

By: Birdwell

S.B. No. 1196

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), (e), and (f) 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 final order issued
15 by the State Office of Administrative Hearings after an
16 administrative hearing or by a court in a civil proceeding,
17 including a proceeding under Subchapter C or F, Chapter 262, or
18 Section 264.203, includes a finding that the individual abused or
19 neglected a child.

20 (a-2) The department may add an individual's name to the
21 central registry maintained under this section without a final
22 order that includes a finding that the individual abused or
23 neglected a child if the department determines that:

24 (1) the individual abandoned the child without

1 identification or a means for identifying the child;

2 (2) a child of the individual is a victim of serious
3 bodily injury or sexual abuse inflicted by the individual or by
4 another person with the individual's consent;

5 (3) the individual has engaged in conduct against a
6 child that would constitute an offense under the following
7 provisions of the Penal Code:

8 (A) Section 19.02 (murder);

9 (B) Section 19.03 (capital murder);

10 (C) Section 19.04 (manslaughter);

11 (D) Section 20A.02(a)(7) or (8) (trafficking of
12 persons);

13 (E) Section 21.02 (continuous sexual abuse of
14 young child or disabled individual);

15 (F) Section 21.11 (indecent with a child);

16 (G) Section 22.011 (sexual assault);

17 (H) Section 22.02 (aggravated assault);

18 (I) Section 22.021 (aggravated sexual assault);

19 (J) Section 22.04 (injury to a child, elderly
20 individual, or disabled individual);

21 (K) Section 22.041 (abandoning or endangering
22 child);

23 (L) Section 25.02 (prohibited sexual conduct);

24 (M) Section 43.05(a)(2) (compelling
25 prostitution);

26 (N) Section 43.25 (sexual performance by a
27 child); or

1 (O) Section 43.26 (possession or promotion of
2 child pornography);

3 (4) the individual voluntarily left the child alone or
4 in the possession of another person not the parent of the child for
5 at least six months without expressing an intent to return and
6 without providing adequate support for the child;

7 (5) the individual has been convicted for:

8 (A) the murder of another child and the offense
9 would have been an offense under 18 U.S.C. Section 1111(a) if the
10 offense had occurred in the special maritime or territorial
11 jurisdiction of the United States;

12 (B) the voluntary manslaughter of another child
13 and the offense would have been an offense under 18 U.S.C. Section
14 1112(a) if the offense had occurred in the special maritime or
15 territorial jurisdiction of the United States;

16 (C) aiding or abetting, attempting, conspiring,
17 or soliciting an offense under Paragraph (A) or (B); or

18 (D) the felony assault of a child that resulted
19 in serious bodily injury to the child or another child of the
20 parent; or

21 (6) the individual is required under any state or
22 federal law to register with a sex offender registry.

23 (b) The department may not find that an individual abused or
24 neglected a child [~~executive commissioner shall adopt rules~~
25 ~~necessary to carry out this section. The rules shall:~~

26 [~~(1) prohibit the department from making a finding of~~
27 ~~abuse or neglect against a person]~~ in a case in which the department

1 is named managing conservator of a child who has a severe emotional
2 disturbance only because the child's family is unable to obtain
3 mental health services for the child. The department shall [+]

4 [~~2~~] establish guidelines for reviewing the records in
5 the registry and removing those records in which the department was
6 named managing conservator of a child who has a severe emotional
7 disturbance only because the child's family was unable to obtain
8 mental health services for the child.

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

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

15 (A) an administrative review of the department's
16 determination or an appeal of the review conducted under Section
17 [261.309\(c\)](#);

18 (B) a review of the department's determination or
19 an appeal of the review conducted by the office of consumer affairs
20 of the department under department rules; [~~or~~]

21 (C) a hearing or an appeal conducted by the State
22 Office of Administrative Hearings;

23 (D) an internal department review of the
24 department's determination conducted under Section 261.0023 while
25 an administrative hearing is pending; or

26 (E) an order by a county court at law, an
27 associate judge under Section [201.201](#), a district court, a court of

1 appeals, or the supreme court; and

2 (2) [~~(4)~~ require the department to] update any
3 relevant department files to reflect an overturned finding of abuse
4 or neglect against an individual [~~a person~~] not later than the 10th
5 business day after the date the finding is overturned in a review,
6 hearing, or appeal described by Subdivision (1) [~~(3)~~].

7 (e) This section does not limit the ability of the Health
8 and Human Services Commission to access the department's records of
9 reports of child abuse or neglect to conduct a background check
10 under Section 42.056, Human Resources Code, or commission rules.

11 (f) The commissioner shall adopt rules necessary to carry
12 out this section, including rules to ensure substantial compliance
13 with this section.

14 SECTION 2. Subchapter A, Chapter 261, Family Code, is
15 amended by adding Sections 261.0021, 261.0022, and 261.0023 to read
16 as follows:

17 Sec. 261.0021. NOTICE BEFORE NAME OF INDIVIDUAL ADDED TO
18 CENTRAL REGISTRY. (a) If the department determines that an
19 individual has abused or neglected a child, the department shall,
20 not later than the 10th day after the date the determination is
21 made, provide written notice to the individual of the department's
22 prospective addition of the individual's name to the central
23 registry maintained under Section 261.002. The notice must
24 include:

25 (1) a clear statement describing the purposes and
26 scope of the registry;

27 (2) an explanation of the consequences of being listed

1 in the registry, including any possible negative impact on the
2 individual's ability to:

3 (A) obtain employment or certain licenses; and

4 (B) have future contact with children, including
5 any limitation on volunteering or involvement in school activities;
6 and

7 (3) information regarding the individual's right to
8 challenge inclusion of the individual's name in the registry,
9 including the procedures for challenging inclusion of the
10 individual's name in the registry through:

11 (A) an administrative review of the department's
12 determination or an appeal of the review conducted under Section
13 261.309(c);

14 (B) a review of the department's determination or
15 an appeal of the review conducted by the office of consumer affairs
16 of the department under department rules;

17 (C) a hearing or an appeal conducted by the State
18 Office of Administrative Hearings;

19 (D) an internal department review of the
20 department's determination conducted under Section 261.0023 while
21 an administrative hearing is pending; or

22 (E) an order by a county court at law, an
23 associate judge under Section 201.201, a district court, a court of
24 appeals, or the supreme court.

25 (b) The department may not add an individual's name to the
26 central registry:

27 (1) before the 31st day after the date the department

1 provides notice to the individual under this section;

2 (2) if the individual requests a hearing under Section
3 261.0022, before the conclusion of the hearing process; or

4 (3) if the department's determination that the
5 individual abused or neglected a child is overturned by a process
6 available to the individual and listed under Subsection (a)(3).

7 Sec. 261.0022. HEARING CONDUCTED BY STATE OFFICE OF
8 ADMINISTRATIVE HEARINGS. (a) Not later than the 30th day after the
9 date an individual receives notice under Section 261.0021, the
10 individual may request a hearing with the State Office of
11 Administrative Hearings to review the finding of abuse and neglect.

12 (b) If an individual requests a hearing under this section,
13 the department shall refer the individual's case to the State
14 Office of Administrative Hearings to hold the hearing.

15 (c) An administrative law judge of the State Office of
16 Administrative Hearings shall:

17 (1) conduct a hearing for a request under this section
18 in accordance with Chapter 2001, Government Code;

19 (2) make findings of fact and conclusions of law; and

20 (3) issue an order containing a final decision
21 regarding the abuse and neglect findings.

22 (d) Notice of the administrative law judge's order given to
23 the individual under Chapter 2001, Government Code, must include a
24 statement of the individual's right to judicial review of the
25 order.

26 (e) Not later than the 10th day after the date an order by an
27 administrative law judge affirming the department's determination

1 becomes final under Section 2001.144, Government Code, the
2 department shall add the individual's name to the central registry.

3 (f) If the individual seeks judicial review of the
4 administrative law judge's order, the order remains in effect
5 during the pendency of that appeal.

6 (g) An individual may not receive a hearing under this
7 section if the finding of abuse or neglect by the individual is
8 made:

- 9 (1) under Section 262.201, 262.406, or 264.203; or
10 (2) by a district or appellate court.

11 Sec. 261.0023. INTERNAL DEPARTMENT REVIEW. (a) If an
12 individual requests a hearing under Section 261.0022, the
13 department shall conduct an internal department review of the
14 findings while the administrative hearing is pending.

15 (b) The department by rule shall establish a process for
16 conducting an internal department review of a finding of abuse or
17 neglect of a child before the date of the administrative hearing.

18 (c) If the department determines in an internal department
19 review that the evidence does not support a finding of abuse or
20 neglect by a preponderance of the evidence, not later than the 10th
21 day after the date the department makes the determination the
22 department:

23 (1) shall notify the individual of the results of the
24 review;

25 (2) shall remove the case from the State Office of
26 Administrative Hearings docket; and

27 (3) may not add the individual's name to the central

1 registry.

2 (d) If the department determines in an internal department
3 review that the evidence supports a finding of abuse or neglect by a
4 preponderance of the evidence, the department shall, not later than
5 the 10th day after making the determination, notify the individual
6 of the results of the review and that the individual's case will
7 remain on the State Office of Administrative Hearings docket.

8 (e) Information and materials used or referred to in an
9 internal department review under this section, including case
10 records or other documents, are confidential and not subject to
11 disclosure under Chapter 552, Government Code.

12 SECTION 3. Section 261.005, Family Code, is amended to read
13 as follows:

14 Sec. 261.005. REFERENCE TO EXECUTIVE COMMISSIONER OR
15 COMMISSION. (a) Unless otherwise provided by a provision of this
16 chapter, in this chapter:

17 (1) a reference to the executive commissioner or the
18 executive commissioner of the Health and Human Services Commission
19 means the commissioner of the department; and

20 (2) a reference to the Health and Human Services
21 Commission means the department.

22 (b) This section does not apply to Section 261.002(e).

23 SECTION 4. Section 262.201, Family Code, is amended by
24 adding Subsection (h-1) to read as follows:

25 (h-1) A temporary order issued under Subsection (h) must
26 include, with regard to each parent, managing conservator,
27 possessory conservator, guardian, caretaker, or custodian entitled

1 to possession of the child, a determination by a preponderance of
2 the evidence:

3 (1) whether that individual engaged in conduct that
4 would constitute abuse or neglect under Section 261.001; and

5 (2) for an individual determined by the court to have
6 engaged in conduct that constitutes child abuse or neglect, a
7 finding listing the specific provisions of Section 261.001
8 applicable to the individual's conduct.

9 SECTION 5. Section 262.406, Family Code, is amended by
10 amending Subsection (a) and adding Subsection (a-1) to read as
11 follows:

12 (a) Except as provided by Subsection (d), at the conclusion
13 of the hearing in a suit filed under Section 262.404, the court
14 shall order the department to provide family preservation services
15 and to execute a family preservation services plan developed in
16 collaboration with the family of the child who is a candidate for
17 foster care if the court finds sufficient evidence to satisfy a
18 person of ordinary prudence and caution that:

19 (1) as to each parent, managing conservator, guardian,
20 or other member of the child's household:

21 (A) the individual engaged in conduct that would
22 constitute abuse or neglect under Section 261.001;

23 (B) the individual's acts or omissions present an
24 immediate risk of abuse or neglect to the child; or

25 (C) ~~[occurred or]~~ there is a ~~[substantial risk of~~
26 ~~abuse or neglect or]~~ continuing danger to the child's physical
27 health or safety caused by an act or failure to act of the

1 individual [~~parent, managing conservator, guardian, or other~~
2 ~~member of the child's household~~];

3 (2) family preservation services are necessary to
4 ensure the child's physical health or safety; and

5 (3) family preservation services are appropriate
6 based on the child's safety risk assessment and the child's family
7 assessment.

8 (a-1) If the court makes a finding under Subsection
9 (a)(1)(A), the court shall identify the specific parts of Section
10 261.001 that apply to the parent's, managing conservator's,
11 guardian's, or other member of the child's household's conduct.

12 SECTION 6. Section 264.203, Family Code, is amended by
13 amending Subsection (m) and adding Subsection (m-1) to read as
14 follows:

15 (m) At the conclusion of the hearing, the court shall deny
16 the petition unless the court finds sufficient evidence to satisfy
17 a person of ordinary prudence and caution that:

18 (1) as to each parent, managing conservator, guardian,
19 or other member of the child's household:

20 (A) the individual engaged in conduct that would
21 constitute abuse or neglect under Section 261.001;

22 (B) the individual's acts or omissions present an
23 immediate risk of abuse or neglect to the child; or

24 (C) [~~has occurred or~~] there is a [~~substantial~~
25 ~~risk of abuse or neglect or~~] continuing danger to the physical
26 health or safety of the child caused by an act or failure to act of
27 the individual [~~parent, managing conservator, guardian, or other~~

1 ~~member of the child's household~~]; and

2 (2) services are necessary to ensure the physical
3 health or safety of the child.

4 (m-1) If the court makes a finding under Subsection
5 (m)(1)(A), the court shall identify the specific parts of Section
6 261.001 that apply to the parent's, managing conservator's,
7 guardian's, or other member of the child's household's conduct.

8 SECTION 7. (a) The commissioner of the Department of Family
9 and Protective Services shall adopt the rules necessary to
10 implement the changes in law made by this Act.

11 (b) The changes in law made by this Act apply only to a
12 finding that an individual abused or neglected a child made on or
13 after the effective date of this Act. A finding made before that
14 date is governed by the law in effect on the date the finding was
15 made, and the former law is continued in effect for that purpose.

16 SECTION 8. This Act takes effect September 1, 2025.