

FAMILY CODE

TITLE 5. THE PARENT-CHILD RELATIONSHIP AND THE SUIT AFFECTING THE
PARENT-CHILD RELATIONSHIP

SUBTITLE E. PROTECTION OF THE CHILD

CHAPTER 261. INVESTIGATION OF REPORT OF CHILD ABUSE OR NEGLECT

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 261.001. DEFINITIONS. In this chapter:

(1) "Abuse" includes the following acts or omissions by a person:

(A) mental or emotional injury to a child that results in an observable and material impairment in the child's growth, development, or psychological functioning;

(B) causing or permitting the child to be in a situation in which the child sustains a mental or emotional injury that results in an observable and material impairment in the child's growth, development, or psychological functioning;

(C) physical injury that results in substantial harm to the child, or the genuine threat of substantial harm from physical injury to the child, including an injury that is at variance with the history or explanation given and excluding an accident or reasonable discipline by a parent, guardian, or managing or possessory conservator that does not expose the child to a substantial risk of harm;

(D) failure to make a reasonable effort to prevent an action by another person that results in physical injury that results in substantial harm to the child;

(E) sexual conduct harmful to a child's mental, emotional, or physical welfare, including conduct that constitutes the offense of continuous sexual abuse of young child or children under Section 21.02, Penal Code, indecency with a child under Section 21.11, Penal Code, sexual assault under Section 22.011, Penal Code, or aggravated sexual assault under Section 22.021, Penal Code;

(F) failure to make a reasonable effort to prevent sexual conduct harmful to a child;

(G) compelling or encouraging the child to engage in sexual conduct as defined by Section 43.01, Penal Code, including compelling or encouraging the child in a manner that constitutes an offense of trafficking of persons under Section 20A.02(a)(7) or (8), Penal Code, prostitution under Section 43.02(b), Penal Code, or compelling prostitution under Section 43.05(a)(2), Penal Code;

(H) causing, permitting, encouraging, engaging in, or allowing the photographing, filming, or depicting of the child if the person knew or should have known that the resulting photograph, film, or depiction of the child is obscene as defined by Section 43.21, Penal Code, or pornographic;

(I) the current use by a person of a controlled substance as defined by Chapter 481, Health and Safety Code, in a manner or to the extent that the use results in physical, mental, or emotional injury to a child;

(J) causing, expressly permitting, or encouraging a child to use a controlled substance as defined by Chapter 481, Health and Safety Code;

(K) causing, permitting, encouraging, engaging in, or allowing a sexual performance by a child as defined by Section 43.25, Penal Code;

(L) knowingly causing, permitting, encouraging, engaging in, or allowing a child to be trafficked in a manner punishable as an offense under Section 20A.02(a)(5), (6), (7), or (8), Penal Code, or the failure to make a reasonable effort to prevent a child from being trafficked in a manner punishable as an offense under any of those sections; or

(M) forcing or coercing a child to enter into a marriage.

(2) "Department" means the Department of Family and Protective Services.

(3) "Exploitation" means the illegal or improper use of a child or of the resources of a child for monetary or personal benefit, profit, or gain by an employee, volunteer, or other individual working under the auspices of a facility or program as further described by rule or policy.

(4) "Neglect":

(A) includes:

(i) the leaving of a child in a situation where the child would be exposed to a substantial risk of physical or mental harm, without arranging for necessary care for the child, and the demonstration of an intent not to return by a parent, guardian, or managing or possessory conservator of the child;

(ii) the following acts or omissions by a person:

(a) placing a child in or failing to remove a child from a situation that a reasonable person would realize requires judgment or actions beyond the child's level of maturity, physical condition, or mental abilities and that results in bodily injury or a substantial risk of immediate harm to the child;

(b) failing to seek, obtain, or follow through with medical care for a child, with the failure resulting in or presenting a substantial risk of death, disfigurement, or bodily injury or with the failure resulting in an observable and material impairment to the growth, development, or functioning of the child;

(c) the failure to provide a child with food, clothing, or shelter necessary to sustain the life or health of the child, excluding failure caused primarily by financial inability unless relief services had been offered and refused;

(d) placing a child in or failing to remove the child from a situation in which the child would be exposed to a substantial risk of sexual conduct harmful to the child; or

(e) placing a child in or failing to remove the child from a situation in which the child would be exposed to acts or omissions that constitute abuse under Subdivision (1)(E), (F), (G), (H), or (K) committed against another child;

(iii) the failure by the person responsible for a child's care, custody, or welfare to permit the child to return to the child's home without arranging for the necessary care

for the child after the child has been absent from the home for any reason, including having been in residential placement or having run away; or

(iv) a negligent act or omission by an employee, volunteer, or other individual working under the auspices of a facility or program, including failure to comply with an individual treatment plan, plan of care, or individualized service plan, that causes or may cause substantial emotional harm or physical injury to, or the death of, a child served by the facility or program as further described by rule or policy; and

(B) does not include the refusal by a person responsible for a child's care, custody, or welfare to permit the child to remain in or return to the child's home resulting in the placement of the child in the conservatorship of the department if:

(i) the child has a severe emotional disturbance;

(ii) the person's refusal is based solely on the person's inability to obtain mental health services necessary to protect the safety and well-being of the child; and

(iii) the person has exhausted all reasonable means available to the person to obtain the mental health services described by Subparagraph (ii).

(5) "Person responsible for a child's care, custody, or welfare" means a person who traditionally is responsible for a child's care, custody, or welfare, including:

(A) a parent, guardian, managing or possessory conservator, or foster parent of the child;

(B) a member of the child's family or household as defined by Chapter 71;

(C) a person with whom the child's parent cohabits;

(D) school personnel or a volunteer at the child's school;

(E) personnel or a volunteer at a public or private child-care facility that provides services for the child or at a public or private residential institution or facility where the child resides; or

(F) an employee, volunteer, or other person working under the supervision of a licensed or unlicensed child-care facility, including a family home, residential child-care facility, employer-based day-care facility, or shelter day-care facility, as those terms are defined in Chapter 42, Human Resources Code.

(6) "Report" means a report that alleged or suspected abuse or neglect of a child has occurred or may occur.

(7) Repealed by Acts 2017, 85th Leg., R.S., Ch. 316 (H.B. 5), Sec. 36(1), eff. September 1, 2017.

(8) Repealed by Acts 2015, 84th Leg., R.S., Ch. 1, Sec. 1.203(4), eff. April 2, 2015.

(9) "Severe emotional disturbance" means a mental, behavioral, or emotional disorder of sufficient duration to result in functional impairment that substantially interferes with or limits a person's role or ability to function in family, school, or community activities.

Added by Acts 1995, 74th Leg., ch. 20, Sec. 1, eff. April 20, 1995. Amended by Acts 1995, 74th Leg., ch. 751, Sec. 86, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 575, Sec. 10, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1022, Sec. 63, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 62, Sec. 19.01(26), eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 59, Sec. 1, eff. Sept. 1, 2001.

Amended by:

Acts 2005, 79th Leg., Ch. 268 (S.B. 6), Sec. 1.11, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 593 (H.B. 8), Sec. 3.32, eff. September 1, 2007.

Acts 2011, 82nd Leg., R.S., Ch. 1 (S.B. 24), Sec. 4.03, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 1142 (S.B. 44), Sec. 1, eff. September 1, 2013.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 1.120, eff. April 2, 2015.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 1.203(4), eff. April 2, 2015.

Acts 2015, 84th Leg., R.S., Ch. 432 (S.B. 1889), Sec. 1, eff.

September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 1273 (S.B. 825), Sec. 4, eff.

September 1, 2015.

Acts 2017, 85th Leg., R.S., Ch. 316 (H.B. 5), Sec. 36(1), eff.

September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 319 (S.B. 11), Sec. 7, eff.

September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 1136 (H.B. 249), Sec. 2, eff.

September 1, 2017.

Sec. 261.002. CENTRAL REGISTRY. (a) The department shall establish and maintain a central registry of the names of individuals found by the department to have abused or neglected a child.

(b) The executive commissioner shall adopt rules necessary to carry out this section. The rules shall:

(1) prohibit the department from making a finding of abuse or neglect against a person in a case in which the department is named managing conservator of a child who has a severe emotional disturbance only because the child's family is unable to obtain mental health services for the child;

(2) establish guidelines for reviewing the records in the registry and removing those records in which the department was named managing conservator of a child who has a severe emotional disturbance only because the child's family was unable to obtain mental health services for the child;

(3) require the department to remove a person's name from the central registry maintained under this section not later than the 10th business day after the date the department receives notice that a finding of abuse and neglect against the person is overturned in:

(A) an administrative review or an appeal of the review conducted under Section 261.309(c);

(B) a review or an appeal of the review conducted by the office of consumer affairs of the department; or

(C) a hearing or an appeal conducted by the State Office of Administrative Hearings; and

(4) require the department to update any relevant department files to reflect an overturned finding of abuse or neglect against a person not later than the 10th business day after the date the finding is overturned in a review, hearing, or appeal described by Subdivision (3).

(c) The department may enter into agreements with other states to allow for the exchange of reports of child abuse and neglect in other states' central registry systems. The department shall use information obtained under this subsection in performing the background checks required under Section 42.056, Human Resources Code. The department shall cooperate with federal agencies and shall provide information and reports of child abuse and neglect to the appropriate federal agency that maintains the national registry for child abuse and neglect, if a national registry exists.

Added by Acts 1995, 74th Leg., ch. 20, Sec. 1, eff. April 20, 1995.

Amended by:

Acts 2005, 79th Leg., Ch. 268 (S.B. 6), Sec. 1.12, eff. September 1, 2005.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 1.121, eff. April 2, 2015.

Acts 2015, 84th Leg., R.S., Ch. 432 (S.B. 1889), Sec. 2, eff. September 1, 2015.

Acts 2017, 85th Leg., R.S., Ch. 360 (H.B. 2849), Sec. 1, eff. September 1, 2017.

Sec. 261.003. APPLICATION TO STUDENTS IN SCHOOL FOR DEAF OR SCHOOL FOR BLIND AND VISUALLY IMPAIRED. This chapter applies to the investigation of a report of abuse or neglect of a student, without regard to the age of the student, in the Texas School for the Deaf or the Texas School for the Blind and Visually Impaired.

Added by Acts 1995, 74th Leg., ch. 20, Sec. 1, eff. April 20, 1995.

Text of section as added by Acts 2017, 85th Leg., R.S., Ch. 316
(H.B. 5), Sec. 10

For text of section as added by Acts 2017, 85th Leg., R.S., Ch. 319
(S.B. 11), Sec. 8, see other Sec. 261.004.

Sec. 261.004. REFERENCE TO EXECUTIVE COMMISSIONER OR COMMISSION. In this chapter:

(1) a reference to the executive commissioner or the executive commissioner of the Health and Human Services Commission means the commissioner of the department; and

(2) a reference to the Health and Human Services Commission means the department.

Added by Acts 2017, 85th Leg., R.S., Ch. 316 (H.B. 5), Sec. 10, eff. September 1, 2017.

Text of section as added by Acts 2017, 85th Leg., R.S., Ch. 319

(S.B. 11), Sec. 8

For text of section as added by Acts 2017, 85th Leg., R.S., Ch. 316

(H.B. 5), Sec. 10, see other Sec. 261.004.

Sec. 261.004. TRACKING OF RECURRENCE OF CHILD ABUSE OR NEGLECT REPORTS. (a) The department shall collect and monitor data regarding repeated reports of abuse or neglect:

(1) involving the same child, including reports of abuse or neglect of the child made while the child resided in other households and reports of abuse or neglect of the child by different alleged perpetrators made while the child resided in the same household; or

(2) by the same alleged perpetrator.

(b) In monitoring reports of abuse or neglect under Subsection (a), the department shall group together separate reports involving different children residing in the same household.

(c) The department shall consider any report collected under Subsection (a) involving any child or adult who is a part of a child's household when making case priority determinations or when conducting service or safety planning for the child or the child's family.

Added by Acts 2017, 85th Leg., R.S., Ch. 319 (S.B. 11), Sec. 8, eff. September 1, 2017.

SUBCHAPTER B. REPORT OF ABUSE OR NEGLECT; IMMUNITIES

Sec. 261.101. PERSONS REQUIRED TO REPORT; TIME TO REPORT.

(a) A person having cause to believe that a child's physical or mental health or welfare has been adversely affected by abuse or neglect by any person shall immediately make a report as provided by this subchapter.

(b) If a professional has cause to believe that a child has been abused or neglected or may be abused or neglected, or that a child is a victim of an offense under Section 21.11, Penal Code, and the professional has cause to believe that the child has been abused as defined by Section 261.001, the professional shall make a report not later than the 48th hour after the hour the professional first suspects that the child has been or may be abused or neglected or is a victim of an offense under Section 21.11, Penal Code. A professional may not delegate to or rely on another person to make the report. In this subsection, "professional" means an individual who is licensed or certified by the state or who is an employee of a facility licensed, certified, or operated by the state and who, in the normal course of official duties or duties for which a license or certification is required, has direct contact with children. The term includes teachers, nurses, doctors, day-care employees, employees of a clinic or health care facility that provides reproductive services, juvenile probation officers, and juvenile detention or correctional officers.

(b-1) In addition to the duty to make a report under Subsection (a) or (b), a person or professional shall make a report in the manner required by Subsection (a) or (b), as applicable, if the person or professional has cause to believe that an adult was a victim of abuse or neglect as a child and the person or professional determines in good faith that disclosure of the information is necessary to protect the health and safety of:

(1) another child; or

(2) an elderly person or person with a disability as defined by Section 48.002, Human Resources Code.

(c) The requirement to report under this section applies without exception to an individual whose personal communications may otherwise be privileged, including an attorney, a member of the clergy, a medical practitioner, a social worker, a mental health

professional, an employee or member of a board that licenses or certifies a professional, and an employee of a clinic or health care facility that provides reproductive services.

(d) Unless waived in writing by the person making the report, the identity of an individual making a report under this chapter is confidential and may be disclosed only:

(1) as provided by Section [261.201](#); or

(2) to a law enforcement officer for the purposes of conducting a criminal investigation of the report.

Added by Acts 1995, 74th Leg., ch. 20, Sec. 1, eff. April 20, 1995.

Amended by Acts 1995, 74th Leg., ch. 751, Sec. 87, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 162, Sec. 1, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 575, Sec. 11, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1022, Sec. 65, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 62, Sec. 6.29, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 1150, Sec. 2, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 1390, Sec. 21, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 1420, Sec. 5.003, eff. Sept. 1, 2001.

Amended by:

Acts 2005, 79th Leg., Ch. 949 (H.B. [1575](#)), Sec. 27, eff. September 1, 2005.

Acts 2013, 83rd Leg., R.S., Ch. 395 (S.B. [152](#)), Sec. 4, eff. June 14, 2013.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. [219](#)), Sec. 1.122, eff. April 2, 2015.

Acts 2017, 85th Leg., R.S., Ch. 1136 (H.B. [249](#)), Sec. 3, eff. September 1, 2017.

Sec. 261.102. MATTERS TO BE REPORTED. A report should reflect the reporter's belief that a child has been or may be abused or neglected or has died of abuse or neglect.

Added by Acts 1995, 74th Leg., ch. 20, Sec. 1, eff. April 20, 1995.

Amended by Acts 1995, 74th Leg., ch. 751, Sec. 88, eff. Sept. 1, 1995.

Sec. 261.103. REPORT MADE TO APPROPRIATE AGENCY.

(a) Except as provided by Subsections (b) and (c) and

Section 261.405, a report shall be made to:

- (1) any local or state law enforcement agency;
- (2) the department; or
- (3) the state agency that operates, licenses, certifies, or registers the facility in which the alleged abuse or neglect occurred.

(b) A report may be made to the Texas Juvenile Justice Department instead of the entities listed under Subsection (a) if the report is based on information provided by a child while under the supervision of the Texas Juvenile Justice Department concerning the child's alleged abuse of another child.

(c) Notwithstanding Subsection (a), a report, other than a report under Subsection (a)(3) or Section 261.405, must be made to the department if the alleged or suspected abuse or neglect involves a person responsible for the care, custody, or welfare of the child.

Added by Acts 1995, 74th Leg., ch. 20, Sec. 1, eff. April 20, 1995.

Amended by Acts 1995, 74th Leg., ch. 751, Sec. 89, eff. Sept. 1, 1995; Acts 1999, 76th Leg., ch. 1477, Sec. 24, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 1297, Sec. 46, eff. Sept. 1, 2001.

Amended by:

Acts 2005, 79th Leg., Ch. 213 (H.B. 1970), Sec. 1, eff. September 1, 2005.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 1.123, eff. April 2, 2015.

Acts 2015, 84th Leg., R.S., Ch. 734 (H.B. 1549), Sec. 80, eff. September 1, 2015.

Sec. 261.104. CONTENTS OF REPORT. The person making a report shall identify, if known:

- (1) the name and address of the child;
- (2) the name and address of the person responsible for the care, custody, or welfare of the child; and
- (3) any other pertinent information concerning the alleged or suspected abuse or neglect.

Added by Acts 1995, 74th Leg., ch. 20, Sec. 1, eff. April 20, 1995.

Amended by Acts 1995, 74th Leg., ch. 751, Sec. 90, eff. Sept. 1,

1995.

Sec. 261.105. REFERRAL OF REPORT BY DEPARTMENT OR LAW ENFORCEMENT. (a) All reports received by a local or state law enforcement agency that allege abuse or neglect by a person responsible for a child's care, custody, or welfare shall be referred immediately to the department.

(b) The department shall immediately notify the appropriate state or local law enforcement agency of any report it receives, other than a report from a law enforcement agency, that concerns the suspected abuse or neglect of a child or death of a child from abuse or neglect.

(c) In addition to notifying a law enforcement agency, if the report relates to a child in a facility operated, licensed, certified, or registered by a state agency, the department shall refer the report to the agency for investigation.

(c-1) Notwithstanding Subsections (b) and (c), if a report under this section relates to a child with an intellectual disability receiving services in a state supported living center as defined by Section 531.002, Health and Safety Code, or the ICF-IID component of the Rio Grande State Center, the department shall proceed with the investigation of the report as provided by Section 261.404.

(d) If the department initiates an investigation and determines that the abuse or neglect does not involve a person responsible for the child's care, custody, or welfare, the department shall refer the report to a law enforcement agency for further investigation. If the department determines that the abuse or neglect involves an employee of a public elementary or secondary school, and that the child is a student at the school, the department shall orally notify the superintendent of the school district in which the employee is employed about the investigation.

(e) In cooperation with the department, the Texas Juvenile Justice Department by rule shall adopt guidelines for identifying a report made to the Texas Juvenile Justice Department under Section 261.103(b) that is appropriate to refer to the department or a law enforcement agency for investigation. Guidelines adopted under

this subsection must require the Texas Juvenile Justice Department to consider the severity and immediacy of the alleged abuse or neglect of the child victim.

Added by Acts 1995, 74th Leg., ch. 20, Sec. 1, eff. April 20, 1995.

Amended by Acts 1997, 75th Leg., ch. 1022, Sec. 66, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1477, Sec. 25, eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 374, Sec. 3, eff. June 18, 2003.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 284 (S.B. 643), Sec. 4, eff. June 11, 2009.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 1.124, eff. April 2, 2015.

Acts 2015, 84th Leg., R.S., Ch. 734 (H.B. 1549), Sec. 81, eff. September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 1167 (S.B. 821), Sec. 4, eff. September 1, 2015.

Sec. 261.1055. NOTIFICATION OF DISTRICT ATTORNEYS. (a) A district attorney may inform the department that the district attorney wishes to receive notification of some or all reports of suspected abuse or neglect of children who were in the county at the time the report was made or who were in the county at the time of the alleged abuse or neglect.

(b) If the district attorney makes the notification under this section, the department shall, on receipt of a report of suspected abuse or neglect, immediately notify the district attorney as requested and the department shall forward a copy of the reports to the district attorney on request.

Added by Acts 1997, 75th Leg., ch. 1022, Sec. 67, eff. Sept. 1, 1997.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 1.125, eff. April 2, 2015.

Sec. 261.106. IMMUNITIES. (a) A person acting in good faith who reports or assists in the investigation of a report of alleged child abuse or neglect or who testifies or otherwise

participates in a judicial proceeding arising from a report, petition, or investigation of alleged child abuse or neglect is immune from civil or criminal liability that might otherwise be incurred or imposed.

(b) Immunity from civil and criminal liability extends to an authorized volunteer of the department or a law enforcement officer who participates at the request of the department in an investigation of alleged or suspected abuse or neglect or in an action arising from an investigation if the person was acting in good faith and in the scope of the person's responsibilities.

(c) A person who reports the person's own abuse or neglect of a child or who acts in bad faith or with malicious purpose in reporting alleged child abuse or neglect is not immune from civil or criminal liability.

Added by Acts 1995, 74th Leg., ch. 20, Sec. 1, eff. April 20, 1995.
Amended by Acts 1995, 74th Leg., ch. 751, Sec. 91, eff. Sept. 1, 1995.

Sec. 261.107. FALSE REPORT; CRIMINAL PENALTY; CIVIL PENALTY. (a) A person commits an offense if, with the intent to deceive, the person knowingly makes a report as provided in this chapter that is false. An offense under this subsection is a state jail felony unless it is shown on the trial of the offense that the person has previously been convicted under this section, in which case the offense is a felony of the third degree.

(b) A finding by a court in a suit affecting the parent-child relationship that a report made under this chapter before or during the suit was false or lacking factual foundation may be grounds for the court to modify an order providing for possession of or access to the child who was the subject of the report by restricting further access to the child by the person who made the report.

(c) The appropriate county prosecuting attorney shall be responsible for the prosecution of an offense under this section.

(d) The court shall order a person who is convicted of an offense under Subsection (a) to pay any reasonable attorney's fees incurred by the person who was falsely accused of abuse or neglect

in any proceeding relating to the false report.

(e) A person who engages in conduct described by Subsection (a) is liable to the state for a civil penalty of \$1,000. The attorney general shall bring an action to recover a civil penalty authorized by this subsection.

Added by Acts 1995, 74th Leg., ch. 20, Sec. 1, eff. April 20, 1995.

Amended by Acts 1995, 74th Leg., ch. 751, Sec. 92, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 575, Sec. 2, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1022, Sec. 68; Acts 1999, 76th Leg., ch. 62, Sec. 6.30, eff. Sept. 1, 1999.

Amended by:

Acts 2005, 79th Leg., Ch. 268 (S.B. 6), Sec. 1.13, eff. September 1, 2005.

Acts 2005, 79th Leg., Ch. 268 (S.B. 6), Sec. 1.14(a), eff. September 1, 2005.

Sec. 261.108. FRIVOLOUS CLAIMS AGAINST PERSON REPORTING.

(a) In this section:

(1) "Claim" means an action or claim by a party, including a plaintiff, counterclaimant, cross-claimant, or third-party plaintiff, requesting recovery of damages.

(2) "Defendant" means a party against whom a claim is made.

(b) A court shall award a defendant reasonable attorney's fees and other expenses related to the defense of a claim filed against the defendant for damages or other relief arising from reporting or assisting in the investigation of a report under this chapter or participating in a judicial proceeding resulting from the report if:

(1) the court finds that the claim is frivolous, unreasonable, or without foundation because the defendant is immune from liability under Section [261.106](#); and

(2) the claim is dismissed or judgment is rendered for the defendant.

(c) To recover under this section, the defendant must, at any time after the filing of a claim, file a written motion stating that:

(1) the claim is frivolous, unreasonable, or without foundation because the defendant is immune from liability under Section 261.106; and

(2) the defendant requests the court to award reasonable attorney's fees and other expenses related to the defense of the claim.

Added by Acts 1995, 74th Leg., ch. 20, Sec. 1, eff. April 20, 1995.

Sec. 261.109. FAILURE TO REPORT; PENALTY. (a) A person commits an offense if the person is required to make a report under Section 261.101(a) and knowingly fails to make a report as provided in this chapter.

(a-1) A person who is a professional as defined by Section 261.101(b) commits an offense if the person is required to make a report under Section 261.101(b) and knowingly fails to make a report as provided in this chapter.

(b) An offense under Subsection (a) is a Class A misdemeanor, except that the offense is a state jail felony if it is shown on the trial of the offense that the child was a person with an intellectual disability who resided in a state supported living center, the ICF-IID component of the Rio Grande State Center, or a facility licensed under Chapter 252, Health and Safety Code, and the actor knew that the child had suffered serious bodily injury as a result of the abuse or neglect.

(c) An offense under Subsection (a-1) is a Class A misdemeanor, except that the offense is a state jail felony if it is shown on the trial of the offense that the actor intended to conceal the abuse or neglect.

Added by Acts 1995, 74th Leg., ch. 20, Sec. 1, eff. April 20, 1995.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 284 (S.B. 643), Sec. 5, eff. June 11, 2009.

Acts 2013, 83rd Leg., R.S., Ch. 290 (H.B. 1205), Sec. 1, eff. September 1, 2013.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 1.126, eff. April 2, 2015.

Sec. 261.110. EMPLOYER RETALIATION PROHIBITED. (a) In this section, "professional" has the meaning assigned by Section [261.101\(b\)](#).

(b) An employer may not suspend or terminate the employment of, or otherwise discriminate against, a person who is a professional and who in good faith:

(1) reports child abuse or neglect to:

(A) the person's supervisor;

(B) an administrator of the facility where the person is employed;

(C) a state regulatory agency; or

(D) a law enforcement agency; or

(2) initiates or cooperates with an investigation or proceeding by a governmental entity relating to an allegation of child abuse or neglect.

(c) A person whose employment is suspended or terminated or who is otherwise discriminated against in violation of this section may sue for injunctive relief, damages, or both.

(d) A plaintiff who prevails in a suit under this section may recover:

(1) actual damages, including damages for mental anguish even if an injury other than mental anguish is not shown;

(2) exemplary damages under Chapter [41](#), Civil Practice and Remedies Code, if the employer is a private employer;

(3) court costs; and

(4) reasonable attorney's fees.

(e) In addition to amounts recovered under Subsection (d), a plaintiff who prevails in a suit under this section is entitled to:

(1) reinstatement to the person's former position or a position that is comparable in terms of compensation, benefits, and other conditions of employment;

(2) reinstatement of any fringe benefits and seniority rights lost because of the suspension, termination, or discrimination; and

(3) compensation for wages lost during the period of suspension or termination.

(f) A public employee who alleges a violation of this

section may sue the employing state or local governmental entity for the relief provided for by this section. Sovereign immunity is waived and abolished to the extent of liability created by this section. A person having a claim under this section may sue a governmental unit for damages allowed by this section.

(g) In a suit under this section against an employing state or local governmental entity, a plaintiff may not recover compensatory damages for future pecuniary losses, emotional pain, suffering, inconvenience, mental anguish, loss of enjoyment of life, and other nonpecuniary losses in an amount that exceeds:

(1) \$50,000, if the employing state or local governmental entity has fewer than 101 employees in each of 20 or more calendar weeks in the calendar year in which the suit is filed or in the preceding year;

(2) \$100,000, if the employing state or local governmental entity has more than 100 and fewer than 201 employees in each of 20 or more calendar weeks in the calendar year in which the suit is filed or in the preceding year;

(3) \$200,000, if the employing state or local governmental entity has more than 200 and fewer than 501 employees in each of 20 or more calendar weeks in the calendar year in which the suit is filed or in the preceding year; and

(4) \$250,000, if the employing state or local governmental entity has more than 500 employees in each of 20 or more calendar weeks in the calendar year in which the suit is filed or in the preceding year.

(h) If more than one subdivision of Subsection (g) applies to an employing state or local governmental entity, the amount of monetary damages that may be recovered from the entity in a suit brought under this section is governed by the applicable provision that provides the highest damage award.

(i) A plaintiff suing under this section has the burden of proof, except that there is a rebuttable presumption that the plaintiff's employment was suspended or terminated or that the plaintiff was otherwise discriminated against for reporting abuse or neglect if the suspension, termination, or discrimination occurs before the 61st day after the date on which the person made a report

in good faith.

(j) A suit under this section may be brought in a district or county court of the county in which:

- (1) the plaintiff was employed by the defendant; or
- (2) the defendant conducts business.

(k) It is an affirmative defense to a suit under Subsection (b) that an employer would have taken the action against the employee that forms the basis of the suit based solely on information, observation, or evidence that is not related to the fact that the employee reported child abuse or neglect or initiated or cooperated with an investigation or proceeding relating to an allegation of child abuse or neglect.

(l) A public employee who has a cause of action under Chapter 554, Government Code, based on conduct described by Subsection (b) may not bring an action based on that conduct under this section.

(m) This section does not apply to a person who reports the person's own abuse or neglect of a child or who initiates or cooperates with an investigation or proceeding by a governmental entity relating to an allegation of the person's own abuse or neglect of a child.

Added by Acts 2001, 77th Leg., ch. 896, Sec. 1, eff. Sept. 1, 2001.

Sec. 261.111. REFUSAL OF PSYCHIATRIC OR PSYCHOLOGICAL TREATMENT OF CHILD. (a) In this section, "psychotropic medication" has the meaning assigned by Section 266.001.

(b) The refusal of a parent, guardian, or managing or possessory conservator of a child to administer or consent to the administration of a psychotropic medication to the child, or to consent to any other psychiatric or psychological treatment of the child, does not by itself constitute neglect of the child unless the refusal to consent:

- (1) presents a substantial risk of death, disfigurement, or bodily injury to the child; or
- (2) has resulted in an observable and material impairment to the growth, development, or functioning of the child.

Added by Acts 2003, 78th Leg., ch. 1008, Sec. 3, eff. June 20, 2003.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 1.127, eff. April 2, 2015.

SUBCHAPTER C. CONFIDENTIALITY AND PRIVILEGED COMMUNICATION

Sec. 261.201. CONFIDENTIALITY AND DISCLOSURE OF INFORMATION. (a) Except as provided by Section 261.203, the following information is confidential, is not subject to public release under Chapter 552, Government Code, and may be disclosed only for purposes consistent with this code and applicable federal or state law or under rules adopted by an investigating agency:

(1) a report of alleged or suspected abuse or neglect made under this chapter and the identity of the person making the report; and

(2) except as otherwise provided in this section, the files, reports, records, communications, audiotapes, videotapes, and working papers used or developed in an investigation under this chapter or in providing services as a result of an investigation.

(b) A court may order the disclosure of information that is confidential under this section if:

(1) a motion has been filed with the court requesting the release of the information;

(2) a notice of hearing has been served on the investigating agency and all other interested parties; and

(3) after hearing and an in camera review of the requested information, the court determines that the disclosure of the requested information is:

(A) essential to the administration of justice; and

(B) not likely to endanger the life or safety of:
(i) a child who is the subject of the report of alleged or suspected abuse or neglect;

(ii) a person who makes a report of alleged or suspected abuse or neglect; or

(iii) any other person who participates in an investigation of reported abuse or neglect or who provides care

for the child.

(b-1) On a motion of one of the parties in a contested case before an administrative law judge relating to the license or certification of a professional, as defined by Section 261.101(b), or an educator, as defined by Section 5.001, Education Code, the administrative law judge may order the disclosure of information that is confidential under this section that relates to the matter before the administrative law judge after a hearing for which notice is provided as required by Subsection (b)(2) and making the review and determination required by Subsection (b)(3). Before the department may release information under this subsection, the department must edit the information to protect the confidentiality of the identity of any person who makes a report of abuse or neglect.

(c) In addition to Subsection (b), a court, on its own motion, may order disclosure of information that is confidential under this section if:

(1) the order is rendered at a hearing for which all parties have been given notice;

(2) the court finds that disclosure of the information is:

(A) essential to the administration of justice;
and

(B) not likely to endanger the life or safety of:
(i) a child who is the subject of the report of alleged or suspected abuse or neglect;

(ii) a person who makes a report of alleged or suspected abuse or neglect; or

(iii) any other person who participates in an investigation of reported abuse or neglect or who provides care for the child; and

(3) the order is reduced to writing or made on the record in open court.

(d) The adoptive parents of a child who was the subject of an investigation and an adult who was the subject of an investigation as a child are entitled to examine and make copies of any report, record, working paper, or other information in the possession,

custody, or control of the state that pertains to the history of the child. The department may edit the documents to protect the identity of the biological parents and any other person whose identity is confidential, unless this information is already known to the adoptive parents or is readily available through other sources, including the court records of a suit to terminate the parent-child relationship under Chapter 161.

(e) Before placing a child who was the subject of an investigation, the department shall notify the prospective adoptive parents of their right to examine any report, record, working paper, or other information in the possession, custody, or control of the department that pertains to the history of the child.

(f) The department shall provide prospective adoptive parents an opportunity to examine information under this section as early as practicable before placing a child.

(f-1) The department shall provide to a relative or other individual with whom a child is placed any information the department considers necessary to ensure that the relative or other individual is prepared to meet the needs of the child. The information required by this subsection may include information related to any abuse or neglect suffered by the child.

(g) Notwithstanding Subsection (b), the department, on request and subject to department rule, shall provide to the parent, managing conservator, or other legal representative of a child who is the subject of reported abuse or neglect information concerning the reported abuse or neglect that would otherwise be confidential under this section if the department has edited the information to protect the confidentiality of the identity of the person who made the report and any other person whose life or safety may be endangered by the disclosure.

(h) This section does not apply to an investigation of child abuse or neglect in a home or facility regulated under Chapter 42, Human Resources Code.

(i) Notwithstanding Subsection (a), the Texas Juvenile Justice Department shall release a report of alleged or suspected abuse or neglect made under this chapter if:

(1) the report relates to a report of abuse or neglect

involving a child committed to the Texas Juvenile Justice Department during the period that the child is committed to that department; and

(2) the Texas Juvenile Justice Department is not prohibited by Chapter 552, Government Code, or other law from disclosing the report.

(j) The Texas Juvenile Justice Department shall edit any report disclosed under Subsection (i) to protect the identity of:

(1) a child who is the subject of the report of alleged or suspected abuse or neglect;

(2) the person who made the report; and

(3) any other person whose life or safety may be endangered by the disclosure.

(k) Notwithstanding Subsection (a), an investigating agency, other than the department or the Texas Juvenile Justice Department, on request, shall provide to the parent, managing conservator, or other legal representative of a child who is the subject of reported abuse or neglect, or to the child if the child is at least 18 years of age, information concerning the reported abuse or neglect that would otherwise be confidential under this section. The investigating agency shall withhold information under this subsection if the parent, managing conservator, or other legal representative of the child requesting the information is alleged to have committed the abuse or neglect.

(1) Before a child or a parent, managing conservator, or other legal representative of a child may inspect or copy a record or file concerning the child under Subsection (k), the custodian of the record or file must redact:

(1) any personally identifiable information about a victim or witness under 18 years of age unless that victim or witness is:

(A) the child who is the subject of the report; or

(B) another child of the parent, managing conservator, or other legal representative requesting the information;

(2) any information that is excepted from required disclosure under Chapter 552, Government Code, or other law; and

(3) the identity of the person who made the report.

Added by Acts 1995, 74th Leg., ch. 20, Sec. 1, eff. April 20, 1995.

Amended by Acts 1995, 74th Leg., ch. 751, Sec. 93, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 575, Sec. 12, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1022, Sec. 69, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1150, Sec. 3, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 1390, Sec. 22, eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 68, Sec. 2, eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 268 (S.B. 6), Sec. 1.15, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 263 (S.B. 103), Sec. 12, eff. June 8, 2007.

Acts 2009, 81st Leg., R.S., Ch. 713 (H.B. 2876), Sec. 1, eff. June 19, 2009.

Acts 2009, 81st Leg., R.S., Ch. 779 (S.B. 1050), Sec. 1, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1377 (S.B. 1182), Sec. 13, eff. September 1, 2009.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 1.128, eff. April 2, 2015.

Acts 2015, 84th Leg., R.S., Ch. 734 (H.B. 1549), Sec. 82, eff. September 1, 2015.

Sec. 261.202. PRIVILEGED COMMUNICATION. In a proceeding regarding the abuse or neglect of a child, evidence may not be excluded on the ground of privileged communication except in the case of communications between an attorney and client.

Added by Acts 1995, 74th Leg., ch. 20, Sec. 1, eff. April 20, 1995.

Sec. 261.203. INFORMATION RELATING TO CHILD FATALITY. (a) Not later than the fifth day after the date the department receives a request for information about a child fatality with respect to which the department is conducting an investigation of alleged abuse or neglect, the department shall release:

- (1) the age and sex of the child;
- (2) the date of death;

(3) whether the state was the managing conservator of the child at the time of the child's death; and

(4) whether the child resided with the child's parent, managing conservator, guardian, or other person entitled to possession of the child at the time of the child's death.

(b) If, after a child abuse or neglect investigation described by Subsection (a) is completed, the department determines a child's death or a child's near fatality was caused by abuse or neglect, the department on request shall promptly release investigation information not prohibited from release under federal law, including the following information:

(1) the information described by Subsection (a), if not previously released to the person requesting the information;

(2) information on whether a child's death or near fatality:

(A) was determined by the department to be attributable to abuse or neglect; or

(B) resulted in a criminal investigation or the filing of criminal charges if known at the time the investigation is completed;

(3) for cases in which the child's death or near fatality occurred while the child was living with the child's parent, managing conservator, guardian, or other person entitled to possession of the child:

(A) a summary of any previous reports of abuse or neglect of the child or another child made while the child was living with that parent, managing conservator, guardian, or other person entitled to possession of the child;

(B) the disposition of any report under Paragraph (A);

(C) a description of any services, including family-based safety services, that were provided or offered by the department to the child or the child's family as a result of any report under Paragraph (A) and whether the services were accepted or declined; and

(D) the results of any risk or safety assessment completed by the department relating to the child; and

(4) for a case in which the child's death or near fatality occurred while the child was in substitute care with the department or with a residential child-care provider regulated under Chapter 42, Human Resources Code, the following information:

(A) the date the substitute care provider with whom the child was residing at the time of death or near fatality was licensed or verified;

(B) a summary of any previous reports of abuse or neglect investigated by the department relating to the substitute care provider, including the disposition of any investigation resulting from a report;

(C) any reported licensing violations, including notice of any action taken by the department regarding a violation; and

(D) records of any training completed by the substitute care provider while the child was placed with the provider.

(c) If the department is unable to release the information required by Subsection (b) before the 11th day after the date the department receives a request for the information or the date the investigation of the child fatality is completed, whichever is later, the department shall inform the person requesting the information of the date the department will release the information.

(d) Repealed by Acts 2015, 84th Leg., R.S., Ch. 944 , Sec. 86(7), eff. September 1, 2015.

(e) Before the department releases any information under Subsection (b), the department shall redact from the records any information the release of which would:

(1) identify:

(A) the individual who reported the abuse or neglect; or

(B) any other individual other than the deceased child or an alleged perpetrator of the abuse or neglect;

(2) jeopardize an ongoing criminal investigation or prosecution;

(3) endanger the life or safety of any individual; or

(4) violate other state or federal law.

(f) The executive commissioner of the Health and Human Services Commission shall adopt rules to implement this section. Added by Acts 2009, 81st Leg., R.S., Ch. 779 (S.B. 1050), Sec. 2, eff. September 1, 2009.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 253 (S.B. 949), Sec. 1, eff. September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 944 (S.B. 206), Sec. 86(7), eff. September 1, 2015.

Sec. 261.204. ANNUAL CHILD FATALITY REPORT. (a) Not later than March 1 of each year, the department shall publish an aggregated report using information compiled from each child fatality investigation for which the department made a finding regarding abuse or neglect, including cases in which the department determined the fatality was not the result of abuse or neglect. The report must protect the identity of individuals involved and contain the following information:

(1) the age and sex of the child and the county in which the fatality occurred;

(2) whether the state was the managing conservator of the child or whether the child resided with the child's parent, managing conservator, guardian, or other person entitled to the possession of the child at the time of the fatality;

(3) the relationship to the child of the individual alleged to have abused or neglected the child, if any;

(4) the number of any department abuse or neglect investigations involving the child or the individual alleged to have abused or neglected the child during the two years preceding the date of the fatality and the results of the investigations;

(5) whether the department offered family-based safety services or conservatorship services to the child or family;

(6) the types of abuse and neglect alleged in the reported investigations, if any; and

(7) any trends identified in the investigations contained in the report.

(b) The report published under Subsection (a) must:

(1) accurately represent all abuse-related and neglect-related child fatalities in this state, including child fatalities investigated under Subchapter F, Chapter 264, and other child fatalities investigated by the department; and

(2) aggregate the fatalities by investigative findings and case disposition, including the following dispositions:

(A) abuse and neglect ruled out;

(B) unable to determine cause of death;

(C) reason to believe abuse or neglect occurred;

(D) reason to believe abuse or neglect contributed to child's death;

(E) unable to complete review; and

(F) administrative closure.

(c) The department may release additional information in the annual report if the release of the information is not prohibited by state or federal law.

(d) The department shall post the annual report on the department's Internet website and otherwise make the report available to the public.

(e) The executive commissioner of the Health and Human Services Commission may adopt rules to implement this section.

(f) At least once every 10 years, the department shall use the information reported under this section to provide guidance for possible department policy changes.

Added by Acts 2015, 84th Leg., R.S., Ch. 253 (S.B. 949), Sec. 2, eff. September 1, 2015.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 822 (H.B. 1549), Sec. 1, eff. September 1, 2017.

SUBCHAPTER D. INVESTIGATIONS

Sec. 261.301. INVESTIGATION OF REPORT. (a) With assistance from the appropriate state or local law enforcement agency as provided by this section, the department shall make a

prompt and thorough investigation of a report of child abuse or neglect allegedly committed by a person responsible for a child's care, custody, or welfare. The investigation shall be conducted without regard to any pending suit affecting the parent-child relationship.

(b) A state agency shall investigate a report that alleges abuse, neglect, or exploitation occurred in a facility operated, licensed, certified, or registered by that agency as provided by Subchapter E. In conducting an investigation for a facility operated, licensed, certified, registered, or listed by the department, the department shall perform the investigation as provided by:

- (1) Subchapter E; and
- (2) the Human Resources Code.

(c) The department is not required to investigate a report that alleges child abuse, neglect, or exploitation by a person other than a person responsible for a child's care, custody, or welfare. The appropriate state or local law enforcement agency shall investigate that report if the agency determines an investigation should be conducted.

(d) The executive commissioner shall by rule assign priorities and prescribe investigative procedures for investigations based on the severity and immediacy of the alleged harm to the child. The primary purpose of the investigation shall be the protection of the child. The rules must require the department, subject to the availability of funds, to:

- (1) immediately respond to a report of abuse and neglect that involves circumstances in which the death of the child or substantial bodily harm to the child would result unless the department immediately intervenes;

- (2) respond within 24 hours to a report of abuse and neglect that is assigned the highest priority, other than a report described by Subdivision (1); and

- (3) respond within 72 hours to a report of abuse and neglect that is assigned the second highest priority.

(e) As necessary to provide for the protection of the child, the department shall determine:

(1) the nature, extent, and cause of the abuse or neglect;

(2) the identity of the person responsible for the abuse or neglect;

(3) the names and conditions of the other children in the home;

(4) an evaluation of the parents or persons responsible for the care of the child;

(5) the adequacy of the home environment;

(6) the relationship of the child to the persons responsible for the care, custody, or welfare of the child; and

(7) all other pertinent data.

(f) An investigation of a report to the department that alleges that a child has been or may be the victim of conduct that constitutes a criminal offense that poses an immediate risk of physical or sexual abuse of a child that could result in the death of or serious harm to the child shall be conducted jointly by a peace officer, as defined by Article 2.12, Code of Criminal Procedure, from the appropriate local law enforcement agency and the department or the agency responsible for conducting an investigation under Subchapter E.

(g) The inability or unwillingness of a local law enforcement agency to conduct a joint investigation under this section does not constitute grounds to prevent or prohibit the department from performing its duties under this subtitle. The department shall document any instance in which a law enforcement agency is unable or unwilling to conduct a joint investigation under this section.

(h) The department and the appropriate local law enforcement agency shall conduct an investigation, other than an investigation under Subchapter E, as provided by this section and Article 2.27, Code of Criminal Procedure, if the investigation is of a report that alleges that a child has been or may be the victim of conduct that constitutes a criminal offense that poses an immediate risk of physical or sexual abuse of a child that could result in the death of or serious harm to the child. Immediately on receipt of a report described by this subsection, the department

shall notify the appropriate local law enforcement agency of the report.

(i) If at any time during an investigation of a report of child abuse or neglect to which the department has assigned the highest priority the department is unable to locate the child who is the subject of the report of abuse or neglect or the child's family, the department shall notify the Department of Public Safety that the location of the child and the child's family is unknown. If the Department of Public Safety locates the child and the child's family, the Department of Public Safety shall notify the department of the location of the child and the child's family.

Text of subsection as added by Acts 2017, 85th Leg., R.S., Ch. 356
(H.B. [2124](#)), Sec. 1

(j) In an investigation of a report of abuse or neglect allegedly committed by a person responsible for a child's care, custody, or welfare, the department shall determine whether the person is an active duty member of the United States armed forces or the spouse of a member on active duty. If the department determines the person is an active duty member of the United States armed forces or the spouse of a member on active duty, the department shall notify the United States Department of Defense Family Advocacy Program at the closest active duty military installation of the investigation.

Text of subsection as added by Acts 2017, 85th Leg., R.S., Ch. 822
(H.B. [1549](#)), Sec. 2

(j) In geographic areas with demonstrated need, the department shall designate employees to serve specifically as investigators and responders for after-hours reports of child abuse or neglect.

Added by Acts 1995, 74th Leg., ch. 20, Sec. 1, eff. April 20, 1995. Amended by Acts 1995, 74th Leg., ch. 751, Sec. 94, eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 943, Sec. 2, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1022, Sec. 70, eff. Sept. 1, 1997; Acts

1997, 75th Leg., ch. 1137, Sec. 1, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1150, Sec. 4, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 1390, Sec. 23, eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 867, Sec. 1, eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 268 (S.B. 6), Sec. 1.16(a), eff. September 1, 2005.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 1.129, eff. April 2, 2015.

Acts 2015, 84th Leg., R.S., Ch. 1056 (H.B. 2053), Sec. 1, eff. September 1, 2015.

Acts 2017, 85th Leg., R.S., Ch. 319 (S.B. 11), Sec. 9, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 356 (H.B. 2124), Sec. 1, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 822 (H.B. 1549), Sec. 2, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 1136 (H.B. 249), Sec. 4, eff. September 1, 2017.

Sec. 261.3011. JOINT INVESTIGATION GUIDELINES AND TRAINING.

(a) The department shall, in consultation with the appropriate law enforcement agencies, develop guidelines and protocols for joint investigations by the department and the law enforcement agency under Section 261.301. The guidelines and protocols must:

(1) clarify the respective roles of the department and law enforcement agency in conducting the investigation;

(2) require that mutual child protective services and law enforcement training and agreements be implemented by both entities to ensure the integrity and best outcomes of joint investigations; and

(3) incorporate the use of forensic methods in determining the occurrence of child abuse and neglect.

(b) The department shall collaborate with law enforcement agencies to provide to department investigators and law enforcement officers responsible for investigating reports of abuse and neglect joint training relating to methods to effectively conduct joint

investigations under Section 261.301. The training must include information on interviewing techniques, evidence gathering, and testifying in court for criminal investigations, as well as instruction on rights provided by the Fourth Amendment to the United States Constitution.

Added by Acts 2005, 79th Leg., Ch. 268 (S.B. 6), Sec. 1.17, eff. September 1, 2005.

Sec. 261.3013. CASE CLOSURE AGREEMENTS PROHIBITED.

(a) Except as provided by Subsection (b), on closing a case, the department may not enter into a written agreement with a child's parent or another adult with whom the child resides that requires the parent or other adult to take certain actions after the case is closed to ensure the child's safety.

(b) This section does not apply to an agreement that is entered into by a parent or other adult:

(1) following the removal of a child and that is subject to the approval of a court with continuing jurisdiction over the child;

(2) as a result of the person's participation in family group conferencing; or

(3) as part of a formal case closure plan agreed to by the person who will continue to care for a child as a result of a parental child safety placement.

(c) The department shall develop policies to guide caseworkers in the development of case closure agreements authorized under Subsections (b)(2) and (3).

Added by Acts 2011, 82nd Leg., R.S., Ch. 598 (S.B. 218), Sec. 1, eff. September 1, 2011.

Sec. 261.3015. ALTERNATIVE RESPONSE SYSTEM. (a) In

assigning priorities and prescribing investigative procedures based on the severity and immediacy of the alleged harm to a child under Section 261.301(d), the department shall establish an alternative response system to allow the department to make the most effective use of resources to investigate and respond to reported cases of abuse and neglect.

(b) Notwithstanding Section [261.301](#), the department may, in accordance with this section and department rules, conduct an alternative response to a report of abuse or neglect if the report does not:

- (1) allege sexual abuse of a child;
- (2) allege abuse or neglect that caused the death of a child; or
- (3) indicate a risk of serious physical injury or immediate serious harm to a child.

(c) The department may administratively close a reported case of abuse or neglect without completing the investigation or alternative response and without providing services or making a referral to another entity for assistance if the department determines, after contacting a professional or other credible source, that the child's safety can be assured without further investigation, response, services, or assistance.

(d) In determining how to classify a reported case of abuse or neglect under the alternative response system, the child's safety is the primary concern. The classification of a case may be changed as warranted by the circumstances.

(e) An alternative response to a report of abuse or neglect must include:

- (1) a safety assessment of the child who is the subject of the report;
- (2) an assessment of the child's family; and
- (3) in collaboration with the child's family, identification of any necessary and appropriate service or support to reduce the risk of future harm to the child.

(f) An alternative response to a report of abuse or neglect may not include a formal determination of whether the alleged abuse or neglect occurred.

(g) The department may implement the alternative response in one or more of the department's administrative regions before implementing the system statewide. The department shall study the results of the system in the regions where the system has been implemented in determining the method by which to implement the system statewide.

Added by Acts 1997, 75th Leg., ch. 1022, Sec. 71, eff. Sept. 1, 1997.

Amended by:

Acts 2005, 79th Leg., Ch. 268 (S.B. 6), Sec. 1.19(a), eff. September 1, 2005.

Acts 2013, 83rd Leg., R.S., Ch. 420 (S.B. 423), Sec. 1, eff. September 1, 2013.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 1.130, eff. April 2, 2015.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 1.131, eff. April 2, 2015.

Sec. 261.3016. TRAINING OF PERSONNEL RECEIVING REPORTS OF ABUSE AND NEGLECT. The department shall develop, in cooperation with local law enforcement officials and the Commission on State Emergency Communications, a training program for department personnel who receive reports of abuse and neglect. The training program must include information on:

(1) the proper methods of screening reports of abuse and neglect; and

(2) ways to determine the seriousness of a report, including determining whether a report alleges circumstances that could result in the death of or serious harm to a child or whether the report is less serious in nature.

Added by Acts 2005, 79th Leg., Ch. 54 (H.B. 801), Sec. 1, eff. September 1, 2005.

Added by Acts 2005, 79th Leg., Ch. 268 (S.B. 6), Sec. 1.20, eff. September 1, 2005.

Text of section as added by Acts 2017, 85th Leg., R.S., Ch. 523

(S.B. 190), Sec. 1

For text of section as added by Acts 2017, 85th Leg., R.S., Ch. 502

(H.B. 2848), Sec. 1, see other Sec. 261.3017.

Sec. 261.3017. ABBREVIATED INVESTIGATION AND ADMINISTRATIVE CLOSURE OF CERTAIN CASES. (a) A department caseworker may refer a reported case of child abuse or neglect to a department supervisor for abbreviated investigation or

administrative closure at any time before the 60th day after the date the report is received if:

(1) there is no prior report of abuse or neglect of the child who is the subject of the report;

(2) the department has not received an additional report of abuse or neglect of the child following the initial report;

(3) after contacting a professional or other credible source, the caseworker determines that the child's safety can be assured without further investigation, response, services, or assistance; and

(4) the caseworker determines that no abuse or neglect occurred.

(b) A department supervisor shall review each reported case of child abuse or neglect that has remained open for more than 60 days and administratively close the case if:

(1) the supervisor determines that:

(A) the circumstances described by Subsections (a)(1)-(4) exist; and

(B) closing the case would not expose the child to an undue risk of harm; and

(2) the department director grants approval for the administrative closure of the case.

(c) A department supervisor may reassign a reported case of child abuse or neglect that does not qualify for abbreviated investigation or administrative closure under Subsection (a) or (b) to a different department caseworker if the supervisor determines that reassignment would allow the department to make the most effective use of resources to investigate and respond to reported cases of abuse or neglect.

(d) The executive commissioner shall adopt rules necessary to implement this section.

(e) In this section, "professional" means an individual who is licensed or certified by the state or who is an employee of a facility licensed, certified, or operated by the state and who, in the normal course of official duties or duties for which a license or certification is required, has direct contact with

children. The term includes teachers, nurses, doctors, day-care employees, employees of a clinic or health care facility that provides reproductive services, juvenile probation officers, and juvenile detention or correctional officers.

Added by Acts 2017, 85th Leg., R.S., Ch. 523 (S.B. 190), Sec. 1, eff. June 9, 2017.

Text of section as added by Acts 2017, 85th Leg., R.S., Ch. 502
(H.B. 2848), Sec. 1

For text of section as added by Acts 2017, 85th Leg., R.S., Ch. 523
(S.B. 190), Sec. 1, see other Sec. 261.3017.

Sec. 261.3017. CONSULTATION WITH PHYSICIAN NETWORKS AND SYSTEMS REGARDING CERTAIN MEDICAL CONDITIONS. (a) In this section:

(1) "Network" means the Forensic Assessment Center Network.

(2) "System" means the entities that receive grants under the Texas Medical Child Abuse Resources and Education System (MEDCARES) authorized by Chapter 1001, Health and Safety Code.

(b) Any agreement between the department and the network or between the Department of State Health Services and the system to provide assistance in connection with abuse and neglect investigations conducted by the department must require the network and the system to have the ability to obtain consultations with physicians, including radiologists, geneticists, and endocrinologists, who specialize in identifying unique health conditions, including:

(1) rickets;

(2) Ehlers-Danlos Syndrome;

(3) osteogenesis imperfecta;

(4) vitamin D deficiency; and

(5) other similar metabolic bone diseases or connective tissue disorders.

(c) If, during an abuse or neglect investigation or an assessment provided under Subsection (b), the department or a physician in the network determines that a child requires a specialty consultation with a physician, the department or the

physician shall refer the child's case to the system for the consultation, if the system has available capacity to take the child's case.

(d) In providing assessments to the department as provided by Subsection (b), the network and the system must use a blind peer review process to resolve cases where physicians in the network or system disagree in the assessment of the causes of a child's injuries or in the presence of a condition listed under Subsection (b).

Added by Acts 2017, 85th Leg., R.S., Ch. 502 (H.B. 2848), Sec. 1, eff. September 1, 2017.

Sec. 261.302. CONDUCT OF INVESTIGATION. (a) The investigation may include:

(1) a visit to the child's home, unless the alleged abuse or neglect can be confirmed or clearly ruled out without a home visit; and

(2) an interview with and examination of the subject child, which may include a medical, psychological, or psychiatric examination.

(b) The interview with and examination of the child may:

(1) be conducted at any reasonable time and place, including the child's home or the child's school;

(2) include the presence of persons the department determines are necessary; and

(3) include transporting the child for purposes relating to the interview or investigation.

(b-1) Before the department may transport a child as provided by Subsection (b)(3), the department shall attempt to notify the parent or other person having custody of the child of the transport.

(c) The investigation may include an interview with the child's parents and an interview with and medical, psychological, or psychiatric examination of any child in the home.

(d) If, before an investigation is completed, the investigating agency believes that the immediate removal of a child from the child's home is necessary to protect the child from further

abuse or neglect, the investigating agency shall file a petition or take other action under Chapter 262 to provide for the temporary care and protection of the child.

(e) An interview with a child in which the allegations of the current investigation are discussed and that is conducted by the department during the investigation stage shall be audiotaped or videotaped unless:

(1) the recording equipment malfunctions and the malfunction is not the result of a failure to maintain the equipment or bring adequate supplies for the equipment;

(2) the child is unwilling to allow the interview to be recorded after the department makes a reasonable effort consistent with the child's age and development and the circumstances of the case to convince the child to allow the recording; or

(3) due to circumstances that could not have been reasonably foreseen or prevented by the department, the department does not have the necessary recording equipment because the department employee conducting the interview does not ordinarily conduct interviews.

(e-1) An interview with a child alleged to be a victim of physical abuse or sexual abuse conducted by an investigating agency other than the department shall be audiotaped or videotaped unless the investigating agency determines that good cause exists for not audiotaping or videotaping the interview in accordance with rules of the agency. Good cause may include, but is not limited to, such considerations as the age of the child and the nature and seriousness of the allegations under investigation. Nothing in this subsection shall be construed as prohibiting the investigating agency from audiotaping or videotaping an interview of a child on any case for which such audiotaping or videotaping is not required under this subsection. The fact that the investigating agency failed to audiotape or videotape an interview is admissible at the trial of the offense that is the subject of the interview.

(f) A person commits an offense if the person is notified of the time of the transport of a child by the department and the location from which the transport is initiated and the person is present at the location when the transport is initiated and

attempts to interfere with the department's investigation. An offense under this subsection is a Class B misdemeanor. It is an exception to the application of this subsection that the department requested the person to be present at the site of the transport.

Added by Acts 1995, 74th Leg., ch. 20, Sec. 1, eff. April 20, 1995.

Amended by Acts 1995, 74th Leg., ch. 751, Sec. 95, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 575, Sec. 13, 14, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1022, Sec. 73, eff. Sept. 1, 1997.

Amended by:

Acts 2005, 79th Leg., Ch. 268 (S.B. 6), Sec. 1.21, eff. September 1, 2005.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 1.132, eff. April 2, 2015.

Acts 2015, 84th Leg., R.S., Ch. 944 (S.B. 206), Sec. 19, eff. September 1, 2015.

Sec. 261.3021. CASEWORK DOCUMENTATION AND MANAGEMENT. Subject to the appropriation of money, the department shall identify critical investigation actions that impact child safety and require department caseworkers to document those actions in a child's case file not later than the day after the action occurs.

Added by Acts 2005, 79th Leg., Ch. 268 (S.B. 6), Sec. 1.22, eff. September 1, 2005.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 944 (S.B. 206), Sec. 20, eff. September 1, 2015.

Sec. 261.3022. CHILD SAFETY CHECK ALERT LIST. (a) The Department of Public Safety of the State of Texas shall maintain a child safety check alert list as part of the Texas Crime Information Center to help locate a child or the child's family for purposes of:

- (1) investigating a report of child abuse or neglect;
- (2) providing protective services to a family receiving family-based support services; or
- (3) providing protective services to the family of a child in the managing conservatorship of the department.

(b) If the department is unable to locate a child or the child's family for a purpose described by Subsection (a) after the department has attempted to locate the child for not more than 20 days, the department shall notify the Texas Department of Public Safety that the department is unable to locate the child or the child's family. The notice must include the information required by Subsections (c)(1)-(10).

(c) On receipt of the notice from the department, the Texas Department of Public Safety shall notify the Texas Crime Information Center to place the child and the child's family on a child safety check alert list. The alert list must include the following information if known or readily available:

(1) the name, sex, race, date of birth, any known identifying numbers, including social security number and driver's license number, and personal descriptions of the family member alleged to have abused or neglected a child according to the report the department is attempting to investigate;

(2) the name, sex, race, date of birth, any known identifying numbers, including social security number and driver's license number, and personal descriptions of any parent, managing conservator, or guardian of the child who cannot be located for the purposes described by Subsection (a);

(3) the name, sex, race, date of birth, any known identifying numbers, including social security number and driver's license number, and personal descriptions of the child who is the subject of the report or is receiving services described by Subsection (a)(2) or (3);

(4) if applicable, a code identifying the type of child abuse or neglect alleged or determined to have been committed against the child;

(5) the family's last known address;

(6) any known description of the motor vehicle, including the vehicle's make, color, style of body, model year, and vehicle identification number, in which the child is suspected to be transported;

(7) the case number assigned by the department;

(8) the department's dedicated law-enforcement

telephone number for statewide intake;

(9) the date and time when and the location where the child was last seen; and

(10) any other information required for an entry as established by the center.

Added by Acts 2005, 79th Leg., Ch. 268 (S.B. 6), Sec. 1.22, eff. September 1, 2005.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1056 (H.B. 2053), Sec. 2, eff. September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 1202 (S.B. 1406), Sec. 1, eff. September 1, 2015.

Sec. 261.3023. LAW ENFORCEMENT RESPONSE TO CHILD SAFETY CHECK ALERT. If a law enforcement officer encounters a child or other person listed on the Texas Crime Information Center's child safety check alert list, the law enforcement officer shall follow the procedures described by Article 2.272, Code of Criminal Procedure.

Added by Acts 2005, 79th Leg., Ch. 268 (S.B. 6), Sec. 1.22, eff. September 1, 2005.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1056 (H.B. 2053), Sec. 3, eff. September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 1202 (S.B. 1406), Sec. 2, eff. September 1, 2015.

Reenacted and amended by Acts 2017, 85th Leg., R.S., Ch. 324 (S.B. 1488), Sec. 7.006, eff. September 1, 2017.

Sec. 261.3024. REMOVAL FROM CHILD SAFETY CHECK ALERT LIST.

(a) A law enforcement officer who locates a child listed on the Texas Crime Information Center's child safety check alert list shall report that the child has been located in the manner prescribed by Article 2.272, Code of Criminal Procedure.

(b) If the department locates a child who has been placed on the child safety check alert list established under Section 261.3022 through a means other than information reported to the

department by a law enforcement officer under Article 2.272, Code of Criminal Procedure, the department shall report to the Texas Crime Information Center that the child has been located.

(c) On receipt of notice that a child has been located, the Texas Crime Information Center shall remove the child and the child's family from the child safety check alert list.

Added by Acts 2005, 79th Leg., Ch. 268 (S.B. 6), Sec. 1.22, eff. September 1, 2005.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1056 (H.B. 2053), Sec. 4, eff. September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 1202 (S.B. 1406), Sec. 3, eff. September 1, 2015.

Acts 2017, 85th Leg., R.S., Ch. 324 (S.B. 1488), Sec. 7.007, eff. September 1, 2017.

For expiration of this section, see Subsection (c).

Sec. 261.3025. CHILD SAFETY CHECK ALERT LIST PROGRESS REPORT. (a) Not later than February 1 of each year, the Department of Public Safety, with the assistance of the department, shall prepare and submit a report on the use of the Texas Crime Information Center's child safety check alert list to the standing committees of the senate and the house of representatives with primary jurisdiction over child protective services.

(b) The report must include the following information for the preceding calendar year:

(1) the number of law enforcement officers who completed the training program established under Section 1701.266, Occupations Code;

(2) the number of children who have been placed on the child safety check alert list and the number of those children who have been located; and

(3) the number of families who have been placed on the child safety check alert list and the number of those families who have been located.

(c) This section expires February 2, 2021.

Added by Acts 2015, 84th Leg., R.S., Ch. 1056 (H.B. 2053), Sec. 5,

eff. March 1, 2016.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 324 (S.B. 1488), Sec. 24.002(5), eff. September 1, 2017.

Sec. 261.303. INTERFERENCE WITH INVESTIGATION; COURT ORDER. (a) A person may not interfere with an investigation of a report of child abuse or neglect conducted by the department.

(b) If admission to the home, school, or any place where the child may be cannot be obtained, then for good cause shown the court having family law jurisdiction shall order the parent, the person responsible for the care of the children, or the person in charge of any place where the child may be to allow entrance for the interview, examination, and investigation.

(c) If a parent or person responsible for the child's care does not consent to release of the child's prior medical, psychological, or psychiatric records or to a medical, psychological, or psychiatric examination of the child that is requested by the department, the court having family law jurisdiction shall, for good cause shown, order the records to be released or the examination to be made at the times and places designated by the court.

(d) A person, including a medical facility, that makes a report under Subchapter B shall release to the department, as part of the required report under Section 261.103, records that directly relate to the suspected abuse or neglect without requiring parental consent or a court order. If a child is transferred from a reporting medical facility to another medical facility to treat the injury or condition that formed the basis for the original report, the transferee medical facility shall, at the department's request, release to the department records relating to the injury or condition without requiring parental consent or a court order.

(e) A person, including a utility company, that has confidential locating or identifying information regarding a family that is the subject of an investigation under this chapter shall release that information to the department on request. The release of information to the department as required by this

subsection by a person, including a utility company, is not subject to Section [552.352](#), Government Code, or any other law providing liability for the release of confidential information.

Added by Acts 1995, 74th Leg., ch. 20, Sec. 1, eff. April 20, 1995.

Amended by Acts 1995, 74th Leg., ch. 751, Sec. 96, eff. Sept. 1, 1995; Acts 1999, 76th Leg., ch. 1150, Sec. 5, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 1390, Sec. 24, eff. Sept. 1, 1999.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1406 (S.B. [758](#)), Sec. 6, eff. September 1, 2007.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. [219](#)), Sec. 1.133, eff. April 2, 2015.

Sec. 261.3031. FAILURE TO COOPERATE WITH INVESTIGATION; DEPARTMENT RESPONSE. (a) If a parent or other person refuses to cooperate with the department's investigation of the alleged abuse or neglect of a child and the refusal poses a risk to the child's safety, the department shall seek assistance from the appropriate attorney with responsibility for representing the department as provided by Section [264.009](#) to obtain a court order as described by Section [261.303](#).

(b) A person's failure to report to an agency authorized to investigate abuse or neglect of a child within a reasonable time after receiving proper notice constitutes a refusal by the person to cooperate with the department's investigation. A summons may be issued to locate the person.

Added by Acts 2005, 79th Leg., Ch. 268 (S.B. [6](#)), Sec. 1.23, eff. September 1, 2005.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1406 (S.B. [758](#)), Sec. 7, eff. September 1, 2007.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. [219](#)), Sec. 1.134, eff. April 2, 2015.

Sec. 261.3032. INTERFERENCE WITH INVESTIGATION; CRIMINAL PENALTY. (a) A person commits an offense if, with the intent to interfere with the department's investigation of a report of abuse

or neglect of a child, the person relocates the person's residence, either temporarily or permanently, without notifying the department of the address of the person's new residence or conceals the child and the person's relocation or concealment interferes with the department's investigation.

(b) An offense under this section is a Class B misdemeanor.

(c) If conduct that constitutes an offense under this section also constitutes an offense under any other law, the actor may be prosecuted under this section or the other law.

Added by Acts 2005, 79th Leg., Ch. 268 (S.B. 6), Sec. 1.24, eff. September 1, 2005.

Sec. 261.304. INVESTIGATION OF ANONYMOUS REPORT. (a) If the department receives an anonymous report of child abuse or neglect by a person responsible for a child's care, custody, or welfare, the department shall conduct a preliminary investigation to determine whether there is any evidence to corroborate the report.

(b) An investigation under this section may include a visit to the child's home, unless the alleged abuse or neglect can be confirmed or clearly ruled out without a home visit, an interview with and examination of the child, and an interview with the child's parents. In addition, the department may interview any other person the department believes may have relevant information.

(c) Unless the department determines that there is some evidence to corroborate the report of abuse, the department may not conduct the thorough investigation required by this chapter or take any action against the person accused of abuse.

Added by Acts 1995, 74th Leg., ch. 20, Sec. 1, eff. April 20, 1995.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 416 (S.B. 1063), Sec. 1, eff. September 1, 2017.

Sec. 261.305. ACCESS TO MENTAL HEALTH RECORDS. (a) An investigation may include an inquiry into the possibility that a parent or a person responsible for the care of a child who is the subject of a report under Subchapter B has a history of medical or

mental illness.

(b) If the parent or person does not consent to an examination or allow the department to have access to medical or mental health records requested by the department, the court having family law jurisdiction, for good cause shown, shall order the examination to be made or that the department be permitted to have access to the records under terms and conditions prescribed by the court.

(c) If the court determines that the parent or person is indigent, the court shall appoint an attorney to represent the parent or person at the hearing. The fees for the appointed attorney shall be paid as provided by Chapter 107.

(d) A parent or person responsible for the child's care is entitled to notice and a hearing when the department seeks a court order to allow a medical, psychological, or psychiatric examination or access to medical or mental health records.

(e) This access does not constitute a waiver of confidentiality.

Added by Acts 1995, 74th Leg., ch. 20, Sec. 1, eff. April 20, 1995.

Amended by Acts 1997, 75th Leg., ch. 575, Sec. 15, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1150, Sec. 6, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 1390, Sec. 25, eff. Sept. 1, 1999.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 1.135, eff. April 2, 2015.

Sec. 261.306. REMOVAL OF CHILD FROM STATE. (a) If the department has reason to believe that a person responsible for the care, custody, or welfare of the child may remove the child from the state before the investigation is completed, the department may file an application for a temporary restraining order in a district court without regard to continuing jurisdiction of the child as provided in Chapter 155.

(b) The court may render a temporary restraining order prohibiting the person from removing the child from the state pending completion of the investigation if the court:

(1) finds that the department has probable cause to

conduct the investigation; and

(2) has reason to believe that the person may remove the child from the state.

Added by Acts 1995, 74th Leg., ch. 20, Sec. 1, eff. April 20, 1995.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 1.136, eff. April 2, 2015.

Sec. 261.307. INFORMATION RELATING TO INVESTIGATION PROCEDURE. (a) As soon as possible after initiating an investigation of a parent or other person having legal custody of a child, the department shall 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;

(2) 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; and

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

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

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

Added by Acts 1995, 74th Leg., ch. 20, Sec. 1, eff. April 20, 1995.

Amended by:

Acts 2005, 79th Leg., Ch. 268 (S.B. [6](#)), Sec. 1.25(a), eff. September 1, 2005.

Sec. 261.3071. INFORMATIONAL MANUALS. (a) In this section:

(1) "Designated caregiver" and "relative caregiver" have the meanings assigned those terms by Section [264.751](#).

(2) "Voluntary caregiver" means a person who voluntarily agrees to provide temporary care for a child:

(A) who is the subject of an investigation by the department or whose parent, managing conservator, possessory conservator, guardian, caretaker, or custodian is receiving family-based safety services from the department;

(B) who is not in the conservatorship of the department; and

(C) who is placed in the care of the person by the parent or other person having legal custody of the child.

(b) The department shall develop and publish informational manuals that provide information for:

(1) a parent or other person having custody of a child who is the subject of an investigation under this chapter;

(2) a person who is selected by the department to be the child's relative or designated caregiver; and

(3) a voluntary caregiver.

(c) Information provided in the manuals must be in both English and Spanish and must include, as appropriate:

(1) useful indexes of information such as telephone numbers;

(2) the information required to be provided under Section 261.307(a)(1);

(3) information describing the rights and duties of a relative or designated caregiver;

(4) information regarding the relative and other designated caregiver program under Subchapter I, Chapter 264; and

(5) information regarding the role of a voluntary caregiver, including information on how to obtain any documentation necessary to provide for a child's needs.

Added by Acts 2005, 79th Leg., Ch. 268 (S.B. 6), Sec. 1.26, eff. September 1, 2005.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 825 (S.B. 1723), Sec. 1, eff. June 19, 2009.

Sec. 261.308. SUBMISSION OF INVESTIGATION REPORT. (a) The department shall make a complete written report of the investigation.

(b) Repealed by Acts 2015, 84th Leg., R.S., Ch. 944, Sec. 86(9), eff. September 1, 2015.

(c) Repealed by Acts 2015, 84th Leg., R.S., Ch. 944, Sec. 86(9), eff. September 1, 2015.

(d) The department shall release information regarding a person alleged to have committed abuse or neglect to persons who have control over the person's access to children, including, as appropriate, the Texas Education Agency, the State Board for Educator Certification, the local school board or the school's governing body, the superintendent of the school district, or the school principal or director if the department determines that:

(1) the person alleged to have committed abuse or neglect poses a substantial and immediate risk of harm to one or more children outside the family of a child who is the subject of the investigation; and

(2) the release of the information is necessary to assist in protecting one or more children from the person alleged to have committed abuse or neglect.

(e) On request, the department shall release information about a person alleged to have committed abuse or neglect to the State Board for Educator Certification if the board has a reasonable basis for believing that the information is necessary to assist the board in protecting children from the person alleged to have committed abuse or neglect.

Added by Acts 1995, 74th Leg., ch. 20, Sec. 1, eff. April 20, 1995.
Amended by Acts 1995, 74th Leg., ch. 751, Sec. 97, eff. Sept. 1, 1995.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1372 (S.B. 9), Sec. 13, eff. June 15, 2007.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 1.137, eff. April 2, 2015.

Acts 2015, 84th Leg., R.S., Ch. 944 (S.B. 206), Sec. 86(9), eff. September 1, 2015.

Sec. 261.309. REVIEW OF DEPARTMENT INVESTIGATIONS.

(a) The executive commissioner shall by rule establish policies and procedures to resolve complaints relating to and conduct reviews of child abuse or neglect investigations conducted by the department.

(b) If a person under investigation for allegedly abusing or

neglecting a child requests clarification of the status of the person's case or files a complaint relating to the conduct of the department's staff or to department policy, the department shall conduct an informal review to clarify the person's status or resolve the complaint. The division of the department responsible for investigating complaints shall conduct the informal review as soon as possible but not later than the 14th day after the date the request or complaint is received.

(c) If, after the department's investigation, the person who is alleged to have abused or neglected a child disputes the department's determination of whether child abuse or neglect occurred, the person may request an administrative review of the findings. A department employee in administration who was not involved in or did not directly supervise the investigation shall conduct the review. The review must sustain, alter, or reverse the department's original findings in the investigation.

(d) The department employee shall conduct the review prescribed by Subsection (c) as soon as possible but not later than the 45th day after the date the department receives the request, unless the department has good cause for extending the deadline. If a civil or criminal court proceeding or an ongoing criminal investigation relating to the alleged abuse or neglect investigated by the department is pending, the department may postpone the review until the court proceeding is completed.

(e) A person is not required to exhaust the remedies provided by this section before pursuing a judicial remedy provided by law.

(f) This section does not provide for a review of an order rendered by a court.

Added by Acts 1995, 74th Leg., ch. 20, Sec. 1, eff. April 20, 1995.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 1.138, eff. April 2, 2015.

Acts 2015, 84th Leg., R.S., Ch. 944 (S.B. 206), Sec. 21, eff. September 1, 2015.

Sec. 261.310. INVESTIGATION STANDARDS. (a) The executive

commissioner shall by rule develop and adopt standards for persons who investigate suspected child abuse or neglect at the state or local level. The standards shall encourage professionalism and consistency in the investigation of suspected child abuse or neglect.

(b) The standards must provide for a minimum number of hours of annual professional training for interviewers and investigators of suspected child abuse or neglect.

(c) Repealed by Acts 2015, 84th Leg., R.S., Ch. 944 , Sec. 86(10), eff. September 1, 2015.

(d) The standards shall:

(1) recommend that videotaped and audiotaped interviews be uninterrupted;

(2) recommend a maximum number of interviews with and examinations of a suspected victim;

(3) provide procedures to preserve evidence, including the original recordings of the intake telephone calls, original notes, videotapes, and audiotapes, for one year; and

(4) provide that an investigator of suspected child abuse or neglect make a reasonable effort to locate and inform each parent of a child of any report of abuse or neglect relating to the child.

(e) The department, in conjunction with the Department of Public Safety, shall provide to the department's residential child-care facility licensing investigators advanced training in investigative protocols and techniques.

Added by Acts 1995, 74th Leg., ch. 20, Sec. 1, eff. April 20, 1995.

Amended by:

Acts 2005, 79th Leg., Ch. 268 (S.B. 6), Sec. 1.27, eff. September 1, 2005.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 1.139, eff. April 2, 2015.

Acts 2015, 84th Leg., R.S., Ch. 944 (S.B. 206), Sec. 86(10), eff. September 1, 2015.

Sec. 261.311. NOTICE OF REPORT. (a) When during an investigation of a report of suspected child abuse or neglect a

representative of the department conducts an interview with or an examination of a child, the department shall make a reasonable effort before 24 hours after the time of the interview or examination to notify each parent of the child and the child's legal guardian, if one has been appointed, of the nature of the allegation and of the fact that the interview or examination was conducted.

(b) If a report of suspected child abuse or neglect is administratively closed by the department as a result of a preliminary investigation that did not include an interview or examination of the child, the department shall make a reasonable effort before the expiration of 24 hours after the time the investigation is closed to notify each parent and legal guardian of the child of the disposition of the investigation.

(c) The notice required by Subsection (a) or (b) is not required if the department or agency determines that the notice is likely to endanger the safety of the child who is the subject of the report, the person who made the report, or any other person who participates in the investigation of the report.

(d) The notice required by Subsection (a) or (b) may be delayed at the request of a law enforcement agency if notification during the required time would interfere with an ongoing criminal investigation.

Added by Acts 1995, 74th Leg., ch. 20, Sec. 1, eff. April 20, 1995.
Amended by Acts 1997, 75th Leg., ch. 1022, Sec. 74, eff. Sept. 1, 1997.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. [219](#)), Sec. 1.140, eff. April 2, 2015.

Sec. 261.312. REVIEW TEAMS; OFFENSE. (a) The department shall establish review teams to evaluate department casework and decision-making related to investigations by the department of child abuse or neglect. The department may create one or more review teams for each region of the department for child protective services. A review team is a citizen review panel or a similar entity for the purposes of federal law relating to a state's child protection standards.

(b) A review team consists of at least five members who serve staggered two-year terms. Review team members are appointed by the commissioner of the department and consist of volunteers who live in and are broadly representative of the region in which the review team is established and have expertise in the prevention and treatment of child abuse and neglect. At least two members of a review team must be parents who have not been convicted of or indicted for an offense involving child abuse or neglect, have not been determined by the department to have engaged in child abuse or neglect, and are not under investigation by the department for child abuse or neglect. A member of a review team is a department volunteer for the purposes of Section [411.114](#), Government Code.

(c) A review team conducting a review of an investigation may conduct the review by examining the facts of the case as outlined by the department caseworker and law enforcement personnel. A review team member acting in the member's official capacity may receive information made confidential under Section [40.005](#), Human Resources Code, or Section [261.201](#).

(d) A review team shall report to the department the results of the team's review of an investigation. The review team's report may not include confidential information. The findings contained in a review team's report are subject to disclosure under Chapter [552](#), Government Code. This section does not require a law enforcement agency to divulge information to a review team that the agency believes would compromise an ongoing criminal case, investigation, or proceeding.

(e) A member of a review team commits an offense if the member discloses confidential information. An offense under this subsection is a Class C misdemeanor.

Added by Acts 1995, 74th Leg., ch. 943, Sec. 3, eff. Sept. 1, 1995.
Amended by Acts 1997, 75th Leg., ch. 575, Sec. 16, eff. Sept. 1, 1997.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1372 (S.B. [939](#)), Sec. 3, eff. June 19, 2009.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. [219](#)), Sec. 1.141, eff. April 2, 2015.

Sec. 261.3125. CHILD SAFETY SPECIALISTS. (a) The department shall employ in each of the department's administrative regions at least one child safety specialist. The job responsibilities of the child safety specialist must focus on child abuse and neglect investigation issues, including reports of child abuse required by Section 261.101, to achieve a greater compliance with that section, and on assessing and improving the effectiveness of the department in providing for the protection of children in the region.

(b) The duties of a child safety specialist must include the duty to:

(1) conduct staff reviews and evaluations of cases determined to involve a high risk to the health or safety of a child, including cases of abuse reported under Section 261.101, to ensure that risk assessment tools are fully and correctly used;

(2) review and evaluate cases in which there have been multiple referrals to the department of child abuse or neglect involving the same family, child, or person alleged to have committed the abuse or neglect; and

(3) approve decisions and assessments related to investigations of cases of child abuse or neglect that involve a high risk to the health or safety of a child.

Added by Acts 1999, 76th Leg., ch. 1490, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2005, 79th Leg., Ch. 268 (S.B. 6), Sec. 1.29, eff. September 1, 2005.

Sec. 261.3126. COLOCATION OF INVESTIGATORS. (a) In each county, to the extent possible, the department and the local law enforcement agencies that investigate child abuse in the county shall collocate in the same offices investigators from the department and the law enforcement agencies to improve the efficiency of child abuse investigations. With approval of the local children's advocacy center and its partner agencies, in each county in which a children's advocacy center established under Section 264.402 is located, the department shall attempt to locate

investigators from the department and county and municipal law enforcement agencies at the center.

(b) A law enforcement agency is not required to comply with the colocation requirements of this section if the law enforcement agency does not have a full-time peace officer solely assigned to investigate reports of child abuse and neglect.

(c) If a county does not have a children's advocacy center, the department shall work with the local community to encourage one as provided by Section 264.402.

Added by Acts 2005, 79th Leg., Ch. 268 (S.B. 6), Sec. 1.30, eff. September 1, 2005.

Sec. 261.314. TESTING. (a) The department shall provide testing as necessary for the welfare of a child who the department believes, after an investigation under this chapter, has been sexually abused, including human immunodeficiency virus (HIV) testing of a child who was abused in a manner by which HIV may be transmitted.

(b) Except as provided by Subsection (c), the results of a test under this section are confidential.

(c) If requested, the department shall report the results of a test under this section to:

(1) a court having jurisdiction of a proceeding involving the child or a proceeding involving a person suspected of abusing the child;

(2) a person responsible for the care and custody of the child as a foster parent; and

(3) a person seeking to adopt the child.

Added by Acts 1995, 74th Leg., ch. 943, Sec. 7, eff. Sept. 1, 1995.

Sec. 261.315. REMOVAL OF CERTAIN INVESTIGATION INFORMATION FROM RECORDS. (a) At the conclusion of an investigation in which the department determines that the person alleged to have abused or neglected a child did not commit abuse or neglect, the department shall notify the person of the person's right to request the department to remove information about the person's alleged role in the abuse or neglect report from the department's records.

(b) On request under Subsection (a) by a person whom the department has determined did not commit abuse or neglect, the department shall remove information from the department's records concerning the person's alleged role in the abuse or neglect report.

(c) The executive commissioner shall adopt rules necessary to administer this section.

Added by Acts 1997, 75th Leg., ch. 1022, Sec. 75, eff. Sept. 1, 1997.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 1.142, eff. April 2, 2015.

Sec. 261.316. EXEMPTION FROM FEES FOR MEDICAL RECORDS. The department is exempt from the payment of a fee otherwise required or authorized by law to obtain a medical record from a hospital or health care provider if the request for a record is made in the course of an investigation by the department.

Added by Acts 1997, 75th Leg., ch. 575, Sec. 17, eff. Sept. 1, 1997.

Renumbered from Sec. 261.315 by Acts 1999, 76th Leg., ch. 62, Sec. 19.01(27), eff. Sept. 1, 1999.

SUBCHAPTER E. INVESTIGATIONS OF ABUSE, NEGLECT, OR EXPLOITATION IN CERTAIN FACILITIES

Sec. 261.401. AGENCY INVESTIGATION.

(a) Repealed by Acts 2017, 85th Leg., R.S., Ch. 1136 (H.B. 249), Sec. 14, and Acts 2017, 85th Leg., R.S., Ch. 319 (S.B. 11), Sec. 32, eff. September 1, 2017.

(b) Except as provided by Section 261.404 of this code and Section 531.02013(1)(D), Government Code, a state agency that operates, licenses, certifies, registers, or lists a facility in which children are located or provides oversight of a program that serves children shall make a prompt, thorough investigation of a report that a child has been or may be abused, neglected, or exploited in the facility or program. The primary purpose of the investigation shall be the protection of the child.

(c) A state agency shall adopt rules relating to the investigation and resolution of reports received as provided by this subchapter. The executive commissioner shall review and approve the rules of agencies other than the Texas Department of Criminal Justice or the Texas Juvenile Justice Department to ensure that those agencies implement appropriate standards for the conduct of investigations and that uniformity exists among agencies in the investigation and resolution of reports.

(d) The Texas School for the Blind and Visually Impaired and the Texas School for the Deaf shall adopt policies relating to the investigation and resolution of reports received as provided by this subchapter. The executive commissioner shall review and approve the policies to ensure that the Texas School for the Blind and Visually Impaired and the Texas School for the Deaf adopt those policies in a manner consistent with the minimum standards adopted by the executive commissioner under Section [261.407](#).

Added by Acts 1995, 74th Leg., ch. 20, Sec. 1, eff. April 20, 1995.

Amended by Acts 1995, 74th Leg., ch. 751, Sec. 98, eff. Sept. 1, 1995; Acts 2001, 77th Leg., ch. 355, Sec. 2, eff. Sept. 1, 2001.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 908 (H.B. [2884](#)), Sec. 29, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 284 (S.B. [643](#)), Sec. 6, eff. June 11, 2009.

Acts 2009, 81st Leg., R.S., Ch. 720 (S.B. [68](#)), Sec. 18, eff. September 1, 2009.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. [219](#)), Sec. 1.143, eff. April 2, 2015.

Acts 2017, 85th Leg., R.S., Ch. 319 (S.B. [11](#)), Sec. 10, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 319 (S.B. [11](#)), Sec. 32, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 1136 (H.B. [249](#)), Sec. 5, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 1136 (H.B. [249](#)), Sec. 14, eff. September 1, 2017.

Sec. 261.402. INVESTIGATIVE REPORTS. (a) A state agency shall prepare and keep on file a complete written report of each investigation conducted by the agency under this subchapter.

(b) A state agency shall immediately notify the appropriate state or local law enforcement agency of any report the agency receives, other than a report from a law enforcement agency, that concerns the suspected abuse, neglect, or exploitation of a child or the death of a child from abuse or neglect. If the state agency finds evidence indicating that a child may have been abused, neglected, or exploited, the agency shall report the evidence to the appropriate law enforcement agency.

(c) A state agency that licenses, certifies, or registers a facility in which children are located shall compile, maintain, and make available statistics on the incidence in the facility of child abuse, neglect, and exploitation that is investigated by the agency.

(d) A state agency shall compile, maintain, and make available statistics on the incidence of child abuse, neglect, and exploitation in a facility operated by the state agency.

Added by Acts 1995, 74th Leg., ch. 20, Sec. 1, eff. April 20, 1995.

Amended by Acts 1995, 74th Leg., ch. 751, Sec. 99, eff. Sept. 1, 1995; Acts 2001, 77th Leg., ch. 355, Sec. 3, eff. Sept. 1, 2001.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 1.144, eff. April 2, 2015.

Sec. 261.403. COMPLAINTS. (a) If a state agency receives a complaint relating to an investigation conducted by the agency concerning a facility operated by that agency in which children are located, the agency shall refer the complaint to the agency's governing body.

(b) The governing body of a state agency that operates a facility in which children are located shall ensure that the procedure for investigating abuse, neglect, and exploitation allegations and inquiries in the agency's facility is periodically reviewed under the agency's internal audit program required by Chapter 2102, Government Code.

Added by Acts 1995, 74th Leg., ch. 20, Sec. 1, eff. April 20, 1995.
Amended by Acts 2001, 77th Leg., ch. 355, Sec. 4, eff. Sept. 1,
2001.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 1.145, eff.
April 2, 2015.

Sec. 261.404. INVESTIGATIONS REGARDING CERTAIN CHILDREN
RECEIVING SERVICES FROM CERTAIN PROVIDERS.

(a) The department shall investigate a report of abuse, neglect, or exploitation of a child receiving services from a provider, as those terms are defined by Section 48.251, Human Resources Code, or as otherwise defined by rule. The department shall also investigate, under Subchapter F, Chapter 48, Human Resources Code, a report of abuse, neglect, or exploitation of a child receiving services from an officer, employee, agent, contractor, or subcontractor of a home and community support services agency licensed under Chapter 142, Health and Safety Code, if the officer, employee, agent, contractor, or subcontractor is or may be the person alleged to have committed the abuse, neglect, or exploitation.

(a-1) For an investigation of a child living in a residence owned, operated, or controlled by a provider of services under the home and community-based services waiver program described by Section 534.001(11)(B), Government Code, the department, in accordance with Subchapter E, Chapter 48, Human Resources Code, may provide emergency protective services necessary to immediately protect the child from serious physical harm or death and, if necessary, obtain an emergency order for protective services under Section 48.208, Human Resources Code.

(a-2) For an investigation of a child living in a residence owned, operated, or controlled by a provider of services under the home and community-based services waiver program described by Section 534.001(11)(B), Government Code, regardless of whether the child is receiving services under that waiver program from the provider, the department shall provide protective services to the child in accordance with Subchapter E, Chapter 48, Human Resources

Code.

(a-3) For purposes of this section, Subchapters E and F, Chapter 48, Human Resources Code, apply to an investigation of a child and to the provision of protective services to that child in the same manner those subchapters apply to an investigation of an elderly person or person with a disability and the provision of protective services to that person.

(b) The department shall investigate the report under rules developed by the executive commissioner.

(c) If a report under this section relates to a child with an intellectual disability receiving services in a state supported living center or the ICF-IID component of the Rio Grande State Center, the department shall, within one hour of receiving the report, notify the facility in which the child is receiving services of the allegations in the report.

(d) If during the course of the department's investigation of reported abuse, neglect, or exploitation a caseworker of the department or the caseworker's supervisor has cause to believe that a child with an intellectual disability described by Subsection (c) has been abused, neglected, or exploited by another person in a manner that constitutes a criminal offense under any law, including Section 22.04, Penal Code, the caseworker shall immediately notify the Health and Human Services Commission's office of inspector general and promptly provide the commission's office of inspector general with a copy of the department's investigation report.

(e) The definitions of "abuse" and "neglect" prescribed by Section 261.001 do not apply to an investigation under this section.

(f) Repealed by Acts 2015, 84th Leg., R.S., Ch. 1272 , Sec. 19(1), and Ch. 860 , Sec. 15(1), effective September 1, 2015
Added by Acts 1995, 74th Leg., ch. 751, Sec. 100, eff. Sept. 1, 1995. Amended by Acts 1999, 76th Leg., ch. 907, Sec. 39, eff. Sept. 1, 1999.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 284 (S.B. 643), Sec. 7, eff. June 11, 2009.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 1.146, eff.

April 2, 2015.

Acts 2015, 84th Leg., R.S., Ch. 860 (S.B. 1880), Sec. 11, eff. September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 860 (S.B. 1880), Sec. 12, eff. September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 860 (S.B. 1880), Sec. 15(1), eff. September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 1272 (S.B. 760), Sec. 1, eff. September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 1272 (S.B. 760), Sec. 2, eff. September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 1272 (S.B. 760), Sec. 19(1), eff. September 1, 2015.

Sec. 261.405. INVESTIGATIONS IN JUVENILE JUSTICE PROGRAMS AND FACILITIES. (a) Notwithstanding Section 261.001, in this section:

(1) "Abuse" means an intentional, knowing, or reckless act or omission by an employee, volunteer, or other individual working under the auspices of a facility or program that causes or may cause emotional harm or physical injury to, or the death of, a child served by the facility or program as further described by rule or policy.

(2) "Exploitation" means the illegal or improper use of a child or of the resources of a child for monetary or personal benefit, profit, or gain by an employee, volunteer, or other individual working under the auspices of a facility or program as further described by rule or policy.

(3) "Juvenile justice facility" means a facility operated wholly or partly by the juvenile board, by another governmental unit, or by a private vendor under a contract with the juvenile board, county, or other governmental unit that serves juveniles under juvenile court jurisdiction. The term includes:

(A) a public or private juvenile pre-adjudication secure detention facility, including a holdover facility;

(B) a public or private juvenile

post-adjudication secure correctional facility except for a facility operated solely for children committed to the Texas Juvenile Justice Department; and

(C) a public or private non-secure juvenile post-adjudication residential treatment facility that is not licensed by the Department of Family and Protective Services or the Department of State Health Services.

(4) "Juvenile justice program" means a program or department operated wholly or partly by the juvenile board or by a private vendor under a contract with a juvenile board that serves juveniles under juvenile court jurisdiction. The term includes:

(A) a juvenile justice alternative education program;

(B) a non-residential program that serves juvenile offenders under the jurisdiction of the juvenile court; and

(C) a juvenile probation department.

(5) "Neglect" means a negligent act or omission by an employee, volunteer, or other individual working under the auspices of a facility or program, including failure to comply with an individual treatment plan, plan of care, or individualized service plan, that causes or may cause substantial emotional harm or physical injury to, or the death of, a child served by the facility or program as further described by rule or policy.

(b) A report of alleged abuse, neglect, or exploitation in any juvenile justice program or facility shall be made to the Texas Juvenile Justice Department and a local law enforcement agency for investigation.

(c) The Texas Juvenile Justice Department shall make a prompt, thorough investigation as provided by this chapter if that department receives a report of alleged abuse, neglect, or exploitation in any juvenile justice program or facility. The primary purpose of the investigation shall be the protection of the child.

(d) In an investigation required under this section, the investigating agency shall have access to medical and mental health records as provided by Subchapter D.

(e) As soon as practicable after a child is taken into custody or placed in a juvenile justice facility or juvenile justice program, the facility or program shall provide the child's parents with:

(1) information regarding the reporting of suspected abuse, neglect, or exploitation of a child in a juvenile justice facility or juvenile justice program to the Texas Juvenile Justice Department; and

(2) the Texas Juvenile Justice Department's toll-free number for this reporting.

Added by Acts 1995, 74th Leg., ch. 751, Sec. 100, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 162, Sec. 2; Acts 1997, 75th Leg., ch. 1374, Sec. 8, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1150, Sec. 7, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 1390, Sec. 26, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 1477, Sec. 26, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 1297, Sec. 47, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 283, Sec. 29, eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 949 (H.B. [1575](#)), Sec. 28, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 908 (H.B. [2884](#)), Sec. 30, eff. September 1, 2007.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. [219](#)), Sec. 1.147, eff. April 2, 2015.

Acts 2015, 84th Leg., R.S., Ch. 734 (H.B. [1549](#)), Sec. 83, eff. September 1, 2015.

Acts 2017, 85th Leg., R.S., Ch. 319 (S.B. [11](#)), Sec. 11, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 1136 (H.B. [249](#)), Sec. 6, eff. September 1, 2017.

Sec. 261.406. INVESTIGATIONS IN SCHOOLS. (a) On receipt of a report of alleged or suspected abuse or neglect of a child in a public or private school under the jurisdiction of the Texas Education Agency, the department shall perform an investigation as provided by this chapter.

(b) The department shall send a copy of the completed report of the department's investigation to the Texas Education Agency. On request, the department shall provide a copy of the completed report of the department's investigation to the State Board for Educator Certification, the local school board or the school's governing body, the superintendent of the school district, and the school principal or director, unless the principal or director is alleged to have committed the abuse or neglect, for appropriate action. On request, the department shall provide a copy of the report of investigation to the parent, managing conservator, or legal guardian of a child who is the subject of the investigation and to the person alleged to have committed the abuse or neglect. The report of investigation shall be edited to protect the identity of the persons who made the report of abuse or neglect. Other than the persons authorized by the section to receive a copy of the report, Section 261.201(b) applies to the release of the report relating to the investigation of abuse or neglect under this section and to the identity of the person who made the report of abuse or neglect.

(c) Nothing in this section may prevent a law enforcement agency from conducting an investigation of a report made under this section.

(d) The executive commissioner shall adopt rules necessary to implement this section.

Added by Acts 1995, 74th Leg., ch. 751, Sec. 100, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 575, Sec. 18, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1150, Sec. 8, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 1390, Sec. 27, eff. Sept. 1, 1999.

Amended by:

Acts 2005, 79th Leg., Ch. 213 (H.B. 1970), Sec. 2, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 1372 (S.B. 9), Sec. 14, eff. June 15, 2007.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 1.148, eff. April 2, 2015.

Acts 2015, 84th Leg., R.S., Ch. 944 (S.B. 206), Sec. 22, eff. September 1, 2015.

Sec. 261.407. MINIMUM STANDARDS. (a) The executive commissioner by rule shall adopt minimum standards for the investigation under Section 261.401 of suspected child abuse, neglect, or exploitation in a facility.

(b) A rule or policy adopted by a state agency or institution under Section 261.401 must be consistent with the minimum standards adopted by the executive commissioner.

(c) This section does not apply to a facility under the jurisdiction of the Texas Department of Criminal Justice or the Texas Juvenile Justice Department.

Added by Acts 2001, 77th Leg., ch. 355, Sec. 5, eff. Sept. 1, 2001.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 1.149, eff. April 2, 2015.

Sec. 261.408. INFORMATION COLLECTION. (a) The executive commissioner by rule shall adopt uniform procedures for collecting information under Section 261.401, including procedures for collecting information on deaths that occur in facilities.

(b) The department shall receive and compile information on investigations in facilities. An agency submitting information to the department is responsible for ensuring the timeliness, accuracy, completeness, and retention of the agency's reports.

(c) This section does not apply to a facility under the jurisdiction of the Texas Department of Criminal Justice or the Texas Juvenile Justice Department.

Added by Acts 2001, 77th Leg., ch. 355, Sec. 5, eff. Sept. 1, 2001.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 1.150, eff. April 2, 2015.

Sec. 261.409. INVESTIGATIONS IN FACILITIES UNDER TEXAS JUVENILE JUSTICE DEPARTMENT JURISDICTION. The board of the Texas Juvenile Justice Department by rule shall adopt standards for:

(1) the investigation under Section 261.401 of suspected child abuse, neglect, or exploitation in a facility under

the jurisdiction of the Texas Juvenile Justice Department; and

(2) compiling information on those investigations.

Added by Acts 2001, 77th Leg., ch. 355, Sec. 6, eff. Sept. 1, 2001.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 734 (H.B. 1549), Sec. 84, eff. September 1, 2015.

Sec. 261.410. REPORT OF ABUSE BY OTHER CHILDREN. (a) In this section:

(1) "Physical abuse" means:

(A) physical injury that results in substantial harm to the child requiring emergency medical treatment and excluding an accident or reasonable discipline by a parent, guardian, or managing or possessory conservator that does not expose the child to a substantial risk of harm; or

(B) failure to make a reasonable effort to prevent an action by another person that results in physical injury that results in substantial harm to the child.

(2) "Sexual abuse" means:

(A) sexual conduct harmful to a child's mental, emotional, or physical welfare; or

(B) failure to make a reasonable effort to prevent sexual conduct harmful to a child.

(b) An agency that operates, licenses, certifies, or registers a facility shall require a residential child-care facility to report each incident of physical or sexual abuse committed by a child against another child.

(c) Using information received under Subsection (b), the agency that operates, licenses, certifies, or registers a facility shall, subject to the availability of funds, compile a report that includes information:

(1) regarding the number of cases of physical and sexual abuse committed by a child against another child;

(2) identifying the residential child-care facility;

(3) regarding the date each allegation of abuse was made;

(4) regarding the date each investigation was started

and concluded;

(5) regarding the findings and results of each investigation; and

(6) regarding the number of children involved in each incident investigated.

Added by Acts 2005, 79th Leg., Ch. 268 (S.B. 6), Sec. 1.31, eff. September 1, 2005.

SUBCHAPTER F. PROTECTIVE ORDER IN CERTAIN CASES OF ABUSE OR NEGLECT

See note following this section.

Sec. 261.501. FILING APPLICATION FOR PROTECTIVE ORDER IN CERTAIN CASES OF ABUSE OR NEGLECT. The department may file an application for a protective order for a child's protection under this subchapter on the department's own initiative or jointly with a parent, relative, or caregiver of the child who requests the filing of the application if the department:

(1) has temporary managing conservatorship of the child;

(2) determines that:

(A) the child:

(i) is a victim of abuse or neglect; or

(ii) has a history of being abused or neglected; and

(B) there is a threat of:

(i) immediate or continued abuse or neglect to the child;

(ii) someone illegally taking the child from the home in which the child is placed;

(iii) behavior that poses a threat to the caregiver with whom the child is placed; or

(iv) someone committing an act of violence against the child or the child's caregiver; and

(3) is not otherwise authorized to apply for a protective order for the child's protection under Chapter 82.

Text of subchapter effective on September 1, 2017, but only if a specific appropriation is provided as described by Acts 2017, 85th

Leg., R.S., Ch. 317 (H.B. 7), Sec. 74, which states: Subchapter F, Chapter 261, Family Code, as added by this Act, Section 262.206, Family Code, as added by this Act, Section 572.001, Health and Safety Code, as amended by this Act, and Section 25.07(a), Penal Code, as amended by this Act, take effect only if a specific appropriation for the implementation of those sections is provided in a general appropriations act of the 85th Legislature.

Added by Acts 2017, 85th Leg., R.S., Ch. 317 (H.B. 7), Sec. 14, eff. September 1, 2017.

See note following this section.

Sec. 261.502. CERTIFICATION OF FINDINGS. (a) In making the application under this subchapter, the department must certify that:

(1) the department has diligently searched for and:

(A) was unable to locate the child's parent, legal guardian, or custodian, other than the respondent to the application; or

(B) located and provided notice of the proposed application to the child's parent, legal guardian, or custodian, other than the respondent to the application; and

(2) if applicable, the relative or caregiver who is jointly filing the petition, or with whom the child would reside following an entry of the protective order, has not abused or neglected the child and does not have a history of abuse or neglect.

(b) An application for a temporary ex parte order under Section 261.503 may be filed without making the findings required by Subsection (a) if the department certifies that the department believes there is an immediate danger of abuse or neglect to the child.

Text of subchapter effective on September 1, 2017, but only if a specific appropriation is provided as described by Acts 2017, 85th Leg., R.S., Ch. 317 (H.B. 7), Sec. 74, which states: Subchapter F, Chapter 261, Family Code, as added by this Act, Section 262.206, Family Code, as added by this Act, Section 572.001, Health and Safety Code, as amended by this Act, and Section 25.07(a), Penal Code, as amended by this Act, take effect only if a specific

appropriation for the implementation of those sections is provided in a general appropriations act of the 85th Legislature.

Added by Acts 2017, 85th Leg., R.S., Ch. 317 (H.B. 7), Sec. 14, eff. September 1, 2017.

See note following this section.

Sec. 261.503. TEMPORARY EX PARTE ORDER. If the court finds from the information contained in an application for a protective order that there is an immediate danger of abuse or neglect to the child, the court, without further notice to the respondent and without a hearing, may enter a temporary ex parte order for the protection of the child.

Text of subchapter effective on September 1, 2017, but only if a specific appropriation is provided as described by Acts 2017, 85th Leg., R.S., Ch. 317 (H.B. 7), Sec. 74, which states: Subchapter F, Chapter 261, Family Code, as added by this Act, Section 262.206, Family Code, as added by this Act, Section 572.001, Health and Safety Code, as amended by this Act, and Section 25.07(a), Penal Code, as amended by this Act, take effect only if a specific appropriation for the implementation of those sections is provided in a general appropriations act of the 85th Legislature.

Added by Acts 2017, 85th Leg., R.S., Ch. 317 (H.B. 7), Sec. 14, eff. September 1, 2017.

See note following this section.

Sec. 261.504. REQUIRED FINDINGS; ISSUANCE OF PROTECTIVE ORDER. (a) At the close of a hearing on an application for a protective order under this subchapter, the court shall find whether there are reasonable grounds to believe that:

(1) the child:

(A) is a victim of abuse or neglect; or

(B) has a history of being abused or neglected;

and

(2) there is a threat of:

(A) immediate or continued abuse or neglect to the child;

(B) someone illegally taking the child from the

home in which the child is placed;

(C) behavior that poses a threat to the caregiver with whom the child is placed; or

(D) someone committing an act of violence against the child or the child's caregiver.

(b) If the court makes an affirmative finding under Subsection (a), the court shall issue a protective order that includes a statement of that finding.

Text of subchapter effective on September 1, 2017, but only if a specific appropriation is provided as described by Acts 2017, 85th Leg., R.S., Ch. 317 (H.B. 7), Sec. 74, which states: Subchapter F, Chapter 261, Family Code, as added by this Act, Section 262.206, Family Code, as added by this Act, Section 572.001, Health and Safety Code, as amended by this Act, and Section 25.07(a), Penal Code, as amended by this Act, take effect only if a specific appropriation for the implementation of those sections is provided in a general appropriations act of the 85th Legislature.

Added by Acts 2017, 85th Leg., R.S., Ch. 317 (H.B. 7), Sec. 14, eff. September 1, 2017.

See note following this section.

Sec. 261.505. APPLICATION OF OTHER LAW. To the extent applicable, except as otherwise provided by this subchapter, Title 4 applies to a protective order issued under this subchapter.

Text of subchapter effective on September 1, 2017, but only if a specific appropriation is provided as described by Acts 2017, 85th Leg., R.S., Ch. 317 (H.B. 7), Sec. 74, which states: Subchapter F, Chapter 261, Family Code, as added by this Act, Section 262.206, Family Code, as added by this Act, Section 572.001, Health and Safety Code, as amended by this Act, and Section 25.07(a), Penal Code, as amended by this Act, take effect only if a specific appropriation for the implementation of those sections is provided in a general appropriations act of the 85th Legislature.

Added by Acts 2017, 85th Leg., R.S., Ch. 317 (H.B. 7), Sec. 14, eff. September 1, 2017.