

BILL ANALYSIS

H.B. 2876
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Human Services
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Administrative law judges preside over administrative hearings that are held when an administrative or disciplinary action is pursued against a professional who is licensed or certified by the state. When a case involves allegations of child abuse or neglect, the Department of Family and Protective Services (DFPS) is often involved from the first stages of an investigation and may begin interviewing witnesses immediately after an allegation has been made. As a result, DFPS records may contain evidence relevant to assessing the credibility of a witness when allegations have been made against licensed professionals, such as teachers and nurses.

The Family Code currently authorizes judges to order the release of DFPS records, such as video-recorded interviews, in a civil or criminal court case. However, the law does not grant this authority to administrative law judges, as administrative law judges are not considered judicial judges for these purposes. Without such authorization, administrative law judges have no way of ordering the disclosure of DFPS records unless the action is filed in civil court for the sole purpose of obtaining an order for the release of the records. This creates an unnecessary burden and expense for the parties involved.

H.B. 2876 authorizes an administrative law judge to order the release of DFPS records under the same conditions that normally apply to judicial judges. The bill makes review and determination requirements otherwise required for a court to disclose records applicable to the administrative law judge.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

H.B. 2876 amends the Family Code to authorize an administrative law judge to order the disclosure of confidential information relating to an investigation of a report of child abuse or neglect that relates to the matter before the administrative law judge on a motion of one of the parties in the matter after the hearing and review and determination otherwise required for a court to authorize such a disclosure.

EFFECTIVE DATE

On passage, or, if the act does not receive the necessary vote, the act takes effect September 1, 2009.