

SUBJECT: Establishing an interagency reportable conduct search engine

COMMITTEE: Human Services — committee substitute recommended

VOTE: 8 ayes — Frank, Rose, Hull, Klick, Manuel, Noble, Ramos, Shaheen
0 nays
1 absent — Campos

SENATE VOTE: On final passage (April 11) — 31 - 0

WITNESSES: For — Laura Colangelo, Texas Private Schools Association; Jennifer Allmon, The Texas Catholic Conference of Bishops (*Registered, but did not testify*; Andrea Earl, AARP Texas; Jacquie Benestante, Autism Society of Texas; Aaron Hargett, Buckner International; Kaden Norton, LeadingAge Texas; Amanda List, Texas Appleseed; Anna Sciarillo, Texas Association of Behavior Analysis Public Policy Group; Julia Hatcher, Texas Association of Family Defense Attorneys; John Litzler, Texas Baptists Christian Life Commission; Isabel Casas, Texas Council of Community Centers; Ashley Ford, The Arc of Texas)

Against — None

On — Jordan Dixon, Health & Human Services Commission (*Registered, but did not testify*; Lisa Kanne, Marta Talbert, DFPS; Corey Kintzer, Emily Kopplin, Health & Human Services Commission; John Hoffman, Texas DIR; David Rodriguez, Texas Education Agency; Kaci Singer, Texas Juvenile Justice Department)

BACKGROUND: Some have suggested creating a centralized reportable conduct database would reduce the risk of harm to populations in schools, child-care and juvenile justice facilities, and long-term care facilities.

DIGEST: CSSB 1849 would require the Department of Information Resources (DIR) to collaborate with the Department of Family and Protective

Services (DFPS), the Health and Human Services Commission (HHSC), the Texas Education Agency (TEA), and the Texas Juvenile Justice Department (TJJD) to establish an interagency reportable conduct search engine.

Definitions. CSSB 1849 would define “reportable conduct” as a participating state agency’s determination that an individual engaged in abuse, neglect, exploitation, or misconduct and for which the agency issued a final determination.

Search engine. The search engine would contain reportable conduct from:

- DFPS’ central registry;
- HHSC’s employee misconduct registry;
- TEA’s registry of persons not eligible for employment in public schools; and
- TJJD’s integrated certification system and any informal lists it maintained.

The executive head of each agency would designate agency employees or contractors who were eligible to access the search engine and the agency’s automation systems. Additional users from certain providers, facilities, schools, and other entities also would be designated to access the search engine and could be required to determine whether an individual had engaged in reportable conduct.

Accessible information. For each individual that a participating agency identified as having engaged in reportable conduct, the search engine results would have to include the individual’s name, certain identifying information, and other information related to the reportable conduct. Participating state agencies could share additional supplemental information on the individual.

An individual who engaged in reportable conduct that required inclusion in the search engine would not be entitled to notice or an opportunity for a hearing before the information was included in the search engine or shared

with a participating state agency.

Information contained in search engine results and additional information that a participating agency shared would be confidential and not subject to disclosure under public information laws.

Required search queries. Each participating state agency and designated user would be required to conduct a search query to determine whether an individual who could have access to a child, individual with a disability, or an elderly individual receiving certain services or care had engaged in reportable conduct. If the individual had engaged in reportable conduct, the agency also would determine whether the individual was ineligible for licensure, certification, employment, volunteer positions, or contracts with the agency or an entity regulated by the agency. A determination of ineligibility would have to be based on standards authorized or required by law.

Each participating state agency or designated user would also have to conduct a search query before the agency employed, placed in a volunteer position, entered into a contract with, or issued a license or certification to an individual. The agencies would have to by rule establish procedures for conducting periodic search queries for current employees, volunteers, contractors, licensees, and certification holders. Private schools would not be required to conduct search queries using the search engine.

Agency rules could authorize individuals who engaged in reportable conduct to be employed or placed in a volunteer position by, enter into a contract with, or receive a license or certification from the agency or a designated user as otherwise permitted by law. The agencies also could prescribe the manner in which search engine information could be used based on certain information related to the reportable conduct.

Notice and hearing. A participating agency or designated user that did not enter into a contract with or issue a license or certification to an individual based on a determination of ineligibility would have to notify the individual of that determination. The agency could provide an

individual to whom notice was provided an opportunity for a hearing regarding the determination of ineligibility.

Office of Interagency Coordination. The bill would establish the Office of Interagency Coordination on Reportable Conduct within DFPS to facilitate coordination and communication between the department and state agencies. The bill would require DIR and each participating agency to enter into a memorandum of understanding on the implementation and administration of the bill.

Background checks at DFPS. DFPS would be required to conduct background and criminal history checks on certain individuals using information provided by TJJD under a memorandum of understanding and the interagency reportable conduct search engine.

Ineligibility for certification at TJJD. TJJD would be allowed to permanently designate as ineligible for certain certifications an individual who had been terminated from employment with TJJD for engaging in certain conduct. The bill would specify procedures for a panel to determine a person's ineligibility for certification, hearings before the State Office of Administrative Hearings, and appeals.

Procedures at TEA and HHSC. A person identified as having engaged in reportable conduct using the search engine would be entitled to a hearing, and the reportable conduct would be subject to certain other statutory procedures. HHSC's executive commissioner could by rule establish procedures for removing a person from the employee misconduct registry.

Effective date. The bill would take effect September 1, 2023. As soon as practicable after the effective date, DIR would be required to collaborate with participating agencies to establish the reportable conduct search engine, and participating agencies would be required to adopt rules as necessary.

NOTES: According to the Legislative Budget Board, CSSB 1849 would have a

negative fiscal impact of about \$17.9 million on general revenue related funds for fiscal 2024-25.