

By: Klick

H.B. No. 4100

A BILL TO BE ENTITLED

AN ACT

1
2 relating to certain procedures regarding addition or removal of
3 names from the central registry of individuals found to have abused
4 or neglected a child.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. Section 261.002, Family Code, is amended by
7 adding Subsection (a-1) to read as follows:

8 (a-1) The department shall immediately remove from the
9 central registry the name of an individual placed in the registry
10 with respect to a child if:

11 (1) the department determines, after contacting a
12 professional or other credible source, that the child's safety can
13 be assured without further investigation, response, services, or
14 assistance and administratively closes the case alleging the
15 individual's abuse or neglect of the child;

16 (2) the department makes a formal determination that
17 the individual did not abuse or neglect the child;

18 (3) after an administrative review conducted under
19 Section 261.309(c), the department alters or reverses the
20 department's original determination in the investigation and
21 determines that the individual did not abuse or neglect the child;
22 or

23 (4) a court does not make the findings required under
24 Chapter 262 for the department to be appointed temporary or

1 permanent managing conservator of the child and the court's ruling
2 is not overturned on appeal.

3 SECTION 2. Section 261.002, Family Code, is amended by
4 amending Subsection (b) and adding Subsections (d), (e), and (f) to
5 read as follows:

6 (b) The executive commissioner shall adopt rules necessary
7 to carry out this section. The rules must include procedural
8 protections for individuals found by the department to have abused
9 or neglected a child. The rules shall:

10 (1) prohibit the department from making a finding of
11 abuse or neglect against a person in a case in which the department
12 is named managing conservator of a child who has a severe emotional
13 disturbance only because the child's family is unable to obtain
14 mental health services for the child; and

15 (2) establish guidelines for reviewing the records in
16 the registry and removing those records in which the department was
17 named managing conservator of a child who has a severe emotional
18 disturbance only because the child's family was unable to obtain
19 mental health services for the child.

20 (d) Before the department may add to the central registry
21 the name of an individual found by the department to have abused or
22 neglected a child, the department must provide to the individual:

23 (1) written notice that the individual's name and
24 information regarding the reported case of abuse or neglect will be
25 added to the registry;

26 (2) a copy of the information that will be added to the
27 registry; and

1 (3) information regarding the opportunity to appeal
2 the department's finding of abuse or neglect as provided by
3 Subsection (e).

4 (e) An individual who is found by the department to have
5 abused or neglected a child may appeal the department's finding by
6 requesting a hearing conducted by the State Office of
7 Administrative Hearings solely on the issue of whether the
8 individual's name should be added to the central registry. The
9 hearing must be conducted at the State Office of Administrative
10 Hearings site that is closest in proximity to the individual's
11 county of residence unless all parties to the hearing agree to a
12 different location. An appeal under this subsection is a contested
13 case under Chapter 2001, Government Code.

14 (f) The department may not include an individual's name in
15 central registry if the department's finding of abuse or neglect is
16 not sustained by an administrative law judge following a hearing
17 under this section.

18 SECTION 3. The changes in law made by this Act in Section 1
19 apply only to a finding that an individual abused or neglected a
20 child made by the Department of Family and Protective Services on or
21 after the effective date of this Act. A finding made by the
22 department before that date is governed by the law in effect on the
23 date the finding was made, and the former law is continued in effect
24 for that purpose.

25 SECTION 4. This Act takes effect September 1, 2017.