

Tuesdays with TCTA:
Mandatory Reporting & Educator
Immunity
Legislative Update
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Texas Classroom Teachers Association | 2025

Legislative Changes (2025 Session)

SB 571 – Reporting Employee and Service Provider Misconduct and Child Abuse

- Changes the timeframe for reporting abuse;
- Specifies who the report must be made to;
- Makes changes to confidentiality of the report.

HB 4623 – Waiver of Immunity for Claims Related to Sexual Misconduct

- Provides that a school district that fails to report suspected child abuse or neglect waives immunity from suit and may be sued for damages;
- States that the professional school employee who failed to make the report must be named as a defendant.

SB 127 – Statute of Limitations for Failure to Report Child Abuse

- Increases the statute of limitations for failure to report child abuse.

HB 1106 and 1151 - Definition of Abuse and Neglect

What Am I Required to Report?

In your capacity as an educator, you are required to make a report if you have reasonable cause to believe that a child has been abused or neglected or may be abused or neglected.

What Constitutes Abuse

- Mental or emotional injury to a child that results in an observable and material impairment in the child's growth, development, or psychological functioning;
- 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;
- 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;
- Failure to make a reasonable effort to prevent an action by another person that results in physical injury that results in substantial harm to the child;
- Sexual conduct harmful to a child's mental, emotional, or physical welfare, including conduct that constitutes the offense of continuous sexual abuse of young child or disabled individual, indecency with a child, improper relationship between educator and student, sexual assault, or aggravated sexual assault;
- Failure to make a reasonable effort to prevent sexual conduct harmful to a child;
- Compelling or encouraging the child to engage in sexual conduct, including compelling or encouraging the child in a manner that constitutes an offense of trafficking of persons, solicitation of prostitution, or compelling prostitution;
- Causing, permitting, encouraging, engaging in, or allowing the photographing, filming, or depicting of the child if the person knew or should have known that the resulting photograph, film, or depiction of the child is obscene or pornographic;
- The current use by a person of a controlled substance in a manner or to the extent that the use results in physical, mental, or emotional injury to a child;
- Causing, expressly permitting, or encouraging a child to use a controlled substance;
- Causing, permitting, encouraging, engaging in, or allowing a sexual performance by a child;
- Knowingly causing, permitting, encouraging, engaging in, or allowing a child to be trafficked, or the failure to make a reasonable effort to prevent a child from being trafficked;
- Forcing or coercing a child to enter into a marriage.

What Constitutes Neglect

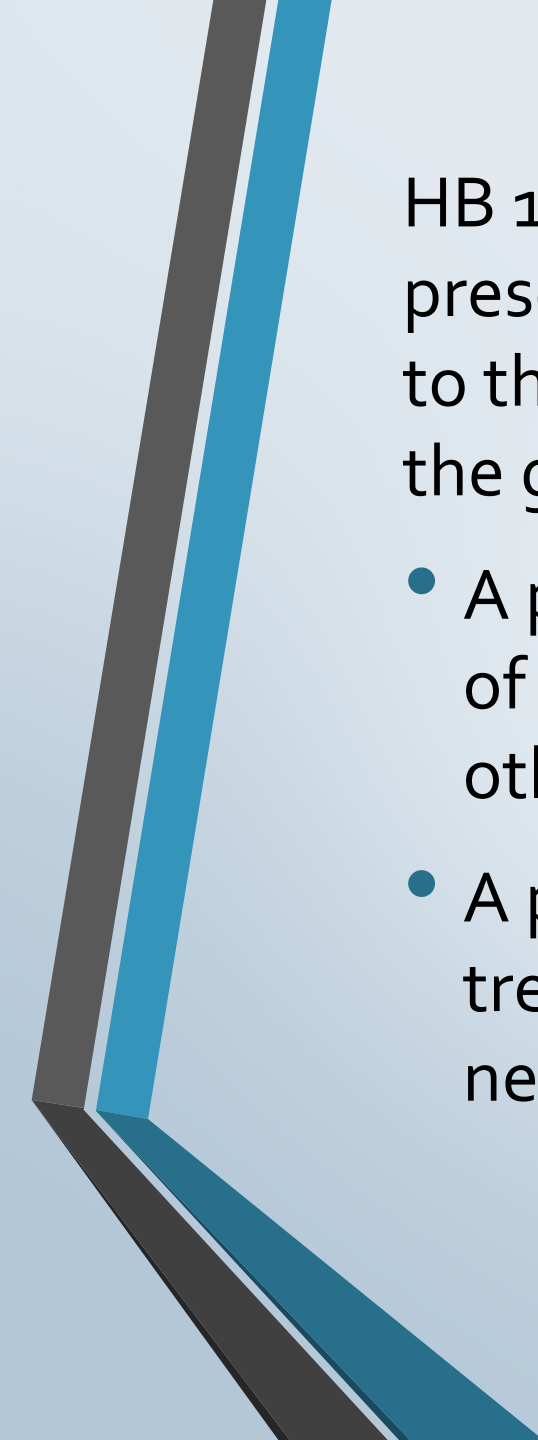
- An act or failure to act by a person responsible for a child's care, custody, or welfare evidencing the person's blatant disregard for the consequences of the act or failure to act that results in harm to the child or that creates an immediate danger to the child's physical health or safety.
- Neglect includes:
- The leaving of a child in a situation where the child would be exposed to an immediate danger of physical or mental harm, without arranging for necessary care for the child, and the demonstration of an intent not to return by a parent, guardian, or managing or possessory conservator of the child;
- Placing a child in or failing to remove a child from a situation that a reasonable person would realize requires judgment or actions beyond the child's level of maturity, physical condition, or mental abilities and that results in bodily injury or an immediate danger of harm to the child;
- Failing to seek, obtain, or follow through with medical care for a child, with the failure resulting in or presenting an immediate danger of death, disfigurement, or bodily injury or with the failure resulting in an observable and material impairment to the growth, development, or functioning of the child;
- Failure to provide a child with food, clothing, or shelter necessary to sustain the life or health of the child, excluding failure caused primarily by financial inability unless relief services had been offered and refused;
- Placing a child in or failing to remove the child from a situation in which the child would be exposed to an immediate danger of sexual conduct harmful to the child; or
- Placing a child in or failing to remove the child from a situation in which the child would be exposed to acts or omissions that constitute abuse committed against another child;
- Failure by the person responsible for a child's care, custody, or welfare to permit the child to return to the child's home without arranging for the necessary care for the child after the child has been absent from the home for any reason, including having been in residential placement or having run away;
- A negligent act or omission by an employee, volunteer, or other individual working under the auspices of a facility or program, including failure to comply with an individual treatment plan, plan of care, or individualized service plan, that causes or may cause substantial emotional harm or physical injury to, or the death of, a child served by the facility or program.

Neglect Does Not Include

- The refusal by a person responsible for a child's care, custody, or welfare to permit the child to remain in or return to the child's home resulting in the placement of the child in the conservatorship of the department if:
 - the child has a severe emotional disturbance;
 - the person's refusal is based solely on the person's inability to obtain mental health services necessary to protect the safety and well-being of the child; and
 - the person has exhausted all reasonable means available to the person to obtain mental health services;
- Allowing the child to engage in independent activities that are appropriate and typical for the child's level of maturity, physical condition, developmental abilities, or culture;
- A decision by a person responsible for a child's care, custody, or welfare to:
 - obtain an opinion from more than one medical provider relating to the child's medical care;
 - transfer the child's medical care to a new medical provider; or
 - transfer the child to another health care facility;

Changes to Definition of Abuse and Neglect

- HB 1106 – The terms “abuse” or “neglect” does not include the refusal of a person responsible for a child’s care, custody or welfare to affirm the child’s expressed sexual orientation or perception of the child’s gender, including a refusal to use the child’s preferred name or pronouns, regardless of whether the child’s name has been legally changed.



HB 1151 – The following acts are not neglect unless the action 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:

- A parent's refusal to administer or consent to the administration of a psychotropic medication to the child, or to consent to any other psychiatric or psychological treatment of the child; and
- A parent's choice of a recognized alternative health care treatment or therapy for the child that could be considered as new, emerging or nonstandard.

Reporting Timelines

OLD

- Report suspected abuse or neglect within 48 hours.

NEW (SB 571)

- Must report within 24 hours of suspicion.

Who You Notify

Reports of child abuse and neglect can be made to a law enforcement agency or to the Department of Family and Protective Services (“DFPS”). “Law enforcement agency” includes:

- DPS;
- A municipal police department;
- A county sheriff;
- A county constable.

For purposes of reporting, a school district police department is not considered a “law enforcement agency.”

The report must be made to DFPS if the alleged or suspected abuse or neglect involves a person responsible for the care, custody, or welfare of the child.

TCTA recommends that you submit your report to DFPS and record confirmation that you have done so.

Content of the report

The name and address of the child;

The name and address of the person responsible for the care, custody or welfare of the child;

The facts that caused you to believe the child has been abused or neglected and the source of the information;

Your name and telephone number;

Your business address and profession;

Any other pertinent information concerning the alleged or suspected abuse or neglect.

Confidentiality of Report

Anonymous complaints are not permitted.

The identity of a person making a report is confidential and may only be disclosed:

- By court order;
- To a law enforcement officer for the purposes of conducting a criminal investigation of the report; or
- To TEA/SBEC for the purposes of conducting an investigation (SB 571).

NEW
REQUIREMENT
SB 12

School officials must provide parents notice not later than one school business day after the date a school district employee first suspects that a criminal offense has been committed against the parent's child.

Penalties for Failure to Report

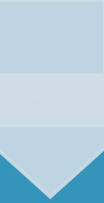
- Criminal Penalties – It is a criminal offense to knowingly fail to make a report. The offense is a class A misdemeanor unless the failure to report was due to an intent to conceal the abuse or neglect, in which case it is a state jail felony. SB 127 increases the statute of limitations for prosecution of failure to report to three years for a misdemeanor and four years for a felony offense.
- SBEC may sanction the certificate of an educator who fails to make a report.
- HB 4623 provides that a school district waives immunity when an educator fails to make a report.

Educator Immunity

HB 4623 waives governmental immunity for districts in misconduct/failure-to-report cases. The educator who failed to make the report must be named as a defendant in the lawsuit.



An educator may not assert official immunity in a lawsuit for failure to report.



Actual damages are capped at \$500,000 for each claimant and a prevailing party is entitled to court costs and attorney fees.

When in doubt,
report.

