

## **BILL ANALYSIS**

C.S.H.B. 2298  
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Human Services  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Every parent in Texas deserves to know the law, especially when it involves their children. Currently, there are few safeguards in place to ensure that parents have the information they deserve regarding their rights while being investigated by the Department of Family and Protective Services (DFPS) for potential abuse or neglect of their children. It has been suggested that the state should implement a system to advise parents of those rights, akin to Miranda warnings, which have stood as a pillar of protecting civil rights in law enforcement interactions for decades. C.S.H.B. 2298 seeks to address this issue by requiring DFPS to provide verbal and written notification of certain rights to a parent or other person having legal custody of a child upon the initiation of an investigation.

### **CRIMINAL JUSTICE IMPACT**

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

C.S.H.B. 2298 amends the Family Code to require the Department of Family and Protective Services (DFPS), after initiating an investigation of a parent or other person having legal custody of a child for potential child abuse or neglect, to provide to the person upon first contact with that person a verbal and written notification of the right to:

- not speak with any DFPS agent without legal counsel present;
- assistance by an attorney;
- have a court-appointed attorney if the person is indigent;
- openly or secretly record any interaction or interview to which the person is a party subject to the understanding that the recording may be subject to disclosure to DFPS, law enforcement, or another party under a court order;
- request and receive a copy of the current DFPS recording policy;
- refuse to allow the investigator to enter the home or interview the children without legal counsel present;
- withhold consent to the release of any medical or mental health records;
- withhold consent to any medical or psychological examination of the child;
- refuse to submit to a drug test;
- consult with legal counsel prior to agreeing to any proposed voluntary safety plan;
- be notified of and attend any court hearings related to or arising from the investigation;
- and
- on request, have an interpreter.

The bill requires the written summary of information DFPS provides to the person to include each of those rights and requires the written summary also to be provided upon first contact, rather than as soon as possible after initiating the investigation as is currently required. The bill requires DFPS to adopt a form for the purpose of verifying that the person received the verbal notification and written summary.

#### **EFFECTIVE DATE**

September 1, 2021.

#### **COMPARISON OF ORIGINAL AND SUBSTITUTE**

While C.S.H.B. 2298 may differ from the original in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

Whereas the original only required the notification of each listed right to be provided verbally, the substitute requires the notification to also be provided in written form. With respect to those rights, the substitute makes the following changes to the original's provisions:

- limits the interactions or interviews which the person has a right to record to those to which the person is a party and specifies that the recording may be made openly or secretly;
- includes as an additional right not in the original the right to request and receive a copy of the current DFPS recording policy; and
- provides that there is a right to have an interpreter on request, whereas the original provided that there is a right to an interpreter if the person does not speak English.