

SUBJECT: Requiring verbal notification of the right to DFPS administrative reviews

COMMITTEE: Human Services — favorable, without amendment

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

0 nays

WITNESSES: For — Judy Powell, Parent Guidance Center; Carrie Wilcoxson;  
(*Registered, but did not testify*: Meagan Corser, Texas Home School  
Coalition; Andrew Brown, Texas Public Policy Foundation)

Against — None

On — Julia Hatcher, Texas Association of Family Defense Attorneys;  
(*Registered, but did not testify*: Sophia Karimjee, Department of Family  
and Protective Services)

BACKGROUND: Family Code ch. 261 requires the Department of Family and Protective  
Services (DFPS) to investigate a report of child abuse or neglect allegedly  
committed by a person responsible for a child's care or welfare. Sec.  
261.309 allows a person alleged to have abused or neglected a child to  
request an administrative review of DFPS's investigative findings. The  
review must be conducted within 45 days of receipt of the request for  
review unless DFPS has good cause for extending the deadline.

DIGEST: HB 682 would require that the Department of Family and Protective  
Services (DFPS), before interviewing an alleged perpetrator of child abuse  
or neglect, provide verbal notification to the individual that the individual  
may request an administrative review of DFPS's investigative findings.  
DFPS would be required to document that it provided this verbal notice in  
its case files.

The bill would take effect September 1, 2021.

**SUPPORTERS  
SAY:**

HB 682 would help provide accountability and transparency in Department of Family and Protective Services (DFPS) investigations by requiring that DFPS verbally notify those accused of child abuse or neglect of their right to request an administrative review of the investigation's findings. Current statute gives an alleged perpetrator the right to request an administrative review but does not specify how or if DFPS should communicate this right to the individual under investigation. The verbal notification required by the bill would help to ensure that families undergoing investigations were aware of their right to an accessible option for disputing investigation findings.

Child welfare investigations can be traumatic for families, and individuals under DFPS investigation may not have the resources to consult an attorney or other professional for assistance. By requiring that DFPS investigators verbally inform individuals of the right to request an administrative review before interviewing the individual, the bill would help ensure a fair process and allow the individual to explore what an administrative review is and the process for pursuing one.

Only a small percentage of DFPS findings are the subject of an administrative review request, but of the cases that have been reviewed, a significant number have been overturned or reversed. This suggests that the current notification method for the right to an administrative review is insufficient. Currently, notification is done through certified mail and is included at the end of the investigative findings document. Extenuating circumstances, including a lack of stable housing or an inability to fully understand the notice, can prevent the intended recipient from using or even receiving the notice. Verbal notification of an individual's right to an administrative review would help eliminate the issues associated with the certified mail notice.

The bill's requirement that DFPS provide an individual under investigation with a verbal notice of their right to request an administrative review is sufficient to inform the individual of their rights and ensure accountability for DFPS workers conducting these investigations.

CRITICS  
SAY:

While HB 682 would provide individuals under investigation by DFPS with necessary notice of their right to request an administrative review, the bill also should require written verification by the individual that the individual received and understood the verbal notice. This would further ensure accountability for DFPS workers conducting child abuse and neglect investigations and fairness for those subject to the investigation.

The bill also should provide a waiver of the 45-day deadline for filing a request for administrative review if it can be shown that the DFPS investigator did not provide the required verbal notice. Providing a waiver of the deadline would protect families who did not receive the verbal notification required by the bill and would further ensure that DFPS investigative procedures were held to a high standard.