

SENATE AMENDMENTS

2nd Printing

By: Minjarez, Canales, Sherman, Sr.

H.B. No. 135

A BILL TO BE ENTITLED

AN ACT

relating to notifying an alleged perpetrator of child abuse or neglect of the person's right to record an investigative interview.

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

SECTION 1. Subchapter D, Chapter 261, Family Code, is amended by adding Section 261.3027 to read as follows:

Sec. 261.3027. NOTICE OF RIGHT TO RECORD INTERVIEW. (a) Before conducting an interview with an alleged perpetrator, the department shall inform the person orally and in writing that:

(1) the person may create an audio recording of the interview but may not record the interview in any other manner; and

(2) any audio recording made by the person may be subject to subpoena under a court order.

(b) The department shall document in the case file that the department provided the notice required by Subsection (a).

(c) The department shall provide two copies of the written notice to be signed by the person. The department shall provide one signed notice to the person and retain the other signed notice in the case file.

SECTION 2. This Act takes effect September 1, 2021.

ADOPTED

MAY 20 2021

By: Miles

Lacey Law
Secretary of the Senate

H.B. No. 135

Substitute the following for H.B. No. 135:

By: Charles Perry

C.S.H.B. No. 135

A BILL TO BE ENTITLED

AN ACT

1
2 relating to notifying an alleged perpetrator of child abuse or
3 neglect of certain rights in an investigation by the Department of
4 Family and Protective Services; creating a criminal offense.

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

6 SECTION 1. Subchapter D, Chapter 261, Family Code, is
7 amended by adding Section 261.3027 to read as follows:

8 Sec. 261.3027. NOTICE OF RIGHT TO RECORD INTERVIEW. (a)

9 Before conducting an interview with an alleged perpetrator, the
10 department shall inform the person orally and in writing that:

11 (1) the person may create an audio or video recording
12 of the interview but may not record the interview in any other
13 manner; and

14 (2) any audio or video recording made by the person may
15 be subject to subpoena under a court order.

16 (b) The department shall document in the case file that the
17 department provided the notice required by Subsection (a).

18 (c) The department shall provide two copies of the written
19 notice to be signed by the person. The department shall provide one
20 signed notice to the person and retain the other signed notice in
21 the case file.

22 (d) An audio or video recording of the department's
23 interview with an alleged perpetrator may not be posted on an
24 Internet website. A person who violates this subsection commits an

1 offense. An offense under this subsection is a Class C misdemeanor.

2 SECTION 2. Subchapter D, Chapter 261, Family Code, is
3 amended by adding Section 261.3091 to read as follows:

4 Sec. 261.3091. NOTICE OF RIGHT TO REQUEST ADMINISTRATIVE
5 REVIEW. (a) Before conducting an interview with an alleged
6 perpetrator, the department shall notify the person in writing that
7 the person may request an administrative review of the department's
8 findings under Section 261.309. The person shall sign the written
9 notice to acknowledge receipt of the notice.

10 (b) The department shall document in the case file that the
11 department provided the notice required by Subsection (a).

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

ADOPTED

MAY 20 2021

FLOOR AMENDMENT NO. _____

Lately Spaw
Secretary of the Senate

BY: _____



1 Amend C.S.H.B. No. 135 (senate committee printing) in
2 SECTION 1 of the bill, adding Section 261.3027, Family Code, as
3 follows:

4 (1) In Subdivision (a)(1) (page 1, line 33), strike "and".

5 (2) At the end of Subdivision (a)(2), between "order" and
6 the underlined period (page 1, line 35), insert the following:

7 ; and

8 (3) the person may request and receive a copy of the
9 department's current recording policy

10 (3) Strike Subsection (d)(page 1, lines 42-45) and
11 substitute the following:

12 (d) An audio or video recording of the department's
13 interview with an alleged perpetrator may not be posted on an
14 Internet website in a manner that could identify a party involved in
15 the interview.

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 87TH LEGISLATIVE REGULAR SESSION

May 21, 2021

TO: Honorable Dade Phelan, Speaker of the House, House of Representatives

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB135 by Minjarez (Relating to notifying an alleged perpetrator of child abuse or neglect of certain rights in an investigation by the Department of Family and Protective Services; creating a criminal offense.), **As Passed 2nd House**

No significant fiscal implication to the State is anticipated.

The bill would amend Family Code to require the Department of Family and Protective Services (DFPS) to inform the alleged perpetrator that they may record the interview and the recording may be subject to subpoena. In addition, the bill would require DFPS to document the notice.

The bill would also require DFPS to notify in writing that the person may request an administrative review of the department's findings.

Based on analysis of DFPS, it is assumed that the costs associated with implementing the provisions of the bill could be absorbed using existing resources.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 212 Office of Court Admin, 530 Family & Protective Services

LBB Staff: JMc, LBO, AKI, JLI, AN

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 87TH LEGISLATIVE REGULAR SESSION

May 12, 2021

TO: Honorable Lois W. Kolkhorst, Chair, Senate Committee on Health & Human Services

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB135 by Minjarez (Relating to notifying an alleged perpetrator of child abuse or neglect of certain rights in an investigation by the Department of Family and Protective Services; creating a criminal offense.), **Committee Report 2nd House, Substituted**

<p>No significant fiscal implication to the State is anticipated.</p>
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The bill would amend Family Code to require the Department of Family and Protective Services (DFPS) to inform the alleged perpetrator that they may record the interview and the recording may be subject to subpoena. In addition, the bill would require DFPS to document the notice. The bill would not allow recordings to be posted on an internet website. The offense created by this bill would be a Class C misdemeanor.

The bill would also require DFPS to notify in writing that the person may request an administrative review of the department's findings.

Based on analysis of DFPS, it is assumed that the costs associated with implementing the provisions of the bill could be absorbed using existing resources.

Local Government Impact

A Class C misdemeanor is punishable by a fine of not more than \$500. In addition to the fine, punishment can include up to 180 days of deferred disposition. Costs associated with enforcement and prosecution could likely be absorbed within existing resources. Revenue gain from fines imposed and collected is not anticipated to have a significant fiscal impact.

Source Agencies: 212 Office of Court Admin, 530 Family & Protective Services

LBB Staff: JMc, AKI, JLI, AN

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 87TH LEGISLATIVE REGULAR SESSION

April 30, 2021

TO: Honorable Lois W. Kolkhorst, Chair, Senate Committee on Health & Human Services

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB135 by Minjarez (Relating to notifying an alleged perpetrator of child abuse or neglect of the person's right to record an investigative interview.), **As Engrossed**

No significant fiscal implication to the State is anticipated.

The bill would amend Family Code to require the Department of Family and Protective Services (DFPS) to inform the alleged perpetrator that they may record the interview and the recording may be subject to subpoena. In addition, the bill would require DFPS to document the notice.

Based on analysis of DFPS, it is assumed that the costs associated with implementing the provisions of the bill could be absorbed using existing resources.

The bill would take effect September 1, 2021.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 212 Office of Court Admin, 530 Family & Protective Services

LBB Staff: JMc, AKI, AN, JLI

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 87TH LEGISLATIVE REGULAR SESSION

March 25, 2021

TO: Honorable James B. Frank, Chair, House Committee on Human Services

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB135 by Minjarez (Relating to notifying an alleged perpetrator of child abuse or neglect of the person's right to record an investigative interview.), **Committee Report 1st House, Substituted**

No significant fiscal implication to the State is anticipated.

The bill would amend Family Code to require the Department of Family and Protective Services (DFPS) to inform the alleged perpetrator that they may record the interview and the recording may be subject to subpoena. In addition, the bill would require DFPS to document the notice.

It is assumed that the provisions of the bill relating to notifying an alleged perpetrator of child abuse or neglect of the person's right to record an investigative interview could be absorbed using existing resources.

The bill would take effect September 1, 2021.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 212 Office of Court Admin, 530 Family & Protective Services

LBB Staff: JMc, AKI, JLI, AN

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 87TH LEGISLATIVE REGULAR SESSION

March 6, 2021

TO: Honorable James B. Frank, Chair, House Committee on Human Services

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB135 by Minjarez (Relating to notifying an alleged perpetrator of child abuse or neglect of the person's right to record an ir vestigative interview.), **As Introduced**

No significant fiscal implication to the State is anticipated.

The bill would amend Family Code to require the Department of Family and Protective Services (DFPS) to inform the alleged perpetrator that they may record the interview and the recording may be subject to subpoena. In addition, the bill would require DFPS to document the notice.

It is assumed that the provisions of the bill relating to notifying an alleged perpetrator of child abuse or neglect of the person's right to record an investigative interview could be absorbed using existing resources.

The bill would take effect September 1, 2021.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 212 Office of Court Admin, 530 Family & Protective Services

LBB Staff: JMc, AKi, JLi, AN