

By: Cason

H.B. No. 296

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to notifying an alleged perpetrator of child abuse or  
3 neglect of the person's rights in connection with an investigation  
4 conducted by the Department of Family and Protective Services.

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

6 SECTION 1. Section 261.307, Family Code, is amended to read  
7 as follows:

8 Sec. 261.307. INFORMATION RELATING TO INVESTIGATION  
9 PROCEDURE AND CHILD PLACEMENT RESOURCES. (a) After [~~As soon as~~  
10 ~~possible after~~] initiating an investigation of a parent or other  
11 person having legal custody of a child, the department shall, on  
12 first contact with the person, provide to the person:

13 (1) a summary that:  
14 (A) is brief and easily understood;  
15 (B) is written in a language that the person  
16 understands, or if the person is illiterate, is read to the person  
17 in a language that the person understands; and

18 (C) contains the following information:  
19 (i) the department's procedures for  
20 conducting an investigation of alleged child abuse or neglect,  
21 including:

22 (a) a description of the  
23 circumstances under which the department would request to remove  
24 the child from the home through the judicial system; and

1 (b) an explanation that the law  
2 requires the department to refer all reports of alleged child abuse  
3 or neglect to a law enforcement agency for a separate determination  
4 of whether a criminal violation occurred;

5 (ii) the person's right to file a complaint  
6 with the department or to request a review of the findings made by  
7 the department in the investigation;

8 (iii) the person's right to review all  
9 records of the investigation unless the review would jeopardize an  
10 ongoing criminal investigation or the child's safety;

11 (iv) the person's right to seek legal  
12 counsel;

13 (v) references to the statutory and  
14 regulatory provisions governing child abuse and neglect and how the  
15 person may obtain copies of those provisions; ~~and~~

16 (vi) the process the person may use to  
17 acquire access to the child if the child is removed from the home;  
18 and

19 (vii) written notification of the rights  
20 listed under Subdivision (2);

21 (2) oral notification of the right to:

22 (A) refuse to speak with any agent of the  
23 department without the person's legal counsel;

24 (B) assistance by an attorney;

25 (C) have a court-appointed attorney if the person  
26 is indigent;

27 (D) openly or secretly record any interaction or

1 interview to which the person is a party subject to the  
2 understanding that the recording may be subject to disclosure to  
3 the department, law enforcement, or another party under a court  
4 order;

5 (E) request and receive a copy of the  
6 department's current recording policy;

7 (F) refuse to allow the investigator to enter the  
8 home or interview the children without legal counsel present;

9 (G) withhold consent to the release of any  
10 medical or mental health records;

11 (H) withhold consent to any medical or  
12 psychological examination of the child;

13 (I) refuse to submit to a drug test;

14 (J) consult with legal counsel before agreeing to  
15 any proposed voluntary safety plan;

16 (K) be notified of and attend any court hearings  
17 related to or arising from the investigation; and

18 (L) on request, have an interpreter;

19 (3) if the department determines that removal of the  
20 child may be warranted, a proposed child placement resources form  
21 that:

22 (A) instructs the parent or other person having  
23 legal custody of the child to:

24 (i) complete and return the form to the  
25 department or agency;

26 (ii) identify in the form at least three  
27 individuals who could be relative caregivers or designated

1 caregivers, as those terms are defined by Section 264.751;

2 (iii) ask the child in a developmentally  
3 appropriate manner to identify any adult, particularly an adult  
4 residing in the child's community, who could be a relative  
5 caregiver or designated caregiver for the child; and

6 (iv) list on the form the name of each  
7 individual identified by the child as a potential relative  
8 caregiver or designated caregiver; and

9 (B) informs the parent or other person of a  
10 location that is available to the parent or other person to submit  
11 the information in the form 24 hours a day either in person or by  
12 facsimile machine or e-mail; and

13 (4) [~~(3)~~] an informational manual required by Section  
14 261.3071.

15 (b) The child placement resources form described by  
16 Subsection (a)(3) [~~(a)(2)~~] must include information on the periods  
17 of time by which the department must complete a background check.

18 (c) The department shall adopt a form for the purpose of  
19 verifying that the parent or other person having legal custody of  
20 the child received the verbal notification and written summary  
21 required by this section.

22 SECTION 2. The changes in law made by this Act apply only to  
23 an investigation of a report of child abuse or neglect that is made  
24 on or after the effective date of this Act. An investigation of a  
25 report of abuse or neglect made before the effective date of this  
26 Act is governed by the law in effect on the date the report was made,  
27 and the former law is continued in effect for that purpose.

H.B. No. 296

1           SECTION 3. This Act takes effect on the 91st day after the  
2 last day of the legislative session.