

1-1 By: Jetton, Isaac, Swanson H.B. No. 1667
 1-2 (Senate Sponsor - Paxton)
 1-3 (In the Senate - Received from the House May 12, 2023;
 1-4 May 12, 2023, read first time and referred to Committee on Health &
 1-5 Human Services; May 21, 2023, reported favorably by the following
 1-6 vote: Yeas 9, Nays 0; May 21, 2023, sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15	X			
1-16	X			
1-17	X			

1-18 A BILL TO BE ENTITLED
 1-19 AN ACT

1-20 relating to the reporting of child abuse or neglect.
 1-21 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:
 1-22 SECTION 1. Section 104.007(a), Family Code, is amended to
 1-23 read as follows:
 1-24 (a) In this section, "professional" has the meaning
 1-25 assigned by Section 261.101(a) [~~261.101(b)~~].
 1-26 SECTION 2. Section 261.101, Family Code, is amended to read
 1-27 as follows:
 1-28 Sec. 261.101. PROFESSIONALS [~~PERSONS~~] REQUIRED TO REPORT;
 1-29 TIME TO REPORT. (a) In this section, "professional" means an
 1-30 individual who is licensed or certified by the state or who is an
 1-31 employee of a facility licensed, certified, or operated by the
 1-32 state and who, in the normal course of official duties or duties for
 1-33 which a license or certification is required, has direct contact
 1-34 with children. The term includes teachers, nurses, doctors,
 1-35 day-care employees, employees of a clinic or health care facility
 1-36 that provides reproductive services, juvenile probation officers,
 1-37 and juvenile detention or correctional officers [~~A person having~~
 1-38 ~~reasonable cause to believe that a child's physical or mental~~
 1-39 ~~health or welfare has been adversely affected by abuse or neglect by~~
 1-40 ~~any person shall immediately make a report as provided by this~~
 1-41 ~~subchapter].
 1-42 (b) Except as provided by Section 261.1031, [~~if~~] a~~
 1-43 professional shall make a report as provided by this subchapter if
 1-44 the professional has reasonable cause to believe that a child has
 1-45 been abused or neglected or may be abused or neglected not later
 1-46 than the 48th hour after the hour the professional first has
 1-47 reasonable cause to believe that the child has been or may be abused
 1-48 or neglected[~~, or that a child is a victim of an offense under~~
 1-49 ~~Section 21.11, Penal Code, and the professional has reasonable~~
 1-50 ~~cause to believe that the child has been abused as defined by~~
 1-51 ~~Section 261.001, the professional shall make a report not later~~
 1-52 ~~than the 48th hour after the hour the professional first has~~
 1-53 ~~reasonable cause to believe that the child has been or may be abused~~
 1-54 ~~or neglected or is a victim of an offense under Section 21.11, Penal~~
 1-55 ~~Code].
 1-56 (b-1) A professional may not delegate to or rely on another~~
 1-57 person to make the report required by this section. [~~In this~~
 1-58 ~~subsection, "professional" means an individual who is licensed or~~
 1-59 ~~certified by the state or who is an employee of a facility licensed,~~
 1-60 ~~certified, or operated by the state and who, in the normal course of~~
 1-61 ~~official duties or duties for which a license or certification is~~

2-1 ~~required, has direct contact with children. The term includes~~
2-2 ~~teachers, nurses, doctors, day-care employees, employees of a~~
2-3 ~~clinic or health care facility that provides reproductive services,~~
2-4 ~~juvenile probation officers, and juvenile detention or~~
2-5 ~~correctional officers.]~~

2-6 (b-2) [~~(b-1)~~] In addition to the duty to make a report under
2-7 Subsection [~~(a) or~~] (b), a [~~person or~~] professional shall make a
2-8 report in the manner required by Subsection [~~(a) or~~] (b) [~~, as~~
2-9 ~~applicable,~~] if the [~~person or~~] professional has reasonable cause
2-10 to believe that an adult was a victim of abuse or neglect as a child
2-11 and the [~~person or~~] professional determines in good faith that
2-12 disclosure of the information is necessary to protect the health
2-13 and safety of:

- 2-14 (1) another child; or
- 2-15 (2) an elderly person or person with a disability as
2-16 defined by Section 48.002, Human Resources Code.

2-17 (c) The requirement to report under this section applies
2-18 without exception to a professional [~~an individual~~] whose personal
2-19 communications may otherwise be privileged, including an attorney,
2-20 a member of the clergy, a medical practitioner, a social worker, a
2-21 mental health professional, an employee or member of a board that
2-22 licenses or certifies a professional, and an employee of a clinic or
2-23 health care facility that provides reproductive services.

2-24 (d) Unless waived in writing by the professional [~~person~~]
2-25 making the report, the identity of a professional [~~an individual~~]
2-26 making a report under this chapter is confidential and may be
2-27 disclosed only:

- 2-28 (1) as provided by Section 261.201; or
- 2-29 (2) to a law enforcement officer for the purposes of
2-30 conducting a criminal investigation of the report.

2-31 SECTION 3. Subchapter B, Chapter 261, Family Code, is
2-32 amended by adding Section 261.1011 to read as follows:

2-33 Sec. 261.1011. OTHER REPORTS OF ABUSE AND NEGLECT. (a) A
2-34 person who is not a professional as defined by Section 261.101:

2-35 (1) shall make a report as provided by this subchapter
2-36 if the person witnesses the sexual abuse, sexual assault, or
2-37 physical abuse of a child by any person; and

2-38 (2) may make a report as provided by this subchapter if
2-39 the person has reasonable cause to believe that a child's physical
2-40 or mental health or welfare has been adversely affected by abuse or
2-41 neglect by any person.

2-42 (b) The identity of a person making a report under this
2-43 section is confidential and may be disclosed only:

- 2-44 (1) as provided by Section 261.201;
- 2-45 (2) to a law enforcement officer for the purposes of
2-46 conducting a criminal investigation of the report; or
- 2-47 (3) if the person authorizes the disclosure in
2-48 writing.

2-49 SECTION 4. Section 261.102, Family Code, is amended to read
2-50 as follows:

2-51 Sec. 261.102. MATTERS TO BE REPORTED. (a) A report should
2-52 reflect the reporter's belief that a child has been or may be abused
2-53 or neglected or has died of abuse or neglect.

2-54 (b) A person is not required to report concerns that:

- 2-55 (1) are solely related to:
 - 2-56 (A) a child's behavior;
 - 2-57 (B) truancy; or
 - 2-58 (C) conditions of poverty, including a lack of
2-59 adequate clothing, housing instability, or lack of utilities in the
2-60 child's home; and

2-61 (2) do not adversely affect the child's physical or
2-62 mental health or welfare.

2-63 SECTION 5. Subchapter B, Chapter 261, Family Code, is
2-64 amended by adding Section 261.1021 to read as follows:

2-65 Sec. 261.1021. REQUIRED TRAINING. (a) Professionals
2-66 required to make a report under Section 261.101 must receive
2-67 training regarding reporting requirements under this subchapter.
2-68 The training must include information regarding:

- 2-69 (1) matters to be reported under Section 261.102;

3-1 (2) alternatives to reporting and matters that may be
 3-2 referred to community-based prevention or family preservation
 3-3 services providers under Section 261.1031; and

3-4 (3) the procedures for making a report required under
 3-5 this subchapter.

3-6 (b) The department shall develop a training program for
 3-7 professionals required to make a report under Section 261.101 that
 3-8 includes the information required under Subsection (a).

3-9 SECTION 6. Section 261.103(a), Family Code, is amended to
 3-10 read as follows:

3-11 (a) Except as provided by Subsections (b) and (c) and
 3-12 Sections 261.1031 and ~~Section~~ 261.405, a report shall be made to:

3-13 (1) any local or state law enforcement agency;

3-14 (2) the department; or

3-15 (3) the state agency that operates, licenses,
 3-16 certifies, or registers the facility in which the alleged abuse or
 3-17 neglect occurred.

3-18 SECTION 7. Subchapter B, Chapter 261, Family Code, is
 3-19 amended by adding Sections 261.1031 and 261.1032 to read as
 3-20 follows:

3-21 Sec. 261.1031. REFERRAL TO COMMUNITY-BASED PREVENTION OR
 3-22 FAMILY PRESERVATION SERVICES PROVIDER. (a) Except as provided by
 3-23 Subsection (d), a professional required to make a report under
 3-24 Section 261.101(b) may refer the family to a community-based
 3-25 prevention or family preservation services provider instead of the
 3-26 entities listed under Section 261.103(a) if the professional has
 3-27 reasonable cause to believe the child is not at risk of abuse or
 3-28 neglect based on concerns described by Section 261.102(b).

3-29 (b) A professional who makes a referral under this section
 3-30 shall make reasonable efforts to ensure that the family who is the
 3-31 subject of the referral is connected with an appropriate
 3-32 community-based prevention or family preservation services
 3-33 provider.

3-34 (c) A community-based prevention or family preservation
 3-35 services provider that receives a referral under Subsection (a)
 3-36 shall make reasonable efforts to provide appropriate resources or
 3-37 referrals to enhance the parents' ability to provide a safe and
 3-38 stable home environment for a child who is the subject of the
 3-39 referral.

3-40 (d) This section does not apply to cases in which a
 3-41 professional has reasonable cause to believe that a child has been
 3-42 or may be subjected to aggravated circumstances as described by
 3-43 Section 262.2015.

3-44 (e) Nothing in this section may be construed to require a
 3-45 community-based prevention or family preservation services
 3-46 provider to provide services that the provider does not have the
 3-47 resources, including funding, to provide.

3-48 Sec. 261.1032. IMPLEMENTATION STUDY AUTHORIZED. (a) The
 3-49 department may, in collaboration with single source continuum
 3-50 contractors, local or regional helplines, hospital systems,
 3-51 independent school districts, law enforcement agencies, and
 3-52 community-based prevention or family preservation services
 3-53 providers, study the implementation of Section 261.1031 in at least
 3-54 one child protective services region in which community-based care
 3-55 has been implemented under Subchapter B-1, Chapter 264. A study
 3-56 under this section must:

3-57 (1) explore and identify strategies for maximizing
 3-58 referrals for and delivery of community-based prevention or family
 3-59 preservation services in the region;

3-60 (2) determine whether a directory of community-based
 3-61 prevention or family preservation resources has been established;

3-62 (3) assess the effectiveness of community-based
 3-63 prevention or family preservation services at promoting child
 3-64 safety and preventing entry into foster care;

3-65 (4) assess the effect that community education and
 3-66 promotion of the referral process under Section 261.1031 had on the
 3-67 number of families that received a referral for community-based
 3-68 prevention or family preservation services;

3-69 (5) determine whether the training required under

4-1 Section 261.1021 is being provided;

4-2 (6) determine whether best practices for efficiently
4-3 connecting families with community-based prevention or family
4-4 preservation services providers have been developed;

4-5 (7) identify gaps in the availability of
4-6 community-based prevention or family preservation services in the
4-7 region; and

4-8 (8) recommend strategies for increasing the
4-9 availability of effective community-based prevention or family
4-10 preservation services in the region.

4-11 (b) Not later than November 1 of the calendar year in which a
4-12 study authorized under this section is conducted, the department
4-13 shall prepare and submit a report of the study to the governor, the
4-14 lieutenant governor, the speaker of the house of representatives,
4-15 and the chairs of the house and senate committees with primary
4-16 jurisdiction over the department.

4-17 (c) The department may conduct a study under this section
4-18 only using federal or private grant funds. The department shall
4-19 explore and seek opportunities for obtaining federal and private
4-20 funds to perform a study under this section.

4-21 SECTION 8. Section 261.104, Family Code, is amended to read
4-22 as follows:

4-23 Sec. 261.104. CONTENTS OF REPORT. (a) The person making a
4-24 report shall provide the following information [~~identify~~], if
4-25 known, to the agency to which the report is made:

4-26 (1) the name and address of the child;

4-27 (2) the name and address of the person responsible for
4-28 the care, custody, or welfare of the child; [~~and~~]

4-29 (3) the reporting person's name and contact
4-30 information; and

4-31 (4) any other pertinent information concerning the
4-32 alleged or suspected abuse or neglect.

4-33 (b) The department shall make reasonable efforts to obtain
4-34 the information required under Subsection (a). If the department
4-35 is unable to obtain the reporting person's name and contact
4-36 information, the department may investigate the report as provided
4-37 by Section 261.304.

4-38 SECTION 9. Subchapter B, Chapter 261, Family Code, is
4-39 amended by adding Section 261.1041 to read as follows:

4-40 Sec. 261.1041. REQUIRED DISCLOSURES. An agency or
4-41 organization receiving a report of child abuse or neglect shall
4-42 inform the person making the report that:

4-43 (1) the person is required to provide the person's name
4-44 and contact information to the agency or organization;

4-45 (2) the person's identity is confidential and may be
4-46 disclosed only as provided by Section 261.101(d) or 261.1011(b);
4-47 and

4-48 (3) knowingly making a false report with the intent to
4-49 deceive is a criminal offense under Section 261.107.

4-50 SECTION 10. Section 261.109, Family Code, is amended to
4-51 read as follows:

4-52 Sec. 261.109. FAILURE TO REPORT; PENALTY. (a) A person who
4-53 is a professional as defined by Section 261.101(a) commits an
4-54 offense if the person is required to make a report under Section
4-55 261.101(b) [~~261.101(a)~~] and knowingly fails to make a report as
4-56 provided in this chapter.

4-57 (a-1) A person who is a professional as defined by Section
4-58 261.101(a) who [~~261.101(b) commits an offense if the person~~] is
4-59 required to make a report under Section 261.101(b) does not commit
4-60 an offense if the person refers the child's family to an appropriate
4-61 community-based prevention or family preservation services
4-62 provider as provided by Section 261.1031 instead of making the
4-63 required [~~and knowingly fails to make a~~] report [~~as provided in this~~
4-64 chapter].

4-65 (b) An offense under Subsection (a) is a Class A
4-66 misdemeanor, except that the offense is a state jail felony if it is
4-67 shown on the trial of the offense that:

4-68 (1) the child was a person with an intellectual
4-69 disability who resided in a state supported living center, the

5-1 ICF-IID component of the Rio Grande State Center, or a facility
5-2 licensed under Chapter 252, Health and Safety Code, and the actor
5-3 knew that the child had suffered serious bodily injury as a result
5-4 of the abuse or neglect; or

5-5 (2) [~~(c) An offense under Subsection (a-1) is a Class A~~
5-6 ~~misdemeanor, except that the offense is a state jail felony if it is~~
5-7 ~~shown on the trial of the offense that]~~ the actor intended to
5-8 conceal the abuse or neglect.
5-9

5-10 SECTION 11. Section 261.110(a)(2), Family Code, is amended
5-11 to read as follows:

5-12 (2) "Professional" has the meaning assigned by Section
5-13 261.101(a) [~~261.101(b)~~].

5-14 SECTION 12. Section 261.201(b-1), Family Code, is amended
5-15 to read as follows:

5-16 (b-1) On a motion of one of the parties in a contested case
5-17 before an administrative law judge relating to the license or
5-18 certification of a professional, as defined by Section 261.101(a)
5-19 [~~261.101(b)~~], or an educator, as defined by Section 5.001,
5-20 Education Code, the administrative law judge may order the
5-21 disclosure of information that is confidential under this section
5-22 that relates to the matter before the administrative law judge
5-23 after a hearing for which notice is provided as required by
5-24 Subsection (b)(2) and making the review and determination required
5-25 by Subsection (b)(3). Before the department may release
5-26 information under this subsection, the department must edit the
5-27 information to protect the confidentiality of the identity of any
5-28 person who makes a report of abuse or neglect.

5-29 SECTION 13. The changes in law made by this Act apply only
5-30 to a report of suspected abuse or neglect of a child that is made on
5-31 or after the effective date of this Act. A report of suspected
5-32 abuse or neglect that is made before that date is governed by the
5-33 law in effect on the date the report was made, and that law is
5-34 continued in effect for that purpose.

5-35 SECTION 14. This Act takes effect September 1, 2023.

5-36 * * * * *