

BILL ANALYSIS

Senate Research Center

H.B. 5061
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Business & Commerce
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

During the 89th Legislature, a representative from a state Medicaid insurance company publicly admitted to hiring private investigators to conduct surveillance on lawmakers, their families, patients, and journalists. This invasive monitoring included attempts to access sensitive materials and investigations into family members, spouses and business dealings. These actions, along with other troubling incidents, highlight the vulnerabilities in current oversight mechanisms and underscore the urgent need for legislative action and statutory safeguards to prevent such breaches of trust. Texas must hold state contractors financed by taxpayer dollars to the highest ethical standards in order to reinforce public trust in government operations.

H.B. 5061 aims to protect the privacy and dignity of Texas citizens by prohibiting state contractors and vendors from engaging in surveillance, intimidation, or the misuse of confidential information. The bill establishes clear legal safeguards, imposes penalties for violations, and ensures transparency in state business.

H.B. 5061 amends current law relating to prohibiting certain activities by contractors and vendors of state agencies and provides administrative penalties.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Authorizes this Act to be known as the Texas Integrity in State Contracting and Privacy Protection Act.

SECTION 2. Amends Chapter 2261, Government Code, by adding Subchapter G, as follows:

SUBCHAPTER G. CERTAIN PROHIBITED ACTIVITIES BY CONTRACTORS AND VENDORS

Sec. 2261.301. DEFINITIONS. Defines "state agency employee," "surveillance," and "undue influence."

Sec. 2261.3015. APPLICABILITY. Provides that, notwithstanding Sections 2261.001(a) (relating to providing that Chapter 2261 (State Contracting Standards and Oversight) applies only to each procurement of goods or services made by a state agency in certain circumstances) and (d) (relating to providing that Chapter 2261 does not apply to a procurement made by certain entities or paid for by certain funds), this subchapter applies to each procurement of goods or services made by a state agency, including a procurement made by the Comptroller of Public Accounts of the State of Texas (comptroller), under purchasing authority delegated to the agency by or under Section 51.9335 (Acquisition of Goods and Services) or 73.115 (Acquisition of Goods and Services), Education Code, or Section 2155.131 or 2155.132 of this code, or by the Texas Department of Transportation or a procurement paid for by local or institutional funds of an institution of higher education.

Sec. 2261.302. PROHIBITED ACTIVITIES. Prohibits a contractor or subcontractor of a state agency or a vendor responding to a contract solicitation from directly or indirectly through a third party from:

(1) engaging in surveillance targeting:

(A) a member of the state legislature or a person employed to support the state legislature in any capacity;

(B) a family member of a person described by Paragraph (A);

(C) a state agency employee; or

(D) an individual making a complaint or raising concerns regarding state agency operations or contracting;

(2) engaging in an act of intimidation, coercion, extortion, undue influence, or other similar conduct intended to influence, silence, or retaliate against a person described by Subdivision (1)(A), (B), (C), or (D); or

(3) using private or confidential information to manipulate or influence a state contracting decision or proceeding.

Sec. 2261.303. OVERSIGHT AND ENFORCEMENT. (a) Requires the state auditor's office (SAO) to oversee and enforce this subchapter.

(b) Authorizes SAO to collaborate with the Texas Ethics Commission to ensure compliance with this subchapter and transparency of oversight and enforcement actions.

(c) Requires the Texas Rangers division of the Department of Public Safety of the State of Texas (DPS) to investigate any alleged criminal offense related to a violation of this subchapter.

Sec. 2261.304. COMPLAINT PROCESS. (a) Authorizes a person who believes that a prohibited activity under Section 2261.302 has occurred to file a complaint with SAO.

(b) Requires SAO to establish and maintain a confidential reporting hotline and an online portal for submitting a complaint under Subsection (a).

Sec. 2261.305. INVESTIGATION. (a) Requires SAO to investigate a complaint submitted under Section 2261.304 and determine whether a violation of this subchapter occurred not later than the 90th day after the date SAO receives the complaint.

(b) Requires SAO, if during an investigation of a complaint SAO suspects that a criminal offense has been committed, to refer the matter to the Texas Rangers division of DPS for a comprehensive criminal investigation. Requires the Texas Rangers division of DPS to investigate the complaint and, if appropriate, refer the matter to the Office of the Attorney General for prosecution.

Sec. 2261.306. ENFORCEMENT: CONTRACT TERMINATION; BARRING FROM STATE CONTRACTS; ADMINISTRATIVE PENALTIES. (a) Provides that, on a final determination by SAO that a person violated this subchapter, the person is:

(1) for the first violation: subject to immediate termination of any state contracts without further obligation, liable for an administrative penalty in an amount not to exceed certain amounts, and barred from responding to a solicitation for or being awarded a state contract until a certain time; and

(2) for a second or subsequent violation: subject to immediate termination of all state contracts without further obligation, liable for an administrative penalty in an amount not to exceed certain amounts, and barred permanently from responding to a solicitation for or being awarded a state contract.

(b) Authorizes an individual who authorizes or directs an entity to violate this subchapter to be subject to a penalty under this section in the same manner as an entity that is determined to have violated this subchapter.

(c) Provides that a violation of this subchapter committed by or involving the following individuals or entities is considered a violation of this subchapter by a contractor, subcontractor, vendor, or respondent to a contract solicitation by a state agency:

(1) a parent company of the contractor, subcontractor, vendor, or respondent;

(2) a subsidiary wholly or partially owned by the contractor, subcontractor, vendor, or respondent;

(3) a sister or affiliate entity under common ownership or control of the contractor, subcontractor, vendor, or respondent;

(4) a subdivision, division, or operational branch of the contractor, subcontractor, vendor, or respondent;

(5) a subcontractor, agent, representative, or third party acting on behalf of or in coordination with the contractor, subcontractor, vendor, or respondent;

(6) a joint venture, consortium, or partnership in which the contractor, subcontractor, vendor, or respondent has an interest;

(7) an employee, officer, or executive of the contractor, subcontractor, vendor, or respondent acting within the employee's, officer's, or executive's scope of employment; and

(8) an entity with which the contractor, subcontractor, vendor, or respondent shares significant operational control, decision-making authority, financial interest, or business goals.

(d) Provides that Subsection (c) applies regardless of whether an individual or entity described by that subsection is a direct party to a contract or procurement agreement. Provides that an individual or entity described by Subsections (c)(1) through (8) is subject to the enforcement actions, penalties, and disqualifications provided by this subchapter.

(e) Requires SAO to notify the comptroller of each final determination that a person violated this subchapter. Requires the comptroller to distribute information to state agencies regarding the final determination to assist state agencies in carrying out the intent of this subchapter. Requires each state agency to review the information distributed by the comptroller to ensure that the agency does not award a contract in violation of this section.

Sec. 2261.307. RETALIATION AGAINST EMPLOYEES AND WHISTLEBLOWERS PROHIBITED. (a) Defines "employee."

(b) Provides that an employee or other person with knowledge of a violation of this subchapter has a cause of action against an employer or entity who suspends

or terminates services, contracts, or employment of or otherwise disciplines or discriminates or retaliates against the employee or other person in any manner for reporting to a supervisor, state regulatory agency, or law enforcement agency a violation of this subchapter or initiating or cooperating in any investigation by or proceeding of a governmental entity relating to a state contract, including by providing information or testimony in the proceeding.

(c) Authorizes the petitioner to recover actual damages and damages for lost wages or services if the petitioner's employment was suspended or terminated, exemplary damages, court costs, and reasonable attorney's fees.

(d) Provides that, in addition to the amounts that are authorized to be recovered under Subsection (c), a person whose employment is suspended or terminated is entitled to appropriate injunctive relief, including, if applicable, reinstatement in the person's former position and reinstatement of lost fringe benefits or seniority rights.

(e) Requires the petitioner, not later than the 90th day after the date on which the person's employment is suspended or terminated, to bring suit or notify the Texas Workforce Commission (TWC) of the petitioner's intent to sue under this section. Requires a petitioner who notifies TWC under this subsection to bring suit not later than the 90th day after the date of the delivery of the notice to TWC. Requires TWC, on receipt of the notice, to notify the employer of the petitioner's intent to bring suit under this section.

(f) Provides that the petitioner has the burden of proof, except that there is a rebuttable presumption that the person's employment was suspended or terminated for reporting abuse, neglect, or exploitation if the person is suspended or terminated within 120 days after the date the person reported the violation or initiated or cooperated in an investigation or proceeding.

(g) Authorizes a suit under this section to be brought in the district court of the county in which the plaintiff resides, the plaintiff was employed by the defendant, or the defendant conducts business.

(h) Requires SAO to provide legal assistance to a petitioner who brings suit under this section.

(i) Provides that, for purposes of this section, retaliation includes harassment, blacklisting, changes or impact to a contract or state services an individual may be receiving, and any other adverse action that affects an individual's livelihood, employment, or access to services.

Sec. 2261.308. ANNUAL REPORT. Requires SAO and the Texas Rangers division of DPS jointly, not later than September 1 of each year, to submit to the governor, the lieutenant governor, the speaker of the house of representatives, and each member of the legislature a written report on the number and nature of complaints filed alleging a violation of this subchapter, outcome of each complaint investigated by SAO and, if applicable, the Texas Rangers division of DPS, and the penalties imposed under this subchapter.

SECTION 3. Requires SAO and the Texas Rangers division of DPS jointly, not later than September 1, 2026, to submit the first report required by Section 2261.308, Government Code, as added by this Act.

SECTION 4. Effective date: September 1, 2025.