

By: Menéndez

S.B. No. 1175

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to the abuse of a child, termination of the parent-child  
3 relationship, and possession of a child by the Department of Family  
4 and Protective Services.

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

6 SECTION 1. Section 161.001(c), Family Code, is amended to  
7 read as follows:

8 (c) A court may not make a finding under Subsection (b) and  
9 order termination of the parent-child relationship based on  
10 evidence that the parent:

- 11 (1) homeschooled the child;  
12 (2) is economically disadvantaged;  
13 (3) has been charged with a nonviolent misdemeanor  
14 offense other than:

- 15 (A) an offense under Title 5, Penal Code;  
16 (B) an offense under Title 6, Penal Code; or  
17 (C) an offense that involves family violence, as  
18 defined by Section 71.004 of this code;

- 19 (4) provided or administered:  
20 (A) low-THC cannabis to a child for whom the  
21 low-THC cannabis was prescribed under Chapter 169, Occupations  
22 Code; or

- 23 (B) marihuana as defined by Section 481.002,  
24 Health and Safety Code, or a product that contains marihuana to a

1 child, if the parent believes that the provision or administration  
2 of the marihuana is in the best interest of the child; or

3 (5) declined immunization for the child for reasons of  
4 conscience, including a religious belief.

5 SECTION 2. Section 261.001(1), Family Code, is amended to  
6 read as follows:

7 (1) "Abuse" includes the following acts or omissions  
8 by a person:

9 (A) mental or emotional injury to a child that  
10 results in an observable and material impairment in the child's  
11 growth, development, or psychological functioning;

12 (B) causing or permitting the child to be in a  
13 situation in which the child sustains a mental or emotional injury  
14 that results in an observable and material impairment in the  
15 child's growth, development, or psychological functioning;

16 (C) physical injury that results in substantial  
17 harm to the child, or the genuine threat of substantial harm from  
18 physical injury to the child, including an injury that is at  
19 variance with the history or explanation given and excluding an  
20 accident or reasonable discipline by a parent, guardian, or  
21 managing or possessory conservator that does not expose the child  
22 to a substantial risk of harm;

23 (D) failure to make a reasonable effort to  
24 prevent an action by another person that results in physical injury  
25 that results in substantial harm to the child;

26 (E) sexual conduct harmful to a child's mental,  
27 emotional, or physical welfare, including conduct that constitutes

1 the offense of continuous sexual abuse of young child or children  
2 under Section 21.02, Penal Code, indecency with a child under  
3 Section 21.11, Penal Code, sexual assault under Section 22.011,  
4 Penal Code, or aggravated sexual assault under Section 22.021,  
5 Penal Code;

6 (F) failure to make a reasonable effort to  
7 prevent sexual conduct harmful to a child;

8 (G) compelling or encouraging the child to engage  
9 in sexual conduct as defined by Section 43.01, Penal Code,  
10 including compelling or encouraging the child in a manner that  
11 constitutes an offense of trafficking of persons under Section  
12 20A.02(a)(7) or (8), Penal Code, prostitution under Section  
13 43.02(b), Penal Code, or compelling prostitution under Section  
14 43.05(a)(2), Penal Code;

15 (H) causing, permitting, encouraging, engaging  
16 in, or allowing the photographing, filming, or depicting of the  
17 child if the person knew or should have known that the resulting  
18 photograph, film, or depiction of the child is obscene as defined by  
19 Section 43.21, Penal Code, or pornographic;

20 (I) the current use by a person of a controlled  
21 substance as defined by Chapter 481, Health and Safety Code, in a  
22 manner or to the extent that the use results in physical, mental, or  
23 emotional injury to a child;

24 (J) causing, expressly permitting, or  
25 encouraging a child to use a controlled substance as defined by  
26 Chapter 481, Health and Safety Code, unless the controlled  
27 substance is:

1                    (i) low-THC cannabis that was prescribed  
2 for the child under Chapter 169, Occupations Code; or

3                    (ii) marihuana as defined by Section  
4 481.002, Health and Safety Code, or a product that contains  
5 marihuana and the parent believes that the provision of the  
6 marihuana is in the best interest of the child;

7                    (K) causing, permitting, encouraging, engaging  
8 in, or allowing a sexual performance by a child as defined by  
9 Section 43.25, Penal Code;

10                    (L) knowingly causing, permitting, encouraging,  
11 engaging in, or allowing a child to be trafficked in a manner  
12 punishable as an offense under Section 20A.02(a)(5), (6), (7), or  
13 (8), Penal Code, or the failure to make a reasonable effort to  
14 prevent a child from being trafficked in a manner punishable as an  
15 offense under any of those sections; or

16                    (M) forcing or coercing a child to enter into a  
17 marriage.

18                    SECTION 3. Section 262.116(a), Family Code, is amended to  
19 read as follows:

20                    (a) The Department of Family and Protective Services may not  
21 take possession of a child under this subchapter based on evidence  
22 that the parent:

23                    (1) homeschooled the child;

24                    (2) is economically disadvantaged;

25                    (3) has been charged with a nonviolent misdemeanor  
26 offense other than:

27                    (A) an offense under Title 5, Penal Code;

- 1 (B) an offense under Title 6, Penal Code; or  
2 (C) an offense that involves family violence, as  
3 defined by Section 71.004 of this code;  
4 (4) provided or administered:  
5 (A) low-THC cannabis to a child for whom the  
6 low-THC cannabis was prescribed under Chapter 169, Occupations  
7 Code; or  
8 (B) marihuana as defined by Section 481.002,  
9 Health and Safety Code, or a product that contains marihuana to a  
10 child, if the parent believes that the provision or administration  
11 of the marihuana is in the best interest of the child; or  
12 (5) declined immunization for the child for reasons of  
13 conscience, including a religious belief.

14 SECTION 4. This Act takes effect September 1, 2019.