

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

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 may  
27 make a report as provided by this subchapter if the person has

1 reasonable cause to believe that a child's physical or mental  
2 health or welfare has been adversely affected by abuse or neglect by  
3 any person.

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

6 (1) as provided by Section 261.201;

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

9 (3) if the person authorizes the disclosure in  
10 writing.

11 SECTION 4. Section 261.102, Family Code, is amended to read  
12 as follows:

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

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

18 (1) a child's behavior;

19 (2) truancy; or

20 (3) conditions of poverty, including a lack of  
21 adequate clothing, housing instability, or lack of utilities in the  
22 child's home, that do not adversely affect the child's physical or  
23 mental health or welfare.

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

26 Sec. 261.1021. REQUIRED TRAINING. (a) Professionals  
27 required to make a report under Section 261.101 must receive

1 training regarding reporting requirements under this subchapter.

2 The training must include information regarding:

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

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

7 (3) the procedures for making a report required under  
8 this subchapter.

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

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

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

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

17 (2) the department; or

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

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

23 Sec. 261.1031. REFERRAL TO COMMUNITY-BASED PREVENTION OR  
24 FAMILY PRESERVATION SERVICES PROVIDER. (a) Except as provided by  
25 Subsection (d), a professional required to make a report under  
26 Section 261.101(b) may refer the family to a community-based  
27 prevention or family preservation services provider instead of the

1 entities listed under Section 261.103(a) if the professional has  
2 reasonable cause to believe the child is not at risk of abuse or  
3 neglect based on concerns described by Section 261.102(b).

4 (b) A professional who makes a referral under this section  
5 shall make reasonable efforts to ensure that the family who is the  
6 subject of the referral is connected with an appropriate  
7 community-based prevention or family preservation services  
8 provider.

9 (c) A community-based prevention or family preservation  
10 services provider that receives a referral under Subsection (a)  
11 shall provide appropriate resources or referrals to enhance the  
12 parents' ability to provide a safe and stable home environment for a  
13 child who is the subject of the referral.

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

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

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

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

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

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

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

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

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

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

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

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

20          SECTION 10. Section 261.109, Family Code, is amended to  
21 read as follows:

22          Sec. 261.109. FAILURE TO REPORT; PENALTY. (a) A person who  
23 is a professional as defined by Section 261.101(a) commits an  
24 offense if the person is required to make a report under Section  
25 261.101(b) [~~261.101(a)~~] and knowingly fails to make a report as  
26 provided in this chapter.

27          (a-1) A person who is a professional as defined by Section

1 261.101(a) who [~~261.101(b) commits an offense if the person~~] is  
2 required to make a report under Section 261.101(b) does not commit  
3 an offense if the person refers the child's family to an appropriate  
4 community-based prevention or family preservation services  
5 provider as provided by Section 261.1031 instead of making the  
6 required [~~and knowingly fails to make a~~] report [~~as provided in this~~  
7 ~~chapter~~].

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

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

17 (2) [~~—~~

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

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

24 (2) "Professional" has the meaning assigned by Section  
25 261.101(a) [~~261.101(b)~~].

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



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

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

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