

By: Birdwell

S.B. No. 1163

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to the procedures and notice required before an  
3 individual's name is added to the central child abuse or neglect  
4 registry.

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

6 SECTION 1. Section 261.002, Family Code, is amended by  
7 amending Subsections (a) and (b) and adding Subsections (a-1),  
8 (a-2), (b-1), and (d) to read as follows:

9 (a) The department shall establish and maintain a central  
10 registry of the names of individuals found [~~by the department~~] to  
11 have abused or neglected a child.

12 (a-1) Except as provided by Subsection (a-2), the  
13 department may not add the name of an individual to the central  
14 registry maintained under this section unless a court in any civil,  
15 criminal, administrative, or juvenile proceeding, including a  
16 proceeding under Subchapter C, Chapter 262, or Section 264.203,  
17 issues a final order finding that the individual abused or  
18 neglected a child.

19 (a-2) If the department finds that an individual subjected a  
20 child to aggravated circumstances as described by Section 262.2015,  
21 the department may add the individual's name to the central  
22 registry maintained under this section without a court order  
23 finding that the individual abused or neglected the child.

24 (b) The department may not find that an individual abused or

1 neglected a child [~~executive commissioner shall adopt rules~~  
2 ~~necessary to carry out this section. The rules shall:~~

3 [~~(1) prohibit the department from making a finding of~~  
4 ~~abuse or neglect against a person]~~ in a case in which the department  
5 is named managing conservator of a child who has a severe emotional  
6 disturbance only because the child's family is unable to obtain  
7 mental health services for the child. The department shall[+]

8 [~~(2)~~] establish guidelines for reviewing the records in  
9 the registry and removing those records in which the department was  
10 named managing conservator of a child who has a severe emotional  
11 disturbance only because the child's family was unable to obtain  
12 mental health services for the child.

13 (b-1) The department shall: [+]

14 (1) [~~(3) require the department to~~] remove an  
15 individual's [~~a person's~~] name from the central registry maintained  
16 under this section not later than the 10th business day after the  
17 date the department receives notice that a finding of abuse and  
18 neglect against the individual [~~person~~] is overturned in:

19 (A) an administrative review or an appeal of the  
20 review conducted under Section [261.309\(c\)](#);

21 (B) a review or an appeal of the review conducted  
22 by the office of internal [~~consumer~~] affairs of the department; or

23 (C) a hearing or an appeal conducted by the State  
24 Office of Administrative Hearings, a court of appeals, the court of  
25 criminal appeals, or the supreme court; and

26 (2) [~~(4) require the department to~~] update any  
27 relevant department files to reflect an overturned finding of abuse

1 or neglect against an individual [~~a person~~] not later than the 10th  
2 business day after the date the finding is overturned in a review,  
3 hearing, or appeal described by Subdivision (1) [~~(3)~~].

4 (d) The commissioner shall adopt rules necessary to carry  
5 out this section, including rules to ensure substantial compliance  
6 with this section.

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

9 Sec. 261.0021. NOTICE BEFORE ALLEGED OFFENDER ADDED TO  
10 CENTRAL REGISTRY. Not later than the 10th business day before the  
11 date the department adds an individual's name and information to  
12 the central registry maintained under Section 261.002, the  
13 department shall provide written notice to the individual of the  
14 prospective addition to the registry. The notice must include:

15 (1) a clear statement describing the purposes and  
16 scope of the registry;

17 (2) an explanation of the consequences of being listed  
18 in the registry, including any possible negative impact on the  
19 individual's ability to:

20 (A) obtain employment or certain licenses; and

21 (B) have future contact with children, including  
22 any limitation on volunteering or involvement in school activities;  
23 and

24 (3) information regarding the individual's right to  
25 challenge inclusion of the individual's name in the registry,  
26 including the procedures for challenging inclusion of the  
27 individual's name in the registry.

1           SECTION 3. (a) The commissioner of the Department of Family  
2 and Protective Services shall adopt the rules necessary to  
3 implement the changes in law made by this Act by amending Section  
4 261.002, Family Code, and adding Section 261.0021, Family Code.

5           (b) The changes in law made by this Act by amending Section  
6 261.002, Family Code, and adding Section 261.0021, Family Code,  
7 apply only to a finding that an individual abused or neglected a  
8 child made on or after the effective date of this Act. A finding  
9 made before that date is governed by the law in effect on the date  
10 the finding was made, and the former law is continued in effect for  
11 that purpose.

12           SECTION 4. This Act takes effect September 1, 2023.