

BILL ANALYSIS

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S.B. 1195
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Currently, when an individual is investigated by Child Protective Investigations under the Department of Family and Protective Services (DFPS) for allegations of child abuse or neglect, the initial investigating caseworker can make one of five determinations. They can determine the report of abuse or neglect to be ruled out, unable to determine, unable to complete, administratively closed, or "reason to believe." The individual's name is added to the central registry list if the case worker has "reason to believe." The central registry is a list of names maintained by DFPS for the purposes of internal background checks. Their name is added to the central registry before any investigation outside of DFPS is conducted, and before any judicial oversight examines the case.

Individuals added to the central registry face difficulties gaining employment with work involving children, and adopting children. Once an individual's name is added to the central registry, only DFPS and the State Office of Administrative Hearings (SOAH) can offer an appeal process to individuals to have their name removed from the registry. This process is lengthy and complex.

S.B. 1195 would make the appeal process to remove an individual's name from the central registry less complex. DFPS would be required to have an appeal process that addresses expungement requests within a reasonable amount of time. Also, names that have been on the central registry for 18 years, without any additional instance of abuse or neglect, would be removed from the central registry list.

As proposed, S.B. 1195 amends current law relating to the procedures for removing names from the central registry of child abuse and neglect.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the commissioner of the Department of Family and Protective Services in SECTION 1 (Section 261.610, Family Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 261, Family Code, by adding Subchapter G, as follows:

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

Sec. 261.601. DEFINITION. Defines "central registry."

Sec. 261.602. NONAPPLICABILITY OF SUBCHAPTER. Provides that this subchapter does not apply to persons alleged to have abused or neglected a child in a child-care facility or family home as defined by Section 42.002 (Definitions), Human Resources Code, or a public or private primary or secondary school.

Sec. 261.603. EXPUNGEMENT REVIEW PANEL; MEMBERS. (a) Requires the Department of Family and Protective Services (DFPS) to establish expungement review panels to review requests to have a person's name removed from the central registry of

the names of persons found by DFPS to have abused or neglected a child (central registry).

(b) Provides that an expungement review panel is composed of the general counsel of DFPS or the general counsel's designee, DFPS's chief consumer affairs and accountability officer or the officer's designee, and a member of the State Bar of Texas (state bar) appointed by the commissioner of DFPS.

(c) Requires DFPS to create and maintain a list of volunteers from which to select a member of the state bar for an expungement review panel.

(d) Requires a member of the state bar who volunteers to serve on an expungement review panel to be board certified in child welfare or family law and have a history of representing families in suits affecting the parent-child relationship in which DFPS is a party to the suit. Prohibits a member of the state bar from serving on an expungement review panel reviewing a request from a person if the member represented any party in a suit involving the person that resulted in the finding of abuse or neglect at issue in the review.

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

(f) Provides that information and documents considered by an expungement review panel are confidential, and a member of the panel is prohibited from disclosing any information or documents considered by the panel.

Sec. 261.604. REQUEST FOR REMOVAL OF NAME. (a) Requires a person who desires to have the person's name removed from the central registry to submit a written request to the commissioner of DFPS.

(b) Prohibits a person from making a request under this section before the second anniversary of the date DFPS added the person's name to the central registry.

(c) Prohibits a person, if an expungement review panel denies a request under this section after a hearing, from submitting a subsequent request until the first anniversary of the date the review panel rendered a decision on the person's most recent request.

(d) Prohibits a person from making a request under this section for more than three hearings on a single finding of child abuse or neglect within a 10-year period.

(e) Provides that a person who has been determined by DFPS to have engaged in child abuse or neglect is not eligible for a review under this subchapter if the incident of abuse or neglect resulted in a child fatality or near fatality, a court ordered termination of the parent-child relationship as a result of the abuse or neglect, or following the date of DFPS's determination, DFPS makes another substantiated finding of abuse or neglect by the person or the person was convicted or placed on deferred adjudication community supervision for an offense involving child abuse or neglect.

Sec. 261.605. HEARING DATE AND NOTICE; LIMITATION. (a) Requires the commissioner of DFPS, on receipt of a request under Section 261.604(a), to establish an expungement review panel under Section 261.603 and notify the panel of the request. Requires the review panel to set a date for a hearing on the request. Requires the review panel to hold the hearing not later than the 60th day after the date the commissioner of DFPS receives the request.

(b) Requires the expungement review panel, not later than the 15th day before the hearing, to send written notice of the hearing to the requestor. Requires that the notice include the date, time, and location of the hearing and the regional office that conducted the original investigation that resulted in the finding of abuse or neglect.

(c) Authorizes an expungement review panel to conduct a hearing by telephone conference call, videoconference, or another similar telecommunications method if the panel determines that the method of appearance will facilitate the hearing.

Sec. 261.606. REVIEW HEARING. (a) Provides that, at the hearing, the person requesting the review has the right to be represented by legal counsel.

(b) Provides that the person requesting the review has the burden of providing the expungement review panel with the basis for granting the request and is authorized to present evidence supporting removal of the person's name from the central registry.

(c) Authorizes the regional office of DFPS that conducted the original investigation to present evidence in support of or in opposition to the request and make a recommendation regarding the request.

Sec. 261.607. EXPUNGEMENT REVIEW PANEL'S DECISION. (a) Requires the review panel to render a written decision on the request that includes the review panel's reasons for the decision not later than the 30th day after the date of the hearing. Requires that the review panel's decision be by majority vote.

(b) Requires the expungement review panel, not later than the 45th day after the date of the hearing, to provide the written decision to the person requesting the review and to DFPS's commissioner, deputy commissioner, chief of staff, and associate commissioner for child protective investigations.

(c) Requires the expungement review panel to consider certain factors in making its decision.

(d) Requires DFPS, if the expungement review panel grants a person's request for removal from the central registry, not later than the 10th day after rendering the decision, to remove the person's name from the central registry and update any relevant DFPS files to reflect the removal and the reasons for removal given in the decision.

Sec. 261.608. AUTOMATIC REMOVAL. (a) Requires DFPS to remove a person's name and related information from the central registry if more than 18 years have passed since DFPS's last finding of abuse or neglect against the person, unless any finding of abuse or neglect against the person involved aggravated circumstances described by Section 262.2015(b) (relating to authorizing the court to find that a parent has subjected a child to aggravated circumstances if certain conditions are met).

(b) Requires DFPS to remove a person's name and related information from the central registry if the person was a minor at the time of the incident that resulted in the finding of abuse or neglect against the person, more than two years have passed since DFPS's last finding of abuse or neglect against the person, and the incident that resulted in the finding of abuse or neglect against the person did not involve sexual abuse, fatality, or near fatality.

Sec. 261.609. CONFIDENTIALITY. Provides that the review conducted under this subchapter and any records or documents related to the review are confidential and not subject to disclosure under Chapter 552 (Public Information), Government Code.

Sec. 261.610. RULEMAKING. Requires the commissioner of DFPS to adopt rules necessary to implement this subchapter, including rules to ensure substantial compliance with this subchapter.

SECTION 2. Effective date: September 1, 2025.