

By: Gates

H.B. No. 1098

A BILL TO BE ENTITLED

AN ACT

relating to reports of child abuse or neglect and certain preliminary investigations of those reports.

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

SECTION 1. Section 261.104, Family Code, is amended to read as follows:

Sec. 261.104. CONTENTS OF REPORT; NOTICE. (a) The person making a report shall identify, if known:

(1) the name and address of the child;

(2) the name and address of the person responsible for the care, custody, or welfare of the child; ~~and~~

(3) the facts that caused the person to believe the child has been abused or neglected and the source of the information;

(4) the person's name and telephone number;

(5) the person's:

(A) home address; or

(B) if the person is a professional as defined by Section 261.101(b), the person's business address and profession;
and

(6) any other pertinent information concerning the alleged or suspected abuse or neglect.

(b) If the person making a report of child abuse or neglect uses the toll-free telephone number operated by the department for

1 reporting child abuse or neglect and the person is unwilling to
2 provide the information described by Subsection (a)(4), the
3 department representative receiving the report shall notify the
4 person that:

5 (1) the department is not authorized to accept an
6 anonymous report of abuse or neglect; and

7 (2) the person may report the abuse or neglect by
8 calling 9-1-1 or making a report to any local or state law
9 enforcement agency.

10 (c) The department representative or other person receiving
11 a report of child abuse or neglect shall use the person's best
12 efforts to obtain the information described by Subsection (a).

13 (d) If a report of abuse or neglect is made orally, the
14 department representative or other person receiving the report
15 shall:

16 (1) notify the person making the report that:

17 (A) the report is being recorded; and

18 (B) making a false report is a criminal offense
19 under Section 261.107 punishable as a state jail felony or a third
20 degree felony; and

21 (2) make an audio recording of the report.

22 SECTION 2. Section 261.304, Family Code, is amended to read
23 as follows:

24 Sec. 261.304. PRELIMINARY INVESTIGATION OF ANONYMOUS
25 REPORT. (a) If an individual makes [~~the department receives~~] an
26 anonymous report of child abuse or neglect by a person responsible
27 for a child's care, custody, or welfare to a 9-1-1 service or a

1 local or state law enforcement agency and the service or agency
2 refers the report to the department, the department shall conduct a
3 preliminary investigation to determine whether there is any
4 evidence to corroborate the report. A law enforcement officer may
5 not accompany the department representative on a visit to the
6 child's home during any preliminary investigation conducted under
7 this section.

8 (b) A preliminary [~~An~~] investigation conducted under this
9 section may include:

10 (1) a visit to the child's home, unless the alleged
11 abuse or neglect is [~~can be~~] confirmed or clearly ruled out without
12 a home visit;

13 (2) [~~r~~] an interview with and examination of the
14 child;

15 (3) [~~, and~~] an interview with the child's parents; and

16 (4) an [~~. In addition, the department may~~] interview
17 with any other person the department believes may have relevant
18 information, if the person voluntarily consents to the interview
19 without any coercion or undue influence.

20 (b-1) When conducting a preliminary investigation under
21 this section, the department representative may not:

22 (1) enter the child's home without the homeowner's
23 consent;

24 (2) interview the child or the child's parents or
25 examine the child unless the representative obtains written consent
26 for the interview or examination from the child's parents; or

27 (3) threaten or coerce a parent to consent to an

1 interview or examination under this section, including by notifying
2 the parents that law enforcement will be called if the parents fail
3 to cooperate with the investigation.

4 (b-2) When interviewing or examining a child under this
5 section, the department representative may not separate the child
6 from the child's parents. An examination of a child under this
7 section may only be visual. The representative may not touch or
8 disrobe the child when conducting the examination.

9 (c) Unless the department determines that there is
10 sufficient ~~some~~ evidence to corroborate the report of abuse, the
11 department may not conduct the thorough investigation required by
12 this chapter or take any action against the person accused of abuse.

13 SECTION 3. This Act takes effect September 1, 2021.