques and protocols for conducting interviews with alleged perpetrators of and witnesses to alleged child abuse or neglect that ensure DFPS investigators are able to provide accurate information to appropriate experts;
- techniques for searching for and identifying witnesses and collateral sources who may potentially provide information regarding an allegation of child abuse or neglect;
- protocols for accurately scaling alleged abuse or neglect markings and injuries that ensure DFPS investigators are able to accurately and appropriately present information to medical experts;
- protocols for photographing alleged abuse or neglect markings and scenes;
- techniques for reconstructing events and statements using timelines;
- protocols for collecting and packaging evidence;
- protocols for using notes, photographs, and timelines to accurately represent an allegation of abuse or neglect;
- methods for analyzing and applying forensic evidence to the applicable statutory definitions of abuse and neglect and to possible signs and symptoms of abuse and neglect; and
- procedures for analyzing and applying forensic evidence to statutory standards established in provisions relating to abuse and neglect investigations, including the burden of proof.

C.S.H.B. 1289 requires DFPS to administer to each investigator and investigative supervisor an examination to test the individual's knowledge and competency of the information provided in the training program. The bill prohibits an investigator or investigative supervisor from being assigned to investigate or supervise the investigation of any case until the individual successfully completes the training program and examination.

C.S.H.B. 1289 requires DFPS, in developing and implementing the training program, to encourage professionalism, procedural standardization, and investigative disposition accuracy in the investigations of suspected child abuse or neglect and to collaborate with appropriate Department of Public Safety personnel, licensed attorneys, forensic medical professionals, appropriate law enforcement agency personnel, and any other appropriate professionals. The bill requires the DFPS commissioner to adopt rules necessary to implement the bill's provisions as soon as practicable after the bill's effective date.

C.S.H.B. 1289 applies only to an investigation of a case assigned to an investigator or investigative supervisor on or after January 1, 2025.

### **EFFECTIVE DATE**

September 1, 2023.

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

While C.S.H.B. 1289 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.

While both the introduced and the substitute require the training program to provide to DFPS investigators advanced training on certain investigative techniques and protocols, the substitute omits the specification in the introduced that the techniques and protocols are forensic investigative techniques and protocols and makes the following additional changes:

- with regard to the techniques for conducting interviews with alleged perpetrators of and witnesses to alleged child abuse or neglect, the substitute omits the specification in the introduced that the interviews are forensic and also includes protocols for conducting those interviews in the training, whereas the introduced did not specifically include such protocols in the training;
- the substitute includes a specification that was not in the introduced that the techniques and protocols for conducting these interviews are to ensure DFPS investigators are able to provide accurate information to appropriate experts; and
- the substitute includes a specification that was not in the introduced that the protocols for accurately scaling alleged abuse or neglect markings and injuries are to ensure DFPS investigators are able to accurately and appropriately present information to medical experts.