

By: Slaton

H.B. No. 42

A BILL TO BE ENTITLED

AN ACT

relating to the definition of child abuse.

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

SECTION 1. Section 71.004, Family Code, is amended to read as follows:

Sec. 71.004. FAMILY VIOLENCE. "Family violence" means:

(1) an act by a member of a family or household against another member of the family or household that is intended to result in physical harm, bodily injury, assault, or sexual assault or that is a threat that reasonably places the member in fear of imminent physical harm, bodily injury, assault, or sexual assault, but does not include defensive measures to protect oneself;

(2) abuse, as that term is defined by Sections 261.001(1)(A)(iii), (v), (vii), (viii), (ix), (x), (xi), and (xiii) [~~261.001(1)(C), (E), (G), (H), (I), (J), (K), and (M)~~], by a member of a family or household toward a child of the family or household; or

(3) dating violence, as that term is defined by Section 71.0021.

SECTION 2. Section 261.001, Family Code, is amended by amending Subdivision (1) and adding Subdivisions (3-a) and (3-b) to read as follows:

(1) "Abuse":

(A) includes the following acts or omissions by a

1 person:

2                    (i) [~~(A)~~] mental or emotional injury to a  
3 child that results in an observable and material impairment in the  
4 child's growth, development, or psychological functioning;

5                    (ii) [~~(B)~~] causing or permitting the child  
6 to be in a situation in which the child sustains a mental or  
7 emotional injury that results in an observable and material  
8 impairment in the child's growth, development, or psychological  
9 functioning;

10                   (iii) [~~(C)~~] physical injury that results in  
11 substantial harm to the child, or the genuine threat of substantial  
12 harm from physical injury to the child, including an injury that is  
13 at variance with the history or explanation given and excluding an  
14 accident or reasonable discipline by a parent, guardian, or  
15 managing or possessory conservator that does not expose the child  
16 to a substantial risk of harm;

17                   (iv) [~~(D)~~] failure to make a reasonable  
18 effort to prevent an action by another person that results in  
19 physical injury that results in substantial harm to the child;

20                   (v) [~~(E)~~] sexual conduct harmful to a  
21 child's mental, emotional, or physical welfare, including conduct  
22 that constitutes the offense of continuous sexual abuse of young  
23 child or disabled individual under Section 21.02, Penal Code,  
24 indecency with a child under Section 21.11, Penal Code, sexual  
25 assault under Section 22.011, Penal Code, or aggravated sexual  
26 assault under Section 22.021, Penal Code;

27                   (vi) [~~(F)~~] failure to make a reasonable

1 effort to prevent sexual conduct harmful to a child;

2                   (vii) [~~(C)~~] compelling or encouraging the  
3 child to engage in sexual conduct as defined by Section 43.01, Penal  
4 Code, including compelling or encouraging the child in a manner  
5 that constitutes an offense of trafficking of persons under Section  
6 20A.02(a)(7) or (8), Penal Code, solicitation of prostitution under  
7 Section 43.021, Penal Code, or compelling prostitution under  
8 Section 43.05(a)(2), Penal Code;

9                   (viii) [~~(H)~~] causing,                   permitting,  
10 encouraging, engaging in, or allowing the photographing, filming,  
11 or depicting of the child if the person knew or should have known  
12 that the resulting photograph, film, or depiction of the child is  
13 obscene as defined by Section 43.21, Penal Code, or pornographic;

14                   (ix) [~~(I)~~] the current use by a person of a  
15 controlled substance as defined by Chapter 481, Health and Safety  
16 Code, in a manner or to the extent that the use results in physical,  
17 mental, or emotional injury to a child;

18                   (x) [~~(J)~~] causing, expressly permitting,  
19 or encouraging a child to use a controlled substance as defined by  
20 Chapter 481, Health and Safety Code;

21                   (xi) [~~(K)~~] causing,                   permitting,  
22 encouraging, engaging in, or allowing a sexual performance by a  
23 child as defined by Section 43.25, Penal Code;

24                   (xii) [~~(L)~~] knowingly causing, permitting,  
25 encouraging, engaging in, or allowing a child to be trafficked in a  
26 manner punishable as an offense under Section 20A.02(a)(5), (6),  
27 (7), or (8), Penal Code, or the failure to make a reasonable effort

1 to prevent a child from being trafficked in a manner punishable as  
2 an offense under any of those sections; or

3 (xiii) [~~M~~] forcing or coercing a child to  
4 enter into a marriage;

5 (B) subject to Paragraph (C), includes the  
6 following acts by a medical professional or mental health  
7 professional for the purpose of attempting to change or affirm a  
8 child's perception of the child's sex, if that perception is  
9 inconsistent with the child's biological sex as determined by the  
10 child's sex organs, chromosomes, and endogenous hormone profiles:

11 (i) performing a surgery that sterilizes  
12 the child, including castration, vasectomy, hysterectomy,  
13 oophorectomy, metoidioplasty, orchiectomy, penectomy,  
14 phalloplasty, and vaginoplasty;

15 (ii) performing a mastectomy;

16 (iii) administering or supplying any of the  
17 following medications that induce transient or permanent  
18 infertility:

19 (a) puberty-blocking medication to  
20 stop or delay normal puberty;

21 (b) supraphysiologic doses of  
22 testosterone to females; or

23 (c) supraphysiologic doses of  
24 estrogen to males; or

25 (iv) removing any otherwise healthy or  
26 non-diseased body part or tissue; and

27 (C) does not include an act described by

1 Paragraph (B) performed on a child born with a medically verifiable  
2 genetic disorder of sex development, including:

3 (i) a child with external biological sex  
4 characteristics that are irresolvably ambiguous, including a child  
5 born having:

6 (a) 46, XX chromosomes with  
7 virilization;

8 (b) 46, XY chromosomes with  
9 undervirilization; or

10 (c) both ovarian and testicular  
11 tissue; or

12 (ii) a child who does not have the normal  
13 sex chromosome structure for a male or female as determined by a  
14 physician through genetic testing.

15 (3-a) "Medical professional" means a physician,  
16 physician assistant, or advanced practice registered nurse  
17 licensed to practice in this state.

18 (3-b) "Mental health professional" means an  
19 individual who is licensed to practice in this state as a  
20 psychologist, psychiatrist, social worker, marriage and family  
21 therapist, mental health counselor, or educational psychologist or  
22 any other individual designated or licensed under state law as a  
23 mental health or behavioral science professional.

24 SECTION 3. This Act takes effect September 1, 2023.