

By: Klick, Noble

H.B. No. 2134

Substitute the following for H.B. No. 2134:

By: Noble

C.S.H.B. No. 2134

A BILL TO BE ENTITLED

AN ACT

relating to health care specialty consultations in certain child abuse or neglect investigations and assessments.

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

SECTION 1. Section 261.3017, Family Code, as added by Chapter 502 (H.B. 2848), Acts of the 85th Legislature, Regular Session, 2017, is amended by amending Subsections (b) and (c) and adding Subsections (b-1), (c-1), (c-2), and (e) to read as follows:

(b) Any agreement between the department and the network or between the Department of State Health Services and the system to provide assistance in connection with abuse and neglect investigations conducted by the department must require the network and the system to have the ability to obtain consultations with physicians licensed to practice medicine in this state and board certified in the relevant field or specialty, including radiologists, geneticists, orthopedists, and endocrinologists, to diagnose and treat certain ~~[who specialize in identifying]~~ unique health conditions, including:

(1) rickets;

(2) Ehlers-Danlos Syndrome;

(3) osteogenesis imperfecta;

(4) vitamin D deficiency; and

(5) other medical conditions that mimic child maltreatment or increase the risk of misdiagnosis of child

1 maltreatment [~~similar metabolic bone diseases or connective tissue~~  
2 ~~disorders~~].

3 (b-1) The department shall refer all cases for a specialty  
4 consultation to a physician who:

5 (1) is licensed to practice medicine in this state  
6 under Subtitle B, Title 3, Occupations Code;

7 (2) is board certified in a field or specialty  
8 relevant to diagnosing and treating the conditions described by  
9 Subsection (b); and

10 (3) was not involved with the report of suspected  
11 abuse or neglect.

12 (c) During [~~If, during~~] an abuse or neglect investigation  
13 authorized by this subchapter or an assessment provided under  
14 Subsection (b), the department [~~or a physician in the network~~  
15 ~~determines that a child requires a specialty consultation with a~~  
16 ~~physician, the department or the physician~~] shall refer the child's  
17 case [~~to the system~~] for a specialty [~~the~~] consultation[~~7~~] if:

18 (1) the department determines the child requires a  
19 specialty consultation with a physician;

20 (2) the child's primary care physician or other  
21 primary health care provider who provided health care or treatment  
22 or otherwise evaluated the child recommends a specialty  
23 consultation; or

24 (3) the child's parent or legal guardian or, if  
25 represented by an attorney, the attorney of the parent or legal  
26 guardian requests a specialty consultation [~~the system has~~  
27 ~~available capacity to take the child's case~~].

1       (c-1) Before referring a child's case under Subsection (c),  
2 the department shall provide to the child's parent or legal  
3 guardian or, if represented by an attorney, the attorney of the  
4 parent or legal guardian written notice of the name, contact  
5 information, and credentials of the specialist. The parent, legal  
6 guardian, or attorney, as applicable, may object to the proposed  
7 referral and request referral to another specialist.

8       (c-2) If a parent or legal guardian or, if represented by an  
9 attorney, the attorney of the parent or legal guardian objects to  
10 the proposed referral under Subsection (c-1), the department may  
11 object to the specialist proposed by the parent, legal guardian, or  
12 attorney, as applicable, and propose two alternative specialists.  
13 The department and the parent, legal guardian, or attorney, as  
14 applicable, shall collaborate in good faith to select an acceptable  
15 specialist from the proposed specialists.

16       (e) This section may not be construed to prohibit a child's  
17 parent or legal guardian or, if represented by an attorney, the  
18 attorney of the parent or legal guardian from otherwise obtaining  
19 an alternative opinion at the parent's, legal guardian's, or  
20 attorney's, as applicable, own initiative and expense.

21       SECTION 2. Subchapter D, Chapter 261, Family Code, is  
22 amended by adding Section 261.30175 to read as follows:

23       Sec. 261.30175. MITIGATION OF PROVIDER CONFLICTS IN ABUSE  
24 OR NEGLECT INVESTIGATION CONSULTATIONS. (a) In this section:

25               (1) "Forensic assessment" means a medical  
26 examination, psychosocial evaluation, medical case review,  
27 specialty evaluation, or other forensic evaluation service

1 conducted by a physician in connection with any investigation of a  
2 suspected case of abuse or neglect for the primary purpose of  
3 providing the department, law enforcement, or the court with expert  
4 advice, recommendations, or testimony on the case.

5 (2) "Health care practitioner" means an individual  
6 licensed, certified, or otherwise authorized to administer health  
7 care services in the ordinary course of business or professional  
8 practice. The term includes a physician, medical student, resident  
9 physician, child abuse fellow, advanced practice registered nurse,  
10 nurse, and physician assistant.

11 (3) "Network" has the meaning assigned by Section  
12 261.3017, as added by Chapter 502 (H.B. 2848), Acts of the 85th  
13 Legislature, Regular Session, 2017.

14 (4) "System" has the meaning assigned by Section  
15 261.3017, as added by Chapter 502 (H.B. 2848), Acts of the 85th  
16 Legislature, Regular Session, 2017.

17 (b) A health care practitioner who reports suspected abuse  
18 or neglect of a child may not provide forensic assessment services  
19 in connection with an investigation resulting from the report.  
20 This subsection applies regardless of whether the practitioner is a  
21 member of the network or system.

22 (c) When referring a case for forensic assessment, the  
23 department shall refer the case to a physician authorized to  
24 practice medicine in this state under Subtitle B, Title 3,  
25 Occupations Code, who was not involved with the report of suspected  
26 abuse or neglect.

27 (d) This section may not be construed to:

1           (1) prohibit the department from interviewing the  
2 health care practitioner in the practitioner's capacity as a  
3 principal or collateral source; or

4           (2) otherwise restrict the department's ability to  
5 conduct an investigation as provided by this subchapter.

6           SECTION 3. This Act takes effect September 1, 2019.