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By:  Perry, et al. S.B. No. 1646

A BILL TO BE ENTITLED

AN ACT

relating to the protection of children, including the definition of child abuse and the prosecution of the criminal offense of abandoning or endangering a child.

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

SECTION 1.  Section 261.001, Family Code, is amended by amending Subdivision (1) and adding Subdivision (3-a) to read as follows:

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

(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;

(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;

(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 to a substantial risk of harm;

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

(E)  sexual conduct harmful to a child's mental, emotional, or physical welfare, including conduct that constitutes the offense of continuous sexual abuse of young child or children under Section 21.02, Penal Code, indecency with a child under Section 21.11, Penal Code, sexual assault under Section 22.011, Penal Code, or aggravated sexual assault under Section 22.021, Penal Code;

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

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

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

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

(J)  causing, expressly permitting, or encouraging a child to use a controlled substance as defined by Chapter 481, Health and Safety Code;

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

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

(M)  forcing or coercing a child to enter into a marriage; or

(N)  for a person other than a person lawfully discharging his or her duties under a license issued under Chapter 551, Occupations Code:

(i)  administering or supplying, or consenting to or assisting in the administering or supplying of, a puberty suppression prescription drug or cross-sex hormone to a child, other than an intersex child, for the purpose of gender transitioning or gender reassignment; or

(ii)  performing or consenting to the performance of surgery or another medical procedure on a child, other than an intersex child, for the purpose of gender transitioning or gender reassignment.

(3-a) "Intersex child" means a child who is younger than 18 years of age and either:

(A)  has inborn chromosomal, gonadal, genital, or endocrine characteristics, or a combination of those characteristics, that are not suited to the typical definition of male or female or are atypical for the sex determined; or

(B)  is considered by a medical professional to have inborn chromosomal, gonadal, genital, or endocrine characteristics that are ambiguous or atypical for the sex determined.

SECTION 2.  Section 22.041, Penal Code, is amended by amending Subsections (a) and (c-1) and adding Subsection (c-2) to read as follows:

(a)  In this section:

(1)  "Abandon"[~~, "abandon"~~] means to leave a child in any place without providing reasonable and necessary care for the child, under circumstances under which no reasonable, similarly situated adult would leave a child of that age and ability.

(2)  "Intersex child" means a child who is younger than 15 years of age and either:

(A)  has inborn chromosomal, gonadal, genital, or endocrine characteristics, or a combination of those characteristics, that are not suited to the typical definition of male or female or are atypical for the sex determined; or

(B)  is considered by a medical professional to have inborn chromosomal, gonadal, genital, or endocrine characteristics that are ambiguous or atypical for the sex determined.

(c-1)  For purposes of Subsection (c), it is presumed that a person engaged in conduct that places a child in imminent danger of death, bodily injury, or physical or mental impairment if:

(1)  the person manufactured, possessed, or in any way introduced into the body of any person the controlled substance methamphetamine in the presence of the child;

(2)  the person's conduct related to the proximity or accessibility of the controlled substance methamphetamine to the child and an analysis of a specimen of the child's blood, urine, or other bodily substance indicates the presence of methamphetamine in the child's body; [~~or~~]

(3)  the person injected, ingested, inhaled, or otherwise introduced a controlled substance listed in Penalty Group 1, Section 481.102, Health and Safety Code, into the human body when the person was not in lawful possession of the substance as defined by Section 481.002(24) of that code;

(4)  the person administers or supplies, or consents to or assists in the administering or supplying of, a puberty suppression prescription drug or cross-sex hormone to a child for the purpose of gender transitioning or gender reassignment; or

(5)  the person performs or consents to the performance of surgery or another medical procedure on a child for the purpose of gender transitioning or gender reassignment.

(c-2)  The presumptions provided by Subsections (c-1)(4) and (5) do not apply to conduct described by those provisions that:

(1)  occurs with respect to an intersex child; or

(2)  is the lawful discharge of the actor's duties under a license issued to the actor under Chapter 551, Occupations Code.

SECTION 3.  The changes in law made by this Act apply only to a violation or offense committed on or after the effective date of this Act. A violation or offense committed before the effective date of this Act is governed by the law in effect on the date the violation or offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, a violation or offense was committed before the effective date of this Act if any element of the violation or offense occurred before that date.

SECTION 4.  This Act takes effect September 1, 2021.