

By: Zaffirini, et al.  
(Burkett, Raymond)

S.B. No. 1889

Substitute the following for S.B. No. 1889:

By: Raymond

C.S.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":  
11 (A) includes:  
12 (i) [~~(A)~~] the leaving of a child in a  
13 situation where the child would be exposed to a substantial risk of  
14 physical or mental harm, without arranging for necessary care for  
15 the child, and the demonstration of an intent not to return by a  
16 parent, guardian, or managing or possessory conservator of the  
17 child;

18 (ii) [~~(B)~~] the following acts or omissions  
19 by a person:

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

1 the child;

2 (b) [~~(ii)~~] failing to seek, obtain,  
3 or follow through with medical care for a child, with the failure  
4 resulting in or presenting a substantial risk of death,  
5 disfigurement, or bodily injury or with the failure resulting in an  
6 observable and material impairment to the growth, development, or  
7 functioning of the child;

8 (c) [~~(iii)~~] the failure to provide a  
9 child with food, clothing, or shelter necessary to sustain the life  
10 or health of the child, excluding failure caused primarily by  
11 financial inability unless relief services had been offered and  
12 refused;

13 (d) [~~(iv)~~] placing a child in or  
14 failing to remove the child from a situation in which the child  
15 would be exposed to a substantial risk of sexual conduct harmful to  
16 the child; or

17 (e) [~~(v)~~] placing a child in or  
18 failing to remove the child from a situation in which the child  
19 would be exposed to acts or omissions that constitute abuse under  
20 Subdivision (1)(E), (F), (G), (H), or (K) committed against another  
21 child; or

22 (iii) [~~(c)~~] the failure by the person  
23 responsible for a child's care, custody, or welfare to permit the  
24 child to return to the child's home without arranging for the  
25 necessary care for the child after the child has been absent from  
26 the home for any reason, including having been in residential  
27 placement or having run away; and

1           (B) does not include the refusal by a person  
2 responsible for a child's care, custody, or welfare to permit the  
3 child to remain in or return to the child's home resulting in the  
4 placement of the child in the conservatorship of the department if:

5                   (i) the child has a severe emotional  
6 disturbance;

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

10                   (iii) the person has exhausted all  
11 reasonable means available to the person to obtain the mental  
12 health services described by Subparagraph (ii).

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

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

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

23                   (2) establish guidelines for reviewing the records in  
24 the registry and removing those records in which the department was  
25 named managing conservator of a child who has a severe emotional  
26 disturbance only because the child's family was unable to obtain  
27 mental health services for the child ~~[provide for cooperation with~~

1 ~~local child service agencies, including hospitals, clinics, and~~  
2 ~~schools, and cooperation with other states in exchanging reports to~~  
3 ~~effect a national registration system].~~

4 SECTION 3. Section 262.352, Family Code, is amended to read  
5 as follows:

6 Sec. 262.352. JOINT MANAGING CONSERVATORSHIP OF CHILD.

7 (a) Before the department files a suit affecting the parent-child  
8 relationship requesting managing conservatorship [a person  
9 relinquishes custody] of a child who suffers from a severe  
10 emotional disturbance in order to obtain mental health services for  
11 the child, the department must, unless [if] it is not in the best  
12 interest of the child, discuss with the child's parent or legal  
13 guardian [person relinquishing custody of the child] the option of  
14 seeking a court order for joint managing conservatorship of the  
15 child with the department.

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

19 (1) with respect to children described by Subsection

20 (a):

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

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

25 (C) the number of children who were diverted to  
26 community or residential mental health services through another  
27 agency; and

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

6           (c) Subsection (b) and this subsection expire September 1,  
7 2019.

8           SECTION 4. Section [262.353](#), Family Code, is repealed.

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

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