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September 4, 2013

To: Chief Executive Officers and Behavioral Health Directors of Local Mental Health Authorities, North Texas Behavioral Health Authority, Value Options and all state operated mental health facilities.

From: Ross Robinson, Program Services Section Director
Mental Health and Substance Abuse Division

Subject: House Bill 1205

House Bill 1205 of the 83rd Texas Legislature amended Sec. 261.109 of the Family Code, relating to the offense of failure to report abuse or neglect of a child. Section (a) now states that a person commits an offense if the person is required to make a report under Section 261.101(a) and knowingly fails to make a report as provided in this chapter.

A person who is a professional who commits this offense is subject to a Class A misdemeanor except that the offense is a state jail felony if it is shown on the trial of the offense that the actor intended to conceal abuse or neglect.

This pertains to all individuals licensed or certified by the state, or employees of a facility licensed, certified, or operated by the state and who, in the normal course of official duties or duties for which a license or certification is required, has direct contact with children, including all state operated facilities.

This change is effective September 1, 2013. Section 2 states the changes in law made by this Act to Section 26.109, Texas Family Code, apply to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is governed by the law in effect on the date the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

Should you have additional questions relating to this issue, please contact Angie Jackson by phone at 512-206-4718or by email at angie.jackson@dshs.state.tx.us.