

## **BILL ANALYSIS**

Senate Research Center

H.B. 1205  
By: Parker et al. (Carona)  
Criminal Justice  
4/19/2013  
Engrossed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Interested parties contend that current laws in Texas do not adequately address circumstances in which a professional has cause to believe that a child's well-being has been or may be adversely affected by abuse or neglect but fails to report that abuse or neglect with the intent to conceal the abuse or neglect. H.B. 1205 seeks to address this issue by strengthening and clarifying the law relating to reporting child abuse or neglect.

H.B. 1205 amends current law relating to the offense of failure to report abuse or neglect of a child.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 261.109, Family Code, as follows:

Sec. 261.109. FAILURE TO REPORT; PENALTY. (a) Provides that a person commits an offense if the person is required to make a report under Section 261.101(a) (relating to requiring a person having cause to believe that a child's physical or mental health or welfare has been adversely affected by abuse or neglect by any person to immediately make a report as provided by this subchapter) and knowingly fails to make a report as provided in this chapter (Investigation of Report of Child Abuse or Neglect), rather than providing that a person commits an offense if the person has cause to believe that a child's physical or mental health or welfare has been or may be adversely affected by abuse or neglect and knowingly fails to report as provided in this chapter.

(a-1) Provides that a person who is a professional as defined by Section 261.101(b) (defining "professional" to mean an individual who is licensed or certified by the state or who is an employee of a facility licensed, certified, or operated by the state and who has direct contact with children in the normal course of official duties or duties for which a license or certification is required) commits an offense if the person is required to make a report under Section 261.101(b) (relating to requiring a professional to make a report not later than the 48th hour after the hour the professional first suspects that the child has been or may be abused or neglected or is a victim of an offense under Section 21.11, Penal Code, if a professional has cause to believe that a child has been abused or neglected or may be abused or neglected, or that a child is a victim of an offense under Section 21.11, Penal Code, and the professional has cause to believe that the child has been abused as defined by Section 261.001 or 261.401; and prohibiting a professional from delegating to or relying on another person to make the report) and knowingly fails to make a report as provided in this chapter.

(b) Provides that an offense under Subsection (a), rather than this section, is a Class A misdemeanor, except that the offense is a state jail felony if it is shown on the trial of the offense that the child was a person with an intellectual

disability, rather than was a person with mental retardation, who resided in a state supported living center, the ICF-MR component of the Rio Grande State Center, or a facility licensed under Chapter 252 (Intermediate Care Facilities for the Mentally Retarded), Health and Safety Code, and the actor knew that the child had suffered serious bodily injury as a result of the abuse or neglect.

(c) Provides that an offense under Subsection (a-1) is a Class A misdemeanor, except that the offense is a state jail felony if it is shown on the trial of the offense that the actor intended to conceal the abuse or neglect.

SECTION 2. Makes application of the changes in law made by this Act to Section 261.109, Family Code, prospective.

SECTION 3. Effective date: September 1, 2013.