

By: Hernandez

H.B. No. 249

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the definitions of abuse and neglect of a child
3 applicable to investigations of abuse and neglect in certain
4 facilities.

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

6 SECTION 1. Section 261.101(b), Family Code, is amended to
7 read as follows:

8 (b) If a professional has cause to believe that a child has
9 been abused or neglected or may be abused or neglected, or that a
10 child is a victim of an offense under Section 21.11, Penal Code, and
11 the professional has cause to believe that the child has been abused
12 as defined by Section 261.001 [~~or 261.401~~], the professional shall
13 make a report not later than the 48th hour after the hour the
14 professional first suspects that the child has been or may be abused
15 or neglected or is a victim of an offense under Section 21.11, Penal
16 Code. A professional may not delegate to or rely on another person
17 to make the report. In this subsection, "professional" means an
18 individual who is licensed or certified by the state or who is an
19 employee of a facility licensed, certified, or operated by the
20 state and who, in the normal course of official duties or duties for
21 which a license or certification is required, has direct contact
22 with children. The term includes teachers, nurses, doctors,
23 day-care employees, employees of a clinic or health care facility
24 that provides reproductive services, juvenile probation officers,

1 and juvenile detention or correctional officers.

2 SECTION 2. Section 261.401(a), Family Code, is amended to
3 read as follows:

4 (a) In [~~Notwithstanding Section 261.001, in~~] this section,
5 "exploitation" [~~+~~

6 [~~(1) "Abuse" means an intentional, knowing, or
7 reckless act or omission by an employee, volunteer, or other
8 individual working under the auspices of a facility or program that
9 causes or may cause emotional harm or physical injury to, or the
10 death of, a child served by the facility or program as further
11 described by rule or policy.~~

12 [~~(2) "Exploitation"~~] means the illegal or improper use
13 of a child or of the resources of a child for monetary or personal
14 benefit, profit, or gain by an employee, volunteer, or other
15 individual working under the auspices of a facility or program as
16 further described by rule or policy.

17 [~~(3) "Neglect" means a negligent act or omission by an
18 employee, volunteer, or other individual working under the auspices
19 of a facility or program, including failure to comply with an
20 individual treatment plan, plan of care, or individualized service
21 plan, that causes or may cause substantial emotional harm or
22 physical injury to, or the death of, a child served by the facility
23 or program as further described by rule or policy.~~]

24 SECTION 3. Section 42.002(23), Human Resources Code, is
25 amended to read as follows:

26 (23) "Other maltreatment" means:

27 (A) abuse, as defined by Section 261.001 [~~or~~

1 ~~261.401~~], Family Code; or

2 (B) neglect, as defined by Section 261.001 [~~or~~
3 ~~261.401~~], Family Code.

4 SECTION 4. Section 42.044(c-1), Human Resources Code, is
5 amended to read as follows:

6 (c-1) The department:

7 (1) shall investigate a listed family home if the
8 department receives a complaint that:

9 (A) a child in the home has been abused or
10 neglected, as defined by Section 261.001 [~~261.401~~], Family Code; or

11 (B) otherwise alleges an immediate risk of danger
12 to the health or safety of a child being cared for in the home; and

13 (2) may investigate a listed family home to ensure
14 that the home is providing care for compensation to not more than
15 three children, excluding children who are related to the
16 caretaker.

17 SECTION 5. (a) The changes in law made by this Act apply
18 only to a report of suspected abuse or neglect of a child that is
19 made on or after the effective date of this Act. A report of
20 suspected abuse or neglect that is made before that date is governed
21 by the law in effect on the date the report was made, and that law is
22 continued in effect for that purpose.

23 (b) The changes in law made by this Act apply only to an
24 offense committed on or after the effective date of this Act. An
25 offense committed before that date is governed by the law in effect
26 when the offense was committed, and the former law is continued in
27 effect for that purpose. For the purposes of this section, an

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1 offense was committed before the effective date of this Act if any
2 element of the offense occurred before that date.

3 SECTION 6. This Act takes effect September 1, 2017.