

1-1 By: Perry, et al. S.B. No. 1646  
 1-2 (In the Senate - Filed March 11, 2021; March 24, 2021, read  
 1-3 first time and referred to Committee on State Affairs;  
 1-4 April 20, 2021, reported adversely, with favorable Committee  
 1-5 Substitute by the following vote: Yeas 6, Nays 2; April 20, 2021,  
 1-6 sent to printer.)

1-7 COMMITTEE VOTE

|      | Yea | Nay | Absent | PNV |
|------|-----|-----|--------|-----|
| 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 |     | X   |        |     |

1-18 COMMITTEE SUBSTITUTE FOR S.B. No. 1646 By: Birdwell

1-19 A BILL TO BE ENTITLED  
 1-20 AN ACT

1-21 relating to the definition of abuse of a child.  
 1-22 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:  
 1-23 SECTION 1. Section 261.001, Family Code, is amended by  
 1-24 amending Subdivision (1) and adding Subdivision (3-a) to read as  
 1-25 follows:  
 1-26 (1) "Abuse":  
 1-27 (A) includes the following acts or omissions by a  
 1-28 person:  
 1-29 (i) [~~(A)~~] mental or emotional injury to a  
 1-30 child that results in an observable and material impairment in the  
 1-31 child's growth, development, or psychological functioning;  
 1-32 (ii) [~~(B)~~] causing or permitting the child  
 1-33 to be in a situation in which the child sustains a mental or  
 1-34 emotional injury that results in an observable and material  
 1-35 impairment in the child's growth, development, or psychological  
 1-36 functioning;  
 1-37 (iii) [~~(C)~~] physical injury that results in  
 1-38 substantial harm to the child, or the genuine threat of substantial  
 1-39 harm from physical injury to the child, including an injury that is  
 1-40 at variance with the history or explanation given and excluding an  
 1-41 accident or reasonable discipline by a parent, guardian, or  
 1-42 managing or possessory conservator that does not expose the child  
 1-43 to a substantial risk of harm;  
 1-44 (iv) [~~(D)~~] failure to make a reasonable  
 1-45 effort to prevent an action by another person that results in  
 1-46 physical injury that results in substantial harm to the child;  
 1-47 (v) [~~(E)~~] sexual conduct harmful to a  
 1-48 child's mental, emotional, or physical welfare, including conduct  
 1-49 that constitutes the offense of continuous sexual abuse of young  
 1-50 child or children under Section 21.02, Penal Code, indecency with a  
 1-51 child under Section 21.11, Penal Code, sexual assault under Section  
 1-52 22.011, Penal Code, or aggravated sexual assault under Section  
 1-53 22.021, Penal Code;  
 1-54 (vi) [~~(F)~~] failure to make a reasonable  
 1-55 effort to prevent sexual conduct harmful to a child;  
 1-56 (vii) [~~(G)~~] compelling or encouraging the  
 1-57 child to engage in sexual conduct as defined by Section 43.01, Penal  
 1-58 Code, including compelling or encouraging the child in a manner  
 1-59 that constitutes an offense of trafficking of persons under Section  
 1-60 20A.02(a)(7) or (8), Penal Code, prostitution under Section

2-1 43.02(b), Penal Code, or compelling prostitution under Section  
2-2 43.05(a)(2), Penal Code;  
2-3 (viii) [~~H~~] causing, permitting,  
2-4 encouraging, engaging in, or allowing the photographing, filming,  
2-5 or depicting of the child if the person knew or should have known  
2-6 that the resulting photograph, film, or depiction of the child is  
2-7 obscene as defined by Section 43.21, Penal Code, or pornographic;  
2-8 (ix) [~~I~~] the current use by a person of a  
2-9 controlled substance as defined by Chapter 481, Health and Safety  
2-10 Code, in a manner or to the extent that the use results in physical,  
2-11 mental, or emotional injury to a child;  
2-12 (x) [~~J~~] causing, expressly permitting,  
2-13 or encouraging a child to use a controlled substance as defined by  
2-14 Chapter 481, Health and Safety Code;  
2-15 (xi) [~~K~~] causing, permitting,  
2-16 encouraging, engaging in, or allowing a sexual performance by a  
2-17 child as defined by Section 43.25, Penal Code;  
2-18 (xii) [~~L~~] knowingly causing, permitting,  
2-19 encouraging, engaging in, or allowing a child to be trafficked in a  
2-20 manner punishable as an offense under Section 20A.02(a)(5), (6),  
2-21 (7), or (8), Penal Code, or the failure to make a reasonable effort  
2-22 to prevent a child from being trafficked in a manner punishable as  
2-23 an offense under any of those sections; [~~O~~]  
2-24 (xiii) [~~M~~] forcing or coercing a child to  
2-25 enter into a marriage;  
2-26 (xiv) administering or supplying, or  
2-27 consenting to or assisting in the administration or supply of, a  
2-28 puberty suppression prescription drug or cross-sex hormone to a  
2-29 child, other than an intersex child, for the purpose of gender  
2-30 transitioning or gender reassignment; or  
2-31 (xv) performing or consenting to the  
2-32 performance of surgery or another medical procedure on a child,  
2-33 other than an intersex child, for the purpose of gender  
2-34 transitioning or gender reassignment; and  
2-35 (B) does not include an act described by  
2-36 Subparagraph (xiv) if the act is the dispensing or delivery of a  
2-37 drug in accordance with Subtitle J, Title 3, Occupations Code, by a  
2-38 person licensed under that subtitle.  
2-39 (3-a) "Intersex child" means a child who is younger  
2-40 than 18 years of age and either:  
2-41 (A) has inborn chromosomal, gonadal, genital, or  
2-42 endocrine characteristics, or a combination of those  
2-43 characteristics, that are not suited to the typical definition of  
2-44 male or female or are atypical for the determined sex of the child;  
2-45 or  
2-46 (B) is considered by a medical professional to  
2-47 have inborn chromosomal, gonadal, genital, or endocrine  
2-48 characteristics that are ambiguous or atypical for the determined  
2-49 sex of the child.  
2-50 SECTION 2. The changes in law made by this Act to Section  
2-51 261.001, Family Code, do not apply to a person alleged to have  
2-52 committed abuse with respect to a child who:  
2-53 (1) was born on or before August 31, 2010; and  
2-54 (2) before the effective date of this Act, under the  
2-55 care of a licensed physician began taking puberty suppressant  
2-56 prescription drugs or cross-sex hormones or had any surgery or  
2-57 medical procedure performed for the purpose of gender transitioning  
2-58 or gender reassignment.  
2-59 SECTION 3. This Act takes effect September 1, 2021.

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