

AN ACT

relating to neglect of a child and the grounds for termination of the parent-child relationship and possession of a child by the Department of Family and Protective Services.

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

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

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

(1) homeschooled the child;

(2) is economically disadvantaged;

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

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

(B) an offense under Title 6, Penal Code; or

(C) an offense that involves family violence, as defined by Section 71.004 of this code;

(4) provided or administered low-THC cannabis to a child for whom the low-THC cannabis was prescribed under Chapter 169, Occupations Code; ~~or~~

(5) declined immunization for the child for reasons of conscience, including a religious belief; or

(6) sought an opinion from more than one medical

1 provider relating to the child's medical care, transferred the  
2 child's medical care to a new medical provider, or transferred the  
3 child to another health care facility.

4 SECTION 2. Section 261.001(4), Family Code, is amended to  
5 read as follows:

6 (4) "Neglect":

7 (A) includes:

8 (i) the leaving of a child in a situation  
9 where the child would be exposed to a substantial risk of physical  
10 or mental harm, without arranging for necessary care for the child,  
11 and the demonstration of an intent not to return by a parent,  
12 guardian, or managing or possessory conservator of the child;

13 (ii) the following acts or omissions by a  
14 person:

15 (a) placing a child in or failing to  
16 remove a child from a situation that a reasonable person would  
17 realize requires judgment or actions beyond the child's level of  
18 maturity, physical condition, or mental abilities and that results  
19 in bodily injury or a substantial risk of immediate harm to the  
20 child;

21 (b) failing to seek, obtain, or follow  
22 through with medical care for a child, with the failure resulting in  
23 or presenting a substantial risk of death, disfigurement, or bodily  
24 injury or with the failure resulting in an observable and material  
25 impairment to the growth, development, or functioning of the child;

26 (c) the failure to provide a child  
27 with food, clothing, or shelter necessary to sustain the life or

1 health of the child, excluding failure caused primarily by  
2 financial inability unless relief services had been offered and  
3 refused;

4 (d) placing a child in or failing to  
5 remove the child from a situation in which the child would be  
6 exposed to a substantial risk of sexual conduct harmful to the  
7 child; or

8 (e) placing a child in or failing to  
9 remove the child from a situation in which the child would be  
10 exposed to acts or omissions that constitute abuse under  
11 Subdivision (1)(E), (F), (G), (H), or (K) committed against another  
12 child;

13 (iii) the failure by the person responsible  
14 for a child's care, custody, or welfare to permit the child to  
15 return to the child's home without arranging for the necessary care  
16 for the child after the child has been absent from the home for any  
17 reason, including having been in residential placement or having  
18 run away; or

19 (iv) a negligent act or omission by an  
20 employee, volunteer, or other individual working under the auspices  
21 of a facility or program, including failure to comply with an  
22 individual treatment plan, plan of care, or individualized service  
23 plan, that causes or may cause substantial emotional harm or  
24 physical injury to, or the death of, a child served by the facility  
25 or program as further described by rule or policy; and

26 (B) does not include:

27 (i) the refusal by a person responsible for

1 a child's care, custody, or welfare to permit the child to remain in  
2 or return to the child's home resulting in the placement of the  
3 child in the conservatorship of the department if:

4 (a) [(i)] the child has a severe  
5 emotional disturbance;

6 (b) [(ii)] the person's refusal is  
7 based solely on the person's inability to obtain mental health  
8 services necessary to protect the safety and well-being of the  
9 child; and

10 (c) [(iii)] the person has exhausted  
11 all reasonable means available to the person to obtain the mental  
12 health services described by Sub-subparagraph (b); or

13 (ii) a decision by a person responsible for  
14 a child's care, custody, or welfare to:

15 (a) obtain an opinion from more than  
16 one medical provider relating to the child's medical care;

17 (b) transfer the child's medical care  
18 to a new medical provider; or

19 (c) transfer the child to another  
20 health care facility [Subparagraph (ii)].

21 SECTION 3. Section [262.116](#)(a), Family Code, is amended to  
22 read as follows:

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

26 (1) homeschooled the child;

27 (2) is economically disadvantaged;

1           (3) has been charged with a nonviolent misdemeanor  
2 offense other than:

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

7           (4) provided or administered low-THC cannabis to a  
8 child for whom the low-THC cannabis was prescribed under Chapter  
9 169, Occupations Code; ~~or~~

10           (5) declined immunization for the child for reasons of  
11 conscience, including a religious belief; or

12           (6) sought an opinion from more than one medical  
13 provider relating to the child's medical care, transferred the  
14 child's medical care to a new medical provider, or transferred the  
15 child to another health care facility.

16           SECTION 4. This Act takes effect immediately if it receives  
17 a vote of two-thirds of all the members elected to each house, as  
18 provided by Section 39, Article III, Texas Constitution. If this  
19 Act does not receive the vote necessary for immediate effect, this  
20 Act takes effect September 1, 2021.

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President of the Senate

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Speaker of the House

I certify that H.B. No. 2536 was passed by the House on April 13, 2021, by the following vote: Yeas 148, Nays 0, 1 present, not voting.

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Chief Clerk of the House

I certify that H.B. No. 2536 was passed by the Senate on April 29, 2021, by the following vote: Yeas 31, Nays 0.

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Secretary of the Senate

APPROVED: \_\_\_\_\_

Date

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Governor