

1-1 By: Nelson S.B. No. 821
1-2 (In the Senate - Filed February 13, 2019; March 1, 2019,
1-3 read first time and referred to Committee on Health & Human
1-4 Services; April 1, 2019, reported adversely, with favorable
1-5 Committee Substitute by the following vote: Yeas 8, Nays 0;
1-6 April 1, 2019, sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
1-10	X			
1-11			X	
1-12	X			
1-13	X			
1-14	X			
1-15	X			
1-16	X			
1-17	X			

1-18 COMMITTEE SUBSTITUTE FOR S.B. No. 821 By: Perry

1-19 A BILL TO BE ENTITLED
1-20 AN ACT

1-21 relating to children's advocacy centers.

1-22 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-23 SECTION 1. Section 264.402, Family Code, is amended to read
1-24 as follows:

1-25 Sec. 264.402. ESTABLISHMENT OF CHILDREN'S ADVOCACY CENTER.
1-26 On the execution of a memorandum of understanding under Section
1-27 264.403, a children's advocacy center may be established by
1-28 community members and the participating agencies [~~entities~~]
1-29 described by Section 264.403(a) to serve a county or two or more
1-30 contiguous counties in which a center has not been established.

1-31 SECTION 2. Section 264.403, Family Code, is amended to read
1-32 as follows:

1-33 Sec. 264.403. INTERAGENCY MEMORANDUM OF UNDERSTANDING.
1-34 (a) A [Before a] center shall enter into [may be established under
1-35 Section 264.402,] a memorandum of understanding regarding
1-36 participation in the multidisciplinary team response under Section
1-37 264.406. The center and each of the following agencies [operation
1-38 of the center] must execute the memorandum of understanding [be
1-39 executed among]:

1-40 (1) [the division of] the department responsible for
1-41 child abuse and neglect investigations;

1-42 (2) each [representatives of] county and municipal law
1-43 enforcement agency with jurisdiction to [agencies that]
1-44 investigate child abuse and neglect in the area to be served by the
1-45 center; and

1-46 (3) each [the] county or district attorney with
1-47 jurisdiction to prosecute [who routinely prosecutes] child abuse
1-48 and neglect cases in the area to be served by the center [; and

1-49 [(4) a representative of any other governmental entity
1-50 that participates in child abuse investigations or offers services
1-51 to child abuse victims that desires to participate in the operation
1-52 of the center].

1-53 (b) A memorandum of understanding executed under this
1-54 section shall include the agreement of each participating agency
1-55 [entity] to cooperate in:

1-56 (1) minimizing the revictimization of alleged abuse
1-57 and neglect victims and nonoffending family members through the
1-58 investigation, assessment, intervention, and prosecution
1-59 processes; and

1-60 (2) maintaining [developing] a cooperative[;] team

2-1 approach to facilitate successful outcomes in the criminal justice
 2-2 and [investigating] child protection systems through shared
 2-3 fact-finding and strong, collaborative case development [abuse,
 2-4 [~~(2) reducing, to the greatest extent possible, the~~
 2-5 number of interviews required of a victim of child abuse to minimize
 2-6 the negative impact of the investigation on the child, and
 2-7 [~~(3) developing, maintaining, and supporting, through~~
 2-8 the center, an environment that emphasizes the best interests of
 2-9 children and that provides investigatory and rehabilitative
 2-10 services].

2-11 (c) The [A] memorandum of understanding must be reexecuted:
 2-12 (1) at least every three years;
 2-13 (2) on a significant change to the memorandum of
 2-14 understanding; [executed under this section may include the
 2-15 agreement of one] or
 2-16 (3) on a change of a signatory of a [more]
 2-17 participating agency [entities to provide office space and
 2-18 administrative services necessary for the center's operation].

2-19 SECTION 3. Subchapter E, Chapter 264, Family Code, is
 2-20 amended by adding Section 264.4031 to read as follows:

2-21 Sec. 264.4031. MULTIDISCIPLINARY TEAM WORKING PROTOCOL.
 2-22 (a) A center shall adopt a multidisciplinary team working
 2-23 protocol. The working protocol must include:

2-24 (1) the center's mission statement;
 2-25 (2) the role of each participating agency on the
 2-26 multidisciplinary team and the agency's commitment to the center;
 2-27 (3) specific criteria for referral of cases for a
 2-28 multidisciplinary team response and specific criteria for the
 2-29 referral and provision of each service provided by the center;

2-30 (4) processes and general procedures for:
 2-31 (A) the intake of cases, including direct
 2-32 referrals from participating agencies described by Section
 2-33 264.403(a) and reports from the department that involve the
 2-34 suspected abuse or neglect of a child or the death of a child from
 2-35 abuse or neglect;

2-36 (B) the availability outside scheduled business
 2-37 hours of a multidisciplinary team response to cases and provision
 2-38 of necessary center services;

2-39 (C) information sharing to ensure the timely
 2-40 exchange of relevant information;

2-41 (D) forensic interviews;

2-42 (E) family and victim advocacy;

2-43 (F) medical evaluations and medical treatment;

2-44 (G) mental health evaluations and mental health
 2-45 treatment;

2-46 (H) multidisciplinary team case review; and
 2-47 (I) case tracking; and

2-48 (5) provisions for addressing conflicts within the
 2-49 multidisciplinary team and for maintaining the confidentiality of
 2-50 information shared among members of the multidisciplinary team.

2-51 (b) The working protocol must be executed by the
 2-52 participating agencies required to enter into the memorandum of
 2-53 understanding under Section 264.403.

2-54 (c) The working protocol must be reexecuted:

2-55 (1) at least every three years;

2-56 (2) on a significant change to the working protocol;

2-57 or
 2-58 (3) on a change of a signatory of a participating
 2-59 agency.

2-60 SECTION 4. Section 264.404, Family Code, is amended by
 2-61 amending Subsection (a) and adding Subsection (c) to read as
 2-62 follows:

2-63 (a) In addition to any other persons appointed or elected to
 2-64 serve on the governing board of a [~~children's advocacy~~] center, the
 2-65 governing board must include an executive officer of, or an
 2-66 employee with decision-making authority selected by an executive
 2-67 officer of:

2-68 (1) the department responsible for child abuse and
 2-69 neglect investigations;

3-1 (2) a law enforcement agency with jurisdiction to
 3-2 investigate [~~that investigates~~] child abuse and neglect in the area
 3-3 served by the center;

3-4 [~~(2) the child protective services division of the~~
 3-5 ~~department,~~] and

3-6 (3) the county or district attorney's office with
 3-7 jurisdiction to prosecute [~~involved in the prosecution of~~] child
 3-8 abuse and neglect cases in the area served by the center.

3-9 (c) The governing board members required under Subsection
 3-10 (a) may not constitute a majority of the membership of a center's
 3-11 governing board.

3-12 SECTION 5. Section 264.405, Family Code, is amended to read
 3-13 as follows:

3-14 Sec. 264.405. CENTER DUTIES. (a) A center shall:

3-15 (1) receive, review, and track department reports
 3-16 relating to the suspected abuse or neglect of a child or the death
 3-17 of a child from abuse or neglect to ensure a consistent,
 3-18 comprehensive approach to all cases that meet the criteria outlined
 3-19 in the multidisciplinary team working protocol adopted under
 3-20 Section 264.4031;

3-21 (2) coordinate the activities of participating
 3-22 agencies relating to abuse and neglect investigations and delivery
 3-23 of services to alleged abuse and neglect victims and their
 3-24 families;

3-25 (3) facilitate assessment of alleged abuse or neglect
 3-26 [~~assess~~] victims [~~of child abuse~~] and their families to determine
 3-27 their need for services relating to the investigation of [~~child~~]
 3-28 abuse or neglect and [~~+~~

3-29 [~~(2)~~] provide needed services [~~determined to be needed~~
 3-30 ~~under Subdivision (1)~~]; and

3-31 (4) comply with the standards adopted under Section
 3-32 264.409(c).

3-33 (b) A center shall [~~(3)~~] provide:

3-34 (1) facilitation of a multidisciplinary team response
 3-35 to abuse or neglect allegations;

3-36 (2) a formal process that requires the
 3-37 multidisciplinary team to routinely discuss and share information
 3-38 regarding investigations, case status, and services needed by
 3-39 children and families;

3-40 (3) a system to monitor the progress and track the
 3-41 outcome of each case;

3-42 (4) a child-focused setting that is comfortable,
 3-43 private, and physically and psychologically safe for diverse
 3-44 populations [~~a facility~~] at which a multidisciplinary team
 3-45 [~~appointed under Section 264.406~~] can meet to facilitate the
 3-46 efficient and appropriate disposition of [~~child~~] abuse and neglect
 3-47 cases through the civil and criminal justice systems;

3-48 (5) culturally competent services for children and
 3-49 families throughout the duration of a case;

3-50 (6) victim support and advocacy services for children
 3-51 and families;

3-52 (7) forensic interviews that are conducted in a
 3-53 neutral, fact-finding manner and coordinated to avoid duplicative
 3-54 interviewing;

3-55 (8) access to specialized medical evaluations and
 3-56 treatment services for victims of alleged abuse or neglect;

3-57 (9) evidence-based, trauma-focused mental health
 3-58 services for children and nonoffending members of the child's
 3-59 family; and

3-60 (10) opportunities for community involvement through
 3-61 a formalized volunteer program dedicated to supporting the center
 3-62 [~~(4) coordinate the activities of governmental entities relating~~
 3-63 ~~to child abuse investigations and delivery of services to child~~
 3-64 ~~abuse victims and their families].~~

3-65 (c) The duties prescribed to a center under Subsection
 3-66 (a)(1) do not relieve the department or a law enforcement agency of
 3-67 its duty to investigate a report of abuse or neglect as required by
 3-68 other law.

3-69 SECTION 6. Section 264.406, Family Code, is amended to read

4-1 as follows:

4-2 Sec. 264.406. MULTIDISCIPLINARY TEAM. (a) A center's
4-3 multidisciplinary team must include employees of the participating
4-4 agencies described by Section 264.403(a) [who are professionals
4-5 involved in the investigation or prosecution of child abuse cases].

4-6 (b) A representative of any other entity may participate in
4-7 the multidisciplinary team response as provided by the
4-8 multidisciplinary team working protocol adopted under Section
4-9 264.4031 if:

4-10 (1) the entity participates in or provides the
4-11 following:

4-12 (A) child abuse or neglect investigations;

4-13 (B) abuse or neglect investigations involving
4-14 persons with a disability;

4-15 (C) services to alleged child abuse or neglect
4-16 victims; or

4-17 (D) services to alleged victims who are persons
4-18 with a disability;

4-19 (2) the center and the participating agencies agree in
4-20 writing to the entity's participation; and

4-21 (3) the entity signs the memorandum of understanding
4-22 executed under Section 264.403 and the working protocol adopted
4-23 under Section 264.4031.

4-24 (c) [~~(b)~~] A [center's] multidisciplinary team shall be
4-25 actively [may also include professionals] involved in the following
4-26 [the delivery of services, including medical and mental health
4-27 services, to child abuse victims and the victims' families.

4-28 [~~(c)~~—A] multidisciplinary team response [shall meet at
4-29 regularly scheduled intervals to]:

4-30 (1) coordinating [review child abuse cases determined
4-31 to be appropriate for review by the multidisciplinary team; and

4-32 [~~(2)~~—coordinate] the actions of the participating
4-33 agencies [entities] involved in the investigation and prosecution
4-34 of [the] cases and the delivery of services to alleged [the child]
4-35 abuse or neglect victims and the victims' families; and

4-36 (2) conducting at regularly scheduled intervals
4-37 multidisciplinary review of appropriate abuse or neglect cases as
4-38 provided by the working protocol adopted under Section 264.4031.

4-39 (d) A multidisciplinary team may review an [a child] abuse
4-40 or neglect case in which the alleged perpetrator [does not have
4-41 custodial control or supervision of the child or] is not a person
4-42 responsible for a [the] child's care, custody, or welfare [or
4-43 care].

4-44 (e) A [When acting in the member's official capacity, a]
4-45 multidisciplinary team member is authorized to share with and
4-46 receive from other multidisciplinary team members information made
4-47 confidential by Chapter 552, Government Code, Section 40.005 or
4-48 48.101, Human Resources Code, or Section 261.201 or 264.408 of this
4-49 code when acting in the member's official capacity as an employee of
4-50 a participating agency described by Section 264.403(a) or of
4-51 another entity described by Subsection (b).

4-52 SECTION 7. Section 264.4061, Family Code, is amended to
4-53 read as follows:

4-54 Sec. 264.4061. MULTIDISCIPLINARY TEAM RESPONSE REQUIRED.

4-55 (a) The department shall refer a case to a center and the center
4-56 shall initiate a response by a center's multidisciplinary team
4-57 appointed under Section 264.406 when conducting an investigation
4-58 of:

4-59 (1) a report of abuse or neglect that is made by a
4-60 professional as defined by Section 261.101 and that:

4-61 (A) alleges sexual abuse of a child; or

4-62 (B) is a type of case handled by the center in
4-63 accordance with the working protocol adopted for the center under
4-64 Section 264.4031 [~~264.411(a)(9)~~]; or

4-65 (2) a child fatality in which there are surviving
4-66 children in the deceased child's household or under the supervision
4-67 of the caregiver involved in the child fatality.

4-68 (b) Any interview of a child conducted as part of the
4-69 investigation under Subsection (a) must be a forensic interview

5-1 conducted in accordance with the center's working protocol adopted
 5-2 under Section 264.4031 unless a forensic interview is not
 5-3 appropriate based on the child's age and development or the center's
 5-4 working protocol adopted under Section 264.4031.

5-5 (c) Subsection (a) applies only to an investigation of abuse
 5-6 or neglect in a county served by a center that has executed an
 5-7 interagency memorandum of understanding under Section 264.403. If
 5-8 a county is not served by a center that has executed an interagency
 5-9 memorandum of understanding, the department may, if appropriate,
 5-10 directly refer a case to a center in an adjacent county to initiate
 5-11 a response by that center's multidisciplinary team [~~if~~
 5-12 appropriate].

5-13 SECTION 8. Section 264.408, Family Code, is amended to read
 5-14 as follows:

5-15 Sec. 264.408. USE OF INFORMATION AND RECORDS;
 5-16 CONFIDENTIALITY AND OWNERSHIP. (a) The files, reports, records,
 5-17 communications, and working papers used or developed in providing
 5-18 services under this chapter are confidential and not subject to
 5-19 public release under Chapter 552, Government Code, and may only be
 5-20 disclosed for purposes consistent with this chapter. Disclosure
 5-21 may be made to:

5-22 (1) the department, department employees, law
 5-23 enforcement agencies, prosecuting attorneys, medical
 5-24 professionals, and other state or local agencies that provide
 5-25 services to children and families; and

5-26 (2) the attorney for the alleged victim [~~child~~] who is
 5-27 the subject of the records and a court-appointed volunteer advocate
 5-28 appointed for the alleged victim [~~child~~] under Section 107.031.

5-29 (b) Information related to the investigation of a report of
 5-30 abuse or neglect under Chapter 261 and to the services provided as a
 5-31 result of the investigation is confidential as provided by Section
 5-32 261.201.

5-33 (c) The department, a law enforcement agency, and a
 5-34 prosecuting attorney may share with a center information that is
 5-35 confidential under Section 261.201 as needed to provide services
 5-36 under this chapter. Confidential information shared with or
 5-37 provided to a center remains the property of the agency that shared
 5-38 or provided the information to the center. A request for
 5-39 confidential information provided to the center under this section
 5-40 must be made to the agency that shared or provided the information.

5-41 (d) An electronic [~~A video~~] recording of an interview with
 5-42 [~~of~~] a child or person with a disability that is made by a center is
 5-43 the property of the prosecuting attorney involved in the criminal
 5-44 prosecution of the case involving the child or person. If no
 5-45 criminal prosecution occurs, the electronic [~~video~~] recording is
 5-46 the property of the attorney involved in representing the
 5-47 department in a civil action alleging [~~child~~] abuse, [or] neglect,
 5-48 or exploitation. If the matter involving the child or person is not
 5-49 prosecuted, the electronic [~~video~~] recording is the property of the
 5-50 department if the matter is an investigation by the department of
 5-51 abuse, [~~or~~] neglect, or exploitation. If the department is not
 5-52 investigating or has not investigated the matter, the electronic
 5-53 [~~video~~] recording is the property of the agency that referred the
 5-54 matter to the center.

5-55 (d-1) An electronic [~~A video~~] recording of an interview
 5-56 described by Subsection (d) is subject to production under Article
 5-57 39.14, Code of Criminal Procedure, and Rule 615, Texas Rules of
 5-58 Evidence. A court shall deny any request by a defendant to copy,
 5-59 photograph, duplicate, or otherwise reproduce an electronic [~~a~~
 5-60 ~~video~~] recording of an interview described by Subsection (d),
 5-61 provided that the prosecuting attorney makes the electronic [~~video~~]
 5-62 recording reasonably available to the defendant in the same manner
 5-63 as property or material may be made available to defendants,
 5-64 attorneys, and expert witnesses under Article 39.15(d), Code of
 5-65 Criminal Procedure.

5-66 (e) The department shall be allowed access to electronic [~~a~~
 5-67 ~~center's video~~] recordings of interviews of children or persons
 5-68 with a disability.

5-69 SECTION 9. Section 264.409, Family Code, is amended to read

6-1 as follows:

6-2 Sec. 264.409. ADMINISTRATIVE CONTRACTS. (a) The
 6-3 ~~[department or the]~~ commission shall contract with one ~~[a]~~
 6-4 statewide organization that is exempt from federal income taxation
 6-5 under Section 501(a), Internal Revenue Code of 1986, as an
 6-6 organization described by Section 501(c)(3) of that code ~~[and~~
 6-7 ~~designated as a supporting organization under Section 509(a)(3) of~~
 6-8 ~~that code]~~ and that is composed of individuals ~~[or groups of~~
 6-9 ~~individuals]~~ who have expertise in the establishment and operation
 6-10 of children's advocacy center programs. The statewide organization
 6-11 shall provide training, technical assistance, evaluation services,
 6-12 and funds administration to support contractual requirements under
 6-13 Section 264.411 for local children's advocacy center programs.

6-14 (b) The ~~[If the commission enters into a]~~ contract under
 6-15 this section~~[, the contract]~~ must provide that the statewide
 6-16 organization may not spend annually in the performance of duties
 6-17 under Subsection (a) more than 12 percent of the annual amount
 6-18 appropriated to the commission for purposes of this section.

6-19 (c) The statewide organization with which the commission
 6-20 contracts shall develop and adopt standards for children's advocacy
 6-21 centers.

6-22 SECTION 10. Sections 264.410(a) and (b), Family Code, are
 6-23 amended to read as follows:

6-24 (a) The statewide organization with which ~~[the department~~
 6-25 ~~or]~~ the commission contracts under Section 264.409 shall contract
 6-26 ~~[for services]~~ with eligible centers to establish, maintain, and
 6-27 enhance the [existing] services provided by the centers ~~[of the~~
 6-28 ~~programs].~~

6-29 (b) The contract under this section may not result in
 6-30 reducing the financial support a ~~[local]~~ center receives from
 6-31 another source.

6-32 SECTION 11. Section 264.411, Family Code, is amended to
 6-33 read as follows:

6-34 Sec. 264.411. ELIGIBILITY FOR CONTRACTS. (a) A public
 6-35 entity that operated as a center under this subchapter before
 6-36 November 1, 1995, or a nonprofit entity is eligible for a contract
 6-37 under Section 264.410 if the entity:

6-38 (1) has a signed memorandum of understanding as
 6-39 provided by Section 264.403;

6-40 (2) has a signed working protocol as provided by
 6-41 Section 264.4031;

6-42 (3) has ~~[operates under the authority of]~~ a governing
 6-43 board as provided by Section 264.404;

6-44 (4) ~~[(3)]~~ has a multidisciplinary team ~~[of persons~~
 6-45 ~~involved in the investigation or prosecution of child abuse cases~~
 6-46 ~~or the delivery of services]~~ as provided by Section 264.406;

6-47 (5) ~~[(4) holds]~~ regularly convenes the
 6-48 multidisciplinary team ~~[scheduled case reviews]~~ as provided by
 6-49 Section 264.406;

6-50 (5) ~~operates in a neutral and physically separate~~
 6-51 ~~space from the day-to-day operations of any public agency partner;~~

6-52 (6) ~~[has developed a method of statistical information~~
 6-53 ~~gathering on children receiving services through the center and~~
 6-54 ~~shares such statistical information with the statewide~~
 6-55 ~~organization, the department, and the commission when requested;~~

6-56 (7) ~~has an in-house volunteer program;~~

6-57 (8) employs an executive director who is accountable
 6-58 [answerable] to the board of directors of the entity and who is not
 6-59 the exclusive salaried employee of any governmental [public] agency
 6-60 [partner];

6-61 (9) ~~operates under a working protocol that includes a~~
 6-62 ~~statement of:~~

6-63 (A) ~~the center's mission;~~

6-64 (B) ~~each agency's role and commitment to the~~
 6-65 ~~center;~~

6-66 (C) ~~the type of cases to be handled by the~~
 6-67 ~~center;~~

6-68 (D) ~~the center's procedures for conducting case~~
 6-69 ~~reviews and forensic interviews and for ensuring access to~~

7-1 ~~specialized medical and mental health services, and~~
7-2 ~~[(E) the center's policies regarding~~
7-3 ~~confidentiality and conflict resolution,] and~~
7-4 ~~(7) fulfills the duties required by Section 264.405~~
7-5 ~~[(10) implements at the center the following program components:~~
7-6 ~~[(A) a case tracking system that monitors~~
7-7 ~~statistical information on each child and nonoffending family~~
7-8 ~~member or other caregiver who receives services through the center~~
7-9 ~~and that includes progress and disposition information for each~~
7-10 ~~service the multidisciplinary team determines should be provided to~~
7-11 ~~the client;~~
7-12 ~~[(B) a child-focused setting that is~~
7-13 ~~comfortable, private, and physically and psychologically safe for~~
7-14 ~~diverse populations of children and nonoffending family members and~~
7-15 ~~other caregivers;~~
7-16 ~~[(C) family advocacy and victim support services~~
7-17 ~~that include comprehensive case management and victim support~~
7-18 ~~services available to each child and the child's nonoffending~~
7-19 ~~family members or other caregivers as part of the services the~~
7-20 ~~multidisciplinary team determines should be provided to a client;~~
7-21 ~~[(D) forensic interviews conducted in a neutral,~~
7-22 ~~fact-finding manner and coordinated to avoid duplicative~~
7-23 ~~interviewing;~~
7-24 ~~[(E) specialized medical evaluation and~~
7-25 ~~treatment services that are available to all children who receive~~
7-26 ~~services through the center and coordinated with the services the~~
7-27 ~~multidisciplinary team determines should be provided to a child;~~
7-28 ~~[(F) specialized trauma-focused mental health~~
7-29 ~~services that are designed to meet the unique needs of child abuse~~
7-30 ~~victims and the victims' nonoffending family members or other~~
7-31 ~~caregivers and that are available as part of the services the~~
7-32 ~~multidisciplinary team determines should be provided to a client;~~
7-33 ~~and~~
7-34 ~~[(G) a system to ensure that all services~~
7-35 ~~available to center clients are culturally competent and diverse~~
7-36 ~~and are coordinated with the services the multidisciplinary team~~
7-37 ~~determines should be provided to a client].~~

7-38 (b) The statewide organization described by Section 264.409
7-39 may waive the requirements specified in Subsection (a) if it
7-40 determines that the waiver will not adversely affect a [the]
7-41 center's ability to carry out its duties under Section 264.405.

7-42 SECTION 12. Section 264.410(c), Family Code, is repealed.

7-43 SECTION 13. This Act takes effect September 1, 2019.

7-44 * * * * *