

By: Jetton

H.B. No. 3143

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the reporting requirement for certain prohibited
3 conduct by an employee of a public school and the definitions of
4 abuse and neglect of a child.

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

6 SECTION 1. Section 21.006(a)(1), Education Code, is amended
7 to read as follows:

8 (1) "Abuse" has the meaning assigned by Section
9 261.001, Family Code, and includes:

10 (A) confinement or seclusion of a student
11 prohibited under Section 37.0021;

12 (B) application of an aversive technique
13 prohibited under Section 37.0023; and

14 (C) any sexual conduct involving an educator and
15 a student or minor.

16 SECTION 2. Section 22.093(a), Education Code, is amended to
17 read as follows:

18 (a) In this section, "abuse" has the meaning assigned by
19 Section 261.001, Family Code, and includes:

20 (1) confinement or seclusion of a student prohibited
21 under Section 37.0021;

22 (2) application of an aversive technique prohibited
23 under Section 37.0023; and

24 (3) any sexual conduct involving a student or minor.

1 SECTION 3. Section 71.004, Family Code, is amended to read
2 as follows:

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

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

10 (2) abuse, as that term is defined by Sections
11 261.001(1)(A)(iii), (v), (vii), (viii), (ix), (x), (xi), and (xiii)
12 [~~261.001(1)(C), (E), (G), (H), (I), (J), (K), and (M)~~], by a member
13 of a family or household toward a child of the family or household;
14 or

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

17 SECTION 4. Section 261.001(1), Family Code, is amended to
18 read as follows:

19 (1) "Abuse" includes:

20 (A) the following acts or omissions by a person:

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

24 (ii) [~~(B)~~] causing or permitting the child
25 to be in a situation in which the child sustains a mental or
26 emotional injury that results in an observable and material
27 impairment in the child's growth, development, or psychological

1 functioning;

2 (iii) [~~C~~] physical injury that results in
3 substantial harm to the child, or the genuine threat of substantial
4 harm from physical injury to the child, including an injury that is
5 at variance with the history or explanation given and excluding an
6 accident or reasonable discipline by a parent, guardian, or
7 managing or possessory conservator that does not expose the child
8 to a substantial risk of harm;

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

12 (v) [~~E~~] sexual conduct harmful to a
13 child's mental, emotional, or physical welfare, including conduct
14 that constitutes the offense of continuous sexual abuse of young
15 child or disabled individual under Section 21.02, Penal Code,
16 indecency with a child under Section 21.11, Penal Code, sexual
17 assault under Section 22.011, Penal Code, or aggravated sexual
18 assault under Section 22.021, Penal Code;

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

21 (vii) [~~G~~] compelling or encouraging the
22 child to engage in sexual conduct as defined by Section 43.01, Penal
23 Code, including compelling or encouraging the child in a manner
24 that constitutes an offense of trafficking of persons under Section
25 20A.02(a)(7) or (8), Penal Code, solicitation of prostitution under
26 Section 43.021, Penal Code, or compelling prostitution under
27 Section 43.05(a)(2), Penal Code;

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

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

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

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

16 (xii) [~~(L)~~] knowingly causing, permitting,
17 encouraging, engaging in, or allowing a child to be trafficked in a
18 manner punishable as an offense under Section 20A.02(a)(5), (6),
19 (7), or (8), Penal Code, or the failure to make a reasonable effort
20 to prevent a child from being trafficked in a manner punishable as
21 an offense under any of those sections; or

22 (xiii) [~~(M)~~] forcing or coercing a child to
23 enter into a marriage; and

24 (B) an employee, volunteer, or other individual
25 working under the auspices of a school, facility, or program using a
26 form of restraint on a child or secluding a child in a manner that
27 does not comply with federal law, state law, state rules, or other

1 applicable regulations for the school, facility, or program.

2 SECTION 5. Section 261.001(4), Family Code, as amended by
3 Chapters 8 (H.B. 567) and 29 (H.B. 2536), Acts of the 87th
4 Legislature, Regular Session, 2021, is reenacted and amended to
5 read as follows:

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

12 (A) includes:

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

18 (ii) the following acts or omissions by a
19 person:

20 (a) placing a child in or failing to
21 remove a child from a situation that a reasonable person would
22 realize requires judgment or actions beyond the child's level of
23 maturity, physical condition, or mental abilities and that results
24 in bodily injury or an immediate danger of harm to the child;

25 (b) failing to seek, obtain, or follow
26 through with medical care for a child, with the failure resulting in
27 or presenting an immediate danger of death, disfigurement, or

1 bodily injury or with the failure resulting in an observable and
2 material impairment to the growth, development, or functioning of
3 the child;

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

9 (d) placing a child in or failing to
10 remove the child from a situation in which the child would be
11 exposed to an immediate danger of sexual conduct harmful to the
12 child; or

13 (e) placing a child in or failing to
14 remove the child from a situation in which the child would be
15 exposed to acts or omissions that constitute abuse under
16 Subdivision (1)(A)(v), (vi), (vii), (viii), or (xi) [~~(1)(E), (F),~~
17 ~~(G), (H), or (K)~~] committed against another child;

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

24 (iv) a negligent act or omission by an
25 employee, volunteer, or other individual working under the auspices
26 of a school, facility, or program, including failure to comply with
27 an individual treatment plan, plan of care, or individualized

1 service plan, that causes or may cause substantial emotional harm
2 or physical injury to, or the death of, a child served by the
3 school, facility, or program as further described by rule or
4 policy; and

5 (B) does not include:

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

10 (a) the child has a severe emotional
11 disturbance;

12 (b) the person's refusal is based
13 solely on the person's inability to obtain mental health services
14 necessary to protect the safety and well-being of the child; and

15 (c) the person has exhausted all
16 reasonable means available to the person to obtain the mental
17 health services described by Sub-subparagraph (b); ~~or~~

18 (ii) allowing the child to engage in
19 independent activities that are appropriate and typical for the
20 child's level of maturity, physical condition, developmental
21 abilities, or culture; or

22 (iii) ~~(ii)~~ a decision by a person
23 responsible for a child's care, custody, or welfare to:

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

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

1 (c) transfer the child to another
2 health care facility.

3 SECTION 6. To the extent of any conflict, this Act prevails
4 over another Act of the 88th Legislature, Regular Session, 2023,
5 relating to nonsubstantive additions to and corrections in enacted
6 codes.

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