

By: Nelson

S.B. No. 821

A BILL TO BE ENTITLED

AN ACT

relating to children's advocacy centers.

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

SECTION 1. Section 264.402, Family Code, is amended to read as follows:

Sec. 264.402. ESTABLISHMENT OF CHILDREN'S ADVOCACY CENTER. On the execution of a memorandum of understanding under Section 264.403, a children's advocacy center may be established by community members and the participating agencies ~~[entities]~~ described by Section 264.403(a) to serve a county or two or more contiguous counties in which a center has not been established.

SECTION 2. Section 264.403, Family Code, is amended to read as follows:

Sec. 264.403. INTERAGENCY MEMORANDUM OF UNDERSTANDING. (a) A ~~[Before a]~~ center shall enter into ~~[may be established under Section 264.402,]~~ a memorandum of understanding regarding participation in the multidisciplinary team response under Section 264.406. The center and each of the following agencies ~~[operation of the center]~~ must execute the memorandum of understanding ~~[be executed among]~~:

- (1) ~~[the division of]~~ the department responsible for child abuse and neglect investigations;
- (2) each ~~[representatives of]~~ county and municipal law enforcement agency with jurisdiction to ~~[agencies that]~~

1 investigate child abuse and neglect in the area to be served by the
2 center; and

3 (3) each [~~the~~] county or district attorney with
4 jurisdiction to prosecute [~~who routinely prosecutes~~] child abuse
5 and neglect cases in the area to be served by the center [~~, and~~

6 [~~(4) a representative of any other governmental entity~~
7 ~~that participates in child abuse investigations or offers services~~
8 ~~to child abuse victims that desires to participate in the operation~~
9 ~~of the center~~].

10 (b) A memorandum of understanding executed under this
11 section shall include the agreement of each participating agency
12 [~~entity~~] to cooperate in:

13 (1) minimizing the revictimization of alleged abuse
14 and neglect victims and nonoffending family members through the
15 investigation, assessment, intervention, and prosecution
16 processes; and

17 (2) maintaining [~~developing~~] a cooperative [~~,~~] team
18 approach to facilitate successful outcomes in the criminal justice
19 and [~~investigating~~] child protection systems through shared
20 fact-finding and strong, collaborative case development [~~abuse,~~

21 [~~(2) reducing, to the greatest extent possible, the~~
22 ~~number of interviews required of a victim of child abuse to minimize~~
23 ~~the negative impact of the investigation on the child, and~~

24 [~~(3) developing, maintaining, and supporting, through~~
25 ~~the center, an environment that emphasizes the best interests of~~
26 ~~children and that provides investigatory and rehabilitative~~
27 ~~services~~].

1 (c) The [A] memorandum of understanding must be reexecuted:

2 (1) at least every three years;

3 (2) on a significant change to the memorandum of
4 understanding; [executed under this section may include the
5 agreement of one] or

6 (3) on a change of a signatory of a [more]
7 participating agency [entities to provide office space and
8 administrative services necessary for the center's operation].

9 SECTION 3. Subchapter E, Chapter 264, Family Code, is
10 amended by adding Section 264.4031 to read as follows:

11 Sec. 264.4031. MULTIDISCIPLINARY TEAM WORKING PROTOCOL.

12 (a) A center shall adopt a multidisciplinary team working
13 protocol. The working protocol must include:

14 (1) the center's mission statement;

15 (2) the role of each participating agency on the
16 multidisciplinary team and the agency's commitment to the center;

17 (3) specific criteria for referral of cases for a
18 multidisciplinary team response and specific criteria for the
19 referral and provision of each service provided by the center;

20 (4) processes and general procedures for:

21 (A) the intake of cases, including direct
22 referrals from participating agencies described by Section
23 264.403(a) and reports from the department that involve the
24 suspected abuse or neglect of a child or the death of a child from
25 abuse or neglect;

26 (B) the availability outside scheduled business
27 hours of a multidisciplinary team response to cases and provision

1 of necessary center services;

2 (C) information sharing to ensure the timely
3 exchange of relevant information;

4 (D) forensic interviews;

5 (E) family and victim advocacy;

6 (F) medical evaluations and medical treatment;

7 (G) mental health evaluations and mental health
8 treatment;

9 (H) multidisciplinary team case review; and

10 (I) case tracking; and

11 (5) provisions for addressing conflicts within the
12 multidisciplinary team and for maintaining the confidentiality of
13 information shared among members of the multidisciplinary team.

14 (b) The working protocol must be executed by the
15 participating agencies required to enter into the memorandum of
16 understanding under Section 264.403.

17 (c) The working protocol must be reexecuted:

18 (1) at least every three years;

19 (2) on a significant change to the working protocol;

20 or

21 (3) on a change of a signatory of a participating
22 agency.

23 SECTION 4. Section 264.404, Family Code, is amended by
24 amending Subsection (a) and adding Subsection (c) to read as
25 follows:

26 (a) In addition to any other persons appointed or elected to
27 serve on the governing board of a [~~children's advocacy~~] center, the

1 governing board must include an executive officer of, or an
2 employee with decision-making authority selected by an executive
3 officer of:

4 (1) the department responsible for child abuse and
5 neglect investigations;

6 (2) a law enforcement agency with jurisdiction to
7 investigate [~~that investigates~~] child abuse and neglect in the area
8 served by the center;

9 [~~(2) the child protective services division of the~~
10 ~~department,~~] and

11 (3) the county or district attorney's office with
12 jurisdiction to prosecute [~~involved in the prosecution of~~] child
13 abuse and neglect cases in the area served by the center.

14 (c) The governing board members required under Subsection
15 (a) may not constitute a majority of the membership of a center's
16 governing board.

17 SECTION 5. Section 264.405, Family Code, is amended to read
18 as follows:

19 Sec. 264.405. CENTER DUTIES. (a) A center shall:

20 (1) receive, review, and track department reports
21 relating to the suspected abuse or neglect of a child or the death
22 of a child from abuse or neglect to ensure a consistent,
23 comprehensive approach to all cases that meet the criteria outlined
24 in the multidisciplinary team working protocol adopted under
25 Section 264.4031;

26 (2) coordinate the activities of participating
27 agencies relating to abuse and neglect investigations and delivery

1 of services to alleged abuse and neglect victims and their
2 families;

3 (3) facilitate assessment of alleged abuse or neglect
4 ~~[assess]~~ victims ~~[of child abuse]~~ and their families to determine
5 their need for services relating to the investigation of ~~[child]~~
6 abuse or neglect and~~[+~~

7 ~~[(2)]~~ provide needed services ~~[determined to be needed~~
8 ~~under Subdivision (1)]; and~~

9 (4) comply with the standards adopted under Section
10 264.409(c).

11 (b) A center shall ~~[(3)]~~ provide:

12 (1) facilitation of a multidisciplinary team response
13 to abuse or neglect allegations;

14 (2) a formal process that requires the
15 multidisciplinary team to routinely discuss and share information
16 regarding investigations, case status, and services needed by
17 children and families;

18 (3) a system to monitor the progress and track the
19 outcome of each case;

20 (4) a child-focused setting that is comfortable,
21 private, and physically and psychologically safe for diverse
22 populations ~~[a facility]~~ at which a multidisciplinary team
23 ~~[appointed under Section 264.406]~~ can meet to facilitate the
24 efficient and appropriate disposition of ~~[child]~~ abuse and neglect
25 cases through the civil and criminal justice systems;

26 (5) culturally competent services for children and
27 families throughout the duration of a case;

1 (6) victim support and advocacy services for children
2 and families;

3 (7) forensic interviews that are conducted in a
4 neutral, fact-finding manner and coordinated to avoid duplicative
5 interviewing;

6 (8) access to specialized medical evaluations and
7 treatment services for victims of alleged abuse or neglect;

8 (9) evidence-based, trauma-focused mental health
9 services for children and nonoffending members of the child's
10 family; and

11 (10) opportunities for community involvement through
12 a formalized volunteer program dedicated to supporting the center
13 [~~(4) coordinate the activities of governmental entities relating~~
14 ~~to child abuse investigations and delivery of services to child~~
15 ~~abuse victims and their families].~~

16 (c) The duties prescribed to a center under Subsection
17 (a)(1) do not relieve the department or a law enforcement agency of
18 its duty to investigate a report of abuse or neglect as required by
19 other law.

20 SECTION 6. Section 264.406, Family Code, is amended to read
21 as follows:

22 Sec. 264.406. MULTIDISCIPLINARY TEAM. (a) A center's
23 multidisciplinary team must include employees of the participating
24 agencies described by Section 264.403(a) [~~who are professionals~~
25 ~~involved in the investigation or prosecution of child abuse cases)].~~

26 (b) A representative of any other entity may participate in
27 the multidisciplinary team response as provided by the

1 multidisciplinary team working protocol adopted under Section
2 264.4031 if:

3 (1) the entity participates in or provides the
4 following:

5 (A) child abuse or neglect investigations;

6 (B) abuse or neglect investigations involving
7 persons with a disability;

8 (C) services to alleged child abuse or neglect
9 victims; or

10 (D) services to alleged victims who are persons
11 with a disability;

12 (2) the center and the participating agencies agree in
13 writing to the entity's participation; and

14 (3) the entity signs the memorandum of understanding
15 executed under Section 264.403 and the working protocol adopted
16 under Section 264.4031.

17 (c) [(b)] A [center's] multidisciplinary team shall be
18 actively [may also include professionals] involved in the following
19 [the delivery of services, including medical and mental health
20 services, to child abuse victims and the victims' families.

21 [(c) A] multidisciplinary team response [shall meet at
22 regularly scheduled intervals to]:

23 (1) coordinating [review child abuse cases determined
24 to be appropriate for review by the multidisciplinary team; and

25 [(2) coordinate] the actions of the participating
26 agencies [entities] involved in the investigation and prosecution
27 of [the] cases and the delivery of services to alleged [the child]

1 abuse or neglect victims and the victims' families; and

2 (2) conducting at regularly scheduled intervals
3 multidisciplinary review of appropriate abuse or neglect cases as
4 provided by the working protocol adopted under Section 264.4031.

5 (d) A multidisciplinary team may review an [~~a child~~] abuse
6 or neglect case in which the alleged perpetrator [~~does not have~~
7 ~~custodial control or supervision of the child or~~] is not a person
8 responsible for a [~~the~~] child's care, custody, or welfare [~~or~~
9 ~~care~~].

10 (e) A [~~When acting in the member's official capacity, a~~]
11 multidisciplinary team member is authorized to share with and
12 receive from other multidisciplinary team members information made
13 confidential by Chapter 552, Government Code, Section 40.005 or
14 48.101, Human Resources Code, or Section 261.201 or 264.408 of this
15 code when acting in the member's official capacity as an employee of
16 a participating agency described by Section 264.403(a) or of
17 another entity described by Subsection (b).

18 SECTION 7. Section 264.4061, Family Code, is amended to
19 read as follows:

20 Sec. 264.4061. MULTIDISCIPLINARY TEAM RESPONSE REQUIRED.

21 (a) The department shall refer a case to a center and the center
22 shall initiate a response by a center's multidisciplinary team
23 appointed under Section 264.406 when conducting an investigation
24 of:

25 (1) a report of abuse or neglect that is made by a
26 professional as defined by Section 261.101 and that:

27 (A) alleges sexual abuse of a child; or

1 (B) is a type of case handled by the center in
2 accordance with the working protocol adopted for the center under
3 Section 264.4031 [~~264.411(a)(9)~~]; or

4 (2) a child fatality in which there are surviving
5 children in the deceased child's household or under the supervision
6 of the caregiver involved in the child fatality.

7 (b) Any interview of a child conducted as part of the
8 investigation under Subsection (a) must be a forensic interview
9 conducted in accordance with the center's working protocol adopted
10 under Section 264.4031 unless a forensic interview is not
11 appropriate based on the child's age and development or the center's
12 working protocol adopted under Section 264.4031.

13 (c) Subsection (a) applies only to an investigation of abuse
14 or neglect in a county served by a center that has executed an
15 interagency memorandum of understanding under Section 264.403. If
16 a county is not served by a center that has executed an interagency
17 memorandum of understanding, the department may, if appropriate,
18 directly refer a case to a center in an adjacent county to initiate
19 a response by that center's multidisciplinary team[~~, if~~
20 ~~appropriate~~].

21 SECTION 8. Section 264.408, Family Code, is amended to read
22 as follows:

23 Sec. 264.408. USE OF INFORMATION AND RECORDS;
24 CONFIDENTIALITY AND OWNERSHIP. (a) The files, reports, records,
25 communications, and working papers used or developed in providing
26 services under this chapter are confidential and not subject to
27 public release under Chapter 552, Government Code, and may only be

1 disclosed for purposes consistent with this chapter. Disclosure
2 may be made to:

3 (1) the department, department employees, law
4 enforcement agencies, prosecuting attorneys, medical
5 professionals, and other state or local agencies that provide
6 services to children and families; and

7 (2) the attorney for the alleged victim [~~child~~] who is
8 the subject of the records and a court-appointed volunteer advocate
9 appointed for the alleged victim [~~child~~] under Section 107.031.

10 (b) Information related to the investigation of a report of
11 abuse or neglect under Chapter 261 and to the services provided as a
12 result of the investigation is confidential as provided by Section
13 261.201.

14 (c) The department, a law enforcement agency, and a
15 prosecuting attorney may share with a center information that is
16 confidential under Section 261.201 as needed to provide services
17 under this chapter. Confidential information shared with or
18 provided to a center remains the property of the agency that shared
19 or provided the information to the center. A request for
20 confidential information provided to the center under this section
21 must be made to the agency that shared or provided the information.

22 (d) An electronic [~~A video~~] recording of an interview with
23 [~~of~~] a child or person with a disability that is made by a center is
24 the property of the prosecuting attorney involved in the criminal
25 prosecution of the case involving the child or person. If no
26 criminal prosecution occurs, the electronic [~~video~~] recording is
27 the property of the attorney involved in representing the

1 department in a civil action alleging [~~child~~] abuse, [or] neglect,
 2 or exploitation. If the matter involving the child or person is not
 3 prosecuted, the electronic [~~video~~] recording is the property of the
 4 department if the matter is an investigation by the department of
 5 abuse, [or] neglect, or exploitation. If the department is not
 6 investigating or has not investigated the matter, the electronic
 7 [~~video~~] recording is the property of the agency that referred the
 8 matter to the center.

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

20 (e) The department shall be allowed access to electronic [~~a~~
 21 ~~center's video~~] recordings of interviews of children or persons
 22 with a disability.

23 SECTION 9. Section 264.409, Family Code, is amended to read
 24 as follows:

25 Sec. 264.409. ADMINISTRATIVE CONTRACTS. (a) The
 26 [~~department or the~~] commission shall contract with one [~~a~~]
 27 statewide organization that is exempt from federal income taxation

1 under Section 501(a), Internal Revenue Code of 1986, as an
2 organization described by Section 501(c)(3) of that code [~~and~~
3 ~~designated as a supporting organization under Section 509(a)(3) of~~
4 ~~that code~~] and that is composed of individuals [~~or groups of~~
5 ~~individuals~~] who have expertise in the establishment and operation
6 of children's advocacy center programs. The statewide organization
7 shall provide training, technical assistance, evaluation services,
8 and funds administration to support contractual requirements under
9 Section 264.411 for local children's advocacy center programs.

10 (b) The [~~If the commission enters into a~~] contract under
11 this section[~~, the contract~~] must provide that the statewide
12 organization may not spend annually in the performance of duties
13 under Subsection (a) more than 12 percent of the annual amount
14 appropriated to the commission for purposes of this section.

15 (c) The statewide organization with which the commission
16 contracts shall develop and adopt standards for children's advocacy
17 centers.

18 SECTION 10. Sections 264.410(a) and (b), Family Code, are
19 amended to read as follows:

20 (a) The statewide organization with which [~~the department~~
21 ~~or~~] the commission contracts under Section 264.409 shall contract
22 [~~for services~~] with eligible centers to establish, maintain, and
23 enhance the [~~existing~~] services provided by the centers [~~of the~~
24 ~~programs~~].

25 (b) The contract under this section may not result in
26 reducing the financial support a [~~local~~] center receives from
27 another source.

1 SECTION 11. Section 264.411, Family Code, is amended to
2 read as follows:

3 Sec. 264.411. ELIGIBILITY FOR CONTRACTS. (a) A public
4 entity that operated as a center under this subchapter before
5 November 1, 1995, or a nonprofit entity is eligible for a contract
6 under Section 264.410 if the entity:

7 (1) has a signed memorandum of understanding as
8 provided by Section 264.403;

9 (2) has a signed working protocol as provided by
10 Section 264.4031;

11 (3) has [~~operates under the authority of~~] a governing
12 board as provided by Section 264.404;

13 (4) [~~(3)~~] has a multidisciplinary team [~~of persons~~
14 ~~involved in the investigation or prosecution of child abuse cases~~
15 ~~or the delivery of services~~] as provided by Section 264.406;

16 (5) [~~(4) holds~~] regularly convenes the
17 multidisciplinary team [~~scheduled case reviews~~] as provided by
18 Section 264.406;

19 [~~(5) operates in a neutral and physically separate~~
20 ~~space from the day-to-day operations of any public agency partner,~~]

21 (6) [~~has developed a method of statistical information~~
22 ~~gathering on children receiving services through the center and~~
23 ~~shares such statistical information with the statewide~~
24 ~~organization, the department, and the commission when requested,~~

25 [~~(7) has an in-house volunteer program,~~

26 [~~(8)~~] employs an executive director who is accountable
27 [~~answerable~~] to the board of directors of the entity and who is not

1 the exclusive salaried employee of any governmental [~~public~~] agency
2 [~~partner~~];

3 [~~(9) operates under a working protocol that includes a~~
4 ~~statement of:~~

5 [~~(A) the center's mission;~~

6 [~~(B) each agency's role and commitment to the~~
7 ~~center;~~

8 [~~(C) the type of cases to be handled by the~~
9 ~~center;~~

10 [~~(D) the center's procedures for conducting case~~
11 ~~reviews and forensic interviews and for ensuring access to~~
12 ~~specialized medical and mental health services; and~~

13 [~~(E) the center's policies regarding~~
14 ~~confidentiality and conflict resolution;]~~ and

15 (7) fulfills the duties required by Section 264.405

16 [~~(10) implements at the center the following program components:~~

17 [~~(A) a case tracking system that monitors~~
18 ~~statistical information on each child and nonoffending family~~
19 ~~member or other caregiver who receives services through the center~~
20 ~~and that includes progress and disposition information for each~~
21 ~~service the multidisciplinary team determines should be provided to~~
22 ~~the client;~~

23 [~~(B) a child-focused setting that is~~
24 ~~comfortable, private, and physically and psychologically safe for~~
25 ~~diverse populations of children and nonoffending family members and~~
26 ~~other caregivers;~~

27 [~~(C) family advocacy and victim support services~~

1 ~~that include comprehensive case management and victim support~~
2 ~~services available to each child and the child's nonoffending~~
3 ~~family members or other caregivers as part of the services the~~
4 ~~multidisciplinary team determines should be provided to a client;~~

5 ~~[(D) forensic interviews conducted in a neutral,~~
6 ~~fact-finding manner and coordinated to avoid duplicative~~
7 ~~interviewing;~~

8 ~~[(E) specialized medical evaluation and~~
9 ~~treatment services that are available to all children who receive~~
10 ~~services through the center and coordinated with the services the~~
11 ~~multidisciplinary team determines should be provided to a child;~~

12 ~~[(F) specialized trauma-focused mental health~~
13 ~~services that are designed to meet the unique needs of child abuse~~
14 ~~victims and the victims' nonoffending family members or other~~
15 ~~caregivers and that are available as part of the services the~~
16 ~~multidisciplinary team determines should be provided to a client;~~
17 ~~and~~

18 ~~[(G) a system to ensure that all services~~
19 ~~available to center clients are culturally competent and diverse~~
20 ~~and are coordinated with the services the multidisciplinary team~~
21 ~~determines should be provided to a client].~~

22 (b) The statewide organization described by Section 264.409
23 may waive the requirements specified in Subsection (a) if it
24 determines that the waiver will not adversely affect a ~~the~~
25 center's ability to carry out its duties under Section 264.405.

26 SECTION 12. Section 264.410(c), Family Code, is repealed.

27 SECTION 13. This Act takes effect September 1, 2019.