

By: Cason, Hull, Krause, Dutton, et al.

H.B. No. 2298

Substitute the following for H.B. No. 2298:

By: Frank

C.S.H.B. No. 2298

A BILL TO BE ENTITLED

1 AN ACT

2 relating to notifying an alleged perpetrator of child abuse or
3 neglect of the person's rights in connection with an investigation
4 conducted by the Department of Family and Protective Services.

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

6 SECTION 1. Section 261.307, Family Code, is amended to read
7 as follows:

8 Sec. 261.307. INFORMATION RELATING TO INVESTIGATION
9 PROCEDURE AND CHILD PLACEMENT RESOURCES. (a) After [~~As soon as~~
10 ~~possible after~~] initiating an investigation of a parent or other
11 person having legal custody of a child, the department shall, upon
12 first contact with the person, provide to the person:

13 (1) a summary that:

14 (A) is brief and easily understood;

15 (B) is written in a language that the person
16 understands, or if the person is illiterate, is read to the person
17 in a language that the person understands; and

18 (C) contains the following information:

19 (i) the department's procedures for
20 conducting an investigation of alleged child abuse or neglect,
21 including:

22 (a) a description of the
23 circumstances under which the department would request to remove
24 the child from the home through the judicial system; and

1 (b) an explanation that the law
2 requires the department to refer all reports of alleged child abuse
3 or neglect to a law enforcement agency for a separate determination
4 of whether a criminal violation occurred;

5 (ii) the person's right to file a complaint
6 with the department or to request a review of the findings made by
7 the department in the investigation;

8 (iii) the person's right to review all
9 records of the investigation unless the review would jeopardize an
10 ongoing criminal investigation or the child's safety;

11 (iv) the person's right to seek legal
12 counsel;

13 (v) references to the statutory and
14 regulatory provisions governing child abuse and neglect and how the
15 person may obtain copies of those provisions; ~~and~~

16 (vi) the process the person may use to
17 acquire access to the child if the child is removed from the home;
18 and

19 (vii) the rights listed under Subdivision
20 (2);

21 (2) a verbal and written notification of the right to:

22 (A) not speak with any agent of the department
23 without legal counsel present;

24 (B) assistance by an attorney;

25 (C) have a court-appointed attorney if the person
26 is indigent;

27 (D) openly or secretly record any interaction or

1 interview to which the person is a party subject to the
2 understanding that the recording may be subject to disclosure to
3 the department, law enforcement, or another party under a court
4 order;

5 (E) request and receive a copy of the
6 department's current recording policy;

7 (F) refuse to allow the investigator to enter the
8 home or interview the children without legal counsel present;

9 (G) withhold consent to the release of any
10 medical or mental health records;

11 (H) withhold consent to any medical or
12 psychological examination of the child;

13 (I) refuse to submit to a drug test;

14 (J) consult with legal counsel prior to agreeing
15 to any proposed voluntary safety plan;

16 (K) be notified of and attend any court hearings
17 related to or arising from the investigation; and

18 (L) on request, have an interpreter;

19 (3) if the department determines that removal of the
20 child may be warranted, a proposed child placement resources form
21 that:

22 (A) instructs the parent or other person having
23 legal custody of the child to:

24 (i) complete and return the form to the
25 department or agency;

26 (ii) identify in the form at least three
27 individuals who could be relative caregivers or designated

1 caregivers, as those terms are defined by Section 264.751;

2 (iii) ask the child in a developmentally
3 appropriate manner to identify any adult, particularly an adult
4 residing in the child's community, who could be a relative
5 caregiver or designated caregiver for the child; and

6 (iv) list on the form the name of each
7 individual identified by the child as a potential relative
8 caregiver or designated caregiver; and

9 (B) informs the parent or other person of a
10 location that is available to the parent or other person to submit
11 the information in the form 24 hours a day either in person or by
12 facsimile machine or e-mail; and

13 (4) [~~3~~] an informational manual required by Section
14 261.3071.

15 (b) The child placement resources form described by
16 Subsection (a)(3) [~~(a)(2)~~] must include information on the periods
17 of time by which the department must complete a background check.

18 (c) The department shall adopt a form for the purpose of
19 verifying that the parent or other person having legal custody of
20 the child received the verbal notification and written summary
21 required by this section.

22 SECTION 2. The changes in law made by this Act apply only to
23 an investigation of a report of child abuse or neglect that is made
24 on or after the effective date of this Act. An investigation of a
25 report of abuse or neglect made before the effective date of this
26 Act is governed by the law in effect on the date the report was made,
27 and the former law is continued in effect for that purpose.

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