



CHILD PROTECTION INVESTIGATIONS REFORM ACT

Policy Status

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Issues

- Criminal Justice
- Human Services

Task Forces

- Criminal Justice
- Health and Human Services

Tags

- AM 2022

Summary

This model outlines the procedures for notifying a person accused of child abuse or neglect of his or her rights in connection with an investigation conducted by the Department of Family and Protective Services.

CHILD PROTECTION INVESTIGATIONS REFORM ACT

A BILL TO BE ENTITLED AN ACT relating to notifying a person accused of child abuse or neglect of the person's rights in connection with an investigation conducted by the Department of Family and Protective Services [or replace with appropriate name of state child welfare agency].

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF [insert state or commonwealth name]:

SECTION 1. [insert Family Code or Family Law Section Family Code] is amended to read as follows:

[insert section] INFORMATION RELATING TO INVESTIGATION PROCEDURE AND CHILD PLACEMENT RESOURCES [note that this could also read INFORMATION RELATING TO CHILD ABUSE AND NEGLECT INVESTIGATIONS].

(a) Immediately upon initiating an investigation of a parent or other person having legal custody of a child, the department shall, upon first contact with the person, provide to the person:

(1) a summary that: (A) is brief and easily understood; (B) is written in a language that the person understands, or if the person is illiterate, is read to the person in a language that the person understands; and (C) contains the following information: (i) the department's procedures for conducting an investigation of alleged child abuse or neglect, including: (a) a description of the circumstances under which the department would request to remove the child from the home through the judicial system; and (b) an explanation that the law requires the department to refer

all reports of alleged child abuse or neglect to a law enforcement agency for a separate determination of whether a criminal violation occurred; (ii) the person's right to file a complaint with the department or to request a review of the findings made by the department in the investigation; (iii) the person's right to review all records of the investigation unless the review would jeopardize an ongoing criminal investigation or the child's safety; (iv) the person's right to seek legal counsel; (v) references to the statutory and regulatory provisions governing child abuse and neglect and how the person may obtain copies of those provisions; (vi) the process the person may use to acquire access to the child if the child is removed from the home; and (vii) the rights listed under Subdivision (2);

(2) a verbal notification made in a language that the person understands that the Fourth Amendment to the United States Constitution applies to the department, and protects the person, and that the person has the right to: (A) exercise their right against self-incrimination and not speak with any agent of the department without legal counsel present; (B) assistance by an attorney; (C) have a court-appointed attorney if the person is indigent; (D) record any interaction or interview subject to the understanding that the recording may be subject to disclosure to the department, law enforcement, or another party under a court order; (E) refuse to allow the investigator to enter the home or interview the children without legal counsel present; (F) withhold consent to the release of any medical or mental health records; (G) withhold consent to any medical or psychological examination of the child; (H) refuse to submit to a drug or urine test; and (I) consult with legal counsel prior to agreeing to any proposed voluntary safety plan; and

(3) a verbal or written summary made in a language that the person understands of the allegations against the person, and whether they were made by an anonymous reporter.

SECTION 2. The department shall adopt a form for the purpose of verifying that the parent or other person having legal custody of the child received the verbal notification and written summary required by this section.

SECTION 3. The changes in law made by this Act apply only to an investigation of a report of child abuse or neglect that is made on or after the effective date of this Act. An investigation of a report of abuse or neglect made before the effective date of this Act is governed by the law in effect on the date the report was made, and the former law is continued in effect for that purpose.

SECTION 4. This Act takes effect on [insert date per statute].