

By: Noble

H.B. No. 3635

A BILL TO BE ENTITLED

AN ACT

relating to definition of abuse of a child, the reporting of child abuse and neglect, and certain required notifications about reports of child abuse and neglect.

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;

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

4 (E) sexual conduct harmful to a child's mental,  
5 emotional, or physical welfare, including conduct that constitutes  
6 the offense of continuous sexual abuse of young child or disabled  
7 individual under Section 21.02, Penal Code, indecency with a child  
8 under Section 21.11, Penal Code, improper relationship between  
9 educator and student under Section 21.12, Penal Code, sexual  
10 assault under Section 22.011, Penal Code, or aggravated sexual  
11 assault under Section 22.021, Penal Code;

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

14 (G) compelling or encouraging the child to engage  
15 in sexual conduct as defined by Section 43.01, Penal Code,  
16 including compelling or encouraging the child in a manner that  
17 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 (H) causing, permitting, encouraging, engaging  
22 in, or allowing the photographing, filming, or depicting of the  
23 child if the person knew or should have known that the resulting  
24 photograph, film, or depiction of the child is obscene as defined by  
25 Section 43.21, Penal Code, or pornographic;

26 (I) the current use by a person of a controlled  
27 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.

(3-a) "Law enforcement agency" means:

(A) the Department of Public Safety;

(B) the police department of a municipality;

(C) the sheriff's office of a county; or

(D) a constable's office of a county.

SECTION 2. Section 261.103(a), Family Code, is amended to read as follows:

(a) Except as provided by Subsections (b) and (c) and Section 261.405, a report shall be made to:

(1) a ~~[any local or state]~~ law enforcement agency;

(2) the department; or

1           (3) the state agency that operates, licenses,  
2 certifies, or registers the facility in which the alleged abuse or  
3 neglect occurred.

4           SECTION 3. Sections 261.104(b) and (d), Family Code, are  
5 amended to read as follows:

6           (b) If the individual making a report of child abuse or  
7 neglect uses the toll-free telephone number the department operates  
8 for reporting child abuse or neglect and the individual is  
9 unwilling to provide the information described by Subsection  
10 (a)(4), the department representative receiving the report shall  
11 notify the individual that:

12               (1) the department is not authorized to accept an  
13 anonymous report of abuse or neglect;

14               (2) the individual may report the abuse or neglect by  
15 making a report to a any ~~local or state~~ law enforcement agency;  
16 and

17               (3) the identity of an individual making a report  
18 under this subchapter is confidential and may be disclosed only:

19                       (A) as provided by Section 261.201; or  
20                       (B) to a law enforcement officer for the purposes  
21 of conducting a criminal investigation of the report.

22           (d) If a report of abuse or neglect is made orally, the  
23 department or ~~local or state~~ law enforcement agency receiving the  
24 report shall:

25               (1) notify the individual making the report that:  
26                       (A) the report is being recorded; and  
27                       (B) making a false report is a criminal offense

under Section 261.107 punishable as a state jail felony or a third degree felony; and

(2) make an audio recording of the report.

SECTION 4. Sections 261.105(a), (b), and (d), Family Code, are amended to read as follows:

(a) All reports received by a ~~[local or state]~~ law enforcement agency that allege abuse or neglect by a person responsible for a child's care, custody, or welfare shall be referred immediately to the department.

(b) The department shall immediately notify the appropriate ~~[state or local]~~ law enforcement agency of any report it receives, other than a report from a law enforcement agency, that concerns the suspected abuse or neglect of a child or death of a child from abuse or neglect.

(d) If the department initiates an investigation and determines that the abuse or neglect does not involve a person responsible for the child's care, custody, or welfare, the department shall refer the report to the appropriate [a] law enforcement agency for further investigation. If the department determines that the abuse or neglect involves an employee of a public or private elementary or secondary school, ~~[and that the child is a student at the school]~~ the department shall ~~[orally]~~ notify, in writing, the superintendent of the school district, the director of the open-enrollment charter school, or the chief executive officer of the private school in which the employee is employed about the investigation. The written notice required by this subsection may be provided by e-mail to the official e-mail

1 address of the appropriate official, if that e-mail address is  
2 publicly available.

3 SECTION 5. Sections 261.301(a) and (c), Family Code, are  
4 amended to read as follows:

5 (a) With assistance from the appropriate [~~state or local~~]  
6 law enforcement agency as provided by this section, the department  
7 shall make a prompt and thorough investigation of a report of child  
8 abuse or neglect allegedly committed by a person responsible for a  
9 child's care, custody, or welfare. The investigation shall be  
10 conducted without regard to any pending suit affecting the  
11 parent-child relationship.

12 (c) The department is not required to investigate a report  
13 that alleges child abuse, neglect, or exploitation by a person  
14 other than a person responsible for a child's care, custody, or  
15 welfare. The appropriate [~~state or local~~] law enforcement agency  
16 shall investigate that report if the agency determines an  
17 investigation should be conducted.

18 SECTION 6. Section 261.304(a), Family Code, is amended to  
19 read as follows:

20 (a) If an individual makes an anonymous report of child  
21 abuse or neglect by a person responsible for a child's care,  
22 custody, or welfare to a [~~local or state~~] law enforcement agency and  
23 the agency refers the report to the department, the department  
24 shall conduct a preliminary investigation to determine whether  
25 there is any evidence to corroborate the report.

26 SECTION 7. Section 261.402(b), Family Code, is amended to  
27 read as follows:

1           (b) A state agency shall immediately notify the appropriate  
2 ~~[state or local]~~ law enforcement agency of any report the agency  
3 receives, other than a report from a law enforcement agency, that  
4 concerns the suspected abuse, neglect, or exploitation of a child  
5 or the death of a child from abuse or neglect. If the state agency  
6 finds evidence indicating that a child may have been abused,  
7 neglected, or exploited, the agency shall report the evidence to  
8 the appropriate law enforcement agency.

9           SECTION 8. This Act takes effect September 1, 2025.