

BILL ANALYSIS

Senate Research Center

S.B. 2429
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Criminal Justice
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Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

A 15-year-old from North Richland Hills disappeared from the American Airlines Center in April 2022. At the American Airlines Center, the teen had gone to the restroom and surveillance revealed her leaving with an unknown adult man. Dallas Police believe she left the venue voluntarily. Nearly 10 days later, the teen was recovered in Oklahoma City by the Oklahoma City Police Department where she had been trafficked and prostituted with the use of online ads.

Although the teen's disappearance was immediately reported by her father to a Dallas Police officer working security for the venue, he was told to return home to North Richland Hills to file the missing child report as they considered this a runaway case. While the teen had run away before, other factors in the case should have been considered. Had the procedures for investigating instances of missing children been more clear, there might have been less confusion about jurisdiction and reporting requirements.

S.B. 2429 provides a clear place in the Code of Criminal Procedure that law enforcement can reference when responding to reports of a missing child by separating the requirements for missing children and missing adults. The bill requires law enforcement who receive a report of a missing child to begin an investigation immediately in order to reduce confusion about jurisdiction and the timeline of response.

S.B. 2429 also expands the criteria for designating a child as high risk of human trafficking, sexual assault, exploitation, abuse, or neglectful supervision and removes an arbitrary maximum age that kept certain children from the requirement to be designated as high risk. The bill requires a child to be designated as high risk for these offenses for any reason the agency determines, including:

- The child disappeared in a dangerous environment;
- The child has mental or behavioral health needs;
- The child previously exhibited signs of mental illness;
- The child has an intellectual or developmental disability;
- The child is known to have been last seen or in communication with a person unknown to the child's family or legal guardian; or
- The child made concerning statements before disappearing.

To ensure law enforcement properly scale their response to children who are considered high risk of trafficking, the bill also requires the Department of Public Safety of the State of Texas to adopt rules that require law enforcement to escalate their response to high risk missing children using all available resources and notify all law enforcement agencies within 100 miles.

Finally, the bill directs the Texas Commission on Law Enforcement (TCOLE) to require each law enforcement officer to complete a one-time basic education and training program on missing children and the associated reporting requirements. It also requires TCOLE to offer a voluntary advanced training on missing children.

(Original Author's/Sponsor's Statement of Intent)

S.B. 2429 amends current law relating to reporting procedures and training programs for law enforcement agencies regarding missing children and missing persons.

RULEMAKING AUTHORITY

Rulemaking authority previously granted to the public safety director of the Department of Public Safety of the State of Texas is modified in SECTION 5 (Article 63.0091, Code of Criminal Procedure) of this bill.

Rulemaking authority is expressly granted to the Texas Commission on Law Enforcement in SECTION 11 of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Article 2.13(c), Code of Criminal Procedure, as follows:

(c) Provides that it is the duty of every officer to take possession of a child under Article 63.00905(g), rather than Article 63.009(g) (relating to requiring an officer to take possession of the child and to deliver or arrange for the delivery of the child to a person entitled to possession of the child under certain circumstances).

SECTION 2. Amends the heading to Article 63.009, Code of Criminal Procedure, to read as follows:

Art. 63.009. LAW ENFORCEMENT REQUIREMENTS GENERALLY.

SECTION 3. Amends Articles 63.009(a), (d), and (f), Code of Criminal Procedure, as follows:

(a) Deletes existing text requiring a law enforcement agency, on receiving a report of a missing child, to:

(1) immediately start an investigation in order to determine the present location of the child if the subject of the report is a child and the child is at a high risk of harm or is otherwise in danger;

(2) start an investigation with due diligence in order to determine the present location of the child if the subject of the report is a child other than a child described by Subdivision (1);

(3) immediately, but not later than two hours after receiving the report, enter the name of the child into the clearinghouse and the national crime information center missing person file if the child meets the center's criteria, and report that name to the Alzheimer's Association Safe Return emergency response center if applicable, with all available identifying features such as dental records, fingerprints, other physical characteristics, and a description of the clothing worn when last seen, and all available information describing any person reasonably believed to have taken or retained the missing child;

(4) not later than the 60th day after the date the agency receives the report, enter the name of the child into the National Missing and Unidentified Persons System, with all available identifying features such as dental records, fingerprints, other physical characteristics, and a description of the clothing worn when last seen, and all available information describing any person reasonably believed to have taken or retained the missing child; and

(5) inform the person who filed the report of the missing child that the information will be reported to certain entities.

(d) and (f) Makes conforming changes to these subsections.

SECTION 4. Amends Subchapter A, Chapter 63, Code of Criminal Procedure, by adding Article 63.00905, as follows:

Art. 63.00905. LAW ENFORCEMENT REQUIREMENTS FOR REPORT OF MISSING CHILD. (a) Requires a law enforcement agency, regardless of the jurisdiction in which the child went missing, on receiving a report of a missing child, to:

(1) immediately start an investigation in order to determine the present location of the child;

(2) immediately, but not later than two hours after receiving the report, enter the name of the child into the clearinghouse and the national crime information center missing person file if the child meets the center's criteria, with all available identifying features such as dental records, fingerprints, other physical characteristics, and a description of the clothing worn when last seen, and all available information describing any person reasonably believed to have taken or retained the missing child;

(3) immediately, but not later than two hours after the agency receives the report, enter the applicable information into the Texas Law Enforcement Telecommunications System or a successor system of telecommunication used by law enforcement agencies and operated by the Department of Public Safety of the State of Texas (DPS); and

(4) not later than the 30th day after the date the agency receives the report, enter the name of the child into the National Missing and Unidentified Persons System, with all available identifying features such as dental records, fingerprints, other physical characteristics, and a description of the clothing worn when last seen, and all available information describing any person reasonably believed to have taken or retained the missing child; and

(5) inform the person who filed the report of the missing child that the information will be entered into the clearinghouse, the national crime information center missing person file, and the National Missing and Unidentified Persons System.

(b) Requires a local law enforcement agency, on receiving a report of a child missing under the circumstances described by Article 63.001(3)(D) (relating to the definition of "missing child," including a child who was taken without the permission of the custodian) for a period of not less than 48 hours, to immediately make a reasonable effort to locate the child and determine the well-being of the child. Provides that the agency, on determining the location of the child, if the agency has reason to believe that the child is a victim of abuse or neglect as defined by Section 261.001 (Definitions), Family Code:

(1) is required to notify the Department of Family and Protective Services (DFPS); and

(2) is authorized to take possession of the child under Subchapter B (Taking Possession of Child), Chapter 262, Family Code.

(c) Authorizes DFPS, on receiving notice under Subsection (b), to initiate an investigation into the allegation of abuse or neglect under Section 261.301 (Investigation of Report), Family Code, and take possession of the child under Chapter 262 (Procedures in Suit by Governmental Entity to Protect Health and Safety of Child), Family Code.

(d) Requires that information not immediately available when the original entry is made be entered into the clearinghouse, the national crime information center file, and the National Missing and Unidentified Persons System as a supplement to the original entry as soon as possible.

(e) Requires the local law enforcement agency, if a local law enforcement agency investigating a report of a missing child obtains a warrant for the arrest of a person for taking or retaining the missing child, to immediately enter the name and other descriptive information of the person into the national crime information center wanted person file if the person meets the center's criteria. Requires the local law enforcement agency to also enter all available identifying features, including dental records, fingerprints, and other physical characteristics of the missing child. Requires that the information be cross-referenced with the information in the national crime information center missing person file.

(f) Requires the local law enforcement agency having jurisdiction of the investigation, immediately after the return of a missing child, to:

(1) clear the entry in the national crime information center database; and

(2) notify the National Missing and Unidentified Persons System.

(g) Requires an officer, on determining the location of a child, other than a child who is subject to the continuing jurisdiction of a district court, to take possession of the child and to deliver or arrange for the delivery of the child to a person entitled to possession of the child. Requires the law enforcement officer, if the person entitled to possession of the child is not immediately available, to deliver the child to DFPS.

SECTION 5. Amends Article 63.0091, Code of Criminal Procedure, as follows:

Art. 63.0091. LAW ENFORCEMENT REQUIREMENTS REGARDING REPORTS OF CERTAIN MISSING CHILDREN. (a) Requires the public safety director of DPS to adopt rules regarding the procedures for a local law enforcement agency on receiving a report of a missing child who:

(1)-(2) makes no changes to these subdivisions; or

(3) is at a high risk of human trafficking, sexual assault, exploitation, abuse, or neglectful supervision for any reason the agency considers to be high risk, including because the missing child:

(A) disappeared while in a dangerous environment;

(B) has mental or behavioral health needs;

(C) previously exhibited signs of mental illness;

(D) has an intellectual or developmental disability; or

(E) is known to have been last seen or in communication with an adult unknown to the child's family or legal guardian.

Deletes existing text requiring the public safety director of DPS to adopt rules regarding the procedures for a local law enforcement agency on receiving a report of a missing child who is under 14 years of age and otherwise determined by DPS to be at a high risk of human trafficking, sexual assault, exploitation, abuse, or neglectful supervision.

(b) Requires that the rules adopted under this article require that:

(1) in entering information regarding the report into the national crime information center missing person file as required by Article 63.00905(a)(2), rather than Article 63.009(a)(3), for a missing child

described by Subsection (a), the local law enforcement agency is required to indicate, in the manner specified in the rules, that the child is at a high risk of harm and include relevant information regarding:

(A) creates this paragraph from existing text; and

(B) the circumstances considered when designating the child as high risk; and

(2) the local law enforcement agency that receives a report of a missing child described by Subsection (a)(3) is required to:

(A) reasonably escalate the response; and

(B) immediately, but not later than two hours after receiving the report, notify all law enforcement agencies within 100 miles, including agencies from other states, of the circumstances and high risk designation of the missing child.

(c) Makes a conforming change to this subsection.

SECTION 6. Amends Section 1701.253, Occupations Code, by adding Subsection (q), as follows:

(q) Requires the Texas Commission on Law Enforcement (TCOLE), as part of the minimum curriculum requirements, to establish a basic education and training program on missing children and missing persons, including instruction on the associated reporting requirements under Chapter 63 (Missing Children and Missing Persons), Code of Criminal Procedure. Requires an officer to complete the program not later than the second anniversary of the date the officer is licensed under Chapter 1701 (Law Enforcement Officers) unless the officer completes the program as part of the officer's basic training course.

SECTION 7. Amends Subchapter F, Chapter 1701, Occupations Code, by adding Section 1701.2581, as follows:

Sec. 1701.2581. VOLUNTARY ADVANCED EDUCATION AND TRAINING PROGRAM ON MISSING CHILDREN AND MISSING PERSONS. Requires TCOLE to make available to each officer a voluntary advanced education and training program on missing children and missing persons. Requires that the program include instruction on the associated reporting requirements under Chapter 63, Code of Criminal Procedure.

SECTION 8. Repealers: Articles 63.009(a-1) (relating to requiring a local law enforcement agency, on receiving report of a missing child, to immediately make a reasonable effort to locate the child and determine the well-being of the child) and (a-2) (relating to authorizing DFPS to initiate an investigation into the allegation of abuse or neglect and take possession of the child), Code of Criminal Procedure.

Repealer: Article 63.009(g) (relating to requiring an officer to take possession of the child and to deliver or arrange for the delivery of the child to a person entitled to possession of the child under certain circumstances), Code of Criminal Procedure.

Repealer: Article 63.0092 (Option to Designate Missing Child as High Risk), Code of Criminal Procedure.

SECTION 9. Makes application of the changes in law made by this Act to Chapter 63, Code of Criminal Procedure, prospective.

SECTION 10. Makes application of Section 1701.253(q), Occupations Code, as added by this Act, prospective to January 1, 2025.

SECTION 11. Requires TCOLE, not later than December 1, 2024, to:

- (1) establish the training programs required by Sections 1701.253(q) and 1701.2581, Occupations Code, as added by this Act; and
- (2) adopt the rules necessary to implement Sections 1701.253(q) and 1701.2581, Occupations Code, as added by this Act.

SECTION 12. Effective date: September 1, 2023.