

BILL ANALYSIS

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S.B. 434
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

When child abuse, neglect, and family violence occur simultaneously in a home, Child Protective Services (CPS) caseworkers face unique challenges to ensure the safety of a child. In many cases, a parent, rather than a child, is the victim of family violence. Some debate exists about whether allowing a child to witness that violence causes immediate or potential harm to a child. While caseworkers are trained to recognize when family violence is present, state law does not establish a specific protocol for handling this issue. An informal workgroup, comprised of representatives from the Department of Family and Protective Services (DFPS), the Health and Human Services Commission (HHSC), CPS, and members of the child abuse, sexual assault, and domestic violence advocacy community, began meeting in 2010 to examine related state policies.

S.B. 434 establishes the Task Force to Address the Relationship Between Domestic Violence and Child Abuse and Neglect (task force), making official the mission of the existing informal workgroup. This bill requires that if DFPS pursues resulting changes to agency rule, the agency must work with the task force to implement them. This bill requires the task force to issue policy recommendations to the legislature by September 2012. S.B. 434 includes family violence in the list of circumstances in the home that must be determined by DFPS during an investigation of a report of child abuse or neglect.

As proposed, S.B. 434 amends current law relating to the relationship between domestic violence and child abuse and neglect.

RULEMAKING AUTHORITY

Rulemaking authority previously granted to the Department of Family and Protective Services is modified in SECTION 1 (Section 531.959, Government Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 531, Government Code, by adding Subchapter W, as follows:

SUBCHAPTER W. TASK FORCE TO ADDRESS THE RELATIONSHIP BETWEEN DOMESTIC VIOLENCE AND CHILD ABUSE AND NEGLECT

Sec. 531.951. DEFINITIONS. Defines "department" and "task force" in this section.

Sec. 531.952. ESTABLISHMENT OF TASK FORCE; COMPOSITION. (a) Provides that the Task Force to Address the Relationship Between Domestic Violence and Child Abuse and Neglect (task force) is established to examine the relationship between family violence and child abuse and neglect, develop policy recommendations, if needed, to address issues and effects resulting from that relationship, and develop comprehensive statewide best practices guidelines for both child protective services and family violence shelter centers.

(b) Provides that the task force is composed of one member from the Health and Human Services Commission's (HHSC) Family Violence Program, appointed by the executive commissioner of HHSC, and at least 15 members appointed by the presiding officer of the task force as follows:

- (A) one member from the Department of Family and Protective Services (DFPS);
- (B) one member from a statewide family violence advocacy organization;
- (C) one member from a statewide sexual assault advocacy organization;
- (D) one member from a statewide advocacy organization that serves abused and neglected children in the foster care system;
- (E) one member from a statewide child abuse advocacy organization;
- (F) one member who is a mental health professional with experience working with clients affected by child abuse and domestic violence;
- (G) one member who is a judge with experience working with cases involving child protective services;
- (H) one member from The University of Texas School of Law domestic violence clinic;
- (I) one member from The University of Texas School of Law children's rights clinic;
- (J) one member from each of four different family violence centers as defined by Section 51.002 (Definitions), Human Resources Code, reflecting the geographic diversity of the state;
- (K) one member from a legal assistance organization involved with child protection and family violence issues;
- (L) one member from the law enforcement community; and
- (M) any other member that the presiding officer determines to be appropriate.

Sec. 531.953. VACANCY. Requires a vacancy on the task force to be filled in the same manner as the original appointment.

Sec. 531.954. PRESIDING OFFICER. Provides that the member representing HHSC's Family Violence Program serves as the presiding officer of the task force.

Sec. 531.955. MEETINGS. Requires the task force to meet at the call of the presiding officer.

Sec. 531.956. COMPENSATION; REIMBURSEMENT. Provides that members of the task force serve without compensation or reimbursement for expenses.

Sec. 531.957. DUTIES. (a) Requires the task force to:

- (1) receive reports and testimony from individuals, state and local agencies, community-based organizations, and other public and private organizations, including adult survivors of family violence that have been impacted by child protective services investigations, and young adults who as children were impacted by both family violence and child protective services intervention; and
- (2) develop policy recommendations for addressing the relationship between family violence and child abuse and neglect and develop

comprehensive statewide best practices guidelines for both child protective services and family violence shelter centers.

(b) Requires the task force, in developing policy recommendations and best practices guidelines under Subsection (a)(2), to:

(1) examine the findings and recommendations of the National Council of Juvenile and Family Court Judges Family Violence Department's report "Effective Intervention in Domestic Violence & Child Maltreatment Cases: Guidelines for Policy and Practice"; and

(2) examine the key concepts regarding child safety plans and decision making found in the 2009 edition of the American Bar Association's "Child Safety: A Guide for Judges and Attorneys."

(c) Requires the task force to prepare a report that includes a description of the activities of the task force, the findings and recommendations of the task force, including the proposed policy recommendations and guidelines required by Subsection (a)(2), and any legislation or other matter that the task force considers appropriate.

(d) Requires the task force, not later than September 1, 2012, to submit to the governor, the lieutenant governor, the speaker of the house of representatives, and the appropriate committees of the senate and the house of representatives the report required by Subsection (c).

Sec. 531.958. ADMINISTRATIVE SUPPORT. Requires HHSC to provide reasonably necessary administrative and technical support for task force activities.

Sec. 531.959. RULEMAKING ASSISTANCE. Requires DFPS to seek the assistance of the task force if DFPS proposes to adopt or amend a rule as the result of the work done by the task force.

Sec. 531.960. APPLICABILITY OF ADVISORY COMMITTEE LAW. Provides that Chapter 2110 (State Agency Advisory Committees) does not apply to the task force.

Sec. 531.961. ABOLITION OF TASK FORCE; EXPIRATION OF SUBCHAPTER. Provides that the task force is abolished and this subchapter expires September 1, 2013.

SECTION 2 Amends Section 261.301(e), Family Code, as follows:

(e) Requires, as necessary to provide for the protection of the child, DFPS or a designated agency to determine, among other issues:

(7) whether a person in the home has been the victim of perpetrator of family violence as defined by Section 71.004(1) or (3) (relating to defining family violence and dating violence);

(8) whether a person in the home has a history of violent behavior or criminal involvement;

(9) whether there is an imbalance of power in the home between adults that affects the ability of a parent or person responsible for the care of a child to protect the child; and

(10) all other pertinent data.

SECTION 3. Requires the appropriate person, as soon as practicable after the effective date of this Act, to appoint the members of the task force created by this Act.

SECTION 4. Effective date: upon passage or September 1, 2011.