

By: West, et al.
(Otto)

S.B. No. 245

Substitute the following for S.B. No. 245:

By: Raymond

C.S.S.B. No. 245

A BILL TO BE ENTITLED

AN ACT

1
2 relating to eligibility of children's advocacy centers for
3 contracts to provide services for children and family members in
4 child abuse and neglect cases and to investigations of those cases.

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

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

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

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

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

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

17 (d) A video recording of an [~~videotaped~~] interview of a
18 child made at a center is the property of the prosecuting attorney
19 involved in the criminal prosecution of the case involving the
20 child. If no criminal prosecution occurs, the video recording
21 [~~videotaped interview~~] is the property of the attorney involved in
22 representing the department in a civil action alleging child abuse
23 or neglect. If the matter involving the child is not prosecuted,
24 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. Section 264.411, Family Code, is amended to read
24 as follows:

25 Sec. 264.411. ELIGIBILITY FOR CONTRACTS. (a) A public
26 entity that operated as a center under this subchapter before
27 November 1, 1995, or a nonprofit entity is eligible for a contract

1 under Section 264.410 if the entity:

2 (1) has a signed memorandum of understanding as
3 provided by Section 264.403;

4 (2) operates under the authority of a governing board
5 as provided by Section 264.404;

6 (3) has a multidisciplinary team of persons involved
7 in the investigation or prosecution of child abuse cases or the
8 delivery of services as provided by Section 264.406;

9 (4) holds regularly scheduled case reviews as provided
10 by Section 264.406;

11 (5) operates in a neutral and physically separate
12 space from the day-to-day operations of any public agency partner;

13 (6) has developed a method of statistical information
14 gathering on children receiving services through the center and
15 shares such statistical information with the statewide
16 organization, the department, and the office of the attorney
17 general when requested;

18 (7) has an in-house volunteer program;

19 (8) employs an executive director who is answerable to
20 the board of directors of the entity and who is not the exclusive
21 salaried employee of any public agency partner; ~~and~~

22 (9) operates under a working protocol that includes a
23 statement of:

24 (A) the center's mission;

25 (B) each agency's role and commitment to the
26 center;

27 (C) the type of cases to be handled by the center;

1 (D) the center's procedures for conducting case
2 reviews and forensic interviews and for ensuring access to
3 specialized medical and mental health services; and

4 (E) the center's policies regarding
5 confidentiality and conflict resolution; and

6 (10) implements at the center the following program
7 components:

8 (A) a case tracking system that monitors
9 statistical information on each child and nonoffending family
10 member or other caregiver who receives services through the center
11 and that includes progress and disposition information for each
12 service the multidisciplinary team determines should be provided to
13 the client;

14 (B) a child-focused setting that is comfortable,
15 private, and physically and psychologically safe for diverse
16 populations of children and nonoffending family members and other
17 caregivers;

18 (C) family advocacy and victim support services
19 that include comprehensive case management and victim support
20 services available to each child and the child's nonoffending
21 family members or other caregivers as part of the services the
22 multidisciplinary team determines should be provided to a client;

23 (D) forensic interviews conducted in a neutral,
24 fact-finding manner and coordinated to avoid duplicative
25 interviewing;

26 (E) specialized medical evaluation and treatment
27 services that are available to all children who receive services

1 through the center and coordinated with the services the
2 multidisciplinary team determines should be provided to a child;

3 (F) specialized trauma-focused mental health
4 services that are designed to meet the unique needs of child abuse
5 victims and the victims' nonoffending family members or other
6 caregivers and that are available as part of the services the
7 multidisciplinary team determines should be provided to a client;
8 and

9 (G) a system to ensure that all services
10 available to center clients are culturally competent and diverse
11 and are coordinated with the services the multidisciplinary team
12 determines should be provided to a client.

13 (b) The statewide organization may waive the requirements
14 specified in Subsection (a) if it determines that the waiver will
15 not adversely affect the center's ability to carry out its duties
16 under Section 264.405. ~~[Any waiver that is granted must be~~
17 ~~identified in the written contract with the center.]~~

18 SECTION 4. Section 264.411, Family Code, as amended by this
19 Act, applies only to a contract entered into under Section 264.410,
20 Family Code, on or after the effective date of this Act. A contract
21 entered into before the effective date of this Act is governed by
22 the law in effect on the date the contract was entered into, and the
23 former law is continued in effect for that purpose.

24 SECTION 5. This Act takes effect September 1, 2013.