

SUBJECT: Exempting certain professionals from the duty to report abuse or neglect

COMMITTEE: Juvenile Justice and Family Issues — favorable, without amendment

VOTE: 7 ayes — Neave, Swanson, Cook, Ramos, Talarico, Vasut, Wu

0 nays

2 absent — Frank, Leach

WITNESSES: For — Maggie Luna, Statewide Leadership Council; Kate Murphy, Texans Care for Children; Julia Hatcher, Texas Association of Family Defense Attorneys; Charissa Huntzinger, Texas Public Policy Foundation; (*Registered, but did not testify:* Alison Mohr Boleware, National Association of Social Workers - Texas Chapter; Gabriella McDonald, Texas Appleseed; Andrew Homer, Texas CASA; Shannon Jaquette, Texas Catholic Conference of Bishops; Meagan Corser, Texas Home School Coalition; Lauren Rose, Texas Network of Youth Services; Kerrie Judice, TexProtects; Knox Kimberly, Upbring; Thomas Parkinson)

Against — None

On — Marta Talbert, Department of Family and Protective Services

BACKGROUND: Family Code sec. 261.101 requires a person having cause to believe that a child's physical or mental health or welfare has been adversely affected by abuse or neglect by any person to immediately make a report. Abuse is defined to include the current use by a person of a controlled substance in a manner or to the extent that the use results in physical, mental, or emotional injury to a child.

Concerns have been raised that a pregnant woman who is addicted to a controlled substance may forgo prenatal care or seeking treatment for addiction out of fear the Department of Family and Protective Services will take their child away at birth.

DIGEST: HB 4055 would exempt a professional providing prenatal, mental health, or other medical care to a woman who voluntarily disclosed to the professional that the woman illegally used a controlled substance during pregnancy from the requirement to make a report under Family Code sec. 261.101 if:

- the woman enrolled in or had successfully completed a substance abuse treatment program; or
- the professional determined there was no immediate risk of harm to the child from the exposure to the controlled substance and that the woman did not otherwise pose an immediate risk of harm to the child.

The Department of Family and Protective Services would be prohibited from investigating a report of child abuse or neglect allegedly committed by a woman based on the woman's illegal use of a controlled substance during pregnancy if the woman enrolled in and successfully completed a substance abuse treatment program under the supervision of the referring or treating professional.

The bill would take effect September 1, 2021.