



# MINISTRYSAFE

## How to Comply With Texas SB 471- A Step-by-Step Description

### **-DAY CARE CENTERS and CHILD PLACING AGENCIES-**

#### **OVERVIEW**

In 2009, the Texas Legislature passed House Bill 1041: Jenna's Law. HB 1041 outlined an initiative requiring *sexual abuse awareness training* and *policies* for independent school districts in Texas. The initiative and its requirements were studied by a task force, which was to create and present a plan to the Texas Governor within a year of the Bill's passage.

In June of 2011, the Texas Legislature passed Senate Bill 471. Essentially, SB 471 takes Jenna's Law from concept to reality, while modifying and expanding the original Bill.

#### **DAY CARE CENTERS and CHILD PLACING AGENCIES**

One of the most significant expansions was to include requirements for Day Care Centers and Child Placing Agencies, as well as open-enrollment charter schools.

#### **OTHER MALTREATMENT**

SB 471 expands the scope of risk from just sexual abuse to "sexual abuse and other maltreatment". Adding the phrase "and other maltreatment" introduces additional types of risk which are difficult to address with precision. The definition of "other maltreatment" is ultimately found in Sections 261.001 and 261.401 of the Texas Family Code.

In concept, SB 471 broadens the scope from the risk of sexual abuse to include other risks to children: emotional abuse, physical abuse and neglect. Though the expanded concept is valuable, practical application is challenging.

#### **COMPLIANCE – WHAT TO DO**

This article analyzes the new legislation as it relates to Day Care Centers (DCCs) and Child Placing Agencies (CPAs), such that these entities may better understand how to fulfill SB 471's requirements. At present, few resources exist to instruct licensed entities concerning compliance, though it is possible additional instruction will be forthcoming from the TDFPS. Because the law became effective *June 19, 2011*, these entities must immediately learn **what** the new law requires and **how** to comply.

Below is a checklist of sorts containing those measures, which must be put into place in accordance with the new law. Although written by attorneys, this article should not be construed as legal advice, and no attorney-client relationship exists on the basis of this article, which is provided as an informational resource only.

## GETTING STARTED

### Policies

Section 42.0428 requires each Day Care Center and Child Placement Agency to implement policies addressing sexual abuse and other maltreatment of children. Policy detail is outlined in three subsections: (a) through (c).

'Policies' bring to mind written guidelines addressing many matters affecting daily activity in children's programming. Section 42.0428 requires more than adding a few paragraphs to existing handbooks; administrators must attempt to grasp the *purpose* behind the new requirements.

Presumably, every entity has written policies & procedures – a compilation of instructions covering matters related to entity programming. For the moment, we must broaden our understanding of the term '*Policies*', and distinguish it from *policies & procedures*. For our purposes, 'Policies' will refer to measures which must be put in place under the new law – subject matters which must be covered, whether in the form of training, written action plans or materials provided to staff or parents. In contrast, policies & procedures are written rules and guidelines addressing matters related to entity programming. Of course, some 'Policies' required under the new law will be addressed in written policies & procedures as well. Sample policies & procedures are discussed below.

With its 'Policies', an entity must address sexual abuse and maltreatment of children from two different points of view:

**First:** Raise awareness by teaching warning signs and preventative techniques.

**Second:** Be prepared to give instructions to a parent (or older child) regarding the actions to be taken to obtain assistance and intervention.

### FIRST – TRAINING

The first measure- *raising awareness*- is primarily accomplished through training. Each entity's Policies must include 'methods' to increase awareness, and training is the primary method. The required training must cover certain topics delivered to separate categories of trainees. For licensed Day Care Centers, directors and caregivers must complete the training. Child Placing Agencies must train agency administrators, treatment directors, child placement staff, child placement management staff, and full-time professional service providers. *This training is to be completed annually.*

The training must be at least an hour in length and include the following topics:

- recognizing signs of abuse (sexual, physical or emotional) or neglect;
- factors indicating a child is at risk of abuse or neglect;
- warning signs that a child may be a victim of abuse or neglect;
- techniques for reducing a child's risk of abuse or neglect;
- internal procedures for reporting child abuse or neglect;

-identifying community organizations with training programs available to staff members, children and parents.

*\*Note: Abuse Prevention Systems and MinistrySafe provide [live and online Sexual Abuse and Maltreatment Prevention Training](#) addressing the required topics, and tools to track trainee completion and renewal automatically through an online control panel. The online training and control panel are available to Abuse Prevention Systems and MinistrySafe members. Learn more about membership, online training and tracking tools at [www.AbusePreventionSystems](http://www.AbusePreventionSystems) and [www.MinistrySafe.com](http://www.MinistrySafe.com).*

## **Parents**

Section 42.0428(b)(1) requires Day Care Centers and Child Placing Agencies to create Policies, which address the provision of awareness training to parents. There is no provision in the new law stating *when* a parent should receive training, and no requirement that training completion be tracked or renewed – only that parents receive training regarding the categories of information listed above.

To meet the requirements of Section 42.0428(b)(1), an entity may:

- include parents in an all-staff/parent meeting covering the required topics;
- offer a separate live training for parents, and require their attendance;
- utilize an online training; parents may complete training at their convenience; or
- prepare and provide written materials to parents covering the required topics.

*\*Note: If utilizing an online training, send training links to parents for completion of the training. Otherwise, develop or access written materials addressing the required training topics, and provide to parents (via email, a hardcopy in child's backpack, etc.). To demonstrate compliance, create a packet requiring a parent's signature on an acknowledgement to be returned to the entity administrator.*

*As of this writing, no standardized form covering these topics exists. A sample draft is available online for Abuse Prevention Systems and MinistrySafe members. All sample written materials should be modified to fit each entity's individual plan (or Policies) fulfilling the requirements of SB 471.*

*Learn more at [www.AbusePreventionSystems](http://www.AbusePreventionSystems) and [www.MinistrySafe.com](http://www.MinistrySafe.com).*

## **SECOND – INSTRUCTIONS FOR A VICTIM**

Section 42.0428(B)(2) requires that an entity's Policies address actions that the parent of a child who is a victim of sexual abuse or other maltreatment should take to obtain assistance and intervention.

From a practical standpoint, each entity should prepare an action plan which anticipates dealing with children who are victims of abuse or neglect. This plan should be in writing, outlining steps a entity will take to report the abuse to the appropriate agency or authority, and assist the child in obtaining assistance (i.e. referral to a counselor, a social worker or another mental health professional). In most cases, this information should be provided to the child's parent or guardian,

unless it is suspected that the parent or guardian is the source of or complicit to the abuse.

The action plan should account for such variables as the age of the child and the source of the abuse or neglect (parent, family friend, entity employee, peer).

Day Care Centers and Child Placing Agencies should prepare a list of community social workers, mental health workers and other counseling resources or clinics, to be provided to an older child or parent/guardian/care-giver.

*\*Note: Develop a written action plan outlining steps taken when information is received by personnel concerning a child who is a victim of abuse or neglect. In this plan, include references to specific written policies & procedures addressing the report of abuse or neglect to appropriate law enforcement authorities.*

*\*Note: Prepare a "Getting Help" document, provided to any child identified as a victim of abuse or neglect, or the child's parent/guardian/care-giver. This document should include instruction regarding reports of abuse or neglect to law enforcement, and a list of community social workers, mental health workers and other counseling resources or clinics. A list of Texas child advocacy centers can be found at [www.AbusePreventionSystems.com](http://www.AbusePreventionSystems.com) and [www.MinistrySafe.com](http://www.MinistrySafe.com) in the "Resources" section under "Helpful Links".*

*A sample draft of this document ("Getting Help") is available online to entity administrators at Abuse Prevention Systems or MinistrySafe websites, through membership. This document should be modified to list local resources available in each community. It should also be coordinated with the entity's individual plan (or Policies) in fulfilling the requirements of SB 471.*

*Learn more at [www.AbusePreventionSystems.com](http://www.AbusePreventionSystems.com) and [www.MinistrySafe.com](http://www.MinistrySafe.com).*

## **POLICIES & PROCEDURES**

Each Day Care Center and Child Placing Agency should develop a *safety system* designed to reduce the risk of abuse and neglect in children's programming. An effective safety system should include:

- Sexual Abuse and Maltreatment Prevention Training
- Tailored Policies & Procedures
- Skillful Screening Processes
- Appropriate Criminal Background Checks
- Systems for Monitoring and Oversight

For entities with this system in place, the requirements of SB 471 require simple modifications and additional processes. For those with little or no protections in place addressing the risk of abuse or neglect, sample policies & procedures provide a good starting point. The elements of an *effective* safety system work together – no individual element provides a stand-alone solution.

Policies & procedures addressing sexual abuse and maltreatment should be in written form, and should be coordinated with staff training.

*\*Note: Develop written policies & procedures which clearly communicate training requirements and procedures for responding to a victim of abuse or neglect.*

*Sample policies & procedures addressing the risk of sexual abuse and other maltreatment, as well as reporting responsibilities, are available to Abuse Prevention Systems and MinistrySafe members.*

Learn more at [www.AbusePreventionSystems.com](http://www.AbusePreventionSystems.com) and [www.MinistrySafe.com](http://www.MinistrySafe.com).

## **COORDINATION WITH COMMUNITY ORGANIZATIONS**

Section 42.0428(c)(2) requires Day Care Centers and Child Placing Agencies to create strategies for coordination between the entity and appropriate community organizations. This provision requires each entity to identify organizations which can provide training for staff members, parents and children.

Abuse Prevention Systems and MinistrySafe provide live and online training to staff members and parents. To learn more about community-based organizations that offer training, contact a local licensing office or go to [www.dfps.state.tx.us](http://www.dfps.state.tx.us). To learn more about Abuse Prevention Systems and MinistrySafe, go to [www.AbusePreventionSystems.com](http://www.AbusePreventionSystems.com) or [www.MinistrySafe.com](http://www.MinistrySafe.com).

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### **About the authors:**

#### **Love & Norris, Attorneys at Law**

Gregory Love and Kimberlee Norris have a nationwide sexual abuse litigation practice representing victims of sexual abuse throughout the country. In addition, they represent ministry and secular organizations such as schools, camps, churches, youth sports organizations, foster/adoption entities and para-church ministries.

#### **MinistrySafe and Abuse Prevention Systems**

In addition to an active law practice, Love and Norris are co-founders and Directors of MinistrySafe and Abuse Prevention Systems, entities dedicated to sexual abuse awareness and prevention. MinistrySafe and Abuse Prevention Systems provide Sexual Abuse Awareness Training (live and online) and assist schools, child placing agencies, child care entities and ministries in the design and implementation of safety systems which reduce the risk of child sexual abuse. Love and Norris are frequent speakers before educational entities, youth and children's ministries, day care, adoption and foster care organizations, and youth camps. They have addressed national and regional audiences for organizations such as the National Association of Church Business Administration (NACBA), Kanakuk Kamps, National Council for Adoption (NCFA), Presbyterian General Assembly, Church of the Nazarene, Youth Ministry Institute (NOBTS), Prevent Child Abuse Texas, Young Life, Hawaiian Islands Ministries, and Texas Alliance for Children and Families, and are featured writers for the NACBA resource entitled *Professional Practices in Church Administration*. MinistrySafe and Abuse Prevention Systems are the endorsed safety system and abuse training providers for Philadelphia Insurance Companies, American Camp Association (ACA) and others. MinistrySafe's Sexual Abuse Awareness Training is endorsed by the Association of Christian Schools Int'l (ACSI), and the Texas Department of Insurance.