

By: Birdwell

S.B. No. 1162

A BILL TO BE ENTITLED

AN ACT

relating to the procedures for removing names from the central registry of child abuse and neglect.

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

SECTION 1. Chapter 261, Family Code, is amended by adding Subchapter G to read as follows:

SUBCHAPTER G. REMOVING NAMES FROM CENTRAL REGISTRY OF ABUSE AND
NEGLECT

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

Sec. 261.602. EXPUNGEMENT REVIEW PANEL; MEMBERS. (a) The department shall establish an expungement review panel to review requests to have a person's name removed from the central registry.

(b) The expungement review panel is composed of the general counsel of the department, the department's chief accountability and internal affairs officer, and a member of the State Bar of Texas who specializes in defending individuals accused of child abuse or neglect appointed by the commissioner. The member of the State Bar of Texas shall serve a two-year term and may serve for not more than three terms.

(c) The members of the expungement review panel are immune from civil or criminal liability for any act or omission that

1 relates to their duty or responsibility as a member of the review
2 panel if they acted in good faith and within the scope of their
3 responsibility, as provided in Section 40.061, Human Resources
4 Code.

5 Sec. 261.603. REQUEST FOR REMOVAL OF NAME. (a) A person
6 who desires to have the person's name removed from the central
7 registry must submit a written request to the commissioner.

8 (b) A person may not make a request under this section
9 before the second anniversary of the date the department added the
10 person's name to the central registry.

11 (c) If the expungement review panel denies a request under
12 this section after a hearing, the person may not submit a subsequent
13 request until the first anniversary of the date the review panel
14 rendered a decision on the person's most recent request.

15 Sec. 261.604. HEARING DATE AND NOTICE; LIMITATION. (a) On
16 receipt of a request under Section 261.603(a), the commissioner
17 shall notify the expungement review panel of the request. The
18 review panel shall set a date for a hearing on the request. The
19 review panel shall hold the hearing not later than the 60th day
20 after the date the commissioner receives the request.

21 (b) Not later than the 15th day before the hearing, the
22 expungement review panel shall send written notice of the hearing
23 to the requestor. The notice must include:

- 24 (1) the date, time, and location of the hearing; and
25 (2) the regional office that conducted the original
26 investigation that resulted in the finding of abuse or neglect.

27 Sec. 261.605. REVIEW HEARING. (a) At the hearing, the

1 person requesting the review has the right to be represented by
2 legal counsel.

3 (b) The person requesting the review has the burden of
4 providing the expungement review panel with the basis for granting
5 the request and may present evidence supporting removal of the
6 person's name from the central registry.

7 (c) The regional office of the department that conducted the
8 original investigation may:

9 (1) present evidence in support of or in opposition to
10 the request; and

11 (2) make a recommendation regarding the request.

12 Sec. 261.606. EXPUNGEMENT REVIEW PANEL'S DECISION. (a)
13 The panel shall render a written decision on the request that
14 includes the review panel's reasons for the decision not later than
15 the 30th day after the date of the hearing. The review panel's
16 decision must be by majority vote.

17 (b) Not later than the 45th day after the date of the
18 hearing, the expungement review panel shall provide the written
19 decision to the person requesting the review and to the
20 department's commissioner, deputy commissioner, chief of staff,
21 and associate commissioner for child protective investigations.

22 (c) The expungement review panel shall consider the
23 following factors in making its decision:

24 (1) the department's findings regarding the nature and
25 severity of the incident of abuse or neglect and the circumstances
26 surrounding the incident;

27 (2) the number of findings of abuse or neglect

1 involving the person;

2 (3) the person's age at the time of the incident, and
3 whether the person was a child at the time of the incident;

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

6 (5) actions taken by the person since the incident to
7 prevent the reoccurrence of abuse or neglect, including
8 participation in and completion of services and programs related to
9 the allegations;

10 (6) evidence that:

11 (A) the person no longer poses a similar risk;
12 and

13 (B) continued listing of the person's name in the
14 central registry would not serve a significant public purpose; and

15 (7) any other relevant information that shows that the
16 person no longer poses a risk to the safety and well-being of the
17 alleged victim, other children, and vulnerable adults.

18 (d) If the expungement review panel grants a person's
19 request for removal from the central registry, the department
20 shall, not later than the 10th day after rendering the decision,
21 remove the person's name from the central registry and update any
22 relevant department files to reflect the removal and the reasons
23 for removal given in the decision.

24 Sec. 261.607. AUTOMATIC REMOVAL. (a) The department shall
25 remove a person's name and related information from the central
26 registry if more than 18 years have passed since the department's
27 last finding of abuse or neglect against the person, unless any

1 finding of abuse or neglect against the person involved aggravated
2 circumstances described by Section 262.2015(b).

3 (b) The department shall remove a person's name and related
4 information from the central registry if:

5 (1) the person was a minor at the time of the incident
6 that resulted in the finding of abuse or neglect against the person;
7 and

8 (2) more than two years have passed since the
9 department's last finding of abuse or neglect against the person.

10 Sec. 261.608. CONFIDENTIALITY. The review conducted under
11 this subchapter is confidential and not subject to disclosure under
12 Chapter 552, Government Code.

13 Sec. 261.609. RULEMAKING. The commissioner shall adopt
14 rules necessary to implement this subchapter, including rules to
15 ensure substantial compliance with this subchapter.

16 SECTION 2. This Act takes effect September 1, 2023.