

1-1 By: Hall S.B. No. 515  
1-2 (In the Senate - Filed January 20, 2023; February 17, 2023,  
1-3 read first time and referred to Committee on Health & Human  
1-4 Services; April 11, 2023, reported adversely, with favorable  
1-5 Committee Substitute by the following vote: Yeas 8, Nays 0;  
1-6 April 11, 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 COMMITTEE SUBSTITUTE FOR S.B. No. 515 By: Hancock

1-19 A BILL TO BE ENTITLED  
1-20 AN ACT

1-21 relating to investigations of child abuse and neglect and the  
1-22 procedures for adding names to or removing names from the central  
1-23 registry of child abuse and neglect.

1-24 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-25 SECTION 1. Section 261.002, Family Code, is amended by  
1-26 amending Subsections (a) and (b) and adding Subsections (a-1),  
1-27 (a-2), and (b-1) to read as follows:

1-28 (a) The department shall establish and maintain a central  
1-29 registry of the names of persons ~~[individuals]~~ found by the  
1-30 department to have abused or neglected a child other than persons  
1-31 whose case was assigned the severity code "Low". Except as provided  
1-32 by Subsection (a-1), the department shall maintain the person's  
1-33 name in the registry until:

1-34 (1) the fifth anniversary of the date of the finding  
1-35 for a case assigned the severity code "Moderate";

1-36 (2) the 15th anniversary of the date of the finding for  
1-37 a case assigned the severity code "Serious";

1-38 (3) the 30th anniversary of the date of the finding for  
1-39 a case assigned the severity code "Severe" or the 15th anniversary  
1-40 of the date of the finding if the court returned the child to the  
1-41 child's home during the period within which the court must render a  
1-42 final order under Chapter 263; and

1-43 (4) the 99th anniversary of the date of the finding for  
1-44 a case assigned the severity code "Near Fatal" or "Fatal".

1-45 (a-1) If the department's finding of abuse or neglect is  
1-46 sustained by an administrative law judge of the State Office of  
1-47 Administrative Hearings, the department shall maintain the  
1-48 person's name in the central registry until the 20th anniversary of  
1-49 the date of the finding or the date designated under Subsection (a),  
1-50 whichever is longer.

1-51 (a-2) The department may not maintain a person's name in the  
1-52 central registry after the date the department disposes of the case  
1-53 records related to the investigation.

1-54 (b) The ~~[executive]~~ commissioner shall adopt rules  
1-55 necessary to carry out this section. The rules shall:

1-56 (1) prohibit the department from making a finding of  
1-57 abuse or neglect against a person in a case in which the department  
1-58 is named managing conservator of a child who has a severe emotional  
1-59 disturbance only because the child's family is unable to obtain  
1-60 mental health services for the child;

2-1 (2) establish guidelines for reviewing the records in  
2-2 the registry and removing those records in which the department was  
2-3 named managing conservator of a child who has a severe emotional  
2-4 disturbance only because the child's family was unable to obtain  
2-5 mental health services for the child;

2-6 (3) require the department to remove a person's name  
2-7 from the central registry maintained under this section not later  
2-8 than the 10th business day after:

2-9 (A) the date the department receives notice that  
2-10 a finding of abuse and neglect against the person is overturned in:

2-11 (i) [~~A~~] an administrative review or an  
2-12 appeal of the review conducted under Section 261.309(c);

2-13 (ii) [~~B~~] a review or an appeal of the  
2-14 review conducted by the office of consumer relations [~~affaires~~] of  
2-15 the department or its successor; or

2-16 (iii) [~~C~~] a hearing or an appeal  
2-17 conducted by the State Office of Administrative Hearings; or

2-18 (B) the date the expungement review panel renders  
2-19 a decision to remove a person's name from the registry after  
2-20 conducting an expungement hearing under Subchapter G; and

2-21 (4) require the department to update any relevant  
2-22 department files to reflect an overturned finding of abuse or  
2-23 neglect against a person not later than the 10th business day after  
2-24 the date the finding is overturned in a review, hearing, or appeal  
2-25 described by Subdivision (3).

2-26 (b-1) The department shall remove from the central registry  
2-27 the name of any person against whom the department made a finding of  
2-28 abuse or neglect when the person was younger than 18 years of age  
2-29 if:

2-30 (1) two years have passed since the department made  
2-31 the finding;

2-32 (2) the department has not made any subsequent finding  
2-33 of abuse or neglect against the person;

2-34 (3) the person has not had a juvenile offender  
2-35 adjudication for any act other than the incident that resulted in  
2-36 the finding made by the department; and

2-37 (4) the person has not had any criminal adjudications  
2-38 for an offense involving child abuse or neglect other than the  
2-39 incident that resulted in the finding made by the department.

2-40 SECTION 2. Subchapter A, Chapter 261, Family Code, is  
2-41 amended by adding Section 261.0021 to read as follows:

2-42 Sec. 261.0021. NOTICE BEFORE ADDING OFFENDER TO CENTRAL  
2-43 REGISTRY. Before the department may add a person's name and  
2-44 information regarding the reported case of abuse or neglect to the  
2-45 central registry maintained under Section 261.002, the department  
2-46 shall provide written notice to the person that the person will be  
2-47 added to the registry. The notice must include:

2-48 (1) a clear statement of what the central registry is;  
2-49 and

2-50 (2) the consequences of being listed in the central  
2-51 registry, including any possible negative impact on the person's  
2-52 ability to obtain employment or certain licenses and to have future  
2-53 contact with children, including any limit on the person's ability  
2-54 to volunteer at or be involved in school activities.

2-55 SECTION 3. Subchapter D, Chapter 261, Family Code, is  
2-56 amended by adding Section 261.3081 to read as follows:

2-57 Sec. 261.3081. SEVERITY CODES. (a) The department shall  
2-58 assign a severity code as provided by this section to each  
2-59 substantiated finding of abuse or neglect made by the department in  
2-60 an investigation relating to a person described in Sections  
2-61 261.001(5)(A)-(D).

2-62 (b) The department shall assign the severity code "Low" to  
2-63 an isolated incident where there was a threat of harm but no injury  
2-64 to a child and the incident was due to an accident or parental  
2-65 mistake that does not pose an ongoing risk of harm beyond the  
2-66 incident. The "Low" severity code is limited to substantiated  
2-67 findings of neglectful supervision. The department may not use the  
2-68 severity code "Low" in an investigation of a school under Section  
2-69 261.406 in which the department substantiated findings of abuse or

3-1 neglect.

3-2 (c) The department shall assign the severity code  
3-3 "Moderate" to an incident of abuse or neglect in which there is a  
3-4 low or moderate risk of future harm to a child, there are no  
3-5 unmanaged dangers in the home, the incident does not result in  
3-6 removal, and the department closes the investigation with a  
3-7 recommendation for community services. The severity code  
3-8 "Moderate" is limited to substantiated findings of emotional abuse,  
3-9 neglectful supervision, and physical abuse consisting of an  
3-10 isolated incident of inappropriate discipline that does not require  
3-11 care by a medical provider or result in substantial injury to the  
3-12 child.

3-13 (d) The department shall assign the severity code "Serious"  
3-14 to an incident of abuse or neglect in which there is a high risk of  
3-15 future harm to a child, there are unmanaged dangers in the home, and  
3-16 without services to the family removal of the child from the home  
3-17 would be necessary. The severity code "Serious" is limited to  
3-18 substantiated findings of emotional abuse, neglectful supervision,  
3-19 refusal to accept parental responsibility, medical or physical  
3-20 neglect if the incident did not result in any harm or injury to the  
3-21 child, and physical abuse excluding circumstances of physical abuse  
3-22 that resulted in serious injury to the child.

3-23 (e) The department shall assign the severity code "Severe"  
3-24 to an incident of abuse or neglect in which there is a very high risk  
3-25 of future harm to a child, there are unmanaged dangers in the home,  
3-26 and a court in a suit affecting the parent-child relationship  
3-27 renders an order removing the child from the home. The severity  
3-28 code "Severe" is limited to substantiated findings of sexual abuse,  
3-29 physical abuse that resulted in serious injury to the child,  
3-30 medical or physical neglect that resulted or could have resulted in  
3-31 impairment to the child's overall health or well-being, sex or  
3-32 labor trafficking, forced marriage, and abandonment.

3-33 (f) The department shall assign the severity code "Near  
3-34 Fatal" to an incident of abuse or neglect that meets the definition  
3-35 of near fatality in Section 264.5031.

3-36 (g) The department shall assign the severity code "Fatal" to  
3-37 an incident of abuse or neglect that results in a child fatality.

3-38 (h) This section does not apply to a person alleged to have  
3-39 abused or neglected a child at a child-care facility or family home  
3-40 as defined by Section 42.002, Human Resources Code.

3-41 (i) The commissioner may adopt rules to implement this  
3-42 section.

3-43 SECTION 4. Subchapter D, Chapter 261, Family Code, is  
3-44 amended by adding Section 261.317 to read as follows:

3-45 Sec. 261.317. RECORDS RETENTION; EXPUNCTION. (a) The  
3-46 department may retain records related to an investigation under  
3-47 this chapter in accordance with the department's records retention  
3-48 schedule after a person's name has been removed from the central  
3-49 registry in order to perform background checks required under  
3-50 Section 42.056, Human Resources Code, and to conduct risk and  
3-51 safety assessments.

3-52 (b) The department shall comply with a court order directing  
3-53 expunction of the department's records concerning a person for whom  
3-54 the department maintains records.

3-55 SECTION 5. Chapter 261, Family Code, is amended by adding  
3-56 Subchapter G to read as follows:

3-57 SUBCHAPTER G. REMOVING NAMES FROM CENTRAL REGISTRY OF ABUSE AND  
3-58 NEGLECT

3-59 Sec. 261.601. DEFINITION. In this subchapter, "central  
3-60 registry" means the central registry of the names of persons found  
3-61 by the department to have abused or neglected a child maintained by  
3-62 the department under Section 261.002.

3-63 Sec. 261.602. NONAPPLICABILITY OF SUBCHAPTER. This  
3-64 subchapter does not apply to persons alleged to have abused or  
3-65 neglected a child in a child-care facility or family home as defined  
3-66 by Section 42.002, Human Resources Code, or to school  
3-67 investigations conducted under Section 261.406.

3-68 Sec. 261.603. EXPUNGEMENT REVIEW PANEL; MEMBERS. (a) The  
3-69 department shall establish an expungement review panel to review

4-1 requests to have a person's name removed from the central registry.

4-2 (b) The expungement review panel is composed of department  
4-3 employees and a representative of the public appointed by the  
4-4 commissioner. The public member of the review panel serves a  
4-5 two-year term and may serve for not more than three terms.

4-6 (c) A person may not serve as a public member of the  
4-7 expungement review panel if the person:

4-8 (1) has been convicted of or indicted for an offense  
4-9 involving child abuse or neglect;

4-10 (2) has been determined by the department to have  
4-11 engaged in child abuse or neglect; or

4-12 (3) is under investigation by the department for child  
4-13 abuse or neglect.

4-14 (d) The public member of the expungement review panel is a  
4-15 department volunteer for the purposes of Section 411.114,  
4-16 Government Code.

4-17 (e) The members of the expungement review panel are immune  
4-18 from civil or criminal liability for any act or omission that  
4-19 relates to their duty or responsibility as a member of the review  
4-20 panel if they acted in good faith and within the scope of their  
4-21 responsibility, as provided in Section 40.061, Human Resources  
4-22 Code.

4-23 Sec. 261.604. REQUEST FOR REMOVAL OF NAME. (a) A person  
4-24 who desires to have the person's name removed from the central  
4-25 registry shall submit a written request to the commissioner that  
4-26 includes a letter describing the reason for the request.

4-27 (b) Only the following persons may make a request to have  
4-28 their name removed from the central registry as provided by this  
4-29 subchapter:

4-30 (1) a parent, guardian, or managing or possessory  
4-31 conservator of the child;

4-32 (2) a member of the child's family or household as  
4-33 defined by Chapter 71; and

4-34 (3) a person with whom the child's parent cohabits.

4-35 (c) A person may not make a request under this section  
4-36 before the third anniversary of the date the department made its  
4-37 most recent finding of child abuse or neglect.

4-38 (d) If the expungement review panel denies a request under  
4-39 this section after a hearing, the person may not submit a subsequent  
4-40 request until the first anniversary of the date the review panel  
4-41 rendered a decision on the person's last request.

4-42 (e) A person who has been determined by the department to  
4-43 have engaged in child abuse or neglect is not eligible for a review  
4-44 under this subchapter if:

4-45 (1) the incident of abuse or neglect resulted in a  
4-46 child fatality or near fatality;

4-47 (2) a court ordered termination of the parent-child  
4-48 relationship as a result of the abuse or neglect; or

4-49 (3) following the date of the department's  
4-50 determination, the department makes another substantiated finding  
4-51 of abuse and neglect by the person or the person had a criminal  
4-52 adjudication for an offense involving child abuse or neglect.

4-53 (f) A person found under Subsection (e)(3) to be ineligible  
4-54 for a review under this subchapter may make another request under  
4-55 this section after the period described in Subsection (c).

4-56 Sec. 261.605. HEARING DATE AND NOTICE; LIMITATION. (a) On  
4-57 receipt of a request under Section 261.604(a), the commissioner  
4-58 shall notify the expungement review panel of the request. The  
4-59 review panel shall set a date for a hearing on the request. The  
4-60 review panel shall hold the hearing not later than the 60th day  
4-61 after the date the commissioner receives the request, unless the  
4-62 panel has good cause for holding the hearing after that date.

4-63 (b) The expungement review panel shall send written notice  
4-64 of the date, time, and location of the hearing to the requestor and  
4-65 the regional office that conducted the original investigation.

4-66 Sec. 261.606. REVIEW HEARING. (a) At the hearing, the  
4-67 person requesting the review may present evidence supporting  
4-68 removal of the person's name from the central registry. The person  
4-69 has the burden of providing the expungement review panel with the

5-1 basis for granting the request and may present evidence including:  
 5-2 (1) completion of treatment services or programs  
 5-3 related to the finding;  
 5-4 (2) letters of support from professionals or others;  
 5-5 (3) evidence of activities that would reflect upon the  
 5-6 person's changed behavior or circumstances such as therapy,  
 5-7 employment, or education; and  
 5-8 (4) any other relevant evidence that shows changed  
 5-9 circumstances.

5-10 (b) The regional office of the department that conducted the  
 5-11 original investigation may:

5-12 (1) present evidence in support of or in opposition to  
 5-13 the request; and

5-14 (2) make a recommendation regarding the request.

5-15 Sec. 261.607. EXPUNGEMENT REVIEW PANEL'S DECISION. (a)  
 5-16 Not later than the 45th day after the date of the hearing, the  
 5-17 expungement review panel shall render a written decision on the  
 5-18 request that includes the review panel's reasons for the decision.  
 5-19 The review panel's decision must be by majority vote.

5-20 (b) The expungement review panel shall provide the written  
 5-21 decision to the person requesting the review and to the  
 5-22 department's commissioner, deputy commissioner, chief of staff,  
 5-23 and associate commissioner for child protective investigations.

5-24 (c) The expungement review panel shall consider the  
 5-25 following factors in making its decision:

5-26 (1) the nature and severity of the allegations of  
 5-27 abuse or neglect and the circumstances surrounding the allegations;

5-28 (2) the number of findings of abuse or neglect  
 5-29 involving the person;

5-30 (3) whether the person was a child at the time the  
 5-31 finding of abuse or neglect was made and the person's age at the  
 5-32 time of the incident;

5-33 (4) whether the circumstances that contributed to the  
 5-34 incident of abuse or neglect still exist;

5-35 (5) actions taken by the person since the incident to  
 5-36 prevent the reoccurrence of abuse or neglect, including  
 5-37 participation in and completion of services and programs related to  
 5-38 the allegations; and

5-39 (6) any other relevant information that shows that the  
 5-40 person no longer poses a risk to the safety and well-being of the  
 5-41 alleged victim, other children, and vulnerable adults.

5-42 Sec. 261.608. LIMIT ON NUMBER OF REVIEW HEARINGS. A person  
 5-43 may not have more than four hearings under this subchapter.

5-44 Sec. 261.609. CONFIDENTIALITY. A review conducted under  
 5-45 this subchapter, including documents presented to and considered by  
 5-46 the expungement review panel, is confidential and not subject to  
 5-47 disclosure under Chapter 552, Government Code.

5-48 Sec. 261.610. RULEMAKING. The commissioner may adopt rules  
 5-49 to implement this subchapter.

5-50 SECTION 6. Section 261.3081, Family Code, as added by this  
 5-51 Act, applies only to a finding of abuse or neglect made by the  
 5-52 Department of Family and Protective Services on or after the  
 5-53 effective date of this Act.

5-54 SECTION 7. This Act takes effect immediately if it receives  
 5-55 a vote of two-thirds of all the members elected to each house, as  
 5-56 provided by Section 39, Article III, Texas Constitution. If this  
 5-57 Act does not receive the vote necessary for immediate effect, this  
 5-58 Act takes effect September 1, 2023.

5-59 \* \* \* \* \*