

By: West

S.B. No. 451

A BILL TO BE ENTITLED

AN ACT

relating to the release of a child taken into possession by a law enforcement officer.

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

SECTION 1. Article 2.273, Code of Criminal Procedure, is amended to read as follows:

Art. 2.273. RELEASE OF CHILD BY LAW ENFORCEMENT OFFICER.

(a) Unless it is inconsistent with the health and safety of the child, a [A] law enforcement officer who takes possession of a child under Section 262.104, Family Code, shall use due diligence to arrange for the release of the child to the child's parent, legal guardian, or parent's or legal guardian's designee. Subject to Subsection (b), if a parent, legal guardian, or parent's or legal guardian's designee is not available to take immediate possession of the child, the officer may release the child to:

(1) a residential child-care facility licensed by the Health and Human Services Commission [~~Department of Family and Protective Services~~] under Chapter 42, Human Resources Code, if the facility is authorized by the commission [~~department~~] to take possession of the child;

(2) a juvenile probation department;

(3) the Department of Family and Protective Services;

or

(4) any other person authorized by law to take

1 possession of the child.

2 (b) Before a law enforcement officer may release a child
3 under this article, the officer shall verify with the National
4 Crime Information Center that the child is not a missing child.

5 (c) Before a law enforcement officer may release a child
6 under this article to a person [authorized by law to take possession
7 of the child] other than a governmental entity or a residential
8 child-care facility described by Subsection (a)(1), the officer
9 shall:

10 (1) [~~verify with the National Crime Information Center~~
11 ~~that the child is not a missing child,~~

12 [~~(2)~~] search the relevant databases of the National
13 Crime Information Center system, including those pertaining to
14 protection orders, historical protection orders, warrants, sex
15 offender registries, and persons on supervised release to:

16 (A) verify that the person to whom the child is
17 being released:

18 (i) does not have a protective order issued
19 against the person; and

20 (ii) is not registered as a sex offender
21 unless the person is the child's parent or guardian and there are no
22 restrictions regarding the person's contact with the child; and

23 (B) obtain any other information the Department
24 of Family and Protective Services considers:

25 (i) relevant to protect the welfare of the
26 child; or

27 (ii) reflective of the responsibility of

1 the person to whom the child is being released;

2 (2) [~~(3)~~] call the Department of Family and Protective
3 Services Statewide Intake Texas Abuse Hotline to request that a
4 child abuse or neglect history check be completed on [~~determine~~
5 ~~whether~~] the person to whom the child is being released [~~is listed~~
6 ~~in the registry as a person who abused or neglected a child~~];

7 (3) [~~(4)~~] verify that the person to whom the child is
8 being released is at least 18 years of age; and

9 (4) [~~(5)~~] maintain a record regarding the child's
10 placement, including:

11 (A) identifying information about the child,
12 including the child's name or pseudonyms; and

13 (B) the name and address of the person to whom the
14 child is being released.

15 (d) Not later than September 1 of each even-numbered year,
16 the Department of Family and Protective Services shall report to
17 the legislature regarding:

18 (1) the number of children released to the department
19 in accordance with this article and Article 2.274; and

20 (2) any impact on the department related to the
21 release of children described by Subdivision (1).

22 SECTION 2. Chapter 2, Code of Criminal Procedure, is
23 amended by adding Article 2.274 to read as follows:

24 Art. 2.274. POLICY REGARDING SAFE PLACEMENT OF CHILD ON
25 ARREST OF ADULT EXERCISING CARE, CUSTODY, OR CONTROL OF CHILD. (a)

26 In this article, "law enforcement agency" has the meaning assigned
27 by Article 2.1386.

1 (b) Each law enforcement agency shall adopt a written policy
2 in accordance with Article 2.273 regarding the safe placement of a
3 child who is in the care, custody, or control of a person at the time
4 the person is arrested.

5 SECTION 3. Article 63.009(g), Code of Criminal Procedure,
6 is amended to read as follows:

7 (g) Unless contrary to the health and safety of the child,
8 on [On] determining the location of a child who is the subject of a
9 report under Subsection (a)(1) or (2), other than a child who is
10 subject to the continuing jurisdiction of a district court, an
11 officer shall take possession of the child and shall exercise due
12 diligence to arrange for the release of the child to the child's
13 parent, legal guardian, or parent's or legal guardian's designee,
14 including following the procedure described by Article 2.273(b)
15 [~~deliver or arrange for the delivery of the child to a person~~
16 ~~entitled to possession of the child~~]. Subject to Article
17 2.273(b)(1), if a parent, legal guardian, or parent's or legal
18 guardian's designee is not available to take immediate possession
19 of the child [~~If the person entitled to possession of the child is~~
20 ~~not immediately available~~], the law enforcement officer shall
21 release [~~deliver~~] the child to the Department of Family and
22 Protective [~~and Regulatory~~] Services.

23 SECTION 4. Section 262.007(a), Family Code, is amended to
24 read as follows:

25 (a) A law enforcement officer [~~who~~], during a criminal
26 investigation relating to a child's custody, shall verify with the
27 National Crime Information Center that the child is not a missing

1 child. An officer who discovers that a child is a missing child and
2 believes that a person may flee with or conceal the child shall take
3 possession of the child and provide for the delivery of the child as
4 provided by Subsection (b).

5 SECTION 5. Not later than June 1, 2022, each law enforcement
6 agency in this state shall adopt the policy required by Article
7 2.274, Code of Criminal Procedure, as added by this Act.

8 SECTION 6. This Act takes effect September 1, 2021.