

BILL ANALYSIS

C.S.H.B. 1667
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Human Services
Committee Report (Substituted)

BACKGROUND AND PURPOSE

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. C.S.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.

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

C.S.H.B. 1667 amends the Family Code to remove the universal mandatory reporting requirement for suspected child abuse or neglect under state law and to make other revisions to the procedures applicable to these reports, including removing the option to submit a report anonymously and providing for the referral of certain families to community-based prevention and family preservation service providers in lieu of making such a report.

Mandatory Reporting

C.S.H.B. 1667 removes the requirement for a person who is not a professional with direct contact with children in the normal course of official duties or duties for which a license or certification is required to immediately report suspected child abuse or neglect that the person has reasonable cause to believe has adversely affected a child's physical or mental health or welfare. The bill authorizes a nonprofessional instead, at their discretion, to make such a report. The bill retains the confidentiality protections for the identity of a nonprofessional who makes a voluntary report that were applicable to the mandatory reports but authorizes the person's identity to be disclosed if the person authorizes the disclosure in writing.

C.S.H.B. 1667, with respect to the mandatory reporting requirement for an applicable professional under current law, which is retained by the bill, establishes that reporting is not required if the concerns are solely related to a child's behavior; truancy; or conditions of poverty,

including a lack of adequate clothing, housing instability, or lack of utilities in the child's home, that do not adversely affect the child's physical or mental health or welfare.

Referral to Community-based Prevention of Family Preservation Services Provider

C.S.H.B. 1667 gives a professional who is a mandatory reporter the option to refer the family to a community-based prevention or family preservation services provider instead of to an applicable governmental entity, as is currently required, if the professional has reasonable cause to believe the child is not at risk of abuse or neglect based on the child's behavior, truancy, or conditions of poverty that do not adversely affect the child's physical or mental health or welfare. The bill requires a professional that makes such a referral 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. The bill requires the provider that receives the referral to provide appropriate resources or referrals to enhance the parents' ability to provide a safe and stable home environment for the child. These provisions do not apply to cases in which a professional has reasonable cause to believe that a child has been or may be subjected to certain aggravated circumstances.

Training for Mandatory Reporting Professionals

C.S.H.B. 1667 requires a professional who is a mandatory reporter to receive training regarding the statutory reporting requirements. The training must include information regarding the following:

- matters that are required to be reported;
- alternatives to reporting and matters that may be referred to community-based prevention or family preservation services providers; and
- the procedures for making a report.

The bill requires the Department of Family Protective Services (DFPS) to develop a training program for these professionals that includes all of that information.

Failure to Report

C.S.H.B. 1667 enhances the penalty for failure to report suspected child abuse or neglect by a professional from a Class A misdemeanor to a state jail felony if it is shown on the trial of the offense that the child was a person with an intellectual disability and resided in a state supported living center, the ICF-IID component of the Rio Grande State Center, or an intermediate care facility for individuals with an intellectual disability, and the actor knew that the child had suffered serious bodily injury as a result of the abuse or neglect. The bill establishes that a professional that refers a child's family to an appropriate community-based prevention or family preservation services provider instead of making the required report of abuse or neglect does not commit the offense of failure to report.

Anonymous Reporting

C.S.H.B. 1667 removes the authority to make an anonymous report of suspected child abuse or neglect by requiring that a person making a report of suspected child abuse or neglect provide their name and contact information to the agency to which the report is made and requiring DFPS to make reasonable efforts to obtain the information required by law to be contained in the report. However, if unable to obtain the reporting person's name and contact information, DFPS may still conduct a preliminary investigation of the report as provided by law.

Required Disclosures

C.S.H.B. 1667 requires an agency or organization receiving a report of suspected child abuse or neglect to inform the person or professional making the report of the following:

- they are required to provide their name and contact information to the agency or organization;

- their identity is confidential and may be disclosed only as provided by applicable state law; and
- knowingly making a false report with the intent to deceive is a criminal offense.

Applicability

C.S.H.B. 1667 applies only to a report of suspected abuse or neglect of a child that is made on or after the bill's effective date.

EFFECTIVE DATE

September 1, 2023.

COMPARISON OF INTRODUCED AND SUBSTITUTE

While C.S.H.B. 1667 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.

The substitute includes a provision absent from the introduced establishing that a person is not required to report concerns solely related to a child's behavior, truancy, or conditions of poverty that do not adversely affect the child's physical or mental health or welfare.

The substitute includes provisions that were not in the introduced regarding required training for professionals that are mandatory reporters.

Both the introduced and the substitute remove the option to anonymously report suspected child abuse or neglect by requiring a reporter to provide their name and contact information. However, whereas the introduced repealed provisions providing for a preliminary investigation of anonymous reports received by DFPS, the substitute does not. The substitute includes provisions that instead require DFPS to make reasonable efforts to obtain the information required to be contained in a report and authorize DFPS to still conduct the preliminary investigation if it is unable to obtain the reporting person's name and contact information.

While both the substitute and the introduced contain a provision granting a professional who is a mandatory reporter the option of getting a community-based prevention or family preservation services provider involved in certain less severe cases as an alternative to making a report to the government, the substitute revises the shared provision as follows:

- changes the authorization from an authorization to make a report to such a provider to an option to refer the family to the provider;
- changes the cases to which the authorization applies from those in which the professional has reasonable cause to believe the child is at low risk of abuse or neglect to those in which the professional has reasonable cause to believe the child is not at risk of abuse or neglect based on concerns specifically not required to be reported as provided by the substitute and previously described in this comparison;
- includes a requirement not in the introduced for a professional who makes a referral to make reasonable efforts to ensure that the family who is the subject of the referral is connected with an appropriate provider;
- changes the manner in which a provider is required to attempt to enhance the parents' ability to provide a safe and stable home environment for the child from making a home visit and offering family social services to providing appropriate resources or referrals; and
- does not include the provision in the introduced requiring that, if the parent elects to use the family services offered, a case manager from the provider monitor the case and ensure that the services are delivered.