

BILL ANALYSIS

C.S.H.B. 2849
By: Burkett
Juvenile Justice & Family Issues
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties express concern that a family who is investigated by child protective services and against whom a finding of abuse and neglect is overturned may still suffer the stigma of having the person's name and records related to the case in certain Department of Family and Protective Services files. C.S.H.B. 2849 seeks to remedy this situation by providing for the removal of such information.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 2849 amends the Family Code to include among the rules the executive commissioner of the Health and Human Services Commission is required to adopt, for purposes of the central registry of the names of individuals found by the Department of Family and Protective Services (DFPS) to have abused or neglected a child, rules that require DFPS to remove a person's name from the central registry not later than the 10th business day after the date DFPS receives notice that a finding of abuse and neglect against the person is overturned in an administrative review or an appeal of a review relating to a DFPS child abuse or neglect investigation, a review or an appeal of the review conducted by the DFPS office of consumer affairs, or a hearing or an appeal conducted by the State Office of Administrative Hearings and rules that require DFPS to update any relevant DFPS files to reflect an overturned finding of abuse or neglect against a person not later than the 10th business day after the date the finding is overturned in such a review, hearing, or appeal.

EFFECTIVE DATE

September 1, 2017.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 2849 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

SECTION 1. Subchapter C, Chapter 262, Family Code, is amended by adding Section 262.206 to read as follows:

Sec. 262.206. REMOVAL OF FINDING FOLLOWING DISMISSAL OF SUIT. If the court dismisses a suit affecting the parent-child relationship filed under this chapter on the basis that insufficient evidence exists to satisfy a person of ordinary prudence and caution that the parent abused or neglected the child, the department may not include a reason to believe finding against the parent in the department's records for the case.

No equivalent provision.

(See Section 262.206 above.)

HOUSE COMMITTEE SUBSTITUTE

No equivalent provision. (But see Section 261.002(b)(4) below.)

SECTION 1. Section 261.002(b), Family Code, is amended to read as follows:

(b) The executive commissioner shall adopt rules necessary to carry out this section. The rules shall:

(1) prohibit the department from making a finding of abuse or neglect against a person in a case in which the department is named managing conservator of a child who has a severe emotional disturbance only because the child's family is unable to obtain mental health services for the child; ~~and~~

(2) establish guidelines for reviewing the records in the registry and removing those records in which the department was named managing conservator of a child who has a severe emotional disturbance only because the child's family was unable to obtain mental health services for the child;

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

(A) an administrative review or an appeal of the review conducted under Section 261.309(c);

(B) a review or an appeal of the review conducted by the office of consumer affairs of the department; or

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

(4) require the department to update any relevant department files to reflect an overturned finding of abuse or neglect

against a person not later than the 10th business day after the date the finding is overturned in a review, hearing, or appeal described by Subdivision (3).

SECTION 2. This Act takes effect September 1, 2017.

SECTION 2. Same as introduced version.