

BILL ANALYSIS

Senate Research Center

S.B. 1447
By: Miles
Health & Human Services
6/13/2023
Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

There is an average of 50 percent error rate over the past decade around state child welfare investigation findings. Child Protective Service (CPS) findings carry significant impact and consequences and should be determined with the utmost care. They result in a person being registered as a child perpetrator within the state registry system affecting background checks and possible livelihoods of individuals.

S.B. 1447 aims to improve the accuracy of CPS investigative findings by developing a training program for each person who investigates any instance of suspected child abuse, standardizing training and encourage implementation of already existing due process laws and policies within our state child welfare system.

The bill also requires advanced training for department investigators on forensic investigative techniques and protocols. This includes techniques for conducting advanced interviews, searching for and identifying witnesses, protocols for accurately scaling abuse or neglect markings and injuries, and procedures for collecting and packaging evidence. The Department of Family and Protective Services is required to administer an examination to test the investigator's knowledge and competency after the training program.

The committee substitute changes the term "forensic interviews" to "investigative interviews," which stakeholders felt was more in line with the duties of CPS Investigators.

S.B. 1447 amends current law relating to a training program for persons investigating suspected child abuse or neglect.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the commissioner of the Department of Family and Protective Services in SECTION 2 of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter D, Chapter 261, Family Code, by adding Section 261.3105, as follows:

Sec. 261.3105. TRAINING PROGRAM FOR PERSONS INVESTIGATING SUSPECTED CHILD ABUSE OR NEGLECT. (a) Requires 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 investigative supervisor of the person.

(b) Requires that the training program include instruction on:

(1) the definitions of abuse and neglect under Section 261.001 (Definitions);

(2) the option for an abbreviated investigation or administrative closure of certain reported cases under Section 261.3018 (Abbreviated Investigation and Administrative Closure of Certain Cases);

(3) the required notice to an alleged perpetrator of the right to record an interview under Section 261.3027 (Notice of Right to Record Interview);

(4) the required provision of information on investigation procedures and child placement resources under Section 261.307 (Information Relating to Investigation Procedure and Child Placement Resources);

(5) the required notice of the right to request an administrative review of DFPS' findings under Section 261.3091 (Notice of Right to Request Administrative Review);

(6) the investigative standards established under Section 261.310 (Investigation Standards), including case file documentation;

(7) the required assessment of certain proposed relative or other designated caregiver placements under Section 264.754 (Assessment of Proposed Placement);

(8) DFPS' policies on investigation dispositions and risk findings appropriate to the type of investigation;

(9) DFPS' policy on identifying a potential relative placement before an adversary hearing;

(10) DFPS' policy on notifying a kinship provider of the appeal process for a denied home assessment for potential placement with the provider placement;

(11) the procedures for defining, identifying, and supporting protective capabilities of youths 13 years of age or older;

(12) the burdens of proof applied to the evaluation and production of evidence;

(13) the rights provided by the Fourth Amendment to the United States Constitution, the appropriate manner of informing an alleged perpetrator of those rights, and the search and seizure elements of those rights; and

(14) information on available community resources for a child's identified risk factors to avoid delay in referrals for services and to resources.

(c) Requires that the training program also provide to DFPS investigators training on forensic investigative techniques and protocols, including:

(1) techniques for conducting investigative interviews with alleged perpetrators of and witnesses to alleged child abuse or neglect;

(2) techniques for searching for and identifying witnesses and collateral sources who may potentially provide information regarding an allegation of child abuse or neglect;

(3) protocols for accurately scaling alleged abuse or neglect markings and injuries;

(4) protocols for photographing alleged abuse or neglect markings and scenes;

- (5) techniques for reconstructing events and statements using timelines;
- (6) protocols for collecting and packaging evidence;
- (7) protocols for using notes, photographs, and timelines to accurately represent an allegation of abuse or neglect;
- (8) methods for analyzing and applying forensic evidence to the statutory definitions of abuse and neglect under Section 261.001 and to possible signs and symptoms of abuse and neglect; and
- (9) procedures for analyzing and applying forensic evidence to statutory standards established in Chapter 261 (Investigation of Report of Child Abuse or Neglect), including the burden of proof.

(d) 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. Prohibits an investigator or investigative supervisor from being assigned to investigate or supervise the investigation of any case until the investigator or supervisor successfully completes the training program and passes the examination.

(e) Requires DFPS, in developing and implementing the training program, to:

- (1) encourage professionalism, procedural standardization, and investigative disposition accuracy in the investigations of suspected child abuse or neglect; and
- (2) collaborate with:
 - (A) appropriate Department of Public Safety of the State of Texas personnel;
 - (B) licensed attorneys;
 - (C) forensic medical professionals;
 - (D) appropriate law enforcement agency personnel; and
 - (E) any other appropriate professionals.

SECTION 2. (a) Requires the commissioner of DFPS to adopt the rules necessary to implement the changes in law made by this Act as soon as practicable after the effective date of this Act.

(b) Makes application of Section 261.3105(d), Family Code, as added by this Act, prospective to January 1, 2025.

SECTION 3. Effective date: September 1, 2023.