

By: Krause, Cook, Swanson, et al.

H.B. No. 2536

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) A court may not make a finding under Subsection (b) and
9 order termination of the parent-child relationship based on
10 evidence that the parent:

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

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

19 (4) provided or administered low-THC cannabis to a
20 child for whom the low-THC cannabis was prescribed under Chapter
21 169, Occupations Code; ~~or~~

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

24 (6) sought an opinion from more than one medical

1 provider relating to the child's medical care, transferred the
2 child's medical care to a new medical provider, or transferred the
3 child to another health care facility.

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

6 (4) "Neglect":

7 (A) includes:

8 (i) the leaving of a child in a situation
9 where the child would be exposed to a substantial risk of physical
10 or mental harm, without arranging for necessary care for the child,
11 and the demonstration of an intent not to return by a parent,
12 guardian, or managing or possessory conservator of the child;

13 (ii) the following acts or omissions by a
14 person:

15 (a) placing a child in or failing to
16 remove a child from a situation that a reasonable person would
17 realize requires judgment or actions beyond the child's level of
18 maturity, physical condition, or mental abilities and that results
19 in bodily injury or a substantial risk of immediate harm to the
20 child;

21 (b) failing to seek, obtain, or follow
22 through with medical care for a child, with the failure resulting in
23 or presenting a substantial risk of death, disfigurement, or bodily
24 injury or with the failure resulting in an observable and material
25 impairment to the growth, development, or functioning of the child;

26 (c) the failure to provide a child
27 with food, clothing, or shelter necessary to sustain the life or

1 health of the child, excluding failure caused primarily by
2 financial inability unless relief services had been offered and
3 refused;

4 (d) placing a child in or failing to
5 remove the child from a situation in which the child would be
6 exposed to a substantial risk of sexual conduct harmful to the
7 child; or

8 (e) placing a child in or failing to
9 remove the child from a situation in which the child would be
10 exposed to acts or omissions that constitute abuse under
11 Subdivision (1)(E), (F), (G), (H), or (K) committed against another
12 child;

13 (iii) the failure by the person responsible
14 for a child's care, custody, or welfare to permit the child to
15 return to the child's home without arranging for the necessary care
16 for the child after the child has been absent from the home for any
17 reason, including having been in residential placement or having
18 run away; or

19 (iv) a negligent act or omission by an
20 employee, volunteer, or other individual working under the auspices
21 of a facility or program, including failure to comply with an
22 individual treatment plan, plan of care, or individualized service
23 plan, that causes or may cause substantial emotional harm or
24 physical injury to, or the death of, a child served by the facility
25 or program as further described by rule or policy; and

26 (B) does not include:

27 (i) the refusal by a person responsible for

1 a child's care, custody, or welfare to permit the child to remain in
2 or return to the child's home resulting in the placement of the
3 child in the conservatorship of the department if:

4 (a) [(i)] the child has a severe
5 emotional disturbance;

6 (b) [(ii)] the person's refusal is
7 based solely on the person's inability to obtain mental health
8 services necessary to protect the safety and well-being of the
9 child; and

10 (c) [(iii)] the person has exhausted
11 all reasonable means available to the person to obtain the mental
12 health services described by Sub-subparagraph (b); or

13 (ii) a decision by a person responsible for
14 a child's care, custody, or welfare to:

15 (a) obtain an opinion from more than
16 one medical provider relating to the child's medical care;

17 (b) transfer the child's medical care
18 to a new medical provider; or

19 (c) transfer the child to another
20 health care facility [Subparagraph (ii)].

21 SECTION 3. Section [262.116](#)(a), Family Code, is amended to
22 read as follows:

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

26 (1) homeschooled the child;

27 (2) is economically disadvantaged;

1 (3) has been charged with a nonviolent misdemeanor
2 offense other than:

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

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

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

7 (4) provided or administered low-THC cannabis to a
8 child for whom the low-THC cannabis was prescribed under Chapter
9 169, Occupations Code; ~~or~~

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

12 (6) sought an opinion from more than one medical
13 provider relating to the child's medical care, transferred the
14 child's medical care to a new medical provider, or transferred the
15 child to another health care facility.

16 SECTION 4. This Act takes effect immediately if it receives
17 a vote of two-thirds of all the members elected to each house, as
18 provided by Section 39, Article III, Texas Constitution. If this
19 Act does not receive the vote necessary for immediate effect, this
20 Act takes effect September 1, 2021.