

By: Noble

H.B. No. 1317

A BILL TO BE ENTITLED

1 AN ACT

2 relating to neglect of a child and the grounds for termination of
3 the parent-child relationship and possession of a child by the
4 Department of Family and Protective Services.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. Section 161.001(c), Family Code, is amended to
7 read as follows:

8 (c) Evidence of one or more of the following does not
9 constitute clear and convincing evidence sufficient for a court to
10 ~~[A court may not]~~ make a finding under Subsection (b) and order
11 termination of the parent-child relationship ~~[based on evidence~~
12 ~~that the parent]~~:

13 (1) the parent homeschooled the child;
14 (2) the parent is economically disadvantaged;
15 (3) the parent has been charged with a nonviolent
16 misdemeanor offense other than:

17 (A) an offense under Title 5, Penal Code;
18 (B) an offense under Title 6, Penal Code; or
19 (C) an offense that involves family violence, as
20 defined by Section 71.004 of this code;

21 (4) the parent provided or administered low-THC
22 cannabis to a child for whom the low-THC cannabis was prescribed
23 under Chapter 169, Occupations Code; ~~[or]~~

24 (5) the parent declined immunization for the child for

1 reasons of conscience, including a religious belief; or

2 (6) the parent allowed the child to engage in
3 independent activities that are appropriate and typical for the
4 child's level of maturity, physical condition, developmental
5 abilities, or culture.

6 SECTION 2. Section 261.001(4), Family Code, is amended to
7 read as follows:

8 (4) "Neglect" means an act or failure to act by a
9 person responsible for a child's care, custody, or welfare
10 evidencing the person's blatant disregard for the consequences of
11 the act or failure to act that results in harm to the child or that
12 creates an immediate danger to the child's physical health or
13 safety and:

14 (A) includes:

15 (i) the leaving of a child in a situation
16 where the child would be exposed to an immediate danger [~~a~~
17 ~~substantial risk~~] of physical or mental harm, without arranging for
18 necessary care for the child, and the demonstration of an intent not
19 to return by a parent, guardian, or managing or possessory
20 conservator of the child;

21 (ii) the following acts or omissions by a
22 person:

23 (a) placing a child in or failing to
24 remove a child from a situation that a reasonable person would
25 realize requires judgment or actions beyond the child's level of
26 maturity, physical condition, or mental abilities and that results
27 in bodily injury or an immediate danger [~~a substantial risk~~] of

1 [~~immediate~~] harm to the child;

2 (b) failing to seek, obtain, or follow
3 through with medical care for a child, with the failure resulting in
4 or presenting an immediate danger [~~a substantial risk~~] of death,
5 disfigurement, or bodily injury or with the failure resulting in an
6 observable and material impairment to the growth, development, or
7 functioning of the child;

8 (c) the failure to provide a child
9 with food, clothing, or shelter necessary to sustain the life or
10 health of the child, excluding failure caused primarily by
11 financial inability unless relief services had been offered and
12 refused;

13 (d) placing a child in or failing to
14 remove the child from a situation in which the child would be
15 exposed to an immediate danger [~~a substantial risk~~] of sexual
16 conduct harmful to the child; or

17 (e) placing a child in or failing to
18 remove the child from a situation in which the child would be
19 exposed to acts or omissions that constitute abuse under
20 Subdivision (1)(E), (F), (G), (H), or (K) committed against another
21 child;

22 (iii) the failure by the person responsible
23 for a child's care, custody, or welfare to permit the child to
24 return to the child's home without arranging for the necessary care
25 for the child after the child has been absent from the home for any
26 reason, including having been in residential placement or having
27 run away; or

1 (iv) a negligent act or omission by an
2 employee, volunteer, or other individual working under the auspices
3 of a facility or program, including failure to comply with an
4 individual treatment plan, plan of care, or individualized service
5 plan, that causes or may cause substantial emotional harm or
6 physical injury to, or the death of, a child served by the facility
7 or program as further described by rule or policy; and

8 (B) does not include:

9 (i) the refusal by a person responsible for
10 a child's care, custody, or welfare to permit the child to remain in
11 or return to the child's home resulting in the placement of the
12 child in the conservatorship of the department if:

13 (a) ~~[(i)]~~ the child has a severe
14 emotional disturbance;

15 (b) ~~[(ii)]~~ the person's refusal is
16 based solely on the person's inability to obtain mental health
17 services necessary to protect the safety and well-being of the
18 child; and

19 (c) ~~[(iii)]~~ the person has exhausted
20 all reasonable means available to the person to obtain the mental
21 health services described by Sub-subparagraph (b); or

22 (ii) allowing the child to engage in
23 independent activities that are appropriate and typical for the
24 child's level of maturity, physical condition, developmental
25 abilities, or culture [~~Subparagraph (ii)~~].

26 SECTION 3. Section 262.116(a), Family Code, is amended to
27 read as follows:

1 (a) The Department of Family and Protective Services may not
2 take possession of a child under this subchapter based on evidence
3 that the parent:

4 (1) homeschooled the child;

5 (2) is economically disadvantaged;

6 (3) has been charged with a nonviolent misdemeanor
7 offense other than:

8 (A) an offense under Title 5, Penal Code;

9 (B) an offense under Title 6, Penal Code; or

10 (C) an offense that involves family violence, as
11 defined by Section 71.004 of this code;

12 (4) provided or administered low-THC cannabis to a
13 child for whom the low-THC cannabis was prescribed under Chapter
14 169, Occupations Code; ~~or~~

15 (5) declined immunization for the child for reasons of
16 conscience, including a religious belief; or

17 (6) allowed the child to engage in independent
18 activities that are appropriate and typical for the child's level
19 of maturity, physical condition, developmental abilities, or
20 culture.

21 SECTION 4. This Act takes effect September 1, 2021.