

SUBJECT: Notification of parental rights in connection with DFPS investigation

COMMITTEE: Human Services — committee substitute recommended

VOTE: 9 ayes — Frank, Hinojosa, Hull, Klick, Meza, Neave, Noble, Rose, Shaheen
0 nays

WITNESSES: For — Jim Black, Angel Eyes Over Texas; Judy Powell, Parent Guidance Center; Julia Hatcher, Texas Association of Family Defense Attorneys; Meagan Corser, Texas Home School Coalition; Andrew Brown, Texas Public Policy Foundation; and seven individuals; (*Registered, but did not testify*: Lee Spiller, Citizens Commission on Human Rights; James Lee, Legacy Community Health; Jaqueline Burke; Thomas Parkinson; Calvin Tillman; Al Zito)

Against — None

On — (*Registered, but did not testify*: Marta Talbert, Department of Family and Protective Services)

BACKGROUND: Family Code sec. 261.307 requires the Department of Family and Protective Services, as soon as possible after initiating an investigation of child abuse or neglect against a parent or person having legal custody of a child, to provide certain information to the parent or person.

DIGEST: CSHB 2298 would require the Department of Family and Protective Services (DFPS), upon first contact after initiating an investigation of a parent or other person having legal custody of a child, to provide information about the person's rights. The information would have to include a verbal and written notification of the right to:

- not speak with any agent of the department without legal counsel present;
- assistance by an attorney;

- have a court-appointed attorney if the person was indigent;
- openly or secretly record any interaction or interview to which the person was a party with the understanding that such a recording could be subject to disclosure to DFPS, law enforcement, or another party under a court order;
- request and receive a copy of the DFPS current recording policy;
- refuse to allow the investigator to enter the home or interview the children without legal counsel present;
- withhold consent to the release of any medical or mental health records;
- withhold consent to any medical or psychological examination of the child;
- refuse to submit to a drug test;
- consult with legal counsel prior to agreeing to any proposed voluntary safety plan;
- be notified of and attend any court hearings related to or arising from the investigation; and
- on request, have an interpreter.

DFPS would have to 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.

The bill would take effect September 1, 2021, and would apply only to an investigation of a report of child abuse or neglect that was made on or after that date.