

By: Jetton, et al.

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

1 professional shall make a report as provided by this subchapter if
2 the professional has reasonable cause to believe that a child has
3 been abused or neglected or may be abused or neglected not later
4 than the 48th hour after the hour the professional first has
5 reasonable cause to believe that the child has been or may be abused
6 or neglected~~[, or that a child is a victim of an offense under~~
7 ~~Section 21.11, Penal Code, and the professional has reasonable~~
8 ~~cause to believe that the child has been abused as defined by~~
9 ~~Section 261.001, the professional shall make a report not later~~
10 ~~than the 48th hour after the hour the professional first has~~
11 ~~reasonable cause to believe that the child has been or may be abused~~
12 ~~or neglected or is a victim of an offense under Section 21.11, Penal~~
13 ~~Code].~~

14 (b-1) A professional may not delegate to or rely on another
15 person to make the report required by this section. ~~[In this~~
16 ~~subsection, "professional" means an individual who is licensed or~~
17 ~~certified by the state or who is an employee of a facility licensed,~~
18 ~~certified, or operated by the state and who, in the normal course of~~
19 ~~official duties or duties for which a license or certification is~~
20 ~~required, has direct contact with children. The term includes~~
21 ~~teachers, nurses, doctors, day-care employees, employees of a~~
22 ~~clinic or health care facility that provides reproductive services,~~
23 ~~juvenile probation officers, and juvenile detention or~~
24 ~~correctional officers.]~~

25 (b-2) ~~[(b-1)]~~ In addition to the duty to make a report under
26 Subsection ~~[(a) or]~~ (b), a ~~[person or]~~ professional shall make a
27 report in the manner required by Subsection ~~[(a) or]~~ (b) ~~[, as~~

1 ~~applicable,~~ if the [~~person or~~] professional has reasonable cause
2 to believe that an adult was a victim of abuse or neglect as a child
3 and the [~~person or~~] professional determines in good faith that
4 disclosure of the information is necessary to protect the health
5 and safety of:

- 6 (1) another child; or
7 (2) an elderly person or person with a disability as
8 defined by Section 48.002, Human Resources Code.

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

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

- 20 (1) as provided by Section 261.201; or
21 (2) to a law enforcement officer for the purposes of
22 conducting a criminal investigation of the report.

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

25 Sec. 261.1011. OTHER REPORTS OF ABUSE AND NEGLECT. (a) A
26 person who is not a professional as defined by Section 261.101:

- 27 (1) shall make a report as provided by this subchapter

1 if the person witnesses the sexual abuse, sexual assault, or
2 physical abuse of a child by any person; and

3 (2) may make a report as provided by this subchapter if
4 the person has reasonable cause to believe that a child's physical
5 or mental health or welfare has been adversely affected by abuse or
6 neglect by any person.

7 (b) The identity of a person making a report under this
8 section is confidential and may be disclosed only:

9 (1) as provided by Section 261.201;

10 (2) to a law enforcement officer for the purposes of
11 conducting a criminal investigation of the report; or

12 (3) if the person authorizes the disclosure in
13 writing.

14 SECTION 4. Section 261.102, Family Code, is amended to read
15 as follows:

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

19 (b) A person is not required to report concerns that:

20 (1) are solely related to:

21 (A) a child's behavior;

22 (B) truancy; or

23 (C) conditions of poverty, including a lack of
24 adequate clothing, housing instability, or lack of utilities in the
25 child's home; and

26 (2) do not adversely affect the child's physical or
27 mental health or welfare.

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

3 Sec. 261.1021. REQUIRED TRAINING. (a) Professionals
4 required to make a report under Section 261.101 must receive
5 training regarding reporting requirements under this subchapter.
6 The training must include information regarding:

7 (1) matters to be reported under Section 261.102;

8 (2) alternatives to reporting and matters that may be
9 referred to community-based prevention or family preservation
10 services providers under Section 261.1031; and

11 (3) the procedures for making a report required under
12 this subchapter.

13 (b) The department shall develop a training program for
14 professionals required to make a report under Section 261.101 that
15 includes the information required under Subsection (a).

16 SECTION 6. Section 261.103(a), Family Code, is amended to
17 read as follows:

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

20 (1) any local or state law enforcement agency;

21 (2) the department; or

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

25 SECTION 7. Subchapter B, Chapter 261, Family Code, is
26 amended by adding Sections 261.1031 and 261.1032 to read as
27 follows:

1 Sec. 261.1031. REFERRAL TO COMMUNITY-BASED PREVENTION OR
2 FAMILY PRESERVATION SERVICES PROVIDER. (a) Except as provided by
3 Subsection (d), a professional required to make a report under
4 Section 261.101(b) may refer the family to a community-based
5 prevention or family preservation services provider instead of the
6 entities listed under Section 261.103(a) if the professional has
7 reasonable cause to believe the child is not at risk of abuse or
8 neglect based on concerns described by Section 261.102(b).

9 (b) A professional who makes a referral under this section
10 shall make reasonable efforts to ensure that the family who is the
11 subject of the referral is connected with an appropriate
12 community-based prevention or family preservation services
13 provider.

14 (c) A community-based prevention or family preservation
15 services provider that receives a referral under Subsection (a)
16 shall make reasonable efforts to provide appropriate resources or
17 referrals to enhance the parents' ability to provide a safe and
18 stable home environment for a child who is the subject of the
19 referral.

20 (d) This section does not apply to cases in which a
21 professional has reasonable cause to believe that a child has been
22 or may be subjected to aggravated circumstances as described by
23 Section 262.2015.

24 (e) Nothing in this section may be construed to require a
25 community-based prevention or family preservation services
26 provider to provide services that the provider does not have the
27 resources, including funding, to provide.

1 Sec. 261.1032. IMPLEMENTATION STUDY AUTHORIZED. (a) The
2 department may, in collaboration with single source continuum
3 contractors, local or regional helplines, hospital systems,
4 independent school districts, law enforcement agencies, and
5 community-based prevention or family preservation services
6 providers, study the implementation of Section 261.1031 in at least
7 one child protective services region in which community-based care
8 has been implemented under Subchapter B-1, Chapter 264. A study
9 under this section must:

10 (1) explore and identify strategies for maximizing
11 referrals for and delivery of community-based prevention or family
12 preservation services in the region;

13 (2) determine whether a directory of community-based
14 prevention or family preservation resources has been established;

15 (3) assess the effectiveness of community-based
16 prevention or family preservation services at promoting child
17 safety and preventing entry into foster care;

18 (4) assess the effect that community education and
19 promotion of the referral process under Section 261.1031 had on the
20 number of families that received a referral for community-based
21 prevention or family preservation services;

22 (5) determine whether the training required under
23 Section 261.1021 is being provided;

24 (6) determine whether best practices for efficiently
25 connecting families with community-based prevention or family
26 preservation services providers have been developed;

27 (7) identify gaps in the availability of

1 community-based prevention or family preservation services in the
2 region; and

3 (8) recommend strategies for increasing the
4 availability of effective community-based prevention or family
5 preservation services in the region.

6 (b) Not later than November 1 of the calendar year in which a
7 study authorized under this section is conducted, the department
8 shall prepare and submit a report of the study to the governor, the
9 lieutenant governor, the speaker of the house of representatives,
10 and the chairs of the house and senate committees with primary
11 jurisdiction over the department.

12 (c) The department may conduct a study under this section
13 only using federal or private grant funds. The department shall
14 explore and seek opportunities for obtaining federal and private
15 funds to perform a study under this section.

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

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

21 (1) the name and address of the child;

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

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

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

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

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

8 Sec. 261.1041. REQUIRED DISCLOSURES. An agency or
9 organization receiving a report of child abuse or neglect shall
10 inform the person making the report that:

11 (1) the person is required to provide the person's name
12 and contact information to the agency or organization;

13 (2) the person's identity is confidential and may be
14 disclosed only as provided by Section 261.101(d) or 261.1011(b);
15 and

16 (3) knowingly making a false report with the intent to
17 deceive is a criminal offense under Section 261.107.

18 SECTION 10. Section 261.109, Family Code, is amended to
19 read as follows:

20 Sec. 261.109. FAILURE TO REPORT; PENALTY. (a) A person who
21 is a professional as defined by Section 261.101(a) commits an
22 offense if the person is required to make a report under Section
23 261.101(b) [~~261.101(a)~~] and knowingly fails to make a report as
24 provided in this chapter.

25 (a-1) A person who is a professional as defined by Section
26 261.101(a) who [~~261.101(b) commits an offense if the person~~] is
27 required to make a report under Section 261.101(b) does not commit

1 an offense if the person refers the child's family to an appropriate
2 community-based prevention or family preservation services
3 provider as provided by Section 261.1031 instead of making the
4 required [~~and knowingly fails to make a~~] report [~~as provided in this~~
5 ~~chapter~~].

6 (b) An offense under Subsection (a) is a Class A
7 misdemeanor, except that the offense is a state jail felony if it is
8 shown on the trial of the offense that:

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

15 (2) [~~—~~

16 [~~(c) An offense under Subsection (a-1) is a Class A~~
17 ~~misdemeanor, except that the offense is a state jail felony if it is~~
18 ~~shown on the trial of the offense that~~] the actor intended to
19 conceal the abuse or neglect.

20 SECTION 11. Section 261.110(a)(2), Family Code, is amended
21 to read as follows:

22 (2) "Professional" has the meaning assigned by Section
23 261.101(a) [~~261.101(b)~~].

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

26 (b-1) On a motion of one of the parties in a contested case
27 before an administrative law judge relating to the license or

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

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

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