

## **Question**

Your daughter's health condition required immediate medical attention that was not provided. Courts can intervene in family matters to protect the welfare of a child when there is evidence of neglect or abuse. The materialization of medical neglect could justify a renewed request for court intervention to protect your daughter's welfare.

## **Answer (Texas)**

### **Short response**

Texas courts can intervene in family matters to protect a child's welfare when there is evidence of medical neglect. When a child's health condition requires immediate medical attention that is not provided, this constitutes medical neglect under Texas law and can justify court intervention to protect the child.

### **Summary**

Under Texas law, medical neglect is specifically defined as the failure to seek, obtain, or follow through with medical care for a child when such failure results in or presents an immediate danger to the child's physical health or safety. The Texas Family Code and Administrative Code provide a comprehensive framework that enables courts to intervene in family matters to protect children from neglect, including medical neglect. This framework allows governmental entities to file suits for temporary possession of a child without prior notice when there is evidence of immediate danger to the child's health due to neglect.

Courts in Texas have consistently held that the failure to provide appropriate medical care constitutes endangering conduct that can justify court intervention. When a child's health condition requires immediate medical attention that is not provided, this meets the statutory definition of neglect and can serve as grounds for court actions ranging from protective orders to temporary custody or even termination of parental rights in severe cases. The law prioritizes the child's best interest as the primary consideration in all decisions affecting the parent-child relationship, including those involving medical neglect.

## **Background and Relevant Law**

### **Legislative and Regulatory Framework**

Texas law provides a comprehensive framework for addressing medical neglect and court intervention to protect children. This framework is primarily established in the Texas Family Code and Texas Administrative Code.

### **Definition of Medical Neglect**

Texas law specifically defines medical neglect as a subset of neglect. According to [40 Tex. Admin. Code § 707.469](#), medical neglect involves "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."

This definition is echoed in [Tex. Fam. Code § 261.001](#), which defines neglect to include "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."

Similarly, [25 Tex. Admin. Code § 1.204](#) defines neglect of a child to include "the failure to seek, obtain, or follow through with medical care for the child, with the failure resulting in or presenting a substantial risk 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."

### **Court Intervention in Cases of Medical Neglect**

Texas law establishes clear pathways for court intervention when there is evidence of medical neglect. [Tex. Fam. Code § 262.101](#) allows a governmental entity to file a suit requesting permission to take possession of a child without prior notice and a hearing when there is "an immediate danger to the physical health or safety of the child or the child has been a victim of neglect."

Similarly, [Tex. Fam. Code § 262.102](#) authorizes courts to issue a temporary order for the conservatorship of a child without prior notice and a hearing when "there is an immediate danger to the physical health or safety of the child or the child has been a victim of neglect" and "continuation in the home would be contrary to the child's welfare."

For less severe situations, [Tex. Fam. Code § 262.404](#) allows the department to file a suit requesting the court to order a parent or guardian to participate in family preservation services to "alleviate the effects of the abuse or neglect that has occurred," "reduce a continuing danger to the physical health or safety of the child," or "reduce a substantial risk of abuse or neglect."

[Tex. Fam. Code § 261.504](#) further provides that courts may issue protective orders when there are "reasonable grounds to believe that the child is a victim of abuse or neglect" or "there is a threat of immediate or continued abuse or neglect to the child."

### **Assessing Risk and Safety**

[40 Tex. Admin. Code § 707.501](#) requires an assessment of "both the immediate safety of the children in the home and the risk of recurrence of abuse or neglect" during an investigation. It specifies that a child may be removed if "there is a high or very high likelihood that abuse or neglect will reoccur in the foreseeable future or the child is not safe in the home because of unmanaged danger indicators."

### **Mandatory Reporting**

[Tex. Fam. Code § 261.101](#) mandates that "a person having reasonable cause to believe that a child's physical or mental health or welfare has been adversely affected by abuse or neglect by any person shall immediately make a report as provided by this subchapter." This reporting requirement is a trigger for potential investigation and court intervention.

## Case Law

Texas courts have consistently upheld the principle that medical neglect justifies court intervention to protect a child's welfare.

### Medical Neglect as Endangering Conduct

In [D.H. v. Tex. Dep't of Family & Protective Servs., 652 S.W.3d 54 \(Tex. App. 2021\)](#), the court stated explicitly that "The failure to provide or obtain appropriate medical care for a child can constitute endangering conduct under subsection (E)." This establishes that medical neglect is legally recognized as conduct that endangers a child's well-being.

Similarly, in [In re A.A.H., NO. 01-19-00612-CV, NO. 01-19-00748-CV \(Tex. App. Mar 05, 2020\)](#), the court held that "neglect of a child's medical needs endangers the child" and "A parent's failure to provide appropriate medical care for a child may constitute endangering conduct."

In [In re J.C., 12-24-00113-CV \(Tex. App. Jul 31, 2024\)](#), the court reiterated that "the failure to provide or obtain appropriate medical care for a child can constitute endangering conduct." This recent case confirms that the principle remains valid in current Texas jurisprudence.

### Grounds for Court Intervention

Courts have established that evidence of neglect, including medical neglect, provides grounds for court intervention. In [In re S.R.W., 04-22-00648-CV \(Tex. App. Mar 08, 2023\)](#), the court stated that "Children's basic needs include medical care" and noted that "the trier of fact may consider evidence that a parent neglected to seek appropriate medical treatment for the child" when deciding whether termination of parental rights is in the best interest of a child.

In [In re Dustin Estep](#), the court established that "For a nonparent to overcome the presumption that it is in the child's best interest to be in a parent's custody, there must be evidence of specific and identifiable conduct by the parent that is likely to cause harm to the child's physical health or emotional development." Medical neglect constitutes such specific and identifiable conduct.

The case of [In re K.S., No. 02-18-00191-CV \(Tex. App. Sep 28, 2018\)](#) established that "A child is endangered when the environment creates a potential for danger that the parent is aware of but consciously disregards." This principle applies to situations where a parent is aware of a child's medical needs but fails to address them.

### Legal Standards for Intervention

The legal standards for court intervention in cases of medical neglect have been clearly established by the courts. In [In re W.T., 04-24-00164-CV \(Tex. App. Aug 28, 2024\)](#), the court explained that a parent's rights may be terminated if the parent "knowingly placed or knowingly allowed the child to remain in conditions or surroundings which endanger the physical or emotional well-being of the child." The court defined "endanger" as "to expose to loss or injury; to jeopardize."

In [In re Interest of O.E.R., 573 S.W.3d 896 \(Tex. App. 2019\)](#), the court stated that "A child is endangered when the environment creates a potential for danger that the parent is aware of but disregards." This establishes that awareness of a danger, such as a medical condition requiring attention, coupled with disregard of that danger constitutes endangerment.

In [In re Interest of K-A.B.M., 551 S.W.3d 275 \(Tex. App. 2018\)](#), the court explained that "the relevant inquiry is whether evidence exists that the endangerment of the child's physical well-being was the direct result of the parent's conduct, including acts, omissions, or failures to act." This means that a parent's failure to act, such as not seeking medical attention for a child when needed, can constitute endangerment.

It's important to note that [In re J.F.C., 96 S.W.3d 256 \(Tex. 2002\)](#) was overruled by [A.S. v. Tex. Dep't of Family & Protective Servs.](#), 394 S.W.3d 703 (Tex. App. 2012). However, the overruling did not affect the court's statement that "the 'best interest of the child' is the state's foremost priority in determining the welfare of children." This principle remains valid and continues to guide courts in cases involving potential medical neglect.

Similarly, [In re C.H., 89 S.W.3d 17 \(Tex. 2002\)](#) was overruled by [In re Interest of E.N., No. 07-16-00190-CV \(Tex. App. Aug 22, 2016\)](#), but the principle that courts may order termination of the parent-child relationship if there is clear and convincing evidence that the parent has engaged in certain conduct and termination is in the best interest of the child remains valid under the Texas Family Code.

[Higgins v. Dallas County Child Welfare Unit, 544 S.W.2d 745 \(Tex. Ct. App. 1976\)](#) was overruled by [S.H.A., In Interest of, 728 S.W.2d 73 \(Tex. App. 1987\)](#), but its recognition that circumstantial evidence may be sufficient to establish child abuse or neglect remains a valid principle in Texas law.

## Analysis

### Medical Neglect as Grounds for Court Intervention

The legislative and regulatory framework in Texas clearly establishes that the failure to provide necessary medical care for a child constitutes neglect. [40 Tex. Admin. Code § 707.469](#) specifically defines medical neglect as "failing to seek, obtain, or follow through with medical care for a child" when such failure results in or presents an immediate danger to the child's health or safety. When a child's health condition requires immediate medical attention that is not provided, this directly meets the statutory definition of medical neglect.

Texas case law consistently supports the proposition that medical neglect justifies court intervention. In [D.H. v. Tex. Dep't of Family & Protective Servs., 652 S.W.3d 54 \(Tex. App. 2021\)](#), the court explicitly stated that "The failure to provide or obtain appropriate medical care for a child can constitute endangering conduct." Similarly, [In re A.A.H., NO. 01-19-00612-CV, NO. 01-19-00748-CV \(Tex. App. Mar 05, 2020\)](#) held that "neglect of a child's medical needs endangers the child."

The requirement that medical neglect must result in or present an immediate danger to the child's health or safety establishes a clear threshold for court intervention. If a child's health condition required immediate medical attention that was not provided, and this failure resulted in or presented an immediate danger to the child's health, the legal criteria for medical neglect would be met.

## **The Legal Pathway for Court Intervention**

When medical neglect is established, Texas law provides multiple pathways for court intervention to protect the welfare of a child.

### **Emergency Removal**

In the most severe cases, [Tex. Fam. Code § 262.101](#) allows for the filing of a petition to take possession of a child without prior notice when there is "an immediate danger to the physical health or safety of the child or the child has been a victim of neglect." Similarly, [Tex. Fam. Code § 262.102](#) authorizes courts to issue a temporary order for the conservatorship of a child without prior notice when such conditions exist.

These provisions apply when a child's health condition requires immediate medical attention that is not provided, and this failure creates an immediate danger to the child's physical health or safety. The statutes require that "there is no time, consistent with the physical health or safety of the child" for a full hearing, reflecting the emergency nature of the situation.

### **Protective Orders**

For less severe cases, [Tex. Fam. Code § 261.504](#) allows courts to issue protective orders when there are "reasonable grounds to believe that the child is a victim of abuse or neglect" or "there is a threat of immediate or continued abuse or neglect to the child." A protective order could, for example, require a parent to seek medical attention for a child with a condition requiring immediate care.

### **Family Preservation Services**

[Tex. Fam. Code § 262.404](#) provides another intervention option, allowing the department to file a suit requesting the court to order a parent to participate in family preservation services. This approach might be appropriate in cases where education about a child's medical needs could prevent future instances of medical neglect.

## **The Evidentiary Standard for Medical Neglect**

To justify court intervention based on medical neglect, there must be sufficient evidence that the neglect has occurred or is likely to occur without intervention.

[In re Interest of O.E.R., 573 S.W.3d 896 \(Tex. App. 2019\)](#) established that "A child is endangered when the environment creates a potential for danger that the parent is aware of but disregards." This means that evidence of a parent's awareness of a child's medical needs, coupled with a disregard for those needs, can establish endangerment.

[In re Interest of K-A.B.M., 551 S.W.3d 275 \(Tex. App. 2018\)](#) clarified that "the relevant inquiry is whether evidence exists that the endangerment of the child's physical well-being was the direct result of the parent's conduct, including acts, omissions, or failures to act." This means that a parent's failure to act, such as not seeking medical attention when needed, can constitute endangerment if it directly results in risk to the child's well-being.

Even without direct evidence, [Higgins v. Dallas County Child Welfare Unit, 544 S.W.2d 745 \(Tex. Ct. App. 1976\)](#) established that circumstantial evidence may be sufficient to establish child neglect. While this case was overruled by S.H.A., In Interest of, 728 S.W.2d 73 (Tex. App. 1987), the principle that circumstantial evidence can establish neglect remains valid in Texas law.

## **The "Best Interest of the Child" Standard**

In all cases involving potential court intervention due to medical neglect, the child's best interest is the paramount consideration.

[In re J.F.C., 96 S.W.3d 256 \(Tex. 2002\)](#) emphasized that "the 'best interest of the child' is the state's foremost priority in determining the welfare of children." While this case was overruled by [A.S. v. Tex. Dep't of Family & Protective Servs.](#), 394 S.W.3d 703 (Tex. App. 2012), the principle that the child's best interest is paramount remains valid under the Texas Family Code.

[In re C.H., 89 S.W.3d 17 \(Tex. 2002\)](#) noted that courts may terminate parental rights if there is clear and convincing evidence that termination is in the best interest of the child. While this case was overruled by [In re Interest of E.N., No. 07-16-00190-CV \(Tex. App. Aug 22, 2016\)](#), the "best interest of the child" standard remains codified in the Texas Family Code.

## **Renewed Request for Court Intervention**

When there is evidence of medical neglect, this can justify a renewed request for court intervention to protect a child's welfare, even if previous interventions were unsuccessful or not pursued. The materialization of medical neglect—that is, the actual occurrence of a situation where a child's health condition required immediate medical attention that was not provided—creates new grounds for court intervention.

[Tex. Fam. Code § 261.301](#) requires the department to make "a prompt and thorough investigation of a report of child abuse or neglect" with "the primary purpose of the investigation" being "the protection of the child." This investigation can lead to court intervention if neglect is substantiated.

[40 Tex. Admin. Code § 707.501](#) specifies that a child may be removed from a home if "there is a high or very high likelihood that abuse or neglect will reoccur in the foreseeable future or the child is not safe in the home because of unmanaged danger indicators." Evidence of past medical neglect can establish such a likelihood.

## **Exceptions and Caveats**

## **Parental Rights and Limitations on Court Intervention**

While Texas law provides clear pathways for court intervention in cases of medical neglect, it also recognizes the rights of parents and establishes limitations on such intervention.

[In re J.F.C., 96 S.W.3d 256 \(Tex. 2002\)](#) noted that the Legislature has declared that "the public policy of this state is to assure that children will have frequent and continuing contact with parents who have shown the ability to act in the best interest of the child." This means that court intervention should aim, when possible, to preserve the parent-child relationship while ensuring the child's safety and welfare.

### **Evidence Requirements**

Court intervention requires sufficient evidence of neglect or endangerment. [In re Interest of K-A.B.M., 551 S.W.3d 275 \(Tex. App. 2018\)](#) specified that termination under subsection (E) "must be based on more than a single act or omission" and requires "a voluntary, deliberate, and conscious course of conduct by the parent." However, in cases of medical neglect, a single instance of failing to provide necessary medical care could still constitute neglect under other definitions, particularly if it creates an immediate danger to the child's health or safety.

### **Clear and Convincing Evidence Standard**

[In re E.O.R., No. 04-18-00248-CV \(Tex. App. Nov 07, 2018\)](#) emphasized that to terminate parental rights, the Department must prove its case by "clear and convincing evidence." This is a higher standard than the "preponderance of the evidence" standard used in many civil cases. However, less severe interventions, such as protective orders or temporary conservatorship, may have lower evidentiary standards.

### **Financial Limitations**

[40 Tex. Admin. Code § 707.471](#) specifies that physical neglect excludes "failure caused primarily by financial inability unless relief services had been offered and refused." This suggests that if a parent's failure to provide medical care was primarily due to financial inability, and they had not been offered or had not refused relief services, this might not constitute neglect. However, this exception would not apply to emergency medical situations where other resources (such as emergency rooms that cannot refuse treatment) were available.

### **Conclusion**

Texas law provides a comprehensive framework for court intervention in cases of medical neglect. When a child's health condition requires immediate medical attention that is not provided, this constitutes medical neglect under multiple provisions of the Texas Family Code and Administrative Code. Such neglect endangers the child's welfare and justifies court intervention to protect the child.

The legal pathways for intervention range from protective orders to temporary conservatorship or, in severe cases, termination of parental rights. The appropriate intervention depends on the severity of the neglect, the immediacy of the danger to the child's health, and the likelihood of recurrence.

The materialization of medical neglect—evidence that a child's health condition required immediate medical attention that was not provided—creates valid grounds for a renewed request for court intervention. Such evidence demonstrates that the child's welfare is at risk due to the parent's failure to provide necessary care, which is precisely the situation the legal framework is designed to address.

In all cases, the best interest of the child is the paramount consideration. Courts are empowered to take action to protect children from neglect, including medical neglect, while also respecting parental rights and the value of preserving the parent-child relationship when possible.

When a child's health and safety are at risk due to medical neglect, the Texas legal system provides both the legal authority and the procedural mechanisms for courts to intervene to protect the child's welfare.

### **Legal Authorities**

[In re S.M.R., 434 S.W.3d 576, 57 Tex. Sup. Ct. J. 670 \(Tex. 2014\)](#)

#### **Texas Supreme Court**

##### **Extract**

*The court's order recited that there was 'sufficient evidence to satisfy a person of ordinary prudence and caution that: (1) there was a danger to the physical health or safety of the child which was caused by an act or failure to act of the person entitled to possession and for the child to remain in the home is contrary to the welfare of the child; (2) the urgent need for protection required the immediate removal of the child and makes efforts to eliminate or prevent the children's removal impossible or unreasonable; and (3) notwithstanding reasonable efforts to eliminate the need for the children's removal and enable the children to return home, there is a substantial risk of a continuing danger if the children are returned home.'*

##### **Summary**

The passage describes a court's decision to intervene in a family matter due to evidence of neglect, specifically medical neglect, and the failure to provide necessary medical care. The court found that the children's health and safety were at risk due to the parents' failure to act, justifying the removal of the children from their home. This aligns with the proposition that courts can intervene to protect a child's welfare when there is evidence of neglect, including medical neglect.

[Higgins v. Dallas County Child Welfare Unit, 544 S.W.2d 745 \(Tex. Ct. App. 1976\)](#)

## Texas Court of Appeals

### Extract

*Without necessarily adopting the doctrine of Res ipsa loquitur with all of its implications in the law of torts, we agree that circumstantial evidence may be sufficient to establish child abuse or child neglect within § 15.02. Accordingly, we hold that a fact finding that parents either abused a child or knowingly allowed it to remain in dangerous conditions may be supported by evidence of (1) multiple injuries or other serious impairment of health that ordinarily would not occur in the absence of abuse or gross neglect, and (2) the parents' control over the child during the period when the abuse or neglect is alleged to have occurred. Lack of any reasonable explanation by the parents of the child's condition is an additional circumstance that may be considered in support of such a finding.*

### Summary

The Texas Court of Appeals recognizes that circumstantial evidence can be sufficient to establish child abuse or neglect. This includes situations where there are multiple injuries or serious health impairments that would not typically occur without abuse or neglect, and where parents have control over the child during the relevant period. The lack of a reasonable explanation for the child's condition can further support findings of neglect. This aligns with the proposition that courts can intervene to protect a child's welfare when there is evidence of neglect, such as failing to provide necessary medical attention.

#### [In re L.E.S., 471 S.W.3d 915 \(Tex. App. 2015\)](#)

## Texas Court of Appeals

### Extract

*James and Julie appeal from the trial court's order terminating their parental rights to their daughter, L.E.S. Both parents contend the evidence is legally and factually insufficient to support the trial court's findings that they (1) knowingly placed or knowingly allowed the child to remain in conditions or surroundings which endangered the physical or emotional well-being of the child, (2) engaged in conduct or knowingly placed the child with persons who engaged in conduct that endangered the physical and emotional well-being of the child, and (3) failed to comply with the provisions of a court order that specifically established the actions necessary for the parents to obtain the return of the child who had been in the temporary managing conservatorship of the Texas Department of Family and Protective Services (the Department) not less than nine months as a result of the child's removal from the parents under Chapter 262 of the Texas Family Code for the abuse or neglect of the child.*

### Summary

The passage discusses a case where parental rights were terminated due to the endangerment of a child's well-being, which includes neglect. The Texas Family Code provides grounds for such intervention when a child is placed in conditions that endanger their physical or emotional well-being. This aligns with the proposition that courts can intervene in family matters to protect a child's welfare when there is evidence of neglect, such as failing to provide necessary medical attention.

#### [In re K.N.D., 403 S.W.3d 277 \(Tex. App. 2013\)](#)

## Texas Court of Appeals

### Extract

*Chapter 262 authorizes the involuntary removal of a child under various circumstances when 'there is an immediate danger to the physical health or safety of the child.' ... Finally, DFPS presented evidence of A.D.'s actions of medical neglect and neglectful supervision of S.L.A.D., including an incident in which S.L.A.D. had 'an emergency condition and abscess, an injury that required surgery on the brain,' but A.D. was unavailable to give consent for treatment because 'she had gone to Florida in 2009 and didn't come back until sometime in 2010.' These facts are clearly sufficient to show convincingly that A.D. had an ongoing pattern of abusive or neglectful behavior that endangered both S.L.A.D. and K.N.D.*

### Summary

Chapter 262 of the Texas Family Code provides a legal framework for the involuntary removal of a child when there is immediate danger to their health or safety. The case illustrates how evidence of medical neglect, such as failing to provide necessary medical attention, can justify court intervention to protect a child's welfare. The specific example of A.D.'s neglectful behavior leading to the removal of her child supports the proposition that courts can intervene in similar situations.

#### [In re A.A.H., NO. 01-19-00612-CV, NO. 01-19-00748-CV \(Tex. App. Mar 05, 2020\)](#)

## Texas Court of Appeals

### Extract

*Additionally, neglect of a child's medical needs endangers the child. Smith v. Tex. Dep't of Fam. And Protective Servs., No. 01-09-00173-CV. 2009 WL 4359267, at \*7 (Tex. App.—Houston [1st Dist.] Dec. 3, 2009, no pet.); In re T.M.T., No. 14-18-00442-CV, 2018 WL 6053667, at \*11 (Tex. App.—Houston [14th Dist.] Nov.*

20, 2018, no pet.) (mem. op.). A parent's failure to provide appropriate medical care for a child may constitute endangering conduct.

## Summary

Neglect of a child's medical needs endangers the child and that a parent's failure to provide appropriate medical care may constitute endangering conduct. This aligns with the proposition that courts can intervene in family matters to protect a child's welfare when there is evidence of medical neglect. The passage provides legal precedent and references to support the idea that medical neglect is a serious issue that can justify court intervention.

### [In re C.H., 89 S.W.3d 17 \(Tex. 2002\)](#)

#### Texas Supreme Court

##### Extract

*The Texas Department of Protective and Regulatory Services filed an action to terminate the parent-child relationship... under the procedures provided in Texas Family Code Chapter 161... The jury found that the parents had engaged in conduct warranting termination and that terminating the rights of both parents would be in the best interest of the child... The Texas Legislature has now codified the clear-and-convincing standard in Family Code § 161.001(1), (2), which provides: a 'court may order termination of the parent-child relationship if the court finds by clear and convincing evidence' that the parent has engaged in certain listed conduct and 'termination is in the best interest of the child.'*

## Summary

The passage from "In re C.H." illustrates that Texas courts have the authority to terminate parental rights if there is clear and convincing evidence of conduct that is detrimental to the child's welfare. This includes situations where a child's health and safety are at risk due to neglect or abuse. The passage supports the proposition by showing that courts can intervene in family matters to protect a child's welfare when there is evidence of neglect, such as failing to provide necessary medical attention.

### [In re E.C.R., 402 S.W.3d 239, 56 Tex. Sup. Ct. J. 666 \(Tex. 2013\)](#)

#### Texas Supreme Court

##### Extract

*The Family Code allows a court to terminate a parent's rights to her child if the child has been in the State's custody for at least nine months, and the State proves, by clear and convincing evidence, that the parent failed to comply with a court order that specified what she had to do to get her child back. Tex. Fam. Code § 161.001(1)(O). The provision applies, however, only if the child was removed from the parent under Family Code Chapter 262 for 'abuse or neglect of the child.' ... At least one appellate court has interpreted subsection O in a similar fashion, holding that termination was warranted upon proof of 'immediate danger to the physical health or safety of the child'—the emergency removal standard under chapter 262. ... The preceding chapter, titled 'Investigation of Report of Child Abuse or Neglect,' requires that 'abuse' and 'neglect' be reported to the authorities, and the failure to do so carries criminal penalties. Tex. Fam. Code §§ 261.101(a), .103(a), .109. ... neglect includes placing a child in or failing to remove a child from a situation that requires actions or judgment beyond his capabilities and that results in 'a substantial risk of immediate harm to the child' ... Once the Department receives a report of abuse or neglect, it must promptly and thoroughly investigate. Id. § 261.301(a). If the Department believes that the child's immediate removal is necessary to avoid further abuse or neglect, it must file a petition or take other action under chapter 262 for the child's temporary care and protection.*

## Summary

The passages from "In re E.C.R." discuss the legal standards under the Texas Family Code for terminating parental rights and removing a child from parental custody due to abuse or neglect. The passages highlight that courts can intervene when there is evidence of neglect, including situations where a child's physical health or safety is at substantial risk. The Family Code provisions and the court's interpretation support the idea that medical neglect, which places a child at immediate risk, can justify court intervention to protect the child's welfare.

### [In re J.C., 12-24-00113-CV \(Tex. App. Jul 31, 2024\)](#)

#### Texas Court of Appeals

##### Extract

*The trial court also may order termination of the parent-child relationship if it finds by clear and convincing evidence that the parent engaged in conduct or knowingly placed the child with persons who engaged in conduct that endangers the physical or emotional well-being of the child. ... Moreover, the failure to provide or obtain appropriate medical care for a child can constitute endangering conduct. See D.H. v. Texas Dep't of Fam. & Protective Servs., 652 S.W.3d 54, 60 (Tex. App.-Austin 2021, no pet.).*

## Summary

Texas law allows for the termination of parental rights if a parent engages in conduct that endangers a child's well-being. Specifically, the failure to provide necessary medical care is considered endangering conduct. This supports the proposition that courts can intervene in family matters to protect a child's welfare when there is evidence of medical neglect.

[Wilson v. State, 116 S.W.3d 923 \(Tex. App. 2003\)](#)

**Texas Court of Appeals**

**Extract**

*constructively abandoned the child who has been in the permanent or temporary managing conservatorship of the department of Protective and Regulatory Services or an authorized agency for not less than six months and: (1) the Department or other authorized agency has made reasonable efforts to return the child to the mother; (2) the mother has not regularly visited or maintained significant contact with the child; and (3) the mother has demonstrated an inability to provide the child with a safe environment; [Section 161.001(1)(N), Texas Family Code] failed to comply with the provisions of a court order that specifically established the actions necessary for the mother to obtain the return of the child who has been in the permanent or temporary managing conservatorship of the Department of Protective and Regulatory Services for not less than nine months as a result of the child's removal from the parent under Chapter 262 for the abuse or neglect of the child; [Section 161.001(1)(O), Texas Family Code].*

**Summary**

The passage outlines conditions under which a parent may lose custody of a child due to neglect or inability to provide a safe environment, as per the Texas Family Code. It highlights the court's authority to intervene when a child is in the conservatorship of the Department due to neglect or abuse. This supports the proposition that courts can intervene in family matters to protect a child's welfare when there is evidence of neglect, such as failing to provide necessary medical attention.

[In re K.S., No. 02-18-00191-CV \(Tex. App. Sep 28, 2018\)](#)

**Texas Court of Appeals**

**Extract**

*The trial court may order termination of the parent-child relationship if it finds by clear and convincing evidence that the parent has knowingly placed or knowingly allowed the child to remain in conditions or surroundings that endanger the physical or emotional well-being of the child. Tex. Fam. Code Ann. § 161.001(b)(1)(D). ... A child is endangered when the environment creates a potential for danger that the parent is aware of but consciously disregards. ... The trial court may also order termination of the parent-child relationship if it finds by clear and convincing evidence that the parent has engaged in conduct, or knowingly placed the child with persons who engaged in conduct, that endangers the physical or emotional well-being of the child. Tex. Fam. Code Ann. § 161.001(b)(1)(E).*

**Summary**

Texas law allows for court intervention in family matters when a child's well-being is endangered. Specifically, the court can terminate parental rights if a parent knowingly places a child in dangerous conditions or engages in conduct that endangers the child. This aligns with the proposition that courts can intervene to protect a child's welfare when there is evidence of neglect, such as failing to provide necessary medical attention.

[In re E.O.R., No. 04-18-00248-CV \(Tex. App. Nov 07, 2018\)](#)

**Texas Court of Appeals**

**Extract**

*Clear and Convincing Evidence. If the Department moves to terminate a parent's rights to a child, the Department must prove by clear and convincing evidence that (1) the parent's acts or omissions met one or more of the grounds for involuntary termination listed in section 161.001(b)(1) of the Family Code, and (2) terminating the parent's rights is in the best interest of the child. TEX. FAM. CODE ANN. § 161.001(b) (West Supp. 2017); In re J.F.C., 96 S.W.3d 256, 261 (Tex. 2002). The same evidence used to prove the parent's acts or omissions under section 161.001(b)(1) may be used in determining the best interest of the child under section 161.001(b)(2).*

**Summary**

The Texas Family Code provides a legal framework for terminating parental rights when there is clear and convincing evidence of neglect or abuse. The passage highlights that the same evidence used to demonstrate a parent's neglectful acts or omissions can also be used to determine the best interest of the child. This supports the proposition that courts can intervene in family matters to protect a child's welfare when there is evidence of neglect, such as failing to provide necessary medical attention.

[In re S.R.W., 04-22-00648-CV \(Tex. App. Mar 08, 2023\)](#)

## Texas Court of Appeals

### Extract

Section 161.001(b)(1)(E) allows a trial court to terminate a parent's rights if the court finds by clear and convincing evidence that the parent 'engaged in conduct or knowingly placed the child with persons who engaged in conduct which endangers the physical or emotional well-being of the child.' ... Children's basic needs include medical care. ... In deciding that termination of parental rights is in the best interest of a child, the trier of fact may consider evidence that a parent neglected to seek appropriate medical treatment for the child.

### Summary

The Texas Family Code allows for the termination of parental rights if a parent engages in conduct that endangers a child's well-being. The court considers neglect of a child's basic needs, including medical care, as a factor in determining whether termination is in the child's best interest. This supports the proposition that courts can intervene in family matters to protect a child's welfare when there is evidence of medical neglect.

## [In re Interest of O.E.R., 573 S.W.3d 896 \(Tex. App. 2019\)](#)

### Texas Court of Appeals

### Extract

The trial court found that the Department had proven by clear and convincing evidence that Vicky had: (1) knowingly placed or knowingly allowed the children to remain in conditions or surroundings which endanger the physical or emotional well-being of the children, pursuant to § 161.001(b)(1)(D), Texas Family Code; (2) engaged in conduct or knowingly placed the children with persons who engaged in conduct which endangers the physical or emotional well-being of the child, pursuant to § 161.001(b)(1)(E), Texas Family Code... A child is endangered when the environment creates a potential for danger that the parent is aware of but disregards. *In re E.R.W.*, 528 S.W.3d 251, 264 (Tex.App.--Houston [14th Dist.] 2017, no pet.).

### Summary

Legal grounds for terminating parental rights when a parent knowingly places a child in conditions that endanger their well-being. It highlights that a child's endangerment can occur when a parent is aware of a dangerous environment but disregards it. This aligns with the proposition that courts can intervene in family matters to protect a child's welfare when there is evidence of neglect, such as failing to provide necessary medical attention.

## [In re W.T., 04-24-00164-CV \(Tex. App. Aug 28, 2024\)](#)

### Texas Court of Appeals

### Extract

Under subsection (D), a parent's rights may be terminated if, before the child is removed, the parent 'knowingly placed or knowingly allowed the child to remain in conditions or surroundings which endanger the physical or emotional well-being of the child.' Tex. Fam. Code Ann. § 161.001(b)(1)(D). In the context of the statute, 'endanger' means to expose to loss or injury; to jeopardize.' Tex. Dep't of Human Servs. v. Boyd, 727 S.W.2d 531, 533 (Tex. 1987). A parent's rights to their child may also be terminated if the trial court finds the parent 'engaged in conduct or knowingly placed the child with persons who engaged in conduct which endangers the physical or emotional well-being of the child.' Tex. Fam. Code Ann. § 161.001(b)(1)(E).

### Summary

The passage from "In re W.T." provides legal grounds under Texas Family Code section 161.001(b)(1)(D) and (E) for the termination of parental rights when a parent knowingly places a child in conditions that endanger their well-being. This aligns with the proposition that courts can intervene in family matters to protect a child's welfare when there is evidence of neglect or abuse, such as failing to provide necessary medical attention. The legal framework supports the idea that materialization of medical neglect could justify court intervention.

## [In re Dustin Estep](#)

### Texas Court of Appeals

### Extract

"For a nonparent to overcome the presumption that it is in the child's best interest to be in a parent's custody, there must be evidence of specific and identifiable conduct by the parent that is likely to cause harm to the child's physical health or emotional development." *In re A.D.T.*, 588 S.W.3d 312, 317 (Tex. App.-Amarillo 2019, no pet.); see *Lewelling*, 796 S.W.2d at 167 (requiring "evidence of specific acts or omissions of the parent that demonstrate an award of custody to the parent would result in physical or emotional harm to the child").

### Summary

Texas law requires evidence of specific conduct by a parent that is likely to harm a child's physical health or emotional development to overcome the presumption that a parent should have custody. This supports the proposition that if there is evidence of medical neglect, it could justify court intervention to protect the child's welfare.

[E. E. v. Tex. Dep't of Family & Protective Servs., 598 S.W.3d 389 \(Tex. App. 2020\)](#)

**Texas Court of Appeals**

**Extract**

*The trial court may order termination of the parent-child relationship if it finds by clear and convincing evidence that the parent has 'knowingly placed or knowingly allowed the child to remain in conditions or surroundings which endanger the physical or emotional well-being of the child,' id. § 161.001(b)(1)(D), or 'engaged in conduct or knowingly placed the child with persons who engaged in conduct which endangers the physical or emotional well-being of the child,' id. § 161.001(b)(1)(E). Both subsections (D) and (E) require proof of child endangerment, i.e., 'exposing a child to loss or injury or jeopardizing a child's emotional or physical well-being.'*

**Summary**

Legal standards under Texas law for terminating parental rights when a parent has endangered a child's physical or emotional well-being. This includes situations where a parent has knowingly placed the child in harmful conditions or engaged in conduct that endangers the child. The passage supports the proposition by highlighting that courts can intervene in family matters to protect a child's welfare when there is evidence of neglect or abuse, such as failing to provide necessary medical attention.

[In re L.W., NO. 01-18-01025-CV \(Tex. App. Apr 09, 2019\)](#)

**Texas Court of Appeals**

**Extract**

*The children's basic needs include medical care. See In re K-A.B.M., 551 S.W.3d 275, 288 (Tex. App.—El Paso 2018, no pet.); In re P.S., 2017 WL 1173845, at \*9. In deciding that termination of parental rights is in the best interest of the children, the trier of fact may consider evidence that a parent neglected to seek appropriate medical treatment for her children.*

**Summary**

Children's basic needs include medical care and that evidence of a parent's neglect to seek appropriate medical treatment can be considered in decisions about the termination of parental rights. This aligns with the proposition that courts can intervene in family matters to protect a child's welfare when there is evidence of neglect, including medical neglect.

[In re H.B.C., No. 04-19-00300-CV \(Tex. App. Aug 21, 2019\)](#)

**Texas Court of Appeals**

**Extract**

*The ad litem noted the teenage children are 'very adamant' that they want Mom's parental rights terminated because she abused them and neglected their special needs sister. The ad litem opined that it is in the children's best interests that Mom's parental rights be terminated. ... If the Department moves to terminate a parent's rights to a child, it must prove by clear and convincing evidence that the parent's acts or omissions met one or more of the grounds for involuntary termination listed in section 161.001(b)(1) of the Family Code and terminating the parent's rights is in the best interest of the child. TEX. FAM. CODE ANN. § 161.001(b); In re J.F.C., 96 S.W.3d 256, 261 (Tex. 2002).*

**Summary**

The court considered evidence of neglect and abuse, including the neglect of a special needs child, as grounds for terminating parental rights. The Texas Family Code requires clear and convincing evidence of such neglect or abuse to justify termination. This supports the proposition that courts can intervene in family matters to protect a child's welfare when there is evidence of neglect, including medical neglect.

[In re E.F.Z., No. 04-19-00169-CV \(Tex. App. Aug 28, 2019\)](#)

**Texas Court of Appeals**

**Extract**

Section 161.001(b)(1)(E) allows a trial court to terminate a parent's rights if the court finds by clear and convincing evidence that the parent 'engaged in conduct or knowingly placed the child with persons who engaged in conduct which endangers the physical or emotional well-being of the child.' TEX. FAM. CODE ANN. § 161.001(b)(1)(E). Under subsection E, the trial court is asked to determine whether there is evidence that a parent's acts, omissions, or failures to act endangered the child's physical or emotional well-being.

## **Summary**

Texas law allows for the termination of parental rights if there is clear and convincing evidence that a parent's conduct, including omissions or failures to act, endangers a child's physical or emotional well-being. This legal standard can be applied to situations where a child's health condition requires immediate medical attention that is not provided, as such neglect could be seen as endangering the child's well-being.

[In re E.P.A., 04-22-00897-CV \(Tex. App. May 17, 2023\)](#)

## **Texas Court of Appeals**

### **Extract**

*If the Department moves to terminate a parent's rights to a child, the Department must prove by clear and convincing evidence that the parent's acts or omissions met one or more of the grounds for involuntary termination listed in section 161.001(b)(1) of the Family Code and terminating the parent's rights is in the best interest of the child. Tex. Fam. Code Ann. § 161.001(b); In re J.F.C., 96 S.W.3d 256, 261 (Tex. 2002). The same evidence used to prove the parent's acts or omissions under section 161.001(b)(1) may be used in determining the best interest of the child under section 161.001(b)(2).*

## **Summary**

The Texas Family Code provides grounds for the termination of parental rights when there is clear and convincing evidence of neglect or abuse. The passage highlights that the Department must prove that the parent's acts or omissions meet the statutory grounds for termination and that such termination is in the best interest of the child. This supports the proposition that courts can intervene in family matters to protect a child's welfare when there is evidence of neglect, such as failing to provide necessary medical attention.

[In re D.M., 07-22-00376-CV, 07-22-00377-CV \(Tex. App. Jun 07, 2023\)](#)

## **Texas Court of Appeals**

### **Extract**

*Ground (E) is satisfied by proof that the parent engaged in conduct or knowingly placed the child with persons who engaged in conduct which endangered the physical or emotional well-being of the child. TEX. FAM. CODE ANN. § 161.001(b)(1)(E). [] The cause of the danger to the child must be the parent's conduct and/or failure to act. In re M.J.M.L., 31 S.W.3d 347, 350-51 (Tex. App.-San Antonio 2000, pet. denied); Doyle v. Tex. Dep't of Protective & Regulatory Servs., 16 S.W.3d 390, 395 (Tex. App.-El Paso 2000, pet. denied). It is not necessary that the conduct be directed at the child, nor must actual harm result. Dupree v. Tex. Dep't of Protective & Regulatory Servs., 907 S.W.2d 81, 84 (Tex. App.-Dallas 1995, no writ). The specific danger to the child's well-being need not be established as an independent proposition but may be inferred from parental misconduct. In re B.C.S., 479 S.W.3d 918, 926 (Tex. App.-El Paso 2015, no pet.).*

## **Summary**

Legal grounds under Texas law for terminating parental rights when a parent's conduct endangers a child's well-being. It highlights that the danger can arise from the parent's actions or inactions, and actual harm to the child is not necessary for court intervention. This aligns with the proposition that courts can intervene in family matters to protect a child's welfare when there is evidence of neglect, such as failing to provide necessary medical attention.

[In re A.A.V.](#)

## **Texas Court of Appeals**

### **Extract**

*Subsection 161.001(b)(1)(E) of the Texas Family Code provides that a parent's rights may be terminated if it is found that the parent has 'engaged in conduct or knowingly placed the child with persons who engaged in conduct which endangers the physical or emotional well-being of the child.' TEX. FAM. CODE ANN. § 161.001(b)(1)(E). To 'endanger' means to expose to loss or injury, to jeopardize. Tex. Dep't of Human Servs. v. Boyd, 727 S.W.2d 531, 533 (Tex. 1987). Under subsection 161.001(b)(1)(E), the relevant inquiry is whether evidence exists that the endangerment of the child's well-being was the direct result of the parent's conduct, which includes acts, omissions, or failures to act.*

## **Summary**

The Texas Family Code allows for the termination of parental rights if a parent's conduct endangers a child's well-being. This includes omissions or failures to act, which could encompass failing to provide necessary medical attention. The passage supports the proposition that courts can intervene in family matters to protect a child's welfare when there is evidence of neglect, such as medical neglect.

[In re J.I., No. 10-20-00337-CV \(Tex. App. Apr 14, 2021\)](#)

**Texas Court of Appeals**

**Extract**

*Id.; see In re S.M.L., 171 S.W.3d 472, 477 (Tex. App.—Houston [14th Dist.] 2005, no pet.) (noting that it is not necessary that the parent's conduct be directed towards the child or that the child actually be injured; rather, a child is endangered when the environment creates a potential for danger which the parent is aware of but disregards). The danger to a child may be inferred from parental misconduct. Boyd, 727 S.W.2d at 533. Furthermore, in considering whether to terminate parental rights, the court may look at parental conduct both before and after the birth of the child. Avery v. State, 963 S.W.2d 550, 553 (Tex. App.—Houston [1st Dist.] 1997, no pet.). Subsection (b)(1)(D) permits termination based upon only a single act or omission.*

**Summary**

A child is considered endangered if the environment poses a potential danger that the parent is aware of but disregards. This aligns with the proposition that courts can intervene when there is evidence of neglect, such as failing to provide necessary medical attention. The passage also notes that termination of parental rights can be based on a single act or omission, which supports the idea that a single instance of medical neglect could justify court intervention.

[D. H. v. Tex. Dep't of Family & Protective Servs., 652 S.W.3d 54 \(Tex. App. 2021\)](#)

**Texas Court of Appeals**

**Extract**

*The failure to provide or obtain appropriate medical care for a child can constitute endangering conduct under subsection (E). In re J.D.G., 570 S.W.3d 839, 852 (Tex. App.—Houston [1st Dist.] 2018, pet. denied).*

**Summary**

Texas law allows for the termination of parental rights if a parent's conduct endangers a child's well-being. Specifically, the failure to provide necessary medical care is considered endangering conduct. This supports the proposition that courts can intervene in family matters to protect a child's welfare when there is evidence of medical neglect.

[In re Interest of K-A.B.M., 551 S.W.3d 275 \(Tex. App. 2018\)](#)

**Texas Court of Appeals**

**Extract**

*Under Subsection (E), the relevant inquiry is whether evidence exists that the endangerment of the child's physical well-being was the direct result of the parent's conduct, including acts, omissions, or failures to act. See In re J.T.G., 121 S.W.3d 117, 125 (Tex. App.—Fort Worth 2003, no pet.). Termination under this subsection must be based on more than a single act or omission. Id. The statute requires a voluntary, deliberate, and conscious course of conduct by the parent. Id. When determining whether a parent has engaged in an endangering course of conduct, a fact finder may consider the parent's actions and inactions that occurred both before and after the child was born. See In re J.O.A., 283 S.W.3d 336, 345 (Tex. 2009).*

**Summary**

Texas law allows for the termination of parental rights if there is evidence that a parent's conduct has endangered a child's physical well-being. This includes acts, omissions, or failures to act that demonstrate a voluntary, deliberate, and conscious course of conduct. The court can consider both past and present actions or inactions of the parent. This supports the proposition that courts can intervene in family matters to protect a child's welfare when there is evidence of neglect, such as failing to provide necessary medical attention.

[In re E.R.W., 528 S.W.3d 251 \(Tex. App. 2017\)](#)

**Texas Court of Appeals**

**Extract**

*Parental rights can be terminated upon proof by clear and convincing evidence that (1) the parent has committed an act prohibited by section 161.001(1) of the Family Code; and (2) termination is in the best interest of the child. Tex. Fam. Code Ann. § 161.001(1), (2) (West 2014); In re J.O.A., 283 S.W.3d 336, 344 (Tex. 2009).*

**Summary**

Legal framework under which parental rights can be terminated in Texas, specifically citing the Texas Family Code. It highlights that termination can occur if there is clear and convincing evidence of prohibited acts, which can include neglect or abuse. This directly relates to the proposition that courts can intervene in family matters to protect a child's welfare when there is evidence of neglect, such as failing to provide necessary medical attention.

#### [In re J.F.C., 96 S.W.3d 256 \(Tex. 2002\)](#)

##### **Texas Supreme Court**

###### **Extract**

*In the statute governing suits affecting the parent-child relationship, our Legislature has declared that '[t]he public policy of this state is to ... assure that children will have frequent and continuing contact with parents who have shown the ability to act in the best interest of the child.' TEX. FAM.CODE § 153.001(a). The statute further provides that '[t]he best interest of the child shall always be the primary consideration of the court in determining the issues of conservatorship and possession of and access to the child.' Id. § 153.002. And in the Family Code subchapter governing the termination of parent-child relationships, the Legislature has emphasized repeatedly that the 'best interest of the child' is the state's foremost priority in determining the welfare of children.*

##### **Summary**

The Texas Family Code prioritizes the best interest of the child in legal decisions affecting the parent-child relationship. This includes ensuring that children are in environments where their welfare is protected. The emphasis on the child's best interest supports the proposition that courts can intervene in family matters to protect a child's welfare, especially in cases of neglect or abuse, such as failing to provide necessary medical attention.

#### [40 Tex. Admin. Code § 707.801 40 Tex. Admin. Code § 707.801 What Is Neglect?](#)

###### **Extract**

*Neglect is defined in Texas Family Code (TFC) §261.001 as 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... Failure to seek, to obtain, or to follow through with medical care for a child.*

##### **Summary**

The passage defines neglect as a failure to act that results in harm or immediate danger to a child's health or safety. Specifically, it includes the failure to seek or obtain necessary medical care for a child. This aligns with the proposition that courts can intervene when there is evidence of medical neglect, as such neglect is explicitly recognized as a form of harm or danger to a child under Texas law.

#### [25 Tex. Admin. Code § 1.204 25 Tex. Admin. Code § 1.204 Abuse, Neglect, and Exploitation Defined](#)

###### **Extract**

*Neglect of a child includes: ... (ii) the failure to seek, obtain, or follow through with medical care for the child, with the failure resulting in or presenting a substantial risk 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;*

##### **Summary**

The Texas Administrative Code defines neglect to include the failure to seek, obtain, or follow through with medical care for a child, especially when such failure results in or presents a substantial risk of serious harm or impairment to the child. This definition directly supports the proposition that courts can intervene in family matters to protect a child's welfare when there is evidence of medical neglect.

#### [25 Tex. Admin. Code § 417.504 25 Tex. Admin. Code § 417.504 Prohibition and Definitions of Abuse, Neglect, and Exploitation](#)

###### **Extract**

*Neglect is a negligent act or omission by any individual responsible for providing services to a person served, which caused or may have caused physical or emotional injury or death to a person served or which placed a person served at risk of physical or emotional injury or death. Neglect includes, but is not limited to, the failure to: (A) establish or carry out an appropriate individual program plan or treatment plan for a person served if such failure results in a specific incident or allegation involving a person served; (B) provide adequate nutrition, clothing, or health care to a specific person served; or (C) provide a safe environment for a specific person served, including the failure to maintain adequate numbers of appropriately trained staff if such failure results in a specific incident or allegation involving a person served.*

##### **Summary**

Neglect is defined as a negligent act or omission that causes or risks causing physical or emotional injury or death. This includes the failure to provide adequate health care. The passage supports the proposition by establishing that neglect, including medical neglect, is recognized as a serious issue that can justify intervention to protect an individual's welfare.

#### [Tex. Fam. Code § 262.101 Tex. Fam. Code § 262.101 Filing Petition Before Taking Possession of Child](#)

##### **Extract**

*An original suit filed by a governmental entity that requests permission to take possession of a child without prior notice and a hearing must be supported by an affidavit sworn to by a person with personal knowledge and stating facts sufficient to satisfy a person of ordinary prudence and caution that: there is an immediate danger to the physical health or safety of the child or the child has been a victim of neglect or sexual abuse; continuation in the home would be contrary to the child's welfare; there is no time, consistent with the physical health or safety of the child, for a full adversary hearing under Subchapter C; the child would not be adequately protected in the child's home with an order for the removal of the alleged perpetrator under Section FAMILY CODE 262.1015 or FAMILY CODE 262.1016 or a protective order issued under Title 4; placing the child with a relative or designated caregiver or with a caregiver under a parental child safety placement agreement authorized by Subchapter L, Chapter 264: (A) was offered but refused; (B) was not possible because there was no time, consistent with the physical health or safety of the child and the nature of the emergency, to conduct the caregiver evaluation; or (C) would pose an immediate danger to the physical health or safety of the child; and reasonable efforts, consistent with the circumstances and providing for the safety of the child, were made to prevent or eliminate the need for the removal of the child.*

##### **Summary**

Conditions under which a governmental entity can file a suit to take possession of a child without prior notice and a hearing. It specifies that such action is justified when there is immediate danger to the child's health or safety, or evidence of neglect. This aligns with the proposition that courts can intervene in family matters to protect a child's welfare when there is evidence of neglect, such as failing to provide necessary medical attention.

#### [Tex. Fam. Code § 261.001 Tex. Fam. Code § 261.001 Definitions](#)

##### **Extract**

*Neglect" means 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 and: (ii) the following acts or omissions by a person: (b) 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;*

##### **Summary**

The definition of "neglect" in the Texas Family Code includes the failure to seek, obtain, or follow through with medical care for a child, which results in harm or presents an immediate danger to the child's health. This aligns with the proposition that courts can intervene when there is evidence of medical neglect, as it constitutes a form of neglect under Texas law.

#### [40 Tex. Admin. Code § 707.473 40 Tex. Admin. Code § 707.473 What Is Refusal to Assume Parental Responsibility \(Rapr\)?](#)

##### **Extract**

*Neglect is defined in Texas Family Code (TFC) §261.001 as 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.*

##### **Summary**

Neglect, as defined by the Texas Family Code, includes a failure to act that results in harm or creates an immediate danger to a child's physical health or safety. This definition supports the proposition that courts can intervene in family matters to protect a child's welfare when there is evidence of neglect, such as failing to provide necessary medical attention.

#### [40 Tex. Admin. Code § 707.451 40 Tex. Admin. Code § 707.451 What Terms and Definitions Are Used In Reports, Investigations, and Assessments of Abuse and Neglect?](#)

##### **Extract**

*Immediate danger to child's physical health or safety--the person's act(s) or omission(s) placed the child in a situation that has resulted in or would have resulted in physical or mental harm to the child.*

## **Summary**

The passage defines "immediate danger to child's physical health or safety" as situations where a person's actions or omissions have resulted in or could result in harm to a child. This directly relates to the proposition, as it underscores the legal framework within which courts can intervene when a child's health is at risk due to neglect. The definition provided in the passage aligns with the idea that failure to provide necessary medical attention constitutes neglect, thereby justifying court intervention to protect the child's welfare.

### [Tex. Fam. Code § 261.504 Tex. Fam. Code § 261.504 Required Findings; Issuance of Protective Order](#)

#### **Extract**

*At the close of a hearing on an application for a protective order under this subchapter, the court shall find whether there are reasonable grounds to believe that: the child: (A) is a victim of abuse or neglect; or (B) has a history of being abused or neglected; and there is a threat of: (A) immediate or continued abuse or neglect to the child; ... (b) If the court makes an affirmative finding under Subsection (a), the court shall issue a protective order that includes a statement of that finding.*

## **Summary**

The Texas Family Code provides a mechanism for courts to issue protective orders when there are reasonable grounds to believe a child is a victim of abuse or neglect, or there is a threat of immediate or continued abuse or neglect. This aligns with the proposition that courts can intervene to protect a child's welfare in cases of medical neglect, as medical neglect falls under the broader category of neglect.

### [40 Tex. Admin. Code § 707.467 40 Tex. Admin. Code § 707.467 What Is Neglectful Supervision?](#)

#### **Extract**

*Neglect is defined in Texas Family Code (TFC) §261.001 as 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. Neglectful supervision is a subset of the statutory definition of neglect and involves the following acts or omissions by a person: 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.*

## **Summary**

Definition of neglect under the Texas Family Code, which includes a failure to act that results in harm or creates an immediate danger to a child's physical health or safety. This aligns with the proposition that courts can intervene in family matters to protect a child's welfare when there is evidence of neglect, such as failing to provide necessary medical attention. The passage also outlines criteria for neglectful supervision, which supports the idea that a failure to act in a situation requiring medical attention could be considered neglect.

### [Tex. Fam. Code § 262.404 Tex. Fam. Code § 262.404 Filing Suit; Petition Requirements](#)

#### **Extract**

*The department may file a suit requesting the court to render an order requiring the parent, managing conservator, guardian, or other member of the child's household to: participate in the family preservation services for which the department makes a referral or services the department provides or purchases to: (A) alleviate the effects of the abuse or neglect that has occurred; (B) reduce a continuing danger to the physical health or safety of the child caused by an act or failure to act of the parent, managing conservator, guardian, or other member of the child's household; or (C) reduce a substantial risk of abuse or neglect caused by an act or failure to act of the parent, managing conservator, guardian, or other member of the child's household;*

## **Summary**

The Texas Family Code allows for the filing of a suit to require family preservation services when there is evidence of abuse or neglect. This includes situations where there is a continuing danger to the child's physical health or safety due to a failure to act by a parent or guardian. The passage supports the proposition that courts can intervene to protect a child's welfare in cases of medical neglect.

### [40 Tex. Admin. Code § 707.465 40 Tex. Admin. Code § 707.465 What Is Abandonment?](#)

#### **Extract**

*Neglect is defined in Texas Family Code (TFC) §261.001 as 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.*

## **Summary**

Definition of neglect that includes a failure to act by a person responsible for a child's care, which results in harm or creates an immediate danger to the child's physical health or safety. This aligns with the proposition that courts can intervene in family matters to protect a child's welfare when there is evidence of neglect, such as failing to provide necessary medical attention.

### [40 Tex. Admin. Code § 707.471 40 Tex. Admin. Code § 707.471 What Is Physical Neglect?](#)

#### **Extract**

*Neglect is defined in Texas Family Code (TFC) §261.001 as 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. Physical neglect is a subset of the statutory definition of neglect and involves the following acts or omissions by a person: the 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.*

## **Summary**

The Texas Administrative Code provides a definition of neglect that includes a failure to act that results in harm or creates an immediate danger to a child's health. This aligns with the proposition that courts can intervene in family matters to protect a child's welfare when there is evidence of neglect. The passage specifically mentions that neglect includes failing to provide necessary care to sustain a child's health, which could encompass medical neglect.

### [40 Tex. Admin. Code § 707.469 40 Tex. Admin. Code § 707.469 What Is Medical Neglect?](#)

#### **Extract**

*Neglect is defined in Texas Family Code (TFC) §261.001 as 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. Medical neglect is a subset of the statutory definition of neglect and involves the following acts or omissions by a person: 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.*

## **Summary**

The passage defines medical neglect as a failure to seek, obtain, or follow through with medical care for a child, which results in or presents an immediate danger to the child's health or safety. This aligns with the proposition that a child's health condition requiring immediate medical attention, if neglected, could justify court intervention. The passage also indicates that such neglect is a subset of statutory neglect, which is relevant to legal proceedings concerning child welfare.

### [40 Tex. Admin. Code § 707.501 40 Tex. Admin. Code § 707.501 When Do We Conduct Risk and Safety Assessments?](#)

#### **Extract**

*During an investigation, we must assess both the immediate safety of the children in the home and the risk of recurrence of abuse or neglect... We may remove the child(ren) if the criteria for removal under Subchapter B of Chapter 262, Texas Family Code, is met... There is a high or very high likelihood that abuse or neglect will reoccur in the foreseeable future or the child is not safe in the home because of unmanaged danger indicators... We must ensure that the child receives immediate or short-term protective services as specified § 40 707.503 of this subchapter if the family cannot protect the child from abuse or neglect in the immediate or short-term future without assistance.*

## **Summary**

Procedures for assessing the safety and risk to children during investigations of abuse or neglect. It specifies that if there is a high likelihood of abuse or neglect reoccurring or if the child is not safe due to unmanaged danger indicators, the child may be removed, or immediate protective services must be provided. This aligns with the proposition that courts can intervene to protect a child's welfare when there is evidence of neglect, such as failing to provide necessary medical attention.

### [Tex. Fam. Code § 262.102 Tex. Fam. Code § 262.102 Emergency Order Authorizing Possession of Child](#)

#### **Extract**

*Before a court may, without prior notice and a hearing, issue a temporary order for the conservatorship of a child... the court must find that: there is an immediate danger to the physical health or safety of the child or the child has been a victim of neglect... continuation in the home would be contrary to the child's welfare... reasonable efforts, consistent with the circumstances and providing for the safety of the child, were made to prevent or eliminate the need for removal of the child.*

## **Summary**

Conditions under which a court in Texas can issue a temporary order for the conservatorship of a child without prior notice and a hearing. It specifies that the court must find an immediate danger to the child's physical health or safety or evidence of neglect. This aligns with the proposition that courts can intervene in family matters to protect a child's welfare when there is evidence of neglect, such as a failure to provide necessary medical attention.

### [Tex. Fam. Code § 261.101 Tex. Fam. Code § 261.101 Persons Required to Report; Time to Report](#)

#### **Extract**

*A person having reasonable cause to believe that a child's physical or mental health or welfare has been adversely affected by abuse or neglect by any person shall immediately make a report as provided by this subchapter.*

#### **Summary**

The passage mandates that any person who has reasonable cause to believe that a child's health or welfare is adversely affected by neglect must report it. This requirement underscores the state's interest in protecting children from neglect, including medical neglect. The legal obligation to report such neglect supports the proposition that courts can intervene to protect a child's welfare when there is evidence of neglect, as the reporting mechanism is a precursor to potential court intervention.

### [Tex. Fam. Code § 261.301 Tex. Fam. Code § 261.301 Investigation of Report](#)

#### **Extract**

*The department shall make a prompt and thorough investigation of a report of child abuse or neglect allegedly committed by a person responsible for a child's care, custody, or welfare. The investigation shall be conducted without regard to any pending suit affecting the parent-child relationship... The primary purpose of the investigation shall be the protection of the child.*

#### **Summary**

The Texas Family Code mandates a prompt and thorough investigation of reports of child abuse or neglect, with the primary purpose being the protection of the child. This supports the proposition that courts can intervene in family matters to protect a child's welfare when there is evidence of neglect, such as failing to provide necessary medical attention.

### [Tex. Fam. Code § 161.001 Tex. Fam. Code § 161.001 Involuntary Termination of Parent-Child Relationship](#)

#### **Extract**

*The court may order termination of the parent-child relationship if the court finds by clear and convincing evidence: ... (D) knowingly placed or knowingly allowed the child to remain in conditions or surroundings which endanger the physical or emotional well-being of the child; (E) engaged in conduct or knowingly placed the child with persons who engaged in conduct which endangers the physical or emotional well-being of the child; ... (O) failed to comply with the provisions of a court order that specifically established the actions necessary for the parent to obtain the return of the child who has been in the permanent or temporary managing conservatorship of the Department of Family and Protective Services for not less than nine months as a result of the child's removal from the parent under Chapter 262 for the abuse or neglect of the child;*

#### **Summary**

The Texas Family Code provides grounds for the court to intervene in family matters, including the termination of parental rights, when there is clear and convincing evidence of neglect or abuse. Specifically, the code mentions conditions that endanger the child's physical or emotional well-being, which can include medical neglect. This supports the proposition that courts can intervene to protect a child's welfare when there is evidence of neglect, such as failing to provide necessary medical attention.

## [CONFRONTING INDETERMINACY AND BIAS IN CHILD PROTECTION LAW.](#)

**Stanford Law & Policy Review - Stanford Law School - Gupta-Kagan, Josh - 2022-06-22**

#### **Extract**

*Removal decisions are one area where the law is somewhat more determinate than it used to be. In 1975, Robert Mnookin proposed permitting removals only when an immediate and substantial danger to the child exists due to neglect and abuse, and no reasonable alternative means to protect the child. (133) The American Bar Association (ABA) and Institute for Judicial Administration (IJA) Juvenile Justice Project also suggested that the state should not be empowered to intervene in a family except when necessary to protect a child. (134) States have partly adopted these standards. (135) There are greater limits on removals without court orders--the child protection equivalent of arrest. In this stage, it is common to have a provision permitting emergency removals only when they are*

necessary to prevent an imminent risk of harm from abuse or neglect. (136

## Summary

Conditions under which courts can intervene in family matters, specifically focusing on removal decisions when there is an immediate and substantial danger to the child due to neglect or abuse. It highlights that states, including Texas, have adopted standards that allow for emergency removals to prevent imminent harm. This aligns with the proposition that courts can intervene to protect a child's welfare when there is evidence of neglect, such as failing to provide necessary medical attention.

### NATURAL LAW, PARENTAL RIGHTS, AND THE DEFENSE OF "LIBERAL" LIMITS ON GOVERNMENT: AN ANALYSIS OF THE MORTARA CASE AND ITS CONTEMPORARY PARALLELS.

Notre Dame Law Review - University of Notre Dame Law School - Moschella, Melissa - 2023-05-01

## Extract

"Federal law defines abuse and neglect as an 'act or failure to act on the part of a parent or caretaker, which results in death, serious physical or emotional harm, sexual abuse or exploitation..., or an act or failure to act which presents an imminent risk of serious harm.' (67) As Katherine Drabiak comments, traditional concepts of abuse and neglect 'entail intentional harm, reckless indifference, or callous disregard' for the child's well-being. (68) ... the state's duty to step in when naturalist parents are refusing insulin to their diabetic son or antibiotics to their daughter sick with meningitis, so is it the state's duty to step in when the parents of gender-dysphoric children are avoiding medically recommended treatment." (112)

## Summary

Federal definition of abuse and neglect, which includes a failure to act that presents an imminent risk of serious harm. It also discusses the state's duty to intervene in cases where parents refuse necessary medical treatment for their children. This aligns with the proposition that courts can intervene to protect a child's welfare when there is evidence of medical neglect.

### The Contemporary U.S. Child Welfare System(s): Overview and Key Challenges

ANNALS of the American Academy of Political and Social Science, The - Sage Publications, Inc. - 2020-11-01

## Extract

*home in which they are free from abuse and neglect (Waldfogel and Berger 2006). As such, child welfare systems have considerable coercive and legal power to intervene in (allegedly) abusive and neglectful families—if necessary, even against parents' wills (Freymond and Cameron 2006). That is, concerns for both equity and children's rights have meant that society's obligation to protect children from maltreatment is typically treated in law and policy as superseding society's obligation to ensure parental rights and family privacy once some legally defined threshold of abuse or neglect has potentially been crossed (Berger and Waldfogel 2011).*

## Summary

The passage highlights the legal authority of child welfare systems to intervene in cases of abuse and neglect, emphasizing that the protection of children from maltreatment takes precedence over parental rights and family privacy once a threshold of neglect is crossed. This supports the proposition that courts can intervene in family matters to protect a child's welfare when there is evidence of neglect, such as failing to provide necessary medical attention.

### The Scope, Nature, and Causes of Child Abuse and Neglect

ANNALS of the American Academy of Political and Social Science, The - Sage Publications, Inc. - 2020-11-01

## Extract

*States provide more specific—and sometimes more expansive—definitions in their civil statutes (which guide child welfare system and family court actions) and criminal statutes (which guide decisions to prosecute forms of child maltreatment as a criminal offense). Consistent with a focus on child safety rather than parental culpability, statutory definitions of child maltreatment tend to emphasize harm or threat of harm to children that results from specific actions or inactions, with comparatively little emphasis on perpetrator intent... include children lacking necessary medical care in the neglect subscale, which may occur for reasons of negligence, poverty, or (less commonly) malice.*

## Summary

Statutory definitions of child maltreatment focus on the harm or threat of harm to children due to specific actions or inactions, such as lacking necessary medical care. This aligns with the proposition that courts can intervene in family matters to protect a child's welfare when there is evidence of neglect, such as failing to provide necessary medical attention.

**Congressional Committee Reports**

**Extract**

*procedures for immediate steps to be taken to ensure and protect the safety of a victim of child abuse or neglect and of any other child under the same care who may also be in danger of child abuse or neglect and ensuring their placement in a safe environment; ... procedures for the immediate screening, risk and safety assessment, and prompt investigation of such reports of alleged abuse and neglect in order to ensure the well-being and safety of children;*

**Summary**

The passage outlines federal procedures for the immediate protection of children who are victims of abuse or neglect. It emphasizes the need for prompt action to ensure the safety and well-being of children, which aligns with the proposition that courts can intervene in family matters to protect a child's welfare when there is evidence of neglect or abuse. The procedures mentioned support the idea that medical neglect, as a form of child neglect, could justify court intervention to protect a child's welfare.

**Congressional Committee Reports**

**Extract**

*CAPTA requires the state to have procedures in place to report, investigate and intervene in an emergency situation and provide necessary medical care... (iii) authority, under State law, for the State child protective service to pursue any legal remedies, including the authority to initiate legal proceedings in a court of competent jurisdiction, as may be... provide that upon receipt of a report of known or suspected instances of child abuse or neglect an investigation shall be initiated promptly to substantiate the accuracy of the report, and, upon a finding of abuse or neglect, immediate steps shall be taken to protect the health and welfare of the abused or neglected child...*

**Summary**

Requirements under CAPTA for states to have procedures to report, investigate, and intervene in cases of medical neglect. It also emphasizes the authority of state child protective services to pursue legal remedies, including court intervention, to protect a child's welfare. This aligns with the proposition that courts can intervene in family matters when there is evidence of neglect, such as failing to provide necessary medical attention.