

By: Slaton

H.B. No. 89

A BILL TO BE ENTITLED

AN ACT

relating to the definition of abuse of a child.

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

SECTION 1. Section 261.001(1), Family Code, as amended by H.B. No. 375 and H.B. No. 1540, Acts of the 87th Legislature, Regular Session, 2021, as effective September 1, 2021, is reenacted and amended to read as follows:

(1) "Abuse":

(A) includes the following acts or omissions by a person:

(i) [~~(A)~~] mental or emotional injury to a child that results in an observable and material impairment in the child's growth, development, or psychological functioning;

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

(iii) [~~(C)~~] physical injury that results in substantial harm to the child, or the genuine threat of substantial harm from physical injury to the child, including an injury that is at variance with the history or explanation given and excluding an accident or reasonable discipline by a parent, guardian, or managing or possessory conservator that does not expose the child

1 to a substantial risk of harm;

2 (iv) [~~(D)~~] failure to make a reasonable
3 effort to prevent an action by another person that results in
4 physical injury that results in substantial harm to the child;

5 (v) [~~(E)~~] sexual conduct harmful to a
6 child's mental, emotional, or physical welfare, including conduct
7 that constitutes the offense of continuous sexual abuse of young
8 child or disabled individual under Section 21.02, Penal Code,
9 indecency with a child under Section 21.11, Penal Code, sexual
10 assault under Section 22.011, Penal Code, or aggravated sexual
11 assault under Section 22.021, Penal Code;

12 (vi) [~~(F)~~] failure to make a reasonable
13 effort to prevent sexual conduct harmful to a child;

14 (vii) [~~(G)~~] compelling or encouraging the
15 child to engage in sexual conduct as defined by Section 43.01, Penal
16 Code, including compelling or encouraging the child in a manner
17 that constitutes an offense of trafficking of persons under Section
18 20A.02(a)(7) or (8), Penal Code, solicitation of prostitution under
19 Section 43.021, Penal Code, or compelling prostitution under
20 Section 43.05(a)(2), Penal Code;

21 (viii) [~~(H)~~] causing, permitting,
22 encouraging, engaging in, or allowing the photographing, filming,
23 or depicting of the child if the person knew or should have known
24 that the resulting photograph, film, or depiction of the child is
25 obscene as defined by Section 43.21, Penal Code, or pornographic;

26 (ix) [~~(I)~~] the current use by a person of a
27 controlled substance as defined by Chapter 481, Health and Safety

1 Code, in a manner or to the extent that the use results in physical,
2 mental, or emotional injury to a child;

3 (x) [~~(J)~~] causing, expressly permitting,
4 or encouraging a child to use a controlled substance as defined by
5 Chapter 481, Health and Safety Code;

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

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

15 (xiii) [~~(M)~~] forcing or coercing a child to
16 enter into a marriage;

17 (B) subject to Paragraph (C), includes the
18 following acts by a medical professional or mental health
19 professional for the purpose of attempting to change or affirm a
20 child's perception of the child's sex, if that perception is
21 inconsistent with the child's biological sex as determined by the
22 child's sex organs, chromosomes, and endogenous hormone profiles:

23 (i) performing a surgery that sterilizes
24 the child, including castration, vasectomy, hysterectomy,
25 oophorectomy, metoidioplasty, orchiectomy, penectomy,
26 phalloplasty, and vaginoplasty;

27 (ii) performing a mastectomy;

1 (iii) administering or supplying any of the
2 following medications that induce transient or permanent
3 infertility:

4 (a) puberty-blocking medication to
5 stop or delay normal puberty;

6 (b) supraphysiologic doses of
7 testosterone to females; or

8 (c) supraphysiologic doses of
9 estrogen to males; or

10 (iv) removing any otherwise healthy or
11 non-diseased body part or tissue; and

12 (C) does not include an act described by
13 Paragraph (B) performed on a child born with a medically verifiable
14 genetic disorder of sex development, including:

15 (i) a child with external biological sex
16 characteristics that are irresolvably ambiguous, including a child
17 born having:

18 (a) 46, XX chromosomes with
19 virilization;

20 (b) 46, XY chromosomes with
21 undervirilization; or

22 (c) both ovarian and testicular
23 tissue; or

24 (ii) a child who does not have the normal
25 sex chromosome structure for a male or female as determined by a
26 physician through genetic testing.

27 SECTION 2. Section [261.001](#), Family Code, is amended by

1 adding Subdivisions (3-a) and (3-b) to read as follows:

2 (3-a) "Medical professional" means a physician,
3 physician assistant, or advanced practice registered nurse
4 licensed to practice in this state.

5 (3-b) "Mental health professional" means a person who
6 is licensed to practice in this state as a psychologist,
7 psychiatrist, social worker, marriage and family therapist, mental
8 health counselor, or educational psychologist or any other person
9 designated or licensed under state law as a mental health or
10 behavioral science professional.

11 SECTION 3. Section 71.004, Family Code, is amended to read
12 as follows:

13 Sec. 71.004. FAMILY VIOLENCE. "Family violence" means:

14 (1) an act by a member of a family or household against
15 another member of the family or household that is intended to result
16 in physical harm, bodily injury, assault, or sexual assault or that
17 is a threat that reasonably places the member in fear of imminent
18 physical harm, bodily injury, assault, or sexual assault, but does
19 not include defensive measures to protect oneself;

20 (2) abuse, as that term is defined by Sections
21 261.001(1)(A)(iii), (v), (vii), (viii), (ix), (x), (xi), and (xiii)
22 [~~261.001(1)(C), (E), (G), (H), (I), (J), (K), and (M)~~], by a member
23 of a family or household toward a child of the family or household;
24 or

25 (3) dating violence, as that term is defined by
26 Section 71.0021.

27 SECTION 4. This Act takes effect December 1, 2021.