88R408 MLH-D

By:  Frank H.B. No. 635

A BILL TO BE ENTITLED

AN ACT

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

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

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

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

(1)  a summary that:

(A)  is brief and easily understood;

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

(C)  contains the following information:

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

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

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

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

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

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

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

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

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

(2)  a verbal notification of the right to:

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

(B)  receive assistance from an attorney;

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

(D)  record any interaction or interview subject to the understanding that the recording may be subject to disclosure to the department, law enforcement, or another party under a court order;

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

(F)  withhold consent to the release of any medical or mental health records;

(G)  withhold consent to any medical or psychological examination of the child;

(H)  refuse to submit to a drug test; and

(I)  consult with legal counsel prior to agreeing to any proposed voluntary safety plan;

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

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

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

(ii)  identify in the form at least three individuals who could be relative caregivers or designated caregivers, as those terms are defined by Section 264.751;

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

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

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

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

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

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

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

SECTION 3.  This Act takes effect September 1, 2023.