

House Bill 3259
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

No equivalent provision.

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

SENATE VERSION (IE)

SECTION __. Section 162.006, Family Code, is amended by amending Subsection (a) and adding Subsection (a-1) to read as follows:

(a) The department, licensed child-placing agency, or other person [~~, or entity~~] placing a child for adoption shall inform the prospective adoptive parents of their right to examine the records and other information relating to the history of the child. The department, licensed child-placing agency, or other person [~~or entity~~] placing the child for adoption shall edit the records and information to protect the identity of the biological parents and any other person whose identity is confidential.

(a-1) The records described by Subsection (a) must include any records relating to an investigation of abuse in which the child was an alleged or confirmed victim of sexual abuse while residing in a foster home or other residential child-care facility. If the licensed child-placing agency or other person placing the child for adoption does not have the information required by this subsection, the department, at the request of the licensed child-placing agency or other person placing the child for adoption, shall provide the information to the prospective adoptive parents of the child. [FA1]

SECTION 1. Same as House version.

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

(d-1) A video recording of an ~~[videotaped]~~ interview described by Subsection (d) is subject to production under Article 39.14, Code of Criminal Procedure, and Rule 615, Texas Rules of Evidence. A court shall deny any request by a defendant to copy, photograph, duplicate, or otherwise reproduce a video recording, or the audio portion of a video recording, ~~[videotape]~~ of an interview described by

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

(d-1) A video recording of an ~~[videotaped]~~ interview described by Subsection (d) is subject to production under Article 39.14, Code of Criminal Procedure, and Rule 615, Texas Rules of Evidence. A court shall deny any request by a defendant to copy, photograph, duplicate, or otherwise reproduce a video recording ~~[videotape]~~ of an interview described by Subsection (d), provided that the prosecuting

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Subsection (d), provided that the prosecuting attorney makes the video recording [~~videotape~~] reasonably available to the defendant in the same manner as property or material may be made available to defendants, attorneys, and expert witnesses under Article 39.15(d), Code of Criminal Procedure.

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

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

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attorney makes the video recording [~~videotape~~] reasonably available to the defendant in the same manner as property or material may be made available to defendants, attorneys, and expert witnesses under Article 39.15(d), Code of Criminal Procedure.

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

SECTION 3. Same as House version.

CONFERENCE