

By: Wu

H.B. No. 3259

A BILL TO BE ENTITLED

AN ACT

relating to the ownership of and access to certain investigation records in child abuse and neglect cases.

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

SECTION 1. Section 264.0145(a), Family Code, is amended to read as follows:

(a) In this section, "case record" means those files, reports, records, communications, audio recordings, video recordings [~~audiotapes, videotapes~~], or working papers under the custody and control of the department that are collected, developed, or used:

(1) in a child abuse or neglect investigation; or

(2) in providing services as a result of an investigation, including substitute care services for a child.

SECTION 2. Sections 264.408(d), (d-1), and (e), Family Code, are amended to read as follows:

(d) A video recording of an [~~videotaped~~] interview of a child that is made at a center is the property of the prosecuting attorney involved in the criminal prosecution of the case involving the child. If no criminal prosecution occurs, the video recording [~~videotaped interview~~] is the property of the attorney involved in representing the department in a civil action alleging child abuse or neglect. If the matter involving the child is not prosecuted, the video recording [~~videotape~~] is the property of the department

1 if the matter is an investigation by the department of abuse or
2 neglect. If the department is not investigating or has not
3 investigated the matter, the video recording [~~videotape~~] is the
4 property of the agency that referred the matter to the center. If
5 the center employs a custodian of records for video recordings of
6 [~~videotaped~~] interviews of children, the center is responsible for
7 the custody of the video recording [~~videotape~~]. A video recording
8 of an [~~videotaped~~] interview may be shared with other agencies
9 under a written agreement.

10 (d-1) A video recording of an [~~videotaped~~] interview
11 described by Subsection (d) is subject to production under Article
12 39.14, Code of Criminal Procedure, and Rule 615, Texas Rules of
13 Evidence. A court shall deny any request by a defendant to copy,
14 photograph, duplicate, or otherwise reproduce a video recording, or
15 the audio portion of a video recording, [~~videotape~~] of an interview
16 described by Subsection (d), provided that the prosecuting attorney
17 makes the video recording [~~videotape~~] reasonably available to the
18 defendant in the same manner as property or material may be made
19 available to defendants, attorneys, and expert witnesses under
20 Article 39.15(d), Code of Criminal Procedure.

21 (e) The department shall be allowed access to a center's
22 video recordings of [~~videotaped~~] interviews of children.

23 SECTION 3. This Act takes effect September 1, 2013.