

By: Hefner

H.B. No. 672

A BILL TO BE ENTITLED

AN ACT

relating to the definition of child abuse and the prosecution of the criminal offense of abandoning or endangering a child.

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 Subdivision (3-a) to read as follows:

(1) "Abuse":

1 (A) includes the following acts or omissions by a
2 person:

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

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

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

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

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

1 (vi) [~~(F)~~] failure to make a reasonable
2 effort to prevent sexual conduct harmful to a child;

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

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

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

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

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

25 (xii) [~~(L)~~] knowingly causing, permitting,
26 encouraging, engaging in, or allowing a child to be trafficked in a
27 manner punishable as an offense under Section 20A.02(a)(5), (6),

1 (7), or (8), Penal Code, or the failure to make a reasonable effort
2 to prevent a child from being trafficked in a manner punishable as
3 an offense under any of those sections; ~~or~~

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

6 (xiv) administering or supplying, or
7 consenting to or assisting in the administration or supply of, a
8 puberty suppression prescription drug or cross-sex hormone to a
9 child, other than an intersex child, for the purpose of gender
10 transitioning or gender reassignment; or

11 (xv) performing or consenting to the
12 performance of surgery or another medical procedure on a child,
13 other than an intersex child, for the purpose of gender
14 transitioning or gender reassignment; and

15 (B) does not include an act described by
16 Subparagraph (xiv) if the act is the dispensing or delivery of a
17 drug in accordance with Subtitle J, Title 3, Occupations Code, by a
18 person licensed under that subtitle.

19 (3-a) "Intersex child" means a child who is younger
20 than 18 years of age and either:

21 (A) has inborn chromosomal, gonadal, genital, or
22 endocrine characteristics, or a combination of those
23 characteristics, that are not suited to the typical definition of
24 male or female or are atypical for the determined sex of the child;
25 or

26 (B) is considered by a medical professional to
27 have inborn chromosomal, gonadal, genital, or endocrine

1 characteristics that are ambiguous or atypical for the determined
2 sex of the child.

3 SECTION 3. Section 22.041, Penal Code, is amended by
4 amending Subsections (a) and (c-1) and adding Subsections (c-2) and
5 (c-3) to read as follows:

6 (a) In this section:

7 (1) "Abandon" [~~,"abandon"~~] means to leave a child in
8 any place without providing reasonable and necessary care for the
9 child, under circumstances under which no reasonable, similarly
10 situated adult would leave a child of that age and ability.

11 (2) "Intersex child" means a child who is younger than
12 15 years of age and either:

13 (A) has inborn chromosomal, gonadal, genital, or
14 endocrine characteristics, or a combination of those
15 characteristics, that are not suited to the typical definition of
16 male or female or are atypical for the determined sex of the child;
17 or

18 (B) is considered by a medical professional to
19 have inborn chromosomal, gonadal, genital, or endocrine
20 characteristics that are ambiguous or atypical for the determined
21 sex of the child.

22 (c-1) For purposes of Subsection (c), it is presumed that a
23 person engaged in conduct that places a child in imminent danger of
24 death, bodily injury, or physical or mental impairment if:

25 (1) the person manufactured, possessed, or in any way
26 introduced into the body of any person the controlled substance
27 methamphetamine in the presence of the child;

1 (2) the person's conduct related to the proximity or
2 accessibility of the controlled substance methamphetamine to the
3 child and an analysis of a specimen of the child's blood, urine, or
4 other bodily substance indicates the presence of methamphetamine in
5 the child's body; [~~or~~]

6 (3) the person injected, ingested, inhaled, or
7 otherwise introduced a controlled substance listed in Penalty Group
8 1, Section 481.102, Health and Safety Code, or Penalty Group 1-B,
9 Section 481.1022, Health and Safety Code, into the human body when
10 the person was not in lawful possession of the substance as defined
11 by Section 481.002(24) of that code;

12 (4) the person administers or supplies, or consents to
13 or assists in the administering or supplying of, a puberty
14 suppression prescription drug or cross-sex hormone to a child for
15 the purpose of gender transitioning or gender reassignment; or

16 (5) the person performs or consents to the performance
17 of surgery or another medical procedure on a child for the purpose
18 of gender transitioning or gender reassignment.

19 (c-2) The presumptions provided by Subsections (c-1)(4) and
20 (5) do not apply to conduct described by those subsections that
21 involves an intersex child.

22 (c-3) The presumption provided by Subsection (c-1)(4) does
23 not apply to conduct described by that subsection if the conduct is
24 the dispensing or delivery of a drug in accordance with Subtitle J,
25 Title 3, Occupations Code, by a person licensed under that
26 subtitle.

27 SECTION 4. The changes in law made by this Act apply only to

1 an offense committed on or after the effective date of this Act. An
2 offense committed before the effective date of this Act is governed
3 by the law in effect on the date the offense was committed, and the
4 former law is continued in effect for that purpose. For purposes of
5 this section, an offense was committed before the effective date of
6 this Act if any element of the offense occurred before that date.

7 SECTION 5. This Act takes effect September 1, 2023.