



# SAFE SANCTUARY

## Policy Statement

Lord of Life Lutheran Church's policy for creating a welcoming and safe environment for everyone.

2014

## Lord of Life Lutheran Church Safe Sanctuary Policy

### Introduction and Purpose

*Growing together in faith, Centered in Christ, Serving God's world with love!*

The LORD OF LIFE mission statement, as written above, reflects the church's belief that we are called to join together in an effort to grow our Christ centered faith, while reaching out to others in service and love. Thus, all individuals who worship at LORD OF LIFE church, and/or who are involved in church life, are bound together in accomplishing this mission. An expansion of the mission is found in LORD OF LIFE's commitment to a vision for the future, which is:

*To empower and equip each person to discover and deepen their relationship with God, one another, and God's world as a spirited expression of God's love.*

LORD OF LIFE believes that in order to fulfill this vision, the church, as well as its people, its practices and its attitudes, must harbor an atmosphere where all feel assured of physical and emotional safety. Furthermore, LORD OF LIFE believes it is vital for all those involved in church life to feel comfortable, respected, and valued. In fact, scripture guides us in this regard and informs us that we are called to:

*provide hospitality for those who are vulnerable. Our religious congregations should be places of hospitality and sanctuary for those who are in need. It is our responsibility to ensure that they are safe places (Deuteronomy 10:18-19, Psalm 146:9).*

Thus, all church members, employees, volunteers, and visitors have the right to pursue their activities free from all forms of discrimination, mistreatment, and/or harassment, which include sexual harassment, exploitation, abuse, and sexual misconduct. It is in

the spirit of creating an open and secure atmosphere for all God's people that LORD OF LIFE establishes a policy and procedures to effectively carry out this mandate as well as a committee to provide oversight and assistance.

The purpose of this policy is to clearly outline LORD OF LIFE's position on sexual harassment, sexual misconduct, and all forms of physical, sexual, and emotional abuse as well as expectations for appropriate behavior. All members, employees, volunteers, and visitors who believe they have been mistreated in any of these ways are strongly encouraged to report such behavior so the it can be investigated and appropriate action taken. All persons in charge of programs or activities sponsored by LORD OF LIFE Church have a responsibility to immediately report any complaint of sexual harassment or sexual misconduct which is brought to their attention. The following sections outline definitions of prohibited behavior and guidelines for reporting offenses,

### Prohibitive Behavior

LORD OF LIFE adheres to all Federal and State laws prohibiting sexual harassment, sexual misconduct, and all forms of physical, emotional, and sexual abuse as well as neglect.

Sexual Harassment includes unwelcome sexual advances and other unwanted touching, requests for sexual favors, sexually motivated physical contact and other verbal or physical conduct of a sexual nature when:

- Submission to such conduct is made, either explicitly or implicitly, a term or condition of an individual's involvement in an activity or employment,
- Submission to or rejection of such conduct by an individual is used as the basis for involvement in an activity or employment affecting such an individual, or
- Such conduct is intended to or does create an intimidating, hostile, or offensive environment.



Sexual misconduct is considered to be any sexual behavior within a ministerial relationship (i.e., any ministry or church related activity which involves clergy, staff, and/or volunteers). Sexual Misconduct includes the following:

- Sexual abuse or sexual molestation of any person, including but not limited to, any sexual involvement or sexual contact with a person who is a minor, legally incompetent, or elderly
- Sexual exploitation, including but not limited to, the development of or the attempt to develop a sexual relationship between a pastor, employee, visitor or volunteer and a person with whom he/she has a ministerial relationship, whether or not there is apparent consent from the individual, or
- Any sexual activity prohibited by Texas Statutes.

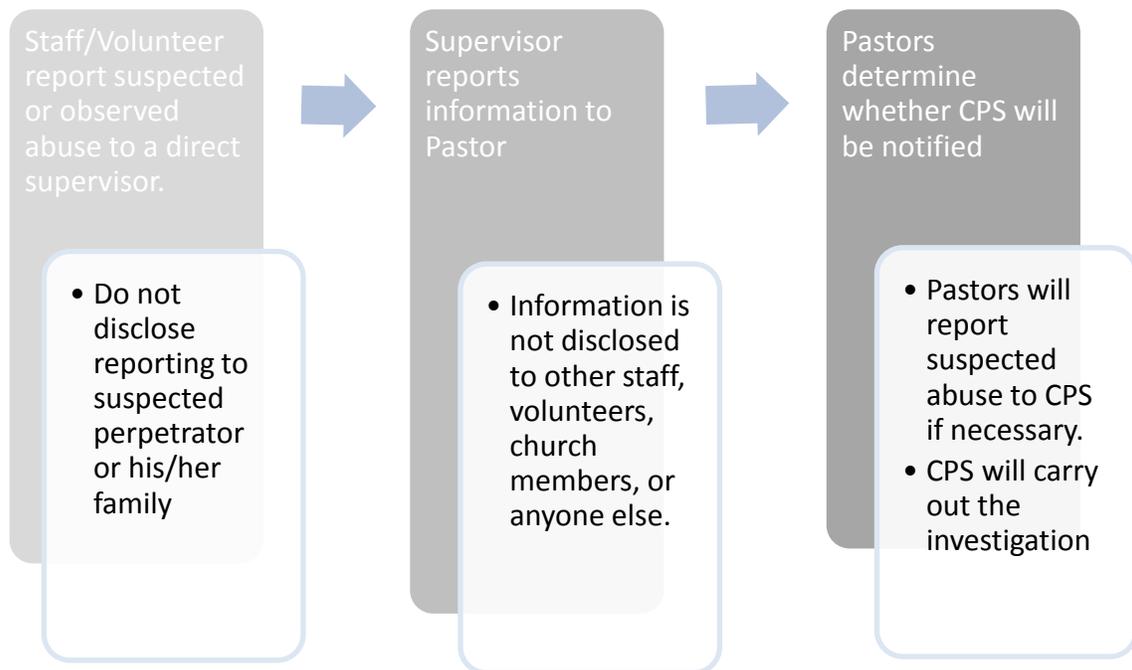
Physical abuse of a minor, elder, disabled person, or a person considered legally incompetent includes, but is not limited to, inflicting any physical injury. Emotional abuse includes, but is not limited to, inflicting emotional and/or other mental harm. Neglect is considered allowing a child, elder, or someone legally incompetent to be in a situation in which the risk for substantial physical and/or emotional harm is present. Neglect is not to be confused with the living circumstances of poverty, in which individuals are unable to provide certain provisions of living (e.g., food, clothing, shelter) due to lack of financial and/or other resources. See Addendums A and B for the Texas Family Code statutes on Protection of the Child and Protection of the Elderly, respectively, for complete legal definitions of physical, emotional, and sexual abuse as well as neglect. Legal requirements and obligations for reporting violation of the statutes are also stated and will be followed by LORD OF LIFE.

#### Reporting Inappropriate Behavior, Policy Violations or Suspected Abuse

Inappropriate behaviors, whether observed or suspected, will be reported by the volunteer or staff member to his or her direct supervisor. It is important to know that there does not need to be physical evidence of abuse, only suspicion of abuse.

The supervisor will relay the information to either the Associate or Senior Pastor at Lord of Life, who will determine whether Child Protective Services (CPS) needs to be contacted. The Pastors will bear the responsibility for making the report to CPS. Once in the hands of CPS, the investigation will be carried forward and reporters generally will not receive information about the results of the investigation.

Under no circumstances will the suspected perpetrator of abuse or his or her family members be notified of that a report has been made to either a supervisor, Pastor, or CPS. Sharing this information could further endanger the child or other family members of the suspected perpetrator. Reporters will not be identified to the suspected perpetrator, neither within Lord of Life nor within the CPS system.



Addendum A  
Texas Statutes

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 conduct that constitutes an offense of trafficking of persons under Section 20A.02(a)(7) or (8), Penal Code, prostitution under Section 43.02(a)(2), 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; or

(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.

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

(3) "Designated agency" means the agency designated by the court as responsible for the protection of children.

(4) "Neglect" includes:

(A) 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;

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

(i) 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;

(ii) 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;

(iii) 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;

(iv) 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

(v) 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; or

(C) 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.

(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; or

(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.



- (6) "Report" means a report that alleged or suspected abuse or neglect of a child has occurred or may occur.
- (7) "Board" means the Board of Protective and Regulatory Services.
- (8) "Born addicted to alcohol or a controlled substance" means a child:
- (A) who is born to a mother who during the pregnancy used a controlled substance, as defined by Chapter 481, Health and Safety Code, other than a controlled substance legally obtained by prescription, or alcohol; and
- (B) who, after birth as a result of the mother's use of the controlled substance or alcohol:
- (i) experiences observable withdrawal from the alcohol or controlled substance;
- (ii) exhibits observable or harmful effects in the child's physical appearance or functioning; or
- (iii) exhibits the demonstrable presence of alcohol or a controlled substance in the child's bodily fluids.

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](#), Sec. 1.11, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. [593](#), Sec. 3.32, eff. September 1, 2007.

Acts 2011, 82nd Leg., R.S., Ch. [1](#), Sec. 4.03, eff. September 1, 2011.

Sec. 261.002. CENTRAL REGISTRY. (a) The department shall establish and maintain in Austin a central registry of reported cases of child abuse or neglect.

(b) The department may adopt rules necessary to carry out this section. The rules shall provide for cooperation with local child service agencies, including hospitals, clinics, and

schools, and cooperation with other states in exchanging reports to effect a national registration system.

(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](#), Sec. 1.12, eff. September 1, 2005.

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.

Sec. 261.004. STATISTICS OF ABUSE AND NEGLECT OF CHILDREN. (a) The department shall prepare and disseminate statistics by county relating to the department's activities under this subtitle and include the information specified in Subsection (b) in an annual report available to the public.

(b) The department shall report the following information:

(1) the number of initial phone calls received by the department alleging abuse and neglect;

- (2) the number of children reported to the department as having been abused and neglected;
- (3) the number of reports received by the department alleging abuse or neglect and assigned by the department for investigation;
- (4) of the children to whom Subdivision (2) applies:
  - (A) the number for whom the report was substantiated;
  - (B) the number for whom the report was unsubstantiated;
  - (C) the number for whom the report was determined to be false;
  - (D) the number who did not receive services from the department under a state or federal program;
  - (E) the number who received services, including preventative services, from the department under a state or federal program; and
  - (F) the number who were removed from the child's home during the preceding year;
- (5) the number of families in which the child was not removed, but the child or family received services from the department;
- (6) the number of children who died during the preceding year as a result of child abuse or neglect;
- (7) of the children to whom Subdivision (6) applies, the number who were in foster care at the time of death;
- (8) the number of child protective services workers responsible for report intake, assessment, or investigation;
- (9) the response time by the department with respect to conducting an initial investigation of a report of child abuse or neglect;
- (10) the response time by the department with respect to commencing services to families and children for whom an allegation of abuse or neglect has been made;
- (11) the number of children who were returned to their families or who received family preservation services and who, before the fifth anniversary of the date of return or receipt, were the victims of substantiated reports of child abuse or neglect, including abuse or neglect resulting in the death of the child;

(12) the number of cases pursued by the department in each stage of the judicial process, including civil and criminal proceedings and the results of each proceeding; and

(13) the number of children for whom a person was appointed by the court to represent the best interests of the child and the average number of out-of-court contacts between the person and the child.

(c) The department shall compile the information specified in Subsection (b) for the preceding year in a report to be submitted to the legislature and the general public not later than February 1 of each year.

Added by Acts 1997, 75th Leg., ch. 1022, Sec. 64, eff. Sept. 1, 1997.

#### 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 or 261.401, 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.

(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, 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](#), Sec. 27, eff. September 1, 2005.

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;
- (3) the state agency that operates, licenses, certifies, or registers the facility in which the alleged abuse or neglect occurred; or
- (4) the agency designated by the court to be responsible for the protection of children.

(b) A report may be made to the Texas Youth Commission 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 commission 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](#), Sec. 1, eff. September 1, 2005.

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 or the designated agency.

(b) The department or designated agency 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 mental retardation receiving services in a state supported living center as defined by Section 531.002, Health and Safety Code, or the ICF-MR 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 primary 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 Youth Commission by rule shall adopt guidelines for identifying a report made to the commission 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 commission 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](#), Sec. 4, eff. June 11, 2009.

Sec. 261.1055. NOTIFICATION OF DISTRICT ATTORNEYS. (a) A district attorney may inform the department or designated agency 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 or designated agency shall, on receipt of a report of suspected abuse or neglect, immediately notify the district attorney as requested and the department or designated agency 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.

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.



Addendum B  
Texas Statutes

HUMAN RESOURCES CODE

TITLE 2. DEPARTMENT OF HUMAN SERVICES AND DEPARTMENT OF  
PROTECTIVE AND REGULATORY SERVICES

SUBTITLE D. DEPARTMENT OF FAMILY AND PROTECTIVE SERVICES; CHILD  
WELFARE AND PROTECTIVE SERVICES

CHAPTER 48. INVESTIGATIONS AND PROTECTIVE SERVICES FOR ELDERLY  
AND DISABLED PERSONS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 48.001. PURPOSE. The purpose of this chapter is to provide for the authority to investigate the abuse, neglect, or exploitation of an elderly or disabled person and to provide protective services to that person.

Added by Acts 1981, 67th Leg., p. 2368, ch. 584, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1983, 68th Leg., p. 730, ch. 172, Sec. 1, eff. Sept. 1, 1983; Acts 1995, 74th Leg., ch. 303, Sec. 2, eff. Sept. 1, 1995; Acts 1999, 76th Leg., ch. 907, Sec. 2, eff. Sept. 1, 1999.

Sec. 48.002. DEFINITIONS. (a) Except as otherwise provided under Section 48.251, in this chapter:

(1) "Elderly person" means a person 65 years of age or older.

(2) "Abuse" means:

(A) the negligent or wilful infliction of injury, unreasonable confinement, intimidation, or cruel punishment with resulting physical or emotional harm or pain to an elderly or

disabled person by the person's caretaker, family member, or other individual who has an ongoing relationship with the person; or

(B) sexual abuse of an elderly or disabled person, including any involuntary or nonconsensual sexual conduct that would constitute an offense under Section 21.08, Penal Code (indecent exposure) or Chapter 22, Penal Code (assaultive offenses), committed by the person's caretaker, family member, or other individual who has an ongoing relationship with the person.

(3) "Exploitation" means the illegal or improper act or process of a caretaker, family member, or other individual who has an ongoing relationship with an elderly or disabled person that involves using, or attempting to use, the resources of the elderly or disabled person, including the person's social security number or other identifying information, for monetary or personal benefit, profit, or gain without the informed consent of the elderly or disabled person.

(4) "Neglect" means the failure to provide for one's self the goods or services, including medical services, which are necessary to avoid physical or emotional harm or pain or the failure of a caretaker to provide such goods or services.

(5) "Protective services" means the services furnished by the department or by a protective services agency to an elderly or disabled person who has been determined to be in a state of abuse, neglect, or exploitation or to a relative or caretaker of an elderly or disabled person if the department determines the services are necessary to prevent the elderly or disabled person from returning to a state of abuse, neglect, or exploitation. These services may include social casework, case management, and arranging for psychiatric and health evaluation, home care, day care, social services, health care, respite services, and other services consistent with this chapter. The term does not include the services of the department or another protective services agency in conducting an investigation regarding alleged abuse, neglect, or exploitation of an elderly or disabled person.

(6) "Protective services agency" means a public or private agency, corporation, board, or organization that provides protective services to elderly or disabled persons in the state of abuse, neglect, or exploitation.

(7) "Department" means the Department of Protective and Regulatory Services.

(8) "Disabled person" means a person with a mental, physical, or developmental disability that substantially impairs the person's ability to provide adequately for the person's care or protection and who is:

(A) 18 years of age or older; or

(B) under 18 years of age and who has had the disabilities of minority removed.

(9) "Legal holiday" means a state holiday listed in Subchapter B, Chapter 662, Government Code, or an officially declared county holiday.

(10) "Volunteer" means a person who:

(A) performs services for or on behalf of the department under the supervision of a department employee; and

(B) does not receive compensation that exceeds the authorized expenses the person incurs in performing those services.

(b) The definitions of "abuse," "neglect," and "exploitation" adopted by the department as prescribed by Section 48.251 apply to an investigation of abuse, neglect, or exploitation in a facility subject to Subchapters F and H.

(c) Except as provided by Subsection (b), the executive commissioner by rule may adopt definitions of "abuse," "neglect," and "exploitation," as an alternative to the definitions of those terms under Subsection (a), for purposes of conducting an investigation under this chapter or Chapter 142, Health and Safety Code.

Added by Acts 1981, 67th Leg., p. 2368, ch. 584, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1983, 68th Leg., p. 274, ch. 51, Sec. 1, eff. Aug. 29, 1983; Acts 1983, 68th Leg., p. 730, ch. 172, Sec. 1, eff. Sept. 1, 1983; Acts 1985, 69th Leg., ch. 264, Sec. 16, eff. Aug. 26, 1985; Acts 1987, 70th Leg., ch. 568, Sec. 1, eff. Sept. 1, 1987; Acts 1991, 72nd Leg., ch. 213, Sec. 1, eff. Sept. 1, 1991; Acts 1995, 74th Leg., ch. 76, Sec. 5.95(15), 8.041, eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 303, Sec. 3, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1022, Sec. 51, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 907, Sec. 2, eff. Sept. 1, 1999.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. [1056](#), Sec. 5, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. [1056](#), Sec. 6, eff. September 1, 2011.

Sec. 48.003. INVESTIGATIONS IN NURSING HOMES, ASSISTED LIVING FACILITIES, AND SIMILAR FACILITIES. (a) This chapter does not apply if the alleged or suspected abuse, neglect, or exploitation occurs in a facility licensed under Chapter 242 or 247, Health and Safety Code.

(b) Alleged or suspected abuse, neglect, or exploitation that occurs in a facility licensed under Chapter 242 or 247, Health and Safety Code, is governed by Chapter 260A, Health and Safety Code.

Added by Acts 1995, 74th Leg., ch. 303, Sec. 14, eff. Sept. 1, 1995. Renumbered from Sec. 48.085 and amended by Acts 1999, 76th Leg., ch. 907, Sec. 3, eff. Sept. 1, 1999.

Amended by:

Acts 2011, 82nd Leg., 1st C.S., Ch. [7](#), Sec. 1.05(l), eff. September 28, 2011.

Sec. 48.004. RISK ASSESSMENT. The executive commissioner by rule shall develop and maintain risk assessment criteria for use by department personnel in determining whether an elderly or disabled person is in imminent risk of abuse, neglect, or exploitation or in a state of abuse, neglect, or exploitation and needs protective services. The criteria must:

(1) provide for a comprehensive assessment of the person's:

(A) environmental, physical, medical, mental health, and financial condition;

(B) social interaction and support; and

(C) need for legal intervention; and

(2) specify the circumstances under which a caseworker must consult with a supervisor regarding a case.

Added by Acts 2005, 79th Leg., Ch. [268](#), Sec. 2.06, eff. September 1, 2005.

Sec. 48.005. MAINTENANCE OF RECORDS. Notwithstanding Chapter 441, Government Code, or any other law, and subject to the availability of funds, the department shall maintain in an electronic format a summary of all records related to investigations of reports made under Section 48.051 that includes only critical information with respect to those investigations that will enable the department to research the history of a person's involvement in the investigated cases.

Added by Acts 2005, 79th Leg., Ch. [268](#), Sec. 2.07, eff. September 1, 2005.

Sec. 48.006. COMMUNITY SATISFACTION SURVEY. (a) Subject to the availability of funds, the department shall develop a community satisfaction survey that solicits information regarding the department's performance with respect to providing investigative and adult protective services. In each region, the department shall send the survey at least biennially to:

- (1) stakeholders in the adult protective services system, including local law enforcement agencies and prosecutors' offices;
- (2) protective services agencies, including nonprofit agencies; and
- (3) courts with jurisdiction over probate matters.

(b) The department shall send the results of each region's survey to:

- (1) the region for evaluation by regional and program administrators and implementation of changes necessary to address community concerns;
- (2) the presiding judge of the statutory probate courts in that region; and
- (3) courts with jurisdiction over probate matters in that region.

(c) The department may not include any confidential information in the results of the survey provided under Subsection (b)(2) or (3) unless ordered by a court.

Added by Acts 2005, 79th Leg., Ch. [268](#), Sec. 2.07, eff. September 1, 2005.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. [1056](#), Sec. 7, eff. September 1, 2011.

Sec. 48.007. MEMORANDUM OF UNDERSTANDING REGARDING CERTAIN ABUSE, NEGLECT, OR EXPLOITATION INVESTIGATIONS. The Health and Human Services Commission, the department, the Department of Aging and Disability Services, the office of independent ombudsman for state supported living centers, and the Health and Human Services Commission's office of inspector general shall enter into a memorandum of understanding regarding investigations of alleged abuse, neglect, or exploitation of residents or clients of state supported living centers or the ICF-MR component of the Rio Grande State Center that delineates the responsibilities of each agency under this chapter, Chapter 261, Family Code, and Chapter 555, Health and Safety Code, and amend the memorandum of understanding as necessary to reflect changes in those responsibilities. During the negotiation of the memorandum of understanding, the agencies shall jointly determine whether the forensic training received by relevant staff of the Department of Family and Protective Services is adequate. Specifically, the agencies shall assess and, if necessary, develop a plan to enhance the ability of department staff to identify and report incidences that constitute a potential criminal offense. The Health and Human Services Commission is the final arbiter of any dispute regarding the memorandum of understanding under this section.

Added by Acts 2009, 81st Leg., R.S., Ch. [284](#), Sec. 25, eff. June 11, 2009.

#### SUBCHAPTER B. REPORTS OF ABUSE, NEGLECT, OR EXPLOITATION: IMMUNITIES

Sec. 48.051. REPORT. (a) Except as prescribed by Subsection (b), a person having cause to believe that an elderly or disabled person is in the state of abuse, neglect, or exploitation, including a disabled person receiving services as described by Section 48.252, shall report the information required by Subsection (d) immediately to the department.

(b) If a person has cause to believe that an elderly or disabled person, other than a disabled person receiving services as described by Section 48.252, has been abused, neglected, or exploited in a facility operated, licensed, certified, or registered by a state agency, the person shall report the information to the state agency that operates, licenses, certifies, or registers the facility for investigation by that agency.

(c) The duty imposed by Subsections (a) and (b) applies without exception to a person whose knowledge concerning possible abuse, neglect, or exploitation is obtained during the scope of the person's employment or whose professional communications are generally confidential, including an attorney, clergy member, medical practitioner, social worker, and mental health professional.

(d) The report may be made orally or in writing. It shall include:

(1) the name, age, and address of the elderly or disabled person;

(2) the name and address of any person responsible for the elderly or disabled person's care;

(3) the nature and extent of the elderly or disabled person's condition;

(4) the basis of the reporter's knowledge; and

(5) any other relevant information.

(e) If a person who makes a report under this section chooses to give self-identifying information, the caseworker who investigates the report shall contact the person if necessary to obtain any additional information required to assist the person who is the subject of the report.

Added by Acts 1981, 67th Leg., p. 2368, ch. 584, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1983, 68th Leg., p. 730, ch. 172, Sec. 1, eff. Sept. 1, 1983; Acts 1987, 70th Leg., ch. 1052, Sec. 5.02, eff. Sept. 1, 1987; Acts 1989, 71st Leg., ch. 247, Sec. 16, eff. June 14, 1989. Added by Acts 1981, 67th Leg., p. 2368, ch. 584, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1983, 68th Leg., p. 730, ch. 172, Sec. 1, eff. Sept. 1, 1983; Acts 1987, 70th Leg., ch. 1052, Sec. 5.02, eff. Sept. 1, 1987; Acts 1989, 71st Leg., ch. 247, Sec. 16, eff. June 14, 1989; Acts 1991, 72nd Leg., ch. 14, Sec. 284(22), eff. Sept. 1, 1991; Acts 1995, 74th Leg., ch. 76, Sec. 8.043, eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 303, Sec. 6, 15(1), eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1022, Sec. 54,

eff. Sept. 1, 1997. Renumbered from Sec. 48.036 and amended by Acts 1999, 76th Leg., ch. 907, Sec. 5, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 205, Sec. 1, eff. May 21, 2001.

Amended by:

Acts 2005, 79th Leg., Ch. [268](#), Sec. 2.08, eff. September 1, 2005.

Acts 2009, 81st Leg., R.S., Ch. [284](#), Sec. 26, eff. June 11, 2009.

Sec. 48.052. FAILURE TO REPORT; PENALTY. (a) A person commits an offense if the person has cause to believe that an elderly or disabled person has been abused, neglected, or exploited or is in the state of abuse, neglect, or exploitation and knowingly fails to report in accordance with this chapter. An offense under this subsection 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 disabled person was a person with mental retardation who resided in a state supported living center, the ICF-MR component of the Rio Grande State Center, or a facility licensed under Chapter 252, Health and Safety Code, and the actor knew that the disabled person had suffered serious bodily injury as a result of the abuse, neglect, or exploitation.

(b) This section does not apply if the alleged abuse, neglect, or exploitation occurred in a facility licensed under Chapter 242, Health and Safety Code. Failure to report abuse, neglect, or exploitation that occurs in a facility licensed under that chapter is governed by that chapter.

Added by Acts 1987, 70th Leg., ch. 1052, Sec. 5.03, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 14, Sec. 284(21), eff. Sept. 1, 1991; Acts 1995, 74th Leg., ch. 303, Sec. 7, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1278, Sec. 1, eff. Sept. 1, 1997. Renumbered from Sec. 48.0361 and amended by Acts 1999, 76th Leg., ch. 907, Sec. 6, eff. Sept. 1, 1999.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. [284](#), Sec. 27, eff. June 11, 2009.

Sec. 48.053. FALSE REPORT; PENALTY. (a) A person commits an offense if the person knowingly or intentionally reports information as provided in this chapter that the person knows is false or lacks factual foundation.

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

Added by Acts 1997, 75th Leg., ch. 1022, Sec. 55, eff. Sept. 1, 1997. Renumbered from Sec. 48.0362 by Acts 1999, 76th Leg., ch. 907, Sec. 7, eff. Sept. 1, 1999.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. [1056](#), Sec. 8, eff. September 1, 2011.

Sec. 48.054. IMMUNITY. (a) A person filing a report under this chapter or testifying or otherwise participating in any judicial proceeding arising from a petition, report, or investigation is immune from civil or criminal liability on account of his or her petition, report, testimony, or participation, unless the person acted in bad faith or with a malicious purpose.

(b) A person, including an authorized department volunteer, medical personnel, or law enforcement officer, who at the request of the department participates in an investigation required by this chapter or in an action that results from that investigation is immune from civil or criminal liability for any act or omission relating to that participation if the person acted in good faith and, if applicable, in the course and scope of the person's assigned responsibilities or duties.

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

(d) An employer whose employee acts under Subsection (a) or (b) is immune from civil or criminal liability on account of an employee's report, testimony, or participation in any judicial proceedings arising from a petition, report, or investigation. This subsection does not apply to an employer who is the subject of an investigation.

Added by Acts 1981, 67th Leg., p. 2368, ch. 584, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1983, 68th Leg., p. 730, ch. 172, Sec. 1, eff. Sept. 1, 1983; Acts 1995, 74th Leg., ch. 303, Sec. 10, eff. Sept. 1, 1995; Acts 1999, 76th Leg., ch. 907, Sec. 8, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 205, Sec. 2, eff. May 21, 2001.

