

BILL ANALYSIS

Senate Research Center

H.B. 2250
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Health & Human Services
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Engrossed

DIGEST

Currently, law enforcement and child protection agencies in Texas are not required to share information regarding certain types of child abuse and neglect. In addition, state laws generally do not require a child protective services agency to investigate reports of child abuse and neglect not caused by a person responsible for the child's welfare. Similarly, if a police department receives a report of child abuse, neglect, sexual abuse, or sexual exploitation committed by a person responsible for the child's welfare, the police department is not required to notify the appropriate child protective services agency immediately.

A number of states have enacted legislation regarding the handling and investigation of some types of child abuse and neglect to include other agencies in addition to the child protective services agencies. Statutes in other states now require that child protective services agencies notify law enforcement agencies in cases of physical abuse, neglect, sexual abuse, sexual exploitation, and/or death of a child. There are concerns, however, that simultaneous investigations may be duplicative.

As a result, some states require joint investigations pairing a law enforcement officer with a child protective services worker, thereby necessitating joint training. Others states have developed the child protection team concept, which ensures the involvement of a seasoned group of community professionals from different disciplines such as law, medicine, mental health, social work, and law enforcement. Such teams review the handling of reports, medical and mental health needs of the family, services being offered to address those needs, treatment goals, and progress and anticipated outcome of any legal proceedings resulting from the report. Teams also take the lead in planning and conducting training, community awareness, and prevention and education programs.

This legislation would offer added protection for children in cases of child abuse or neglect by enhancing the community education and required training for Department of Protective and Regulatory Services personnel relating to child abuse and neglect. This bill also provides for a multidisciplinary team approach to the type of services relating to child abuse and neglect that is offered to clients. In addition, H.B. 2250 would give the department additional authority in certain investigations. Finally, the legislation enhances the protection of children by adding an immediacy or expediency provision regarding the reporting of cases of alleged abuse or neglect against a person responsible for a child's care, custody, or welfare to local or state law enforcement agencies.

PURPOSE

As proposed, H.B. 2250 enhances child protective services provided by the Department of Protective and Regulatory Services.

RULEMAKING AUTHORITY

Rulemaking authority is granted to the Department of Protective and Regulatory Services under SECTION 10 (Section 42.0445(b), Human Resources Code), SECTION 11 (Section 42.052(h), Human Resources Code), and SECTION 12 (Section 42.057, Human Resources Code), in this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 261.105(a), Family Code, to require all reports received by a local or state law enforcement agency that allege abuse or neglect by a person responsible for a child's care,

custody, or welfare to be referred immediately to the Department of Protective and Regulatory Services (department) or the designated agency.

SECTION 2. Amends Section 261.301(a), Family Code, to require the department or designated agency, with assistance from the appropriate state or local law enforcement agency, to make a prompt and thorough investigation of a report of child abuse or neglect allegedly committed by a person responsible for a child's care, custody, or welfare. Requires the department to inform any local or state law enforcement agency, including the office of the district attorney in the county in which the child resides, is located, or was located at the time of the reported incident, of all reports concerning the abuse or neglect of a child.

SECTION 3. Amends Section 411.114, Government Code, to require the Department of Protective and Regulatory Services to obtain from the Department of Public Safety (DPS) criminal history record information maintained by the department that relates to certain persons. Provides that the Department of Protective and Regulatory Services is entitled to obtain from DPS criminal history record information maintained by the department that relates to certain persons. Requires DPS, subject to Section 411.087, to obtain certain information from the Federal Bureau of Investigation and other criminal justices agencies. Sets forth provisions regarding the failure or refusal to provide a complete set of fingerprints or a complete name on request. Authorizes the department to charge an organization or person that requests criminal history record information under Subsection (a)(3), rather than (a)(2), a fee in an amount necessary to cover the costs of obtaining the information on the organization's or person's behalf. Makes conforming changes.

SECTION 4. Amends Section 40.052, Human Resources Code, to require the department to provide joint training on the investigation of reports of child abuse or neglect to department personnel and law enforcement personnel in appropriate state and local law enforcement agencies. Makes conforming changes.

SECTION 5. Amends Chapter 40C, Human Resources Code, by adding Sections 40.0522 and 40.0523, as follows:

Sec. 40.0522. **COMMUNITY EDUCATION AND TRAINING RELATING TO CHILD ABUSE OR NEGLECT.** Requires the department to make certain assurances regarding community education and training relating to child abuse or neglect.

Sec. 40.0523. **MULTIDISCIPLINARY TEAMS.** Requires the department, to the extent possible, to establish multidisciplinary teams to provide services relating to a report of child abuse or neglect. Sets forth provisions and requirements regarding a multidisciplinary team.

SECTION 6. Amends Section 40.061(a), Human Resources Code, to provide that a department employee, a member of a multidisciplinary team established under Section 40.0523, or an authorized department volunteer who performs a departmental duty or responsibility is immune for civil or criminal liability for any act or omission that relates to the duty or responsibility if the person acted in good faith and within the scope of the person's authority.

SECTION 7. Amends Chapter 40C, Human Resources Code, by adding Section 40.066, as follows:

Sec. 40.066. **REQUIRED AFFIDAVIT FOR APPLICANTS FOR EMPLOYMENT.** Requires an applicant for temporary or permanent employment with the department, whose employment or potential employment with the department involves direct interactions with or the opportunity to interact and associate with children, to execute and submit a certain affidavit with the application for employment. Sets forth the affidavit. Provides that the failure or refusal to sign or provide the affidavit constitutes good cause for refusal to hire the applicant.

SECTION 8. Amends Chapter 42C, Human Resources Code, by adding Sections 42.0425 and 42.0426, as follows:

Sec. 42.0425. **TRAINING OF PERSONNEL.** Requires a licensed facility or registered

family home to provide training for staff members in certain subject areas.

Sec. 42.0426. PARENTAL VISITATION. Requires all areas of a licensed facility to be accessible to a parent of a child who is receiving care at the facility, if the parent visits the child during the facility's hours of operation.

SECTION 9. Amends Sections 42.044(a), (b), and (c), Human Resources Code, to authorize an authorized representative of the division designated by the department to carry out the provisions of this chapter (division) to visit a facility or registered family home during operating hours to investigate, inspect, and evaluate. Requires the division to inspect all licensed or certified facilities at least once a year and to inspect other facilities or registered family homes as necessary. Requires the department to investigate a registered family home when the department receives a complaint of abuse or neglect, as defined by Section 261.001, Family Code, of a child at the home.

SECTION 10. Amends Chapter 42C, Human Resources Code, by adding Section 42.0445, as follows:

Sec. 42.0445. REQUIRED BACKGROUND SEARCH. Requires the division before renewing or issuing a license, registration, or certification under this subchapter, to search the central registry of reported cases of child abuse or neglect established under Section 261.002, Family Code, to determine whether the applicant or the owner or an employee of the facility or family home is listed in the registry as a person who abused or neglected a child. Authorizes the department to adopt rules to implement this section.

SECTION 11. Amends Section 42.052, Human Resources Code, by amending Subsection (f) and adding Subsection (h), to require any public advertisement for a registered family home which uses the title "registered family home" to contain a provision in bold type stating: "THIS HOME IS REGISTERED WITH THE DEPARTMENT OF PROTECTIVE AND REGULATORY SERVICES BUT IT NOT LICENSED OR REGULARLY INSPECTED." Authorizes the department, by rule, to provide for denial of an application or renewal for registration of a family home or to revoke a family home's registration based on the results of a background or criminal history check.

SECTION 12. Amends Chapter 42C, Human Resources Code, by adding Sections 42.057 and 42.058, as follows:

Sec. 42.057. REQUIRED BACKGROUND AND CRIMINAL HISTORY CHECKS. Requires the operator of a family home, in accordance with rules adopted by the department, and when the operator applies for registration and at least once during each 24 months after registration, to submit certain information to the department for use in conducting background and criminal history checks. Requires the department to conduct background and criminal history checks using certain information. Requires the department, by rule, to require a family home to pay to the department a fee in an amount not to exceed the administrative costs the department incurs in conducting a background and criminal history check under this section.

Sec. 42.058. REQUIRED AFFIDAVIT FOR APPLICANTS FOR EMPLOYMENT WITH FACILITY OR REGISTERED FAMILY HOME. Requires an applicant for temporary or permanent employment with a licensed facility or registered family home, whose employment or potential employment with the facility or home involves direct interactions with or the opportunity to interact and associate with children, to execute and submit a certain affidavit with the application for employment. Sets forth the affidavit. Provides that the failure or refusal to sign or provide the affidavit constitutes good cause for refusal to hire the applicant.

SECTION 13. Amends Section 42.072(a), Human Resources Code, to authorize the department to deny or revoke the license or certification of a facility based on the results of a background or criminal history check.

SECTION 14. Provides that this Act takes effect immediately, except that SECTIONS 3 and

7-13 of this Act take effect September 1, 1997.

SECTION 15. Emergency clause.
 Effective date: upon passage.