

By: Zaffirini, Perry

S.B. No. 1889

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to the definition of neglect of a child, the exclusion of  
3 certain information from the Department of Family and Protective  
4 Services central registry of child abuse or neglect cases, and the  
5 report of certain information regarding those cases to the  
6 legislature.

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

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

10 (4) "Neglect" includes:

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

16 (B) the following acts or omissions by a person:

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

22 (ii) failing to seek, obtain, or follow  
23 through with medical care for a child, with the failure resulting in  
24 or presenting a substantial risk of death, disfigurement, or bodily

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

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

7 (iv) placing a child in or failing to remove  
8 the child from a situation in which the child would be exposed to a  
9 substantial risk of sexual conduct harmful to the child; or

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

14 (C) with respect to ~~[the failure by]~~ the person  
15 responsible for a child's care, custody, or welfare, permitting ~~[to~~  
16 ~~permit]~~ the child to remain in or return to the child's home without  
17 the person arranging for the necessary care for the child, unless  
18 the person's failure to arrange for the necessary care for the child  
19 is solely a result of the person's inability to obtain mental health  
20 services necessary to protect the safety and well-being of the  
21 child after exhausting all reasonable means available to the person  
22 to obtain those services ~~[after the child has been absent from the~~  
23 ~~home for any reason, including having been in residential placement~~  
24 ~~or having run away]~~.

25 SECTION 2. Section 261.002(b), Family Code, as amended by  
26 S.B. No. 219, Acts of the 84th Legislature, Regular Session, 2015,  
27 is amended to read as follows:

1 (b) The executive commissioner shall [~~may~~] adopt rules  
2 necessary to carry out this section. The rules shall:

3 (1) prohibit the department from making a finding of  
4 abuse or neglect against a person in a case in which the department  
5 is named managing conservator of a child who has a severe emotional  
6 disturbance only because the child's family is unable to obtain  
7 mental health services for the child; and

8 (2) establish guidelines for reviewing the records in  
9 the registry and removing those records in which the department was  
10 named managing conservator of a child who has a severe emotional  
11 disturbance only because the child's family was unable to obtain  
12 mental health services for the child [~~provide for cooperation with~~  
13 ~~local child service agencies, including hospitals, clinics, and~~  
14 ~~schools, and cooperation with other states in exchanging reports to~~  
15 ~~effect a national registration system~~].

16 SECTION 3. Section 262.352, Family Code, is amended to read  
17 as follows:

18 Sec. 262.352. JOINT MANAGING CONSERVATORSHIP OF CHILD.

19 (a) Before the department files a suit affecting the parent-child  
20 relationship requesting managing conservatorship [~~a person~~  
21 ~~relinquishes custody~~] of a child who suffers from a severe  
22 emotional disturbance in order to obtain mental health services for  
23 the child, the department must, unless [~~if~~] it is not in the best  
24 interest of the child, discuss with the child's parent or legal  
25 guardian [~~person relinquishing custody of the child~~] the option of  
26 seeking a court order for joint managing conservatorship of the  
27 child with the department.

1       (b) Not later than November 1 of each even-numbered year,  
2 the department shall report the following information to the  
3 legislature:

4           (1) with respect to children described by Subsection

5 (a):

6                   (A) the number of children for whom the  
7 department has been appointed managing conservator;

8                   (B) the number of children for whom the  
9 department has been appointed joint managing conservator; and

10                   (C) the number of children who were diverted to  
11 community or residential mental health services through another  
12 agency; and

13           (2) the number of persons whose names were entered  
14 into the central registry of cases of child abuse and neglect only  
15 because the department was named managing conservator of a child  
16 who has a severe emotional disturbance because the child's family  
17 was unable to obtain mental health services for the child.

18       (c) Subsection (b) and this subsection expire September 1,  
19 2019.

20       SECTION 4. Section 262.353, Family Code, is repealed.

21       SECTION 5. The Department of Family and Protective Services  
22 shall implement the changes in law made by this Act using funds  
23 appropriated to the department for the state fiscal biennium ending  
24 August 31, 2017.

25       SECTION 6. This Act takes effect September 1, 2015.