

## **BILL ANALYSIS**

Senate Research Center  
83R1455 MCK-F

S.B. 44  
By: Zaffirini; West  
Health & Human Services  
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As Filed

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

The purpose of S.B. 44 is to exempt parents from Texas's abuse and neglect registry whose sole purpose for relinquishment of their parental rights is to obtain mental health services for their child. Additionally, if a parent's name was previously and/or wrongfully added to the "refused to accept parental responsibility" list, parents will also have the right to petition the family court that held the custody hearing to have their name removed from the registry if the only reason the Department of Family and Protective Services (DFPS) took custody was to obtain mental health services for the child.

Parents of children with severe behavioral or mental disorders face a high financial burden in securing the necessary medical care for their child. Although Medicaid waiver programs cover mental and behavioral health services for children with disabilities, some private insurers only cover mental health services if the child is determined to be homicidal or suicidal or they may limit coverage of care. In these cases, parents without adequate health insurance or financial means may face the last resort decision to place their child in the custody of Child Protective Services (CPS) in order to obtain the mental health services or treatment the child needs. In doing so, parents are deemed as having refused to accept parental responsibility and are placed on Texas's abuse and neglect registry.

DFPS can use the information in this registry to perform background checks and is required to provide this information with local child services agencies, hospitals, clinics, schools, and other states. This means that persons entered into the registry may be barred from employment in any of these sectors, especially those jobs requiring contact with children.

Parents who have given up custody of their children to CPS for the sole reason of gaining better behavioral or mental health services for their children do not pose a present or future threat to the safety of children and should not be entered into the abuse and neglect registry. Entry into the registry not only unnecessarily labels these parents as threats to their children's safety, but also bars them from seeking employment in hospitals, clinics, schools, and any sector requiring contact with children. This higher barrier to employment exacerbates the financial condition that forced the parent to give up custody of their child.

Placing a child in the conservatorship of the state where a parent may have to relinquish custody is not only traumatic for the child and family, but costly for the state in terms of on-going child welfare case supervision and court procedures. Mental health authorities have the expertise needed to assess children with serious emotional disturbances and identify the supports and services they need, while CPS caseworkers typically do not have this expertise.

As proposed, S.B. 44 amends current law relating to maintaining and reporting certain information regarding certain child abuse or neglect cases.

### **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 261.002, Family Code, by adding Subsections (d), (e), and (f), as follows:

(d) Prohibits the Department of Family and Protective Services (DFPS) from including in the central registry of cases of child abuse and neglect (registry) a record of a case in which a finding of abuse or neglect is based solely on the fact that the person relinquished custody of a child who suffers from a mental illness in order to obtain mental health services for the child.

(e) Requires a court to order DFPS to remove the record from the registry if, on petition by a person who relinquished custody of a child under circumstances described by Subsection (d), the court finds that the finding of abuse or neglect is based solely on the fact that the person relinquished custody under said circumstances. Prohibits a person from filing a petition under this subsection before the first anniversary of the date DFPS was named managing conservator of the child.

(f) Defines "mental illness" in this section.

SECTION 2. Amends Section 261.004(b), Family Code, to require DFPS to report certain information, including reporting the number of children who suffer from a mental illness, as defined by Section 571.003 (Definitions), Health and Safety Code, for whom DFPS is appointed managing conservator due to a person voluntarily relinquishing custody of a child solely to obtain mental health services for the child.

SECTION 3. Effective date: September 1, 2013.