88R2251 MCK-F

By:  Birdwell S.B. No. 1163

A BILL TO BE ENTITLED

AN ACT

relating to the procedures and notice required before an individual's name is added to the central child abuse or neglect registry.

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

SECTION 1.  Section 261.002, Family Code, is amended by amending Subsections (a) and (b) and adding Subsections (a-1), (a-2), (b-1), and (d) to read as follows:

(a)  The department shall establish and maintain a central registry of the names of individuals found [~~by the department~~] to have abused or neglected a child.

(a-1)  Except as provided by Subsection (a-2), the department may not add the name of an individual to the central registry maintained under this section unless a court in any civil, criminal, administrative, or juvenile proceeding, including a proceeding under Subchapter C, Chapter 262, or Section 264.203, issues a final order finding that the individual abused or neglected a child.

(a-2)  If the department finds that an individual subjected a child to aggravated circumstances as described by Section 262.2015, the department may add the individual's name to the central registry maintained under this section without a court order finding that the individual abused or neglected the child.

(b)  The department may not find that an individual abused or neglected a child [~~executive commissioner shall adopt rules necessary to carry out this section. The rules shall:~~

[~~(1) prohibit the department from making a finding of abuse or neglect against a person~~] in a case in which the department is named managing conservator of a child who has a severe emotional disturbance only because the child's family is unable to obtain mental health services for the child. The department shall[~~;~~

[~~(2)~~] establish guidelines for reviewing the records in the registry and removing those records in which the department was named managing conservator of a child who has a severe emotional disturbance only because the child's family was unable to obtain mental health services for the child.

(b-1)  The department shall:[~~;~~]

(1)  [~~(3) require the department to~~] remove an individual's [~~a person's~~] name from the central registry maintained under this section not later than the 10th business day after the date the department receives notice that a finding of abuse and neglect against the individual [~~person~~] is overturned in:

(A)  an administrative review or an appeal of the review conducted under Section 261.309(c);

(B)  a review or an appeal of the review conducted by the office of internal [~~consumer~~] affairs of the department; or

(C)  a hearing or an appeal conducted by the State Office of Administrative Hearings, a court of appeals, the court of criminal appeals, or the supreme court; and

(2)  [~~(4) require the department to~~] update any relevant department files to reflect an overturned finding of abuse or neglect against an individual [~~a person~~] not later than the 10th business day after the date the finding is overturned in a review, hearing, or appeal described by Subdivision (1) [~~(3)~~].

(d)  The commissioner shall adopt rules necessary to carry out this section, including rules to ensure substantial compliance with this section.

SECTION 2.  Subchapter A, Chapter 261, Family Code, is amended by adding Section 261.0021 to read as follows:

Sec. 261.0021.  NOTICE BEFORE ALLEGED OFFENDER ADDED TO CENTRAL REGISTRY. Not later than the 10th business day before the date the department adds an individual's name and information to the central registry maintained under Section 261.002, the department shall provide written notice to the individual of the prospective addition to the registry. The notice must include:

(1)  a clear statement describing the purposes and scope of the registry;

(2)  an explanation of the consequences of being listed in the registry, including any possible negative impact on the individual's ability to:

(A)  obtain employment or certain licenses; and

(B)  have future contact with children, including any limitation on volunteering or involvement in school activities; and

(3)  information regarding the individual's right to challenge inclusion of the individual's name in the registry, including the procedures for challenging inclusion of the individual's name in the registry.

SECTION 3.  (a) The commissioner of the Department of Family and Protective Services shall adopt the rules necessary to implement the changes in law made by this Act by amending Section 261.002, Family Code, and adding Section 261.0021, Family Code.

(b)  The changes in law made by this Act by amending Section 261.002, Family Code, and adding Section 261.0021, Family Code, apply only to a finding that an individual abused or neglected a child made on or after the effective date of this Act. A finding made before that date is governed by the law in effect on the date the finding was made, and the former law is continued in effect for that purpose.

SECTION 4.  This Act takes effect September 1, 2023.