

1-1 By: Zaffirini S.B. No. 1889
 1-2 (In the Senate - Filed March 13, 2015; March 25, 2015, read
 1-3 first time and referred to Committee on Health and Human Services;
 1-4 April 23, 2015, reported adversely, with favorable Committee
 1-5 Substitute by the following vote: Yeas 9, Nays 0; April 23, 2015,
 1-6 sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15	X			
1-16	X			
1-17	X			

1-18 COMMITTEE SUBSTITUTE FOR S.B. No. 1889 By: Zaffirini

1-19 A BILL TO BE ENTITLED
 1-20 AN ACT

1-21 relating to the definition of neglect of a child, the exclusion of
 1-22 certain information from the Department of Family and Protective
 1-23 Services central registry of child abuse or neglect cases, and the
 1-24 report of certain information regarding those cases to the
 1-25 legislature.

1-26 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-27 SECTION 1. Section 261.001(4), Family Code, is amended to
 1-28 read as follows:

1-29 (4) "Neglect" includes:

1-30 (A) the leaving of a child in a situation where
 1-31 the child would be exposed to a substantial risk of physical or
 1-32 mental harm, without arranging for necessary care for the child,
 1-33 and the demonstration of an intent not to return by a parent,
 1-34 guardian, or managing or possessory conservator of the child;

1-35 (B) the following acts or omissions by a person:

1-36 (i) placing a child in or failing to remove
 1-37 a child from a situation that a reasonable person would realize
 1-38 requires judgment or actions beyond the child's level of maturity,
 1-39 physical condition, or mental abilities and that results in bodily
 1-40 injury or a substantial risk of immediate harm to the child;

1-41 (ii) failing to seek, obtain, or follow
 1-42 through with medical care for a child, with the failure resulting in
 1-43 or presenting a substantial risk of death, disfigurement, or bodily
 1-44 injury or with the failure resulting in an observable and material
 1-45 impairment to the growth, development, or functioning of the child;

1-46 (iii) the failure to provide a child with
 1-47 food, clothing, or shelter necessary to sustain the life or health
 1-48 of the child, excluding failure caused primarily by financial
 1-49 inability unless relief services had been offered and refused;

1-50 (iv) placing a child in or failing to remove
 1-51 the child from a situation in which the child would be exposed to a
 1-52 substantial risk of sexual conduct harmful to the child; or

1-53 (v) placing a child in or failing to remove
 1-54 the child from a situation in which the child would be exposed to
 1-55 acts or omissions that constitute abuse under Subdivision (1)(E),
 1-56 (F), (G), (H), or (K) committed against another child; or

1-57 (C) with respect to [the failure by] the person
 1-58 responsible for a child's care, custody, or welfare, permitting [to
 1-59 permit] the child to remain in or return to the child's home without
 1-60 the person arranging for the necessary care for the child, unless

2-1 the person's failure to arrange for the necessary care for the child
2-2 is solely a result of the person's inability to obtain mental health
2-3 services necessary to protect the safety and well-being of the
2-4 child after exhausting all reasonable means available to the person
2-5 to obtain those services [~~after the child has been absent from the~~
2-6 ~~home for any reason, including having been in residential placement~~
2-7 ~~or having run away~~].

2-8 SECTION 2. Section 261.002(b), Family Code, as amended by
2-9 S.B. No. 219, Acts of the 84th Legislature, Regular Session, 2015,
2-10 is amended to read as follows:

2-11 (b) The executive commissioner shall [~~may~~] adopt rules
2-12 necessary to carry out this section. The rules shall:

2-13 (1) prohibit the department from making a finding of
2-14 abuse or neglect against a person in a case in which the department
2-15 is named managing conservator of a child who has a severe emotional
2-16 disturbance only because the child's family is unable to obtain
2-17 mental health services for the child; and

2-18 (2) establish guidelines for reviewing the records in
2-19 the registry and removing those records in which the department was
2-20 named managing conservator of a child who has a severe emotional
2-21 disturbance only because the child's family was unable to obtain
2-22 mental health services for the child [~~provide for cooperation with~~
2-23 ~~local child service agencies, including hospitals, clinics, and~~
2-24 ~~schools, and cooperation with other states in exchanging reports to~~
2-25 ~~effect a national registration system~~].

2-26 SECTION 3. Section 262.352, Family Code, is amended to read
2-27 as follows:

2-28 Sec. 262.352. JOINT MANAGING CONSERVATORSHIP OF CHILD.

2-29 (a) Before the department files a suit affecting the parent-child
2-30 relationship requesting managing conservatorship [~~a person~~
2-31 ~~relinquishes custody~~] of a child who suffers from a severe
2-32 emotional disturbance in order to obtain mental health services for
2-33 the child, the department must, unless [~~if~~] it is not in the best
2-34 interest of the child, discuss with the child's parent or legal
2-35 guardian [~~person relinquishing custody of the child~~] the option of
2-36 seeking a court order for joint managing conservatorship of the
2-37 child with the department.

2-38 (b) Not later than November 1 of each even-numbered year,
2-39 the department shall report the following information to the
2-40 legislature:

2-41 (1) with respect to children described by Subsection

2-42 (a):

2-43 (A) the number of children for whom the
2-44 department has been appointed managing conservator;

2-45 (B) the number of children for whom the
2-46 department has been appointed joint managing conservator; and

2-47 (C) the number of children who were diverted to
2-48 community or residential mental health services through another
2-49 agency; and

2-50 (2) the number of persons whose names were entered
2-51 into the central registry of cases of child abuse and neglect only
2-52 because the department was named managing conservator of a child
2-53 who has a severe emotional disturbance because the child's family
2-54 was unable to obtain mental health services for the child.

2-55 (c) Subsection (b) and this subsection expire September 1,
2-56 2019.

2-57 SECTION 4. Section 262.353, Family Code, is repealed.

2-58 SECTION 5. The Department of Family and Protective Services
2-59 shall implement the changes in law made by this Act using funds
2-60 appropriated to the department for the state fiscal biennium ending
2-61 August 31, 2017.

2-62 SECTION 6. This Act takes effect September 1, 2015.

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