

BILL ANALYSIS

Senate Research Center

H.B. 1667
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Health & Human Services
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Data from the Department of Family and Protective Services (DFPS) indicates that the state receives hundreds of thousands of reports of suspected abuse or neglect annually. With respect to children specifically, DFPS has reported opening more than 200,000 investigations in each of the past several fiscal years. However, in each of these fiscal years, DFPS reported finding a reason to believe the complaint was valid less than 30 percent of the time. H.B. 1667 seeks to reduce the amount of inappropriate or unfounded reports of suspected abuse or neglect received by DFPS by ending anonymous reporting and designating only certain classes of professionals as mandatory reporters. Additionally, the bill seeks to stabilize at-risk families by providing these mandatory reporters with the discretion to refer certain families to supportive community services rather than to DFPS so that these families have received the supportive services they need in a less threatening and more holistic manner.

H.B. 1667 amends current law relating to the reporting of child abuse or neglect.

RULEMAKING AUTHORITY

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

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 104.007(a), Family Code, to redefine "professional."

SECTION 2. Amends Section 261.101, Family Code, as follows:

Sec. 261.101. New heading: PROFESSIONALS REQUIRED TO REPORT; TIME TO REPORT. (a) Defines "professional." Deletes existing text requiring a person having reasonable cause to believe that a child's physical or mental health or welfare has been adversely affected by abuse or neglect by any person to immediately make a report as provided by Subchapter B (Report of Abuse or Neglect; Immunities).

(b) Requires a professional, except as provided by Section 261.1031, to make a report as provided by this subchapter if the professional has reasonable cause to believe that a child has been abused or neglected or may be abused or neglected not later than the 48th hour after the hour the professional first has reasonable cause to believe that the child has been or may be abused or neglected. Deletes existing text requiring a professional, if the professional has reasonable cause to believe that a child has been abused or neglected or may be abused or neglected, or that a child is a victim of an offense under Section 21.11 (Indecency With a Child), Penal Code, and the professional has reasonable cause to believe that the child has been abused as defined by Section 261.001 (Definitions), to make a report not later than the 48th hour after the hour the professional first has reasonable cause to believe that the child has been or may be abused or neglected or is a victim of an offense under Section 21.11, Penal Code.

(b-1) Creates this subsection from existing text. Prohibits a professional from delegating to or relying on another person to make the report required by this section. Deletes existing text defining "professional."

(b-2) Redesignates existing Subsection (b-1) as Subsection (b-2). Makes conforming and nonsubstantive changes.

(c) Provides that the requirement to report under this section applies without exception to a professional, rather than to an individual, whose personal communications are authorized otherwise to be privileged, including certain persons.

(d) Makes conforming changes to this subsection.

SECTION 3. Amends Subchapter B, Chapter 261, Family Code, by adding Section 261.1011, as follows:

Sec. 261.1011. OTHER REPORTS OF ABUSE AND NEGLECT. (a) Provides that a person who is not a professional as defined by Section 261.101:

(1) is required to make a report as provided by this subchapter if the person witnesses the sexual abuse, sexual assault, or physical abuse of a child by any person; and

(2) is authorized to make a report as provided by this subchapter if the person has reasonable cause to believe that a child's physical or mental health or welfare has been adversely affected by abuse or neglect by any person.

(b) Provides that the identity of a person making a report under this section is confidential and is authorized to be disclosed only:

(1) as provided by Section 261.201 (Confidentiality and Disclosure of Information);

(2) to a law enforcement officer for the purposes of conducting a criminal investigation of the report; or

(3) if the person authorizes the disclosure in writing.

SECTION 4. Amends Section 261.102, Family Code, as follows:

Sec. 261.102. MATTERS TO BE REPORTED. (a) Creates this subsection from existing text.

(b) Provides that a person is not required to report concerns that:

(1) are solely related to:

(A) a child's behavior;

(B) truancy; or

(C) conditions of poverty, including a lack of adequate clothing, housing instability, or lack of utilities in the child's home; and

(2) do not adversely affect the child's physical or mental health or welfare.

SECTION 5. Amends Subchapter B, Chapter 261, Family Code, by adding Section 261.1021, as follows:

Sec. 261.1021. **REQUIRED TRAINING.** (a) Requires professionals required to make a report under Section 261.101 to receive training regarding reporting requirements under this subchapter. Requires that the training include information regarding:

- (1) matters to be reported under Section 261.102;
- (2) alternatives to reporting and matters that may be referred to community-based prevention or family preservation services providers under Section 261.1031; and
- (3) the procedures for making a report required under this subchapter.

(b) Requires the Department of Family and Protective Services (DFPS) to develop a training program for professionals required to make a report under Section 261.101 that includes the information required under Subsection (a).

SECTION 6. Amends Section 261.103(a), Family Code, to require that the report, except as provided by certain statutes, including Section 261.1031, be made to certain entities, and to make a nonsubstantive change.

SECTION 7. Amends Subchapter B, Chapter 261, Family Code, by adding Sections 261.1031 and 261.1032, as follows:

Sec. 261.1031. **REFERRAL TO COMMUNITY-BASED PREVENTION OR FAMILY PRESERVATION SERVICES PROVIDER.** (a) Authorizes a professional required to make a report under Section 261.101(b), except as provided by Subsection (d), to refer the family to a community-based prevention or family preservation services provider instead of the entities listed under Section 261.103(a) if the professional has reasonable cause to believe the child is not at risk of abuse or neglect based on concerns described by Section 261.102(b).

(b) Requires a professional who makes a referral under this section to make reasonable efforts to ensure that the family who is the subject of the referral is connected with an appropriate community-based prevention or family preservation services provider.

(c) Requires a community-based prevention or family preservation services provider that receives a referral under Subsection (a) to make reasonable efforts to provide appropriate resources or referrals to enhance the parents' ability to provide a safe and stable home environment for a child who is the subject of the referral.

(d) Provides that this section does not apply to cases in which a professional has reasonable cause to believe that a child has been or may be subjected to aggravated circumstances as described by Section 262.2015 (Aggravated Circumstances).

(e) Prohibits anything in this section from being construed to require a community-based prevention or family preservation services provider to provide services that the provider does not have the resources, including funding, to provide.

Sec. 261.1032. **IMPLEMENTATION STUDY AUTHORIZED.** (a) Authorizes DFPS, in collaboration with single source continuum contractors, local or regional helplines, hospital systems, independent school districts, law enforcement agencies, and community-based prevention or family preservation services providers, to study the implementation of Section 261.1031 in at least one child protective services region in which community-based care has been implemented under Subchapter B-1 (Community-Based Care), Chapter 264. Requires that a study under this section:

- (1) explore and identify strategies for maximizing referrals for and delivery of community-based prevention or family preservation services in the region;
- (2) determine whether a directory of community-based prevention or family preservation resources has been established;
- (3) assess the effectiveness of community-based prevention or family preservation services at promoting child safety and preventing entry into foster care;
- (4) assess the effect that community education and promotion of the referral process under Section 261.1031 had on the number of families that received a referral for community-based prevention or family preservation services;
- (5) determine whether the training required under Section 261.1021 is being provided;
- (6) determine whether best practices for efficiently connecting families with community-based prevention or family preservation services providers have been developed;
- (7) identify gaps in the availability of community-based prevention or family preservation services in the region; and
- (8) recommend strategies for increasing the availability of effective community-based prevention or family preservation services in the region.

(b) Requires DFPS, not later than November 1 of the calendar year in which a study authorized under this section is conducted, to prepare and submit a report of the study to the governor, the lieutenant governor, the speaker of the house of representatives, and the chairs of the house and senate committees with primary jurisdiction over DFPS.

(c) Authorizes DFPS to conduct a study under this section only using federal or private grant funds. Requires DFPS to explore and seek opportunities for obtaining federal and private funds to perform a study under this section.

SECTION 8. Amends Section 261.104, Family Code, as follows:

Sec. 261.104. CONTENTS OF REPORT. (a) Creates this subsection from existing text. Requires the person making a report to provide certain information, if known, to the agency to which the report is made, including the reporting person's name and contact information. Makes nonsubstantive changes.

(b) Requires DFPS to make reasonable efforts to obtain the information required under Subsection (a). Authorizes DFPS, if DFPS is unable to obtain the reporting person's name and contact information, to investigate the report as provided by Section 261.304 (Investigation of Anonymous Report).

SECTION 9. Amends Subchapter B, Chapter 261, Family Code, by adding Section 261.1041, as follows:

Sec. 261.1041. REQUIRED DISCLOSURES. Requires an agency or organization receiving a report of child abuse or neglect to inform the person making the report that:

(1) the person is required to provide the person's name and contact information to the agency or organization;

(2) the person's identity is confidential and is authorized to be disclosed only as provided by Section 261.101(d) or 261.1011(b); and

(3) knowingly making a false report with the intent to deceive is a criminal offense under Section 261.107.

SECTION 10. Amends Section 261.109, Family Code as follows:

Sec. 261.109. FAILURE TO REPORT; PENALTY. (a) Provides that a person who is a professional as defined by Section 261.101(a) commits an offense if the person is required to make a report under Section 261.101(b), rather than under Section 261.101(a), and knowingly fails to make a report as provided in Chapter 261 (Investigation of Report of Child Abuse or Neglect).

(a-1) Provides that a person who is a professional as defined by Section 261.101(a) who is required to make a report under Section 261.101(b) does not commit an offense if the person refers the child's family to an appropriate community-based prevention or family preservation services provider as provided by Section 261.1031 instead of making the report, rather than provides that a person who is a professional as defined by Section 261.101(1) commits an offense if the person is required to make a report under Section 261.101(b) and knowingly fails to make a report as provided in this chapter.

(b) Provides that an offense under Subsection (a) is a Class A misdemeanor, except that the offense is a state jail felony if it is shown on the trial of the offense that certain criteria have been met, including that the actor intended to conceal the abuse or neglect. Makes nonsubstantive changes.

Deletes existing text providing that an offense under Subsection (a-1) is a Class A misdemeanor, except that the offense is a state jail felony if it is shown on the trial of the offense that the actor intended to conceal the abuse or neglect.

SECTION 11. Amends Section 261.110(a)(2), Family Code, to redefine "professional."

SECTION 12. Amends Section 261.201(b-1), Family Code, to make a conforming change.

SECTION 13. Makes application of this Act prospective.

SECTION 14. Effective date: September 1, 2023.