88R21345 MM-D

By:  Jetton, et al. H.B. No. 1667

Substitute the following for H.B. No. 1667:

By:  Shaheen C.S.H.B. No. 1667

A BILL TO BE ENTITLED

AN ACT

relating to the reporting of child abuse or neglect.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1.  Section 104.007(a), Family Code, is amended to read as follows:

(a)  In this section, "professional" has the meaning assigned by Section 261.101(a) [~~261.101(b)~~].

SECTION 2.  Section 261.101, Family Code, is amended to read as follows:

Sec. 261.101.  PROFESSIONALS [~~PERSONS~~] REQUIRED TO REPORT; TIME TO REPORT. (a) In this section, "professional" means an individual who is licensed or certified by the state or who is an employee of a facility licensed, certified, or operated by the state and who, in the normal course of official duties or duties for which a license or certification is required, has direct contact with children. The term includes teachers, nurses, doctors, day-care employees, employees of a clinic or health care facility that provides reproductive services, juvenile probation officers, and juvenile detention or correctional officers [~~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 shall immediately make a report as provided by this subchapter~~].

(b)  Except as provided by Section 261.1031, [~~If~~] a professional shall 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[~~, or that a child is a victim of an offense under Section 21.11, Penal Code, and the professional has reasonable cause to believe that the child has been abused as defined by Section 261.001, the professional shall 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)  A professional may not delegate to or rely on another person to make the report required by this section. [~~In this subsection, "professional" means an individual who is licensed or certified by the state or who is an employee of a facility licensed, certified, or operated by the state and who, in the normal course of official duties or duties for which a license or certification is required, has direct contact with children. The term includes teachers, nurses, doctors, day-care employees, employees of a clinic or health care facility that provides reproductive services, juvenile probation officers, and juvenile detention or correctional officers.~~]

(b-2) [~~(b-1)~~]  In addition to the duty to make a report under Subsection [~~(a) or~~] (b), a [~~person or~~] professional shall make a report in the manner required by Subsection [~~(a) or~~] (b)[~~, as applicable,~~] if the [~~person or~~] professional has reasonable cause to believe that an adult was a victim of abuse or neglect as a child and the [~~person or~~] professional determines in good faith that disclosure of the information is necessary to protect the health and safety of:

(1)  another child; or

(2)  an elderly person or person with a disability as defined by Section 48.002, Human Resources Code.

(c)  The requirement to report under this section applies without exception to a professional [~~an individual~~] whose personal communications may otherwise be privileged, including an attorney, a member of the clergy, a medical practitioner, a social worker, a mental health professional, an employee or member of a board that licenses or certifies a professional, and an employee of a clinic or health care facility that provides reproductive services.

(d)  Unless waived in writing by the professional [~~person~~] making the report, the identity of a professional [~~an individual~~] making a report under this chapter is confidential and may be disclosed only:

(1)  as provided by Section 261.201; or

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

SECTION 3.  Subchapter B, Chapter 261, Family Code, is amended by adding Section 261.1011 to read as follows:

Sec. 261.1011.  OTHER REPORTS OF ABUSE AND NEGLECT. (a) A person who is not a professional as defined by Section 261.101 may 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)  The identity of a person making a report under this section is confidential and may be disclosed only:

(1)  as provided by Section 261.201;

(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.  Section 261.102, Family Code, is amended to read as follows:

Sec. 261.102.  MATTERS TO BE REPORTED. (a) A report should reflect the reporter's belief that a child has been or may be abused or neglected or has died of abuse or neglect.

(b)  A person is not required to report concerns that are solely related to:

(1)  a child's behavior;

(2)  truancy; or

(3)  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.

SECTION 5.  Subchapter B, Chapter 261, Family Code, is amended by adding Section 261.1021 to read as follows:

Sec. 261.1021.  REQUIRED TRAINING. (a) Professionals required to make a report under Section 261.101 must receive training regarding reporting requirements under this subchapter. The training must 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)  The department shall 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.  Section 261.103(a), Family Code, is amended to read as follows:

(a)  Except as provided by Subsections (b) and (c) and Sections 261.1031 and [~~Section~~] 261.405, a report shall be made to:

(1)  any local or state law enforcement agency;

(2)  the department; or

(3)  the state agency that operates, licenses, certifies, or registers the facility in which the alleged abuse or neglect occurred.

SECTION 7.  Subchapter B, Chapter 261, Family Code, is amended by adding Section 261.1031 to read as follows:

Sec. 261.1031.  REFERRAL TO COMMUNITY-BASED PREVENTION OR FAMILY PRESERVATION SERVICES PROVIDER. (a) Except as provided by Subsection (d), a professional required to make a report under Section 261.101(b) may 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)  A professional who makes a referral under this section shall 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)  A community-based prevention or family preservation services provider that receives a referral under Subsection (a) shall 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)  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.

SECTION 8.  Section 261.104, Family Code, is amended to read as follows:

Sec. 261.104.  CONTENTS OF REPORT. (a) The person making a report shall provide the following information [~~identify~~], if known, to the agency to which the report is made:

(1)  the name and address of the child;

(2)  the name and address of the person responsible for the care, custody, or welfare of the child; [~~and~~]

(3)  the reporting person's name and contact information; and

(4)  any other pertinent information concerning the alleged or suspected abuse or neglect.

(b)  The department shall make reasonable efforts to obtain the information required under Subsection (a). If the department is unable to obtain the reporting person's name and contact information, the department may investigate the report as provided by Section 261.304.

SECTION 9.  Subchapter B, Chapter 261, Family Code, is amended by adding Section 261.1041 to read as follows:

Sec. 261.1041.  REQUIRED DISCLOSURES. An agency or organization receiving a report of child abuse or neglect shall 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 may 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.  Section 261.109, Family Code, is amended to read as follows:

Sec. 261.109.  FAILURE TO REPORT; PENALTY. (a) 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) [~~261.101(a)~~] and knowingly fails to make a report as provided in this chapter.

(a-1)  A person who is a professional as defined by Section 261.101(a) who [~~261.101(b) commits an offense if the person~~] 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 required [~~and knowingly fails to make a~~] report [~~as provided in this chapter~~].

(b)  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:

(1)  the child was a person with an intellectual disability who resided in a state supported living center, the ICF-IID component of the Rio Grande State Center, or a facility licensed under Chapter 252, Health and Safety Code, and the actor knew that the child had suffered serious bodily injury as a result of the abuse or neglect; or

(2)  [~~.~~

[~~(c)  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.  Section 261.110(a)(2), Family Code, is amended to read as follows:

(2)  "Professional" has the meaning assigned by Section 261.101(a) [~~261.101(b)~~].

SECTION 12.  Section 261.201(b-1), Family Code, is amended to read as follows:

(b-1)  On a motion of one of the parties in a contested case before an administrative law judge relating to the license or certification of a professional, as defined by Section 261.101(a) [~~261.101(b)~~], or an educator, as defined by Section 5.001, Education Code, the administrative law judge may order the disclosure of information that is confidential under this section that relates to the matter before the administrative law judge after a hearing for which notice is provided as required by Subsection (b)(2) and making the review and determination required by Subsection (b)(3). Before the department may release information under this subsection, the department must edit the information to protect the confidentiality of the identity of any person who makes a report of abuse or neglect.

SECTION 13.  The changes in law made by this Act apply only to a report of suspected abuse or neglect of a child that is made on or after the effective date of this Act. A report of suspected abuse or neglect that is made before that date is governed by the law in effect on the date the report was made, and that law is continued in effect for that purpose.

SECTION 14.  This Act takes effect September 1, 2023.