

## **BILL ANALYSIS**

Senate Research Center  
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S.B. 1162  
By: Birdwell  
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As Filed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Currently, when an individual is investigated by Child Protective Services under the Department of Family and Protective Services (DFPS) for allegations of child abuse or neglect, the initial investigating caseworker can make one of four determinations. They can determine the report of abuse or neglect to ruled out, unable to determine, administratively closed, or "reason to believe." The individual's name is added to the central registry list if the case worker has "reason to believe." The central registry is a list of names maintained by DFPS for the purposes of internal background checks. Their name is added to the central registry before any investigation outside of DFPS is conducted, and before and judicial oversight examines the case.

Individuals added to the central registry face difficulties gaining employment with work involving children, and adopting children. Once an individual's name is added to the central registry, only DFPS and the State Office of Administrative Hearings (SOAH) can offer an appeal process to individuals to have their name removed from the registry. This processes is lengthy and complex.

S.B. 1162 would make the appeal process to remove an individuals name from the central registry less complex. The Department of Family and Protective Services would be required to have an appeal process that address expungement requests within a reasonable amount of time. Also, names that have been on the central registry for 18 years, without any additional instance of abuse or neglect, would be removed from the central registry list.

As proposed, S.B. 1162 amends current law relating to the procedures for removing names from the central registry of child abuse and neglect.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the commissioner of the Department of Family and Protective Services in SECTION 1 (Section 261.609, Family Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Chapter 261, Family Code, by adding Subchapter G, as follows:

#### **SUBCHAPTER G. REMOVING NAMES FROM CENTRAL REGISTRY OF ABUSE AND NEGLECT**

Sec. 261.601. DEFINITION. Defines "central registry."

Sec 261.602. EXPUNGEMENT REVIEW PANEL; MEMBERS. (a) Requires the Department of Family and Protective Services (DFPS) to establish an expungement review panel (review panel) to review requests to have a person's name removed from the central registry.

(b) Provides that the review panel is composed of the general counsel of DFPS, DFPS's chief accountability and internal affairs officer, and a member of the State Bar of Texas (state bar) who specializes in defending individuals accused of child abuse or neglect appointed by the commissioner of DSHS (commissioner).

Provides that the member of the state bar is required to serve a two year term and is prohibited from serving more than three terms.

(c) Provides that the members of the review panel are immune from civil or criminal liability for any act or omission that relates to their duty or responsibility as a member of the review panel if they acted in good faith and within the scope of their responsibility, as provided in Section 40.061 (Immunity), Human Resources Code.

Sec. 261.603. REQUEST FOR REMOVAL OF NAME. (a) Requires a person who desires to have the person's name removed from the central registry to submit a written request to the commissioner.

(b) Prohibits a person from making a request under this section before the second anniversary of the date DFPS added the person's name to the central registry.

(c) Prohibits the person from submitting a subsequent request until the first anniversary of the date the review panel rendered a decision on the person's most recent request if the review panel denies a request under this section after a hearing.

Sec. 261.604. HEARING DATE AND NOTICE; LIMITATION. (a) Requires the commissioner to notify the review panel of the request on receipt of a request under Section 261.603(a). Requires the review panel to set a date for a hearing on the request. Requires the review panel to hold the hearing not later than the 60th day after the date the commissioner receives the request.

(b) Requires the review panel to send written notice of the hearing to the requestor not later than the 15th day before the hearing. Requires that the notice include:

- (1) the date, time, and location of the hearing; and
- (2) the regional office that conducted the original investigation that resulted in the finding of abuse or neglect.

Sec. 261.605. REVIEW HEARING. (a) Provides that the person requesting the review has the right to be represented by legal counsel at the hearing.

(b) Provides that the person requesting the review has the burden of providing the review panel with the basis for granting the request and is authorized to present evidence supporting removal of the person's name from the central registry.

(c) Authorizes the regional office of DFPS that conducted the original investigation to:

- (1) present evidence in support of or in opposition to the request; and
- (2) make a recommendation regarding the request.

Sec. 261.606. EXPUNGEMENT REVIEW PANEL'S DECISION. (a) Requires the review panel to render a written decision on the request that includes the review panel's reasons for the decision not later than the 30th day after the date of the hearing. Requires that the review panel's decision be by majority vote.

(b) Requires the review panel to provide the written decision to the person requesting the review and to the DFPS's commissioner, deputy commissioner, chief of staff, and associate commissioner for child protective investigations, not later than the 45th day after the date of the hearing.

(c) Requires the review panel to consider the following factors in making its decision:

- (1) DFPS's findings regarding the nature and severity of the incident of abuse or neglect and the circumstances surrounding the incident;
- (2) the number of findings of abuse or neglect involving the person;
- (3) the person's age at the time of the incident, and whether the person was a child at the time of the incident;
- (4) whether the circumstances that contributed to the incident of abuse or neglect still exist;
- (5) actions taken by the person since the incident to prevent the reoccurrence of abuse or neglect, including participation in and completion of services and programs related to the allegations;
- (6) evidence that:
  - (A) the person no longer poses a similar risk; and
  - (B) continued listing of the person's name in the central registry would not serve a significant public purpose; and
- (7) any other relevant information that shows that the person no longer poses a risk to the safety and well-being of the alleged victim, other children, and vulnerable adults.

(d) Requires DFPS to remove the person's name from the central registry and update any relevant DFPS files to reflect the removal and the reasons for removal given in the decision not later than the 10th day after rendering the decision, if the review panel grants a person's request for removal from the central registry.

Sec. 261.607. AUTOMATIC REMOVAL. (a) Requires DFPS to remove a person's name and related information from the central registry if more than 18 years have passed since DFPS's last finding of abuse or neglect against the person, unless any finding of abuse or neglect against the person involved aggravated circumstances described by Section 262.2015(b) (relating to authorizing a court to find that a parent has subjected a child to aggravated circumstances).

(b) Requires DFPS to remove a person's name and related information from the central registry if:

- (1) the person was a minor at the time of the incident that resulted in the finding of abuse or neglect against the person; and
- (2) more than two years have passed since DFPS's last finding of abuse or neglect against the person.

Sec. 261.608. CONFIDENTIALITY. Provides that the review conducted under this subchapter is confidential and not subject to disclosure under Chapter 552 (Public Information), Government Code.

Sec. 261.609. RULEMAKING. Requires the commissioner to adopt rules necessary to implement this subchapter, including rules to ensure substantial compliance with this subchapter.

SECTION 2. Effective date: September 1, 2023.