

BILL ANALYSIS

H.B. 2716
By: Hull
Juvenile Justice & Family Issues
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Parents have the right to make medical decisions for their children. This choice extends to consent and subsequent administration of psychotropic medications. Currently, there is constant attention to and discussion of youth mental health; therefore, it is imperative that the Family Code reflect the fact that if a parent refuses to administer or consent to the administration of a psychotropic medication, or consent to any other psychiatric or psychological treatment, that refusal does not constitute neglect. H.B. 2716 seeks to ensure that parental rights concerning medical consent to or refusal of psychiatric or psychotropic medications or treatments remain intact without the risk of governmental intervention. It also makes sure that removals of children and terminations of parental rights are not based on such grounds. However, when actual neglect is taking place, H.B. 2716 clarifies that the evidence must show substantial risk of death, disfigurement, bodily injury, or an observable and material impairment to the growth, development, or functioning of the child in order for the Department of Family and Protective Services to intervene to protect the child.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

H.B. 2716 amends the Family Code, with respect to the clear and convincing evidence sufficient required for a court to order termination of the parent-child relationship and to the grounds for the Department of Family and Protective Services (DFPS) to take possession of the child, to establish that evidence of a parent refusing to administer or consent to the administration of a psychotropic medication to the parent's child, or to consent to any other psychiatric or psychological treatment of the child, does not constitute such clear and convincing evidence and does not constitute such grounds unless the refusal:

- presents a substantial risk of death, disfigurement, or bodily injury to the child; or
- results in an observable and material impairment to the growth, development, or functioning of the child.

Moreover, the bill establishes that the definition of "neglect" under current law relating to investigations of reports of child abuse or neglect does not include such a refusal by a person responsible for a child's care, custody, or welfare unless the refusal presents such a risk or results in such an impairment. The bill applies only to a suit filed by DFPS on or after the bill's effective date.

EFFECTIVE DATE

September 1, 2023.