

BILL ANALYSIS

Senate Research Center

S.B. 949
By: Uresti; Menéndez
Health & Human Services
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Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

S.B. 1050, 81st Legislature, Regular Session, 2009, required the Department of Family and Protective Services (DFPS) to release certain non-identifying information following a child fatality. DFPS has released data, but our child abuse advocates believe Texas is not publicly reporting hundreds of abuse- and neglect-related child deaths each year. S.B. 949 requires DFPS to release as much information as the federal Child Abuse Prevention and Treatment Act (CAPTA) statute allows. The additional disclosure includes whether a family was offered services by Child Protective Services (CPS), whether they accepted or took advantage of those services, and if any criminal investigations resulted from the child fatality.

The bill also codifies the Strategic Plan to Reduce Child Abuse and Neglect Fatalities report. The report, released in 2015, is the first time DFPS has worked with the Department of State Health Services to analyze non-casework related information to determine which child abuse related triggers are more prevalent in which parts of the state. The report links geographic, socioeconomic, and health-related information to CPS case histories and fatality investigations. S.B. 949 ensures that the release of this report will continue unless the legislature specifies otherwise.

The committee substitute for S.B. 949 made several technical clarifications, which were requested by DFPS, and added breakdown of disposition to the Strategic Plan to Reduce Child Abuse and Neglect Fatalities.

S.B. 949 amends current law relating to the release of certain child fatality and near-fatality information for abused or neglected children.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the executive commissioner of the Health and Human Services Commission in SECTION 2 (Section 261.204, Family Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 261.203(b), Family Code, as follows:

(b) Requires the Department of Family and Protective Services (DFPS), on request to promptly release investigation information not prohibited from release under federal law, if, after a child abuse or neglect investigation described by Subsection (a) is completed, DFPS determines a child's death or a child's near fatality was caused by abuse or neglect, including the following information:

(1) Makes no change to this subdivision;

(2) information on whether a child's death or near fatality:

(A) was determined by DFPS to be attributable to abuse or neglect; or

(B) resulted in a criminal investigation or the filing of criminal charges if known at the time the investigation is completed;

(3) for cases in which the child's death or near fatality occurred while the child was living with the child's parent, managing conservator, guardian, or other person entitled to possession of the child:

(A) a summary of any previous reports of abuse or neglect of the child, rather than the deceased child, or another child made while the child was living with that parent, managing conservator, guardian, or other person entitled to possession of the child;

(B) the disposition of any report under Paragraph (A);

(C) a description of any services including family-based safety services, that were provided or offered by DFPS to the child or the child's family as a result of any report under Paragraph (A) and whether the services were accepted or declined; and

(D) the results of any risk or safety assessment completed by DFPS relating to the child, rather than the deceased child; and

(4) for a case in which the child's death or near fatality occurred while the child was in substitute care with DFPS or with a residential child-care provider regulated under Chapter 42 (Regulation of Certain Facilities, Homes, and Agencies that Provide Child-Care Services), Human Resources Code, the following information:

(A) the date the substitute care provider with whom the child was residing at the time of death or near fatality was licensed or verified;

(B)-(D) Makes no change to these paragraphs.

Redesignates existing Subdivision (3) as Subdivision (4). Makes nonsubstantive changes.

SECTION 2. Amends Subchapter C, Chapter 261, Family Code, by adding Section 261.204, as follows:

Sec. 261.204. ANNUAL CHILD FATALITY REPORT. (a) Requires DFPS to publish an annual aggregated report using information compiled from each child fatality investigation for which DFPS made a finding regarding abuse or neglect, including cases in which DFPS determined the fatality was not the result of abuse or neglect. Requires the report to protect the identity of individuals involved and contain the following information:

(1) the age and sex of the child and the county in which the fatality occurred;

(2) whether the state was the managing conservator of the child or whether the child resided with the child's parent, managing conservator, guardian, or other person entitled to the possession of the child at the time of the fatality;

(3) the relationship to the child of the individual alleged to have abused or neglected the child, if any;

(4) the number of any DFPS abuse or neglect investigations involving the child or the individual alleged to have abused or neglected the child during the two years preceding the date of the fatality and the results of the investigations;

(5) whether DFPS offered family-based safety services or conservatorship services to the child or family;

(6) the types of abuse and neglect alleged in the reported investigations, if any; and

(7) any trends identified in the investigations contained in the report.

(b) Requires the report published under Subsection (a) to:

(1) accurately represent all abuse-related and neglect-related child fatalities in this state, including child fatalities investigated under Subchapter F (Child Fatality Review and Investigation), Chapter 264, and other child fatalities investigated by DFPS; and

(2) aggregate the fatalities by investigative findings and case disposition, including the following dispositions:

(A) abuse and neglect ruled out;

(B) unable to determine cause of death;

(C) reason to believe abuse or neglect occurred;

(D) reason to believe abuse or neglect contributed to child's death;

(E) unable to complete review; and

(F) administrative closure.

(c) Authorizes DFPS to release additional information in the annual report if the release of the information is not prohibited by state or federal law.

(d) Requires DFPS to post the annual report on the DFPS Internet website and otherwise make the report available to the public.

(e) Authorizes the executive commissioner of the Health and Human Services Commission to adopt rules to implement this section.

(f) Requires DFPS to use the information reported under this section to provide guidance for possible DFPS policy changes at least once every 10 years.

SECTION 3. Provides that Section 261.203(b), Family Code, as amended by this Act, applies only to a child fatality or near fatality that occurs on or after the effective date of this Act.

SECTION 4. Requires DFPS to publish on its Internet website the initial report required by Section 261.204, Family Code, as added by this Act, not later than March 1, 2016.

SECTION 5. Effective date: September 1, 2015.