

BILL ANALYSIS

Senate Research Center
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C.S.H.B. 135
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Health & Human Services
5/13/2021
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

There are concerns that many Texans are unaware of their right to record interactions with government agencies, particularly with respect to sensitive matters such as a Department of Family and Protective Services (DFPS) investigation into an allegation of child abuse or neglect. C.S.H.B. 135 seeks to provide accountability and transparency in child welfare investigations by requiring DFPS to inform an alleged perpetrator in such an investigation of the person's right to make an audio or video recording of an interview with DFPS prior to conducting the interview. The bill also prohibits the posting of a recording on the internet. Finally, the bill requires DFPS to notify families at the beginning of an investigation of their right to an administrative review.

C.S.H.B. 135 amends current law 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 and creates a criminal offense.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter D, Chapter 261, Family Code, by adding Section 261.3027, as follows:

Sec. 261.3027. NOTICE OF RIGHT TO RECORD INTERVIEW. (a) Requires the Department of Family and Protective Services (DFPS), before conducting an interview with an alleged perpetrator, to inform the person orally and in writing that:

(1) the person is authorized to create an audio or video recording of the interview but is prohibited from recording the interview in any other manner; and

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

(b) Requires DFPS to document in the case file that DFPS provided the notice required by Subsection (a).

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

(d) Prohibits an audio or video recording of DFPS's interview with an alleged perpetrator from being posted on an Internet website. Provides that a person who violates this subsection commits an offense. Provides that an offense under this subsection is a Class C misdemeanor.

SECTION 2. Amends Subchapter D, Chapter 261, Family Code, by adding Section 261.3091, as follows:

Sec. 261.3091. NOTICE OF RIGHT TO REQUEST ADMINISTRATIVE REVIEW. (a) Requires DFPS, before conducting an interview with an alleged perpetrator, to notify the person in writing that the person is authorized to request an administrative review of DFPS's findings under Section 261.309 (Review of Department Investigations). Requires the person to sign the written notice to acknowledge receipt of the notice.

(b) Requires DFPS to document in the case file that DFPS provided the notice required by Subsection (a).

SECTION 3. Effective date: September 1, 2021.