

1-1 By: Ogden S.B. No. 1490
1-2 (In the Senate - Filed March 13, 2003; March 20, 2003, read
1-3 first time and referred to Committee on Jurisprudence;
1-4 April 22, 2003, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 5, Nays 0; April 22, 2003,
1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 1490 By: West

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to certain investigation requirements and other
1-11 procedures in connection with an allegation of child abuse or
1-12 neglect.

1-13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-14 SECTION 1. Subsection (e), Section 261.302, Family Code, is
1-15 amended to read as follows:

1-16 (e) An interview by an investigating agency, other than the
1-17 department, with a child alleged to be a victim of physical abuse or
1-18 sexual abuse shall be audiotaped or videotaped unless the
1-19 investigating agency determines that good cause exists for not
1-20 audiotaping or videotaping the interview in accordance with rules
1-21 of the agency. Good cause may include, but is not limited to, such
1-22 considerations as the age of the child and the nature and
1-23 seriousness of the allegations under investigation. An interview
1-24 by the department with a child alleged to be the victim of physical
1-25 abuse or sexual abuse shall be audiotaped or videotaped unless a
1-26 parent of the child observes the interview or agrees in writing that
1-27 the department may proceed with the interview without taping the
1-28 interview or a court, on finding good cause, waives the
1-29 requirement. Nothing in this subsection shall be construed as
1-30 prohibiting the department or other investigating agency from
1-31 audiotaping or videotaping an interview of a child on any case for
1-32 which such audiotaping or videotaping is not required under this
1-33 subsection. The fact that the department or other investigating
1-34 agency failed to audiotape or videotape an interview is admissible
1-35 at the trial of the offense that is the subject of the interview.

1-36 SECTION 2. Subsection (a), Section 261.201, Family Code, is
1-37 amended to read as follows:

1-38 (a) Unless the child has already been returned to the
1-39 parent, managing conservator, possessory conservator, guardian,
1-40 caretaker, or custodian entitled to possession and the temporary
1-41 order, if any, has been dissolved, a full adversary hearing shall be
1-42 held not later than the 14th day after the date the child was taken
1-43 into possession by the governmental entity. The parent, managing
1-44 conservator, possessory conservator, guardian, caretaker, or
1-45 custodian entitled to possession of the child may petition the
1-46 court to hold the hearing on a date earlier than the date set by the
1-47 court under this subsection.

1-48 SECTION 3. (a) This Act takes effect immediately if it
1-49 receives a vote of two-thirds of all the members elected to each
1-50 house, as provided by Section 39, Article III, Texas Constitution.
1-51 If this Act does not receive the vote necessary for immediate
1-52 effect, this Act takes effect September 1, 2003.

1-53 (b) The change in law made by this Act by the amendment of
1-54 Subsection (e), Section 261.302, Family Code, applies only to the
1-55 investigation of a report of child abuse or neglect made on or after
1-56 the effective date of this Act, without regard to whether the abuse
1-57 or neglect occurred before, on, or after that date. The
1-58 investigation of a report made before the effective date of this Act
1-59 is governed by the law in effect on the date the report was made, and
1-60 the former law is continued in effect for that purpose.

1-61 (c) The change in law made by this Act by the amendment of
1-62 Subsection (a), Section 262.201, Family Code, applies only to a
1-63 hearing with regard to a child taken into possession by a

2-1 governmental entity on or after the effective date of this Act. A
2-2 hearing with regard to a child taken into possession by a
2-3 governmental entity before the effective date of this Act is
2-4 governed by the law in effect on the date the child was taken into
2-5 possession by the governmental entity, and the former law is
2-6 continued in effect for that purpose.

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