

1-1 By: Krause, et al. (Senate Sponsor - Buckingham) H.B. No. 2536  
 1-2 (In the Senate - Received from the House April 13, 2021;  
 1-3 April 13, 2021, read first time and referred to Committee on State  
 1-4 Affairs; April 21, 2021, reported favorably by the following vote:  
 1-5 Yeas 9, Nays 0; April 21, 2021, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7				
1-8	X			
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15	X			
1-16	X			

1-17 A BILL TO BE ENTITLED  
 1-18 AN ACT

1-19 relating to neglect of a child and the grounds for termination of  
 1-20 the parent-child relationship and possession of a child by the  
 1-21 Department of Family and Protective Services.

1-22 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-23 SECTION 1. Section 161.001(c), Family Code, is amended to  
 1-24 read as follows:

1-25 (c) A court may not make a finding under Subsection (b) and  
 1-26 order termination of the parent-child relationship based on  
 1-27 evidence that the parent:

- 1-28 (1) homeschooled the child;
- 1-29 (2) is economically disadvantaged;
- 1-30 (3) has been charged with a nonviolent misdemeanor  
 1-31 offense other than:

- 1-32 (A) an offense under Title 5, Penal Code;
- 1-33 (B) an offense under Title 6, Penal Code; or
- 1-34 (C) an offense that involves family violence, as  
 1-35 defined by Section 71.004 of this code;

1-36 (4) provided or administered low-THC cannabis to a  
 1-37 child for whom the low-THC cannabis was prescribed under Chapter  
 1-38 169, Occupations Code; ~~or~~

1-39 (5) declined immunization for the child for reasons of  
 1-40 conscience, including a religious belief; or

1-41 (6) sought an opinion from more than one medical  
 1-42 provider relating to the child's medical care, transferred the  
 1-43 child's medical care to a new medical provider, or transferred the  
 1-44 child to another health care facility.

1-45 SECTION 2. Section 261.001(4), Family Code, is amended to  
 1-46 read as follows:

1-47 (4) "Neglect":

1-48 (A) includes:

- 1-49 (i) the leaving of a child in a situation  
 1-50 where the child would be exposed to a substantial risk of physical  
 1-51 or mental harm, without arranging for necessary care for the child,  
 1-52 and the demonstration of an intent not to return by a parent,  
 1-53 guardian, or managing or possessory conservator of the child;

1-54 (ii) the following acts or omissions by a  
 1-55 person:

- 1-56 (a) placing a child in or failing to  
 1-57 remove a child from a situation that a reasonable person would  
 1-58 realize requires judgment or actions beyond the child's level of  
 1-59 maturity, physical condition, or mental abilities and that results  
 1-60 in bodily injury or a substantial risk of immediate harm to the  
 1-61 child;

2-1 (b) failing to seek, obtain, or follow  
 2-2 through with medical care for a child, with the failure resulting in  
 2-3 or presenting a substantial risk of death, disfigurement, or bodily  
 2-4 injury or with the failure resulting in an observable and material  
 2-5 impairment to the growth, development, or functioning of the child;  
 2-6 (c) the failure to provide a child  
 2-7 with food, clothing, or shelter necessary to sustain the life or  
 2-8 health of the child, excluding failure caused primarily by  
 2-9 financial inability unless relief services had been offered and  
 2-10 refused;  
 2-11 (d) placing a child in or failing to  
 2-12 remove the child from a situation in which the child would be  
 2-13 exposed to a substantial risk of sexual conduct harmful to the  
 2-14 child; or  
 2-15 (e) placing a child in or failing to  
 2-16 remove the child from a situation in which the child would be  
 2-17 exposed to acts or omissions that constitute abuse under  
 2-18 Subdivision (1)(E), (F), (G), (H), or (K) committed against another  
 2-19 child;  
 2-20 (iii) the failure by the person responsible  
 2-21 for a child's care, custody, or welfare to permit the child to  
 2-22 return to the child's home without arranging for the necessary care  
 2-23 for the child after the child has been absent from the home for any  
 2-24 reason, including having been in residential placement or having  
 2-25 run away; or  
 2-26 (iv) a negligent act or omission by an  
 2-27 employee, volunteer, or other individual working under the auspices  
 2-28 of a facility or program, including failure to comply with an  
 2-29 individual treatment plan, plan of care, or individualized service  
 2-30 plan, that causes or may cause substantial emotional harm or  
 2-31 physical injury to, or the death of, a child served by the facility  
 2-32 or program as further described by rule or policy; and  
 2-33 (B) does not include:  
 2-34 (i) the refusal by a person responsible for  
 2-35 a child's care, custody, or welfare to permit the child to remain in  
 2-36 or return to the child's home resulting in the placement of the  
 2-37 child in the conservatorship of the department if:  
 2-38 (a) ~~(i)~~ the child has a severe  
 2-39 emotional disturbance;  
 2-40 (b) ~~(ii)~~ the person's refusal is  
 2-41 based solely on the person's inability to obtain mental health  
 2-42 services necessary to protect the safety and well-being of the  
 2-43 child; and  
 2-44 (c) ~~(iii)~~ the person has exhausted  
 2-45 all reasonable means available to the person to obtain the mental  
 2-46 health services described by Sub-subparagraph (b); or  
 2-47 (ii) a decision by a person responsible for  
 2-48 a child's care, custody, or welfare to:  
 2-49 (a) obtain an opinion from more than  
 2-50 one medical provider relating to the child's medical care;  
 2-51 (b) transfer the child's medical care  
 2-52 to a new medical provider; or  
 2-53 (c) transfer the child to another  
 2-54 health care facility [Subparagraph (ii)].  
 2-55 SECTION 3. Section 262.116(a), Family Code, is amended to  
 2-56 read as follows:  
 2-57 (a) The Department of Family and Protective Services may not  
 2-58 take possession of a child under this subchapter based on evidence  
 2-59 that the parent:  
 2-60 (1) homeschooled the child;  
 2-61 (2) is economically disadvantaged;  
 2-62 (3) has been charged with a nonviolent misdemeanor  
 2-63 offense other than:  
 2-64 (A) an offense under Title 5, Penal Code;  
 2-65 (B) an offense under Title 6, Penal Code; or  
 2-66 (C) an offense that involves family violence, as  
 2-67 defined by Section 71.004 of this code;  
 2-68 (4) provided or administered low-THC cannabis to a  
 2-69 child for whom the low-THC cannabis was prescribed under Chapter

3-1 169, Occupations Code; [~~or~~]  
3-2 (5) declined immunization for the child for reasons of  
3-3 conscience, including a religious belief; or  
3-4 (6) sought an opinion from more than one medical  
3-5 provider relating to the child's medical care, transferred the  
3-6 child's medical care to a new medical provider, or transferred the  
3-7 child to another health care facility.

3-8 SECTION 4. This Act takes effect immediately if it receives  
3-9 a vote of two-thirds of all the members elected to each house, as  
3-10 provided by Section 39, Article III, Texas Constitution. If this  
3-11 Act does not receive the vote necessary for immediate effect, this  
3-12 Act takes effect September 1, 2021.

3-13 \* \* \* \* \*