

BILL ANALYSIS

Senate Research Center
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C.S.H.B. 2053
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Health & Human Services
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Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

C.S.H.B. 2053 aims to promote and strengthen how the Child Safety Check Alert List ("CSCAL") was meant to be used—to identify unlocatable children, to make every effort to locate those children, and to return them to safety. Specifically, C.S.H.B. 2053 aims to:

- Enable the Department of Family and Protective Services (DFPS) workers to use new factors to quickly identify children who are unlocatable and at substantial risk of harm if they are not found;
- Compel DFPS workers to start the process of finding unlocatable children, and, if the child in question remains unlocatable, to immediately initiate the CSCAL process without having to "exhaust all available means" of investigation first;
- Specify that DFPS submit the same comprehensive information that is requested in the Texas Crime Information Center's CSCAL Data Entry Form, so that law enforcement will have sufficient information to identify both the child and the perpetrator;
- Clarify to the judicial system that a CSCAL request requires an emergency ex parte order, which will be issued within 24 hours of the time of application;
- Place law enforcement's CSCAL-related powers and duties in the Code of Criminal Procedure, the area of law which specifically governs law enforcement;
- Clearly delineate law enforcement's minimum action necessary once a child or person on CSCAL has been located, and authorize detention of a child or a person to ensure the safety and well-being of the child, and removal according to Section 262.104 of the Family Code;
- Restate law enforcement's CSCAL removal process in the Code of Criminal Procedure;
- Add a CSCAL training requirement for active law enforcement, as a part of the intermediate or advanced proficiency certificate process. The CSCAL course will also be available for continuing education purposes, and will be accessible to child protective services employees who wish to take the course; and
- Mandate an annual progress report, prepared and issued jointly by DFPS and the Department of Public Safety of the State of Texas (DPS), that includes the number of law enforcement officers trained on CSCAL, and the number of children and families entered on CSCAL and found.

The law enforcement training requirement is an example of C.S.H.B. 2053's effort to strengthen the CSCAL process so that it can fulfil its goals of locating unlocatable children. Currently, CSCAL is only mentioned in the Basic Peace Officer Training; it is not present in continuing education requirements for law enforcement. As a result, fewer than 20 percent of Texas' peace officers are aware that CSCAL exists. Even fewer know how to properly use the tool.

The reporting requirement in H.B. 2053 offers a second example. It mandates that both DFPS and DPS compile and analyze data on the use and effectiveness of CSCAL. This provision keeps both agencies accountable for CSCAL's performance relative to its goal of finding unlocatable children and families who are involved with DFPS.

C.S.H.B. 2053 amends current law relating to the protection of certain children who may be subject to child abuse or neglect through the operation of the child safety check alert list and training for law enforcement officers relating to the child safety check alert list.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas Commission on Law Enforcement in SECTION 7 (Section 1701.262, Occupations Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 261.301, Family Code, by adding Subsection (i), as follows:

(i) Requires the Department of Family and Protective Services (DFPS) to, if at any time during an investigation of a report of child abuse or neglect to which DFPS has assigned the highest priority DFPS is unable to locate the child who is the subject of the report of abuse or neglect or the child's family, notify the Department of Public Safety of the State of Texas (DPS) that the location of the child and the child's family is unknown. Requires DPS, if DPS locates the child and the child's family, to notify DFPS of the location of the child and the child's family.

SECTION 2. Amends Section 261.3022, Family Code, as follows:

Sec. 261.3022. CHILD SAFETY CHECK ALERT LIST. (a) Requires DPS to maintain a child safety check alert list, rather than requires DPS, subject to the availability of funds, to create a child safety check alert list, as part of the Texas Crime Information Center to help locate a child or the child's family for purposes of:

- (1) investigating a report of child abuse or neglect;
- (2) providing protective services to a family receiving family-based support services; or
- (3) providing protective services to the family of a child in the managing conservatorship of DFPS.

(b) Requires DFPS, if DFPS is unable to locate a child or the child's family for a purpose described by Subsection (a) after DFPS has attempted to locate the child for not more than 20 days, to notify DPS that DFPS is unable to locate the child or the child's family. Requires that the notice include the information required by Subsections (c)(1)-(10).

(c) Requires DPS, on receipt of the notice from DFPS, to notify the Texas Crime Information Center to place the child and the child's family on a child safety check alert list. Requires that the list include the following information if known or readily available:

- (1) the name, sex, race, date of birth, any known identifying numbers, including social security number and driver's license number, and personal descriptions of the family member alleged to have abused or neglected a child according to the report DFPS is attempting to investigate;
- (2) the name, sex, race, date of birth, any known identifying numbers, including social security number and driver's license number, and personal descriptions of any parent, managing conservator, or guardian of the child who cannot be located for the purposes described by Subsection (a);
- (3) the name, sex, race, date of birth, any known identifying numbers, including social security number and driver's license number, and

personal descriptions of the child who is the subject of the report or is receiving services described by Subsection (a)(2) or (3);

(4) if applicable, a code identifying the type of child abuse or neglect alleged or determined to have been committed against the child;

(5) the family's last known address;

(6) any known description of the motor vehicle, including the vehicle's make, color, style of body, model year, and vehicle identification number, in which the child is suspected to be transported;

(7) the case number assigned by DFPS;

(8) DFPS's dedicated law-enforcement telephone number for statewide intake;

(9) the date and time when and location where the child was last seen; and

(10) any other information required for an entry as established by the center, rather than the minimum criteria for an entry as established by the center.

Deletes existing text authorizing DFPS, if the child safety check alert list is established and DFPS is unable to locate a family for purposes of investigating a report of child abuse or neglect, after DFPS has exhausted all means available to DFPS for locating the family, to seek assistance under this section from the appropriate county attorney, district attorney, or criminal district attorney with responsibility for representing DFPS as provided by Section 264.009 (Legal Representation of Department).

Deletes existing Subsection (c) authorizing the county attorney, district attorney, or criminal district attorney, as applicable, if DFPS requests assistance, to file an application with the court requesting the issuance of an ex parte order requiring the Texas Crime Information Center to place the members of the family DFPS is attempting to locate on a child safety check alert list. Deletes existing text requiring that the application include a summary of the report of child abuse or neglect DFPS is attempting to investigate and DFPS's efforts to locate the family.

Deletes existing Subsection (d) text requiring the court, if the court determines after a hearing that DFPS has exhausted all means available to DFPS for locating the family, to approve the application and order the appropriate law enforcement agency to notify the Texas Crime Information Center to place the family on a child safety check alert list.

Makes nonsubstantive changes.

SECTION 3. Amends Section 261.3023, Family Code, as follows:

Sec. 261.3023. LAW ENFORCEMENT RESPONSE TO CHILD SAFETY CHECK ALERT. Requires a law enforcement officer, if the officer encounters a child or other person listed on the Texas Crime Information Center's child safety check alert list, to follow the procedures described by Article 2.272, Code of Criminal Procedure.

Deletes designation of Subsection (a) and existing text requiring a law enforcement officer, if the officer encounters a person listed on the Texas Crime Information Center's child safety check alert list who is alleged to have abused or neglected a child, or encounters a child listed on the alert list who is the subject of a report of child abuse or neglect DFPS is attempting to investigate, to request

information from the person or the child regarding the child's well-being and current residence.

Deletes existing Subsection (b) authorizing the officer, if the officer determines that the circumstances described by Section 262.104 exist, to take possession of the child without a court order as authorized by that section if the officer is able to locate the child. Deletes existing text requiring the officer, if the circumstances described by Section 262.104 do not exist, to obtain the child's current address and any other relevant information and report that information to DFPS.

SECTION 4. Amends Section 261.3024, Family Code, as follows:

Sec. 261.3024. REMOVAL FROM CHILD SAFETY CHECK ALERT LIST. (a) Requires a law enforcement officer who locates a child listed on the Texas Crime Information Center's child safety check alert list to report that the child has been located in the manner prescribed by Article 2.272, Code of Criminal Procedure. Deletes existing text requiring a law enforcement officer who locates a child listed on the Texas Crime Information Center's child safety check alert list who is the subject of a report of child abuse or neglect DFPS is attempting to investigate and who reports the child's current address and other relevant information to DFPS under Section 261.3023 to report to the Texas Crime Information Center that the child has been located.

(b) Requires DFPS, if DFPS locates a child who has been placed on the child safety check alert list established under Section 261.3022, rather than a child described by Subsection (a), through a means other than information reported to DFPS by a law enforcement officer under Article 2.272, Code of Criminal Procedure, rather than under Subsection (a), to report to the Texas Crime Information Center that the child has been located.

(c) Requires the Texas Crime Information Center, on receipt of notice that a child has been located, rather than on receipt of notice under this section that a child has been located, to remove the child and the child's family from the child safety check alert list.

SECTION 5. Amends Subchapter D, Chapter 261, Family Code, by adding Section 261.0325, as follows:

Sec. 261.0325. CHILD SAFETY CHECK ALERT LIST PROGRESS REPORT. (a) Requires DPS, not later than February 1 of each year, with the assistance of DFPS, to prepare and submit a report on the use of the Texas Crime Information Center's child safety check alert list to the standing committees of the senate and the house of representatives with primary jurisdiction over child protective services.

(b) Requires that the report include the following information for the preceding calendar year:

(1) the number of law enforcement officers who completed the training program established under Section 1701.262, Occupations Code;

(2) the number of children who have been placed on the child safety check alert list and the number of those children who have been located; and

(3) the number of families who have been placed on the child safety check alert list and the number of those families who have been located.

(c) Provides that this section expires February 2, 2021.

SECTION 6. Amends Chapter 2, Code of Criminal Procedure, by adding Article 2.272, as follows:

Art. 2.272. LAW ENFORCEMENT RESPONSE TO CHILD SAFETY CHECK ALERT. (a) Requires a peace officer, if the officer locates a child or other person listed on the Texas Crime Information Center's child safety check alert list established under Section 261.3022, Family Code, to:

(1) immediately contact DFPS on DFPS's dedicated law-enforcement telephone number for statewide intake;

(2) request information from DFPS regarding the circumstances of the case involving the child or other person; and

(3) request information from the child and the other person regarding the child's safety, well-being, and current residence.

(b) Authorizes a peace officer to temporarily detain the child or other person to ensure the safety and well-being of the child.

(c) Authorizes a peace officer, if the officer determines that the circumstances described by Section 262.104, Family Code, exist, to take temporary possession of the child without a court order as provided by Section 262.104, Family Code. Requires the officer, if the officer does not take temporary possession of the child, to obtain the child's current address and any other relevant information and report that information to DFPS.

(d) Requires a peace officer who locates a child or other person listed on the Texas Crime Information Center's child safety check alert list and who reports the child's or other person's current address and other relevant information to DFPS to report to the Texas Crime Information Center that the child or other person has been located and to whom the child was released, as applicable.

SECTION 7. Amends Subchapter F, Chapter 1701, Occupations Code, by adding Section 1701.262, as follows:

Sec. 1701.262. TRAINING PROGRAM RELATING TO CHILD SAFETY CHECK ALERT LIST. (a) Requires the Texas Commission on Law Enforcement (TCOLE) by rule to establish an education and training program on the Texas Crime Information Center's child safety check alert list. Requires that the program include instruction relating to:

(1) the procedures for placing a child or other person on the child safety check alert list;

(2) the manner in which an officer should interact with a child or other person on the child safety check alert list whom the officer locates; and

(3) the procedures for removing a child or other person from the child safety check alert list.

(b) Requires TCOLE to make the training program available to employees in the child protective services division of DFPS, including caseworkers, supervisors, and special investigators.

SECTION 8. Amends Section 1701.402, Occupations Code, by adding Subsection (m), to require an officer, as a requirement for an intermediate or advanced proficiency certificate issued by TCOLE on or after January 1, 2016, to complete an education and training program on the Texas Crime Information Center's child safety check alert list established by TCOLE under Section 1701.262.

SECTION 9. (a) Effective date, except as provided by this section: September 1, 2015.

(b) Provides that Section 261.3025, Family Code, as added by this Act, takes effect March 1, 2016.