

DONATE



NEWSLETTER



FILED 10/11/2023 3:38PM

SHARE    

You Have the Right to Refuse CPS Entry: Texas Launches Miranda-style Warnings to Parents Under Investigation for Child Maltreatment

BY ANNIE SCIACCA

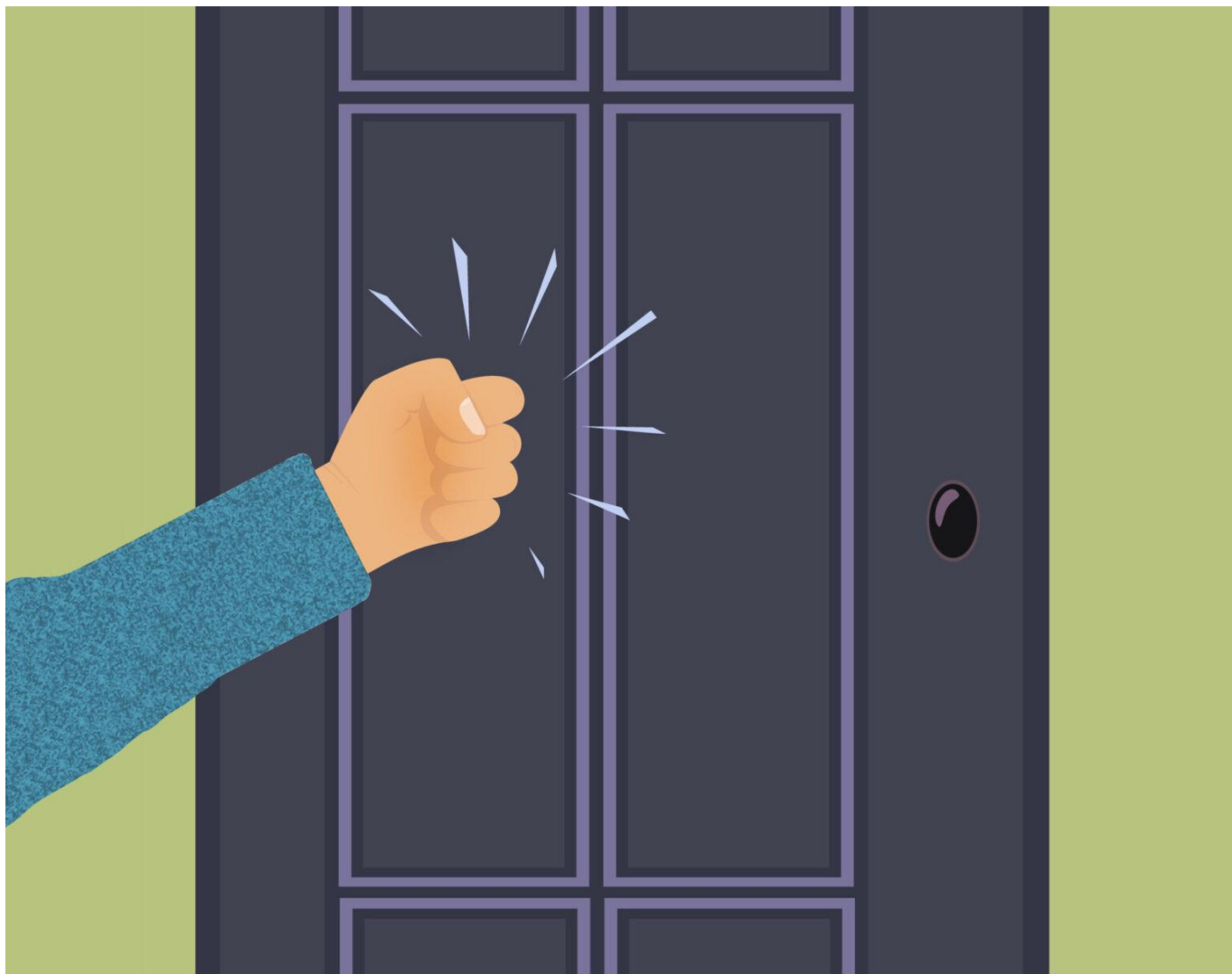


Illustration by Adobe Stock.

A new Texas law designed to inform parents under investigation for child maltreatment of their due process rights is now fully in effect — a sign of growing recognition nationwide that social workers' home inspections can be unfairly invasive.

The law, [passed](#) in May as part of a package of child welfare reforms, requires child protection staff who make initial contact with a parent or caregiver to provide a written summary of the allegations of abuse or neglect. The worker must also describe the state's investigative process, and advise the person of their rights to confer with an attorney and to decline entry if they have not been presented with a court order.



It's time to change how we support kids

 accenture

At the beginning of this month, the state's Department of Family and Protective Services published [revisions to its Child Protective Services Handbook](#) to comply with the new law. A spokesperson for the department, Marissa Gonzales, confirmed that staff have been trained in the new protocols.

Andrew Brown, an associate vice president at the Texas Public Policy Foundation — an Austin-based conservative think tank — is among the backers of the new approach. “There aren't really new rights created, these are rights that families already have had,” he said. “It's just a matter of taking the extra step of notifying them.”

According to the language in the updated handbook, caseworkers are now instructed to give each parent, legal guardian, or other person who is the subject of the investigation a copy of a [Notification of Rights](#) form that details more than a dozen rights, including the right to not speak to an investigator without an attorney present or without a court order; to withhold consent for medical examinations or the release of medical records; and the ability to record the child welfare interview through audio or video. The form also alerts parents that they can request an administrative review of the investigative findings if officials determine they have abused or neglected a child.

Notice must be given before an investigative interview even begins. The new policy requires that people being interviewed sign the notification of rights — or a caseworker will check a box noting their refusal to sign — before any questions can be pursued. Child welfare workers also must provide [A Guide to a Child Protective Investigation](#), which outlines the investigative process.

A bipartisan reform effort

So-called “Family Miranda” laws — a reference to the idea that notifying families of their rights in child welfare investigations is similar to the Miranda warning that law enforcement officers must issue when making an arrest — has been at the forefront of efforts across the country to reform the foster care system.

In September, Arizona Gov. Katie Hobbs signed [a law](#) that provides similar requirements for that state's child welfare investigations.

Such legislation has twice failed to pass in the New York legislature, but later this month, New York City [will launch a pilot program](#) that would increase due process on a smaller scale. In certain neighborhoods, Child Protective Services will hand parents being investigated a palm-sized card notifying them of their rights. Statewide legislation requiring Miranda-style warnings has failed to pass in New York, but bill supporters are aiming to reintroduce the legislation. The most recent effort, Senate Bill [S901](#) authored by Democratic state Sen. Jabari Brisport, would have been similar to the new Texas law, requiring CPS to notify parents of their rights, including the right to keep the door shut if the CPS worker has not obtained a court order.

The Texas law — introduced by Republican state Rep. James Frank and jointly authored by Reps. Gene Wu and Josey Garcia, both Democrats, along with Republican Rep. Candy Noble — is part of a larger bipartisan effort to reform the state's beleaguered foster care system and prioritize keeping families together.

Over the past two years, the conservative state of Texas — whose leadership has been called out by the White House for ordering child abuse investigations in family homes seeking gender-affirming care for trans youth — a series of significant child welfare reforms have been passed. The new state laws go beyond more politically progressive states like California and New York for some child welfare reforms, such as requiring that CPS workers better document their reasons for removing a child; requiring people who call CPS to report suspicions of child abuse to provide their name and contact information; and beefing up legal representation for low-income families facing child welfare cases.

In an interview with The Imprint earlier this year, Wu noted the significance of the reforms:

“What we’ve tried to do in recent years is rebalance the system and make it more fair for the parents,” said Wu, an attorney who represented children and parents in foster care cases prior to joining the Legislature. “We try to not remove kids who are not in real danger.”

NEWSLETTER SIGN UP

Receive weekly updates from The Imprint.

EMAIL ADDRESS*

SIGN UP

Brown, of the Texas Public Policy Foundation, pointed out that efforts such as the Family Miranda legislation has connected unlikely allies in conservative and progressive political corners. He said he’s often in touch with advocates in New York and other places who have been trying to replicate the new Texas law.

Calling it a “major step forward,” Brown said, “we’ll be watching how it plays out.”

EXPLORE THE IMPRINT

[child welfare](#) [Miranda rights](#) [parental rights](#) [Texas](#)

ABOUT THE AUTHOR

Annie Sciacca

Annie Sciacca is a freelance reporter for The Imprint based in Oakland, California. She can be reached at asciacca@imprintnews.org.

[VIEW ALL ARTICLES BY ANNIE ▶](#)

Subscribe Today

FOR EXCLUSIVE *YOUTH SERVICES INSIDER* CONTENT.