

By: Frank

H.B. No. 635

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, upon  
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) the rights listed under Subdivision  
20 (2);

21 (2) a verbal notification of the right to:

22 (A) not speak with any agent of the department  
23 without legal counsel present;

24 (B) receive assistance from an attorney;

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

27 (D) record any interaction or interview subject

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

4 (E) refuse to allow the investigator to enter the  
5 home or interview the children without legal counsel present;

6 (F) withhold consent to the release of any  
7 medical or mental health records;

8 (G) withhold consent to any medical or  
9 psychological examination of the child;

10 (H) refuse to submit to a drug test; and

11 (I) consult with legal counsel prior to agreeing  
12 to any proposed voluntary safety plan;

13 (3) if the department determines that removal of the  
14 child may be warranted, a proposed child placement resources form  
15 that:

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

18 (i) complete and return the form to the  
19 department or agency;

20 (ii) identify in the form at least three  
21 individuals who could be relative caregivers or designated  
22 caregivers, as those terms are defined by Section [264.751](#);

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

27 (iv) list on the form the name of each

1 individual identified by the child as a potential relative  
2 caregiver or designated caregiver; and

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

7 (4) [~~(3)~~] an informational manual required by Section  
8 [261.3071](#).

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

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

16 SECTION 2. The changes in law made by this Act apply only to  
17 an investigation of a report of child abuse or neglect that is made  
18 on or after the effective date of this Act. An investigation of a  
19 report of child abuse or neglect made before the effective date of  
20 this Act is governed by the law in effect on the date the report was  
21 made, and the former law is continued in effect for that purpose.

22 SECTION 3. This Act takes effect September 1, 2023.