

Amend SB 1440 by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill as appropriate:

SECTION \_\_\_\_\_. Section 261.302, Family Code, is amended by adding Subsection (g) to read as follows:

(g) The department, without filing suit, may seek a court order in aid of an investigation under Section 261.303.

SECTION \_\_\_\_\_. Section 261.303, Family Code, is amended by amending Subsections (a), (b), and (c) and adding Subsections (c-1), (c-2), (c-3), (f), (g), (h), (i), (j), (k), (l), and (m) to read as follows:

(a) A person may not interfere with an investigation of a report of child abuse or neglect conducted by the department or designated agency, and a court may render an order to assist the department in an investigation under this subchapter.

(b) If admission to the home, school, or any place where the child may be cannot be obtained, or if consent to transport a child for purposes relating to an interview or investigation cannot be obtained, then, on presentation of an application supported by an affidavit described by Subsection (c-2) that is executed by an investigator or authorized representative of the department, [~~for good cause shown~~] the court having family law jurisdiction, including any associate judge designated by the court, may, on finding that the affidavit is sufficient and without prior notice or a hearing, [~~shall~~] order the parent, the person responsible for the care of the children, or the person in charge of any place where the child may be to allow entrance, transport of the child, or both entrance and transport for the interview, examination, and investigation.

(c) If a parent or person responsible for the child's care does not consent to release of the child's prior medical, psychological, or psychiatric records or to a medical, psychological, or psychiatric examination of the child that is requested by the department or designated agency, then, on presentation of an application supported by an affidavit described by Subsection (c-2) that is executed by an investigator or authorized representative of the department, the court having

family law jurisdiction, including any associate judge designated by the court, may, on finding that the affidavit is sufficient and without prior notice or a hearing, [~~shall, for good cause shown,~~] order the records to be released or the examination to be made at the times and places designated by the court.

(c-1) If a person having possession of records relating to a child that are relevant to an investigation does not consent to the release of the records on the request of the department or designated agency, then, on presentation of an application supported by an affidavit described by Subsection (c-2) that is executed by an investigator or authorized representative of the department, the court having family law jurisdiction, including any associate judge designated by the court, may, on finding that the affidavit is sufficient and without prior notice or a hearing, order the records to be released at the time and place designated by the court.

(c-2) An application filed under this section must be accompanied by an affidavit executed by an investigator or authorized representative of the department that states facts sufficient to lead a person of ordinary prudence and caution to believe that:

(1) based on information available, a child's physical or mental health or welfare has been or may be adversely affected by abuse or neglect;

(2) the requested order is necessary to aid in the investigation; and

(3) there is a fair probability that allegations of abuse or neglect will be sustained if the order is issued and executed.

(c-3) An application and supporting affidavit used to obtain a court order in aid of an investigation under this section may be filed on any day, including Sunday.

(f) A court may designate an associate judge to render an order in aid of an investigation under this section. An order rendered by an associate judge is immediately effective without the ratification or signature of the court making the designation.

(g) As soon as practicable after executing the order or

attempting to execute the order, as applicable, the department shall file with the clerk of the court that rendered the order a written report stating:

(1) the facts surrounding the execution of the order, including the date and time the order was executed and the name of the investigator or authorized representative executing the order;  
or

(2) the reasons why the department was unable to execute the order.

(h) A court issuing an order in aid of an investigation under this section shall keep a record of all the proceedings before the court under this subchapter, including a report filed with the court under Subsection (g). The record of proceedings, including any application and supporting affidavit presented to the court and any report filed with the court under Subsection (g), is confidential and may only be disclosed as provided by Subsection (i) or Section 261.201.

(i) If the department files a suit under Chapter 262, the department shall include with its original petition a copy of the record of all the proceedings before the court under this subchapter, including an application and supporting affidavit for an order under this section and any report relating to an order in aid of an investigation.

(j) As soon as practicable after the department obtains access to records of a child under an order in aid of an investigation, the department shall notify the child's parents or another person with legal custody of the child that the department has obtained the records.

(k) Access to a confidential record under this subchapter does not constitute a waiver of confidentiality.

(l) This section does not prevent a court from requiring notice and a hearing before issuance of an order in aid of an investigation under this section if the court determines that:

(1) there is no immediate risk to the safety of the child; and

(2) notice and a hearing are required to determine whether the requested access to persons, records, or places or to

transport the child is necessary to aid in the investigation.

(m) A court's denial of a request for an ex parte order under this section does not prevent the issuance of a criminal warrant.