

## **BILL ANALYSIS**

Senate Research Center  
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S.B. 1406  
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Health & Human Services  
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### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

S.B. 1406 allows the Department of Family and Protective Services (DFPS) to fully utilize its resources in the pursuit of ensuring that Texas' most vulnerable children stay safe. The Child Safety Check Alert List (CSCAL) is a tool used by the Department of Public Safety of the State of Texas (DPS) and DFPS to locate children who DFPS is unable to locate during an investigation into abuse or neglect. S.B. 1406 will allow DFPS and DPS to extend the use of CSCAL beyond the investigation phase, into the Family-Based Support Services (FBSS) and conservatorship phases, as well as during alternative response cases. Current law limits DFPS use of CSCAL to the investigation phase.

DFPS statistics show that 12 percent of all CPS-confirmed child sexual abuse cases are not closed after investigation, but are referred to the agency's Family-Based Support Services division. These ongoing cases require continuous monitoring and support; failure to do so will increase the chances of recidivism—the likelihood that the child victim or the child's siblings will be re-victimized. When the child is moved from the address of record and can no longer access the necessary services, the risk of harm rises. Extending CSCAL to the Family-Based Support Services phase allows DFPS to find the child and resume evidence-based support and care. Similarly, a child who is in conservatorship still requires agency support—perhaps more so, as the child is in state custody. DFPS must be able to locate a child in conservatorship of the state, especially when the child's needs are known.

This bill allows DFPS to add a child and family members to the Child Safety Check Alert List by utilizing the same channels for children in FBSS and conservatorship as it does for children in investigations: An attorney, upon the request of DFPS, files an application with the court requesting that the child and family members be placed on the CSCAL. The court approves the application and directs the Texas Crime Information Center to place the child and/or family members, as applicable, on the CSCAL.

This bill also expands the amount of information that the Texas Crime Information Center will place on the CSCAL. Information will now include the child's name, if applicable, and the name of any "parent, managing conservator, or guardian of the child who cannot be located" for the purposes of investigation or providing support services in an alternative response or in the FBSS or conservator phase. As before, the CSCAL will include a code (if applicable) describing the type of "child abuse or neglect alleged or determined to have been committed against the child," the last known address of the child and family members, and the minimum criteria for an entry as established by the Texas Crime Information Center.

Importantly, S.B. 1406 does not expand the duties of law enforcement related to CSCAL. An officer who encounters a child and/or family member who is listed on CSCAL will continue to "request information from the person or the child regarding the child's well-being and current residence." Similarly, the law enforcement officer will report the child's whereabouts and current address to DFPS and notify the Texas Crime Information Center that the child has been located. Law enforcement will not arrest or detain family members who are found with the child, and law enforcement will not attempt to remove the child from his or her family members.

As proposed, S.B. 1406 amends current law relating to the protection of certain children through the operation of the child safety check alert list.

## **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 261.3022, Family Code, as follows:

Sec. 261.3022. CHILD SAFETY CHECK ALERT LIST. (a) Requires the Department of Public Safety of the State of Texas (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 or conducting an alternative response as provided by Section 261.3015;
- (2) providing protective services to a family receiving in-home support services; or
- (3) providing protective services to the family of a child in the managing conservatorship of DFPS.

(b) Authorizes DFPS, if the child safety check alert list is established and DFPS is unable to locate a child or the child's family for a purpose stated in Subsection (a), rather than for purposes of investigating a report of child abuse or neglect, after DFPS has exhausted all means available to DFPS for locating the child or the child's family, to seek assistance under this section from the appropriate attorney, rather than the county attorney, district attorney, or criminal district attorney, with responsibility for representing DFPS as provided by Section 264.009 (Legal Representation of Department)

(c) Authorizes the county attorney, district attorney, or criminal district attorney, 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 (TCIC) to place the child or the members of the child's family whom DFPS is attempting to locate on a child safety check alert list. Requires that the application include a summary of:

- (1) either:
  - (A) report of child abuse or neglect DFPS is attempting to investigate or for which DFPS is attempting to conduct an alternative response; or
  - (B) the circumstances in a case described by Subsection (a)(2) or (3) that cause a child to be at a substantial risk of harm because the family cannot be located; and
- (2) DFPS's efforts to locate the child or the child's family.

Makes nonsubstantive changes.

(d) Requires the court, if the court determines after a hearing that the family cannot be located to investigate or provide an alternative response for a report of child abuse or neglect or that a child is at risk of substantial harm because the family cannot be located and that DFPS has exhausted all means available to DFPS for locating the child or the child's family, as applicable, to approve the application and order the appropriate law enforcement agency to notify TCIC to

place the child or the child's family, as applicable, on a child safety check alert list. Requires that the alert list include:

- (1) if applicable, the name of the family member alleged to have abused or neglected a child according to the report DFPS is attempting to investigate or for which DFPS is attempting to conduct an alternative response;
- (2) the name of any parent, managing conservator, or guardian of the child who cannot be located for the purposes described by Subsection (a);
- (3) the name of the child who is the subject of the report or an ongoing DFPS case;
- (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; and
- (6) the minimum criteria for an entry as established by TCIC.

Makes nonsubstantive changes.

SECTION 2. Amends Section 261.3023(a), Family Code, to require a law enforcement officer, if the officer encounters a person, including a child, listed on TCIC's child safety check alert list, rather than a person on the 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.

SECTION 3. Amends Section 261.3024(a), Family Code, to make a conforming change.

SECTION 4. Effective date: September 1, 2015.