



# TEXAS

## Department of Family and Protective Services

### **Disposition Guidelines for Forced or Coerced Marriage Abuse**

#### **Resource Guide**

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## What is Forced or Coerced Marriage Abuse?

Per policy [2113.1](#), Forced or Coerced Marriage Abuse (FMAB) occurs when a person or persons force or coerce a child to get married or to marry a specific person.

[Texas Family Code § 261.001\(1\)\(M\)](#)

According to the American Bar Association, “a forced or coerced marriage lacks the consent of one or both parties, and typically involves one or more elements of force, fraud, or coercion.<sup>1</sup> Forced marriage often involves a parent or other family member’s abuse of power and control over an individual to ensure that the marriage occurs. Physical, psychological, sexual, financial and emotional abuse can be leveraged against the individual to coerce them to marry, and domestic violence, rape, and other harms – including serious health complications such as increased risks in pregnancy and childbirth – can occur within the forced marriage itself. An individual’s freedom to determine their life’s course, including future education and employment opportunities, can also be cut short by a forced marriage.”<sup>2</sup>

House Bill 249 of the 85<sup>th</sup> (R-2017) legislative session added forced or coerced marriage abuse to the definitions of child abuse and neglect in Texas Family Code § 261.001 and also added it to the definition of family violence, which allows a court to issue a protective order to protect the victim(s). See [5140](#) Orders for Protection of a Child or Family Member.

[Texas Family Code §§ 71.004; 261.001\(1\)\(M\)](#)

House Bill 1705 of the 85<sup>th</sup> (R-2017) legislative session also amended the Texas Family Code to no longer allow a parent to consent to the marriage of a minor or to allow the parents, another adult, or the prospective spouse to apply for the license on behalf of the minor. Under the law, a person under 18 years of age seeking to get married must:

1. obtain a court order removing the disabilities of minority (emancipation); and
2. appear personally before the county clerk to apply for a marriage license.

Texas Family Code [§§ 2.003; 2.006; 2.009; 2.101; 6.205](#)

With these changes in the law, forcing or coercing a child to enter into a marriage in the state of Texas should become more difficult; however, this is not to say that it could not happen. Child Protective Investigations (CPI) only has jurisdiction to investigate allegations of FMAB if:

- The marriage has not yet occurred, or
- The marriage is **not** a legal marriage for which a marriage license is issued by the state/county’s governing agency.

Marriages that are determined to be strictly religious or ceremonial in nature will not be recognized by the state and allegations of this type of marriage should be investigated by CPI. Once the child enters into a legal marriage, the child is considered legally emancipated and DFPS no longer has jurisdiction to investigate. The worker will need to request a copy of the marriage license from the family to confirm the legality of the marriage. If the family does not have a copy of the marriage license, the worker will need to contact the County Clerk’s office that issued the marriage license to obtain a copy. If a legal marriage

has already occurred, the case must be referred to law enforcement for investigation and the CPI case should be closed.

It is important to handle forced marriage cases with a high degree of sensitivity, as often when victims reach out for help (or someone calls on their behalf), the situation can escalate quickly and endanger the victim. If the investigator determines that the child is in immediate danger, the investigator must assess whether an emergency removal is necessary. See [5412.2](#) Basic Process for Conducting an Emergency Removal Before Obtaining a Court Order and for Filing a Petition After an Emergency Removal.

**If a case alleging forced or coerced marriage is received by the department, contact the State Office CPI Program Specialist for Investigations and Alternative Response to make them aware, for tracking purposes.**

## **Interim Allegations to Consider in Absence of Forced Marriage Abuse (FMAB) in IMPACT**

Child Protective Investigations is statutorily mandated to investigate allegations of Forced Marriage Abuse (FMAB). However, the IMPACT case management system has not been updated to capture the allegation type of FMAB.

If there are allegations that a child is being forced or coerced to enter into a marriage against his or her consent, it is likely that the parents, caretakers, or other family members are engaging in actions that meet the definition of another abuse or neglect allegation type that can be addressed in IMPACT. Therefore, this guide is setting forth a reference of the other types of abuse and neglect allegations to consider when working FMAB cases. However, in order to make a Reason to Believe finding under one of the other abuse or neglect types listed in this guide, the elements of that allegation type must be met.

When it appears that no factors other than forced marriage are present, you should assess the allegation type of Neglectful Supervision (NSUP) to determine whether the elements of NSUP are met. If you find that the elements of one of the other definitions of abuse or neglect are met, you must make a Reason to Believe finding for that allegation as well.

If you also determine that the child is being forced or coerced into marriage, you must document in the case narrative and in the allegation detail section of the corresponding allegation the reasons why the case meets the definition of FMAB.

Below are questions to consider when assessing Forced or Coerced Marriage Abuse situations. The chart is not all-inclusive and should be used as a guideline when assessing these types of cases.

## Emotional Abuse (EMAB)

Definition	Consideration
<p>mental or emotional injury to a child that results in an observable and material impairment in the child’s growth, development, or psychological functioning;</p>	<p>Are the parents shaming or ostracizing the child because the child does not want to enter into the marriage (e.g., threatening that the child will be an outcast in their community or disowned by the parents)?</p>
<p style="text-align: right;"><i>TFC <a href="#">§261.001(1)(A)</a></i></p> <p>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; or</p>	<p>Have there been threats of violence towards the child, a loved one, or someone trying to help the child because the child does not want to enter into a marriage?</p> <p>Is the child having suicidal thoughts at either the thought of the marriage or causing shame to the family for not wanting to enter into the marriage?</p>
<p style="text-align: right;"><i>TFC <a href="#">§261.001(1)(B)</a></i></p> <p>the current use of a controlled substance as defined by <a href="#">Chapter 481</a>, Health and Safety Code, in a manner or to the extent that the use results in mental or emotional injury to a child.</p> <p style="text-align: right;"><i>TFC <a href="#">§261.001(1)(I)</a></i></p>	<p>Is the child threatening to run away in order to not have the marriage take place or has the family threatened to kick the child out of the home?</p> <p>Are the parents or other family members emotionally blackmailing the child (e.g., a parent threatens self-harm or asserts that the family’s or individual’s reputation will be ruined if the child resists the marriage) to coerce the child into the marriage?</p> <p>Have there been death threats made to the child? (See also Physical Abuse)</p> <p>Is the child suffering from depression and/or self-harming thoughts due to being coerced to marry?</p> <p>Has the child been isolated from peers and others for refusing to enter into the marriage (e.g., the family severely limits the child’s social contacts or ability to leave the home, or the child is not allowed to go to school)?</p>

## Labor Trafficking (LBTR)

Definition	Consideration
<p>Knowingly causing, permitting, or encouraging, engaging in, or allowing a child to be trafficked in a manner punishable as an offense under <a href="#">§20A.02(a)(5) or (6) Penal Code</a>;</p> <p>or the failure to make a reasonable effort to prevent a child from being trafficked in a manner punishable as an offense under any of these sections.</p> <p style="text-align: right;"><i>TFC <a href="#">§261.001(1)(L)</a></i></p>	<p>Is the child being forced or coerced into marriage to pay off a debt owed by the child or parent?</p> <p>Is the child being forced or coerced into marriage to provide labor for the spouse?</p> <p>Is the child being forced or coerced into marriage and subjected to involuntary servitude, peonage, or slavery?</p>

## Medical Neglect (MDNG)

Definition	Consideration
<p>the failure to seek, obtain, or follow through with medical care for a 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.</p> <p style="text-align: right;"><i>TFC <a href="#">§261.001(4)(A)(ii)(b)</a></i></p>	<p>Are the parents withholding necessary medical care as a means of forcing or coercing the marriage and has this resulted in or presented a risk of injury or other observable or material impairment to the child?</p>

## Neglectful Supervision (NSUP)

Definition	Consideration
<p>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 a substantial risk of immediate harm to the child;</p> <p style="text-align: right;"><i>TFC <a href="#">§261.001(4)(A)(ii)(a)</a></i></p> <p>placing a child in or failing to remove the child from a situation in which the child would be exposed to a substantial risk of sexual conduct harmful to the child; or</p> <p style="text-align: right;"><i>TFC <a href="#">§261.001(4)(A)(ii)(d)</a></i></p>	<p>By forcing or coercing the marriage, the parents are placing the child in a situation that would require actions beyond the level of maturity of a child when the State of Texas has determined that the decision to enter into marriage should be made by a person who is 18 years of age or older <i>or</i> emancipated.</p> <p>By forcing or coercing the marriage, the parents are exposing the child to a substantial risk of harm.</p> <p>By forcing or coercing the marriage, it is likely the child will be exposed to a substantial risk of sexual conduct harmful to the child.</p>

<p>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 under Subdivision (1)(E), (F), (G), or (K) committed against another child.</p> <p style="text-align: center;">TFC <a href="#">§261.001(4)(A)(ii)(e)</a></p>	<p>Acceptance of the marriage by the child is not applicable consent, as the age of consent to marriage in Texas is 18 years of age, unless the child is legally emancipated</p> <p>Are the parents forcing the child to become emancipated in order for the child to obtain a marriage license?</p> <p>Will the marriage take place in another jurisdiction where age/consent laws legally allow the marriage? If the child lives in Texas, DFPS will retain jurisdiction of the case if the marriage has not yet occurred. See SWI Policy <a href="#">4500</a> CPS Investigational Jurisdiction.</p>
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### Physical Abuse (PHAB)

Definition	Consideration
<p>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;</p> <p style="text-align: center;">TFC <a href="#">§261.001(1)(C)</a></p> <p>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;</p> <p style="text-align: center;">TFC <a href="#">§261.001(1)(D)</a></p> <p>current use of a controlled substance as defined by <a href="#">Chapter 481</a>, Health and Safety Code, in a manner or to the extent that the use results in physical injury to a child;</p> <p style="text-align: center;">TFC <a href="#">§261.001(1)(I)</a></p> <p>causing, expressly permitting, or encouraging a child to use a controlled substance as defined by <a href="#">Chapter 481</a>, Health and Safety Code.</p> <p style="text-align: center;">TFC <a href="#">§261.001(1)(J)</a></p>	<p>Is the child being physically abused to force or coerce the child into marriage or because the child is opposed to the marriage?</p> <p>Are viable death threats or other threats of harm being made towards the child because the child is refusing to enter into the marriage?</p> <p>Has the prospective spouse physically injured the child, and the child’s parents failed to make a reasonable effort to prevent this from occurring?</p> <p>Has the child been forced to use a controlled substance to incapacitate the child?</p>

## Physical Neglect (PHNG)

Definition	Consideration
<p>the failure to provide a child with the 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.  <i>TFC §261.001(4)(A)(ii)(c)</i></p>	<p>Are the parents' withholding food, clothing, or shelter in order to force or coerce the child to enter into the marriage?</p>

## Sexual Abuse (SXAB)

Definition	Consideration
<p>sexual conduct harmful to a child's mental, emotional, or physical welfare, including conduct that constitutes the offense of continuous sexual abuse of a young child or children under <a href="#">§21.02</a>, Penal Code, indecency with a child under <a href="#">§21.11</a>, Penal Code, sexual assault under <a href="#">§22.011</a>, Penal Code, or aggravated sexual assault under <a href="#">§22.021</a>, Penal Code;  <i>TFC §261.001(1)(E)</i></p> <p>failure to make a reasonable effort to prevent sexual conduct harmful to a child;  <i>TFC §261.001(1)(F)</i></p> <p>compelling or encouraging the child to engage in sexual conduct as defined by <a href="#">§43.01</a>, Penal Code;  <i>TFC §261.001(1)(G)</i></p> <p>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 (as defined by the Penal Code) or pornographic;  <i>TFC §261.001(1)(H)</i></p> <p>causing, permitting, encouraging, engaging in, or allowing a sexual performance by a child, as defined by <a href="#">§43.25</a>, Penal Code.  <i>TFC §261.001(1)(K)</i></p>	<p><b>Caution: Ensure both SXAB and SXTR are considered fully</b></p> <p>Are the child's parents encouraging or forcing the child to engage in sexual conduct with the prospective spouse?</p> <p>Has the child been a victim of sexual abuse (familial or non-familial) in the past, and now the forced or coerced marriage is a means to restore the child's reputation, sexual purity, etc.?</p>

## Sex Trafficking (SXTR)

Definition	Consideration
<p>knowingly causing, permitting, encouraging, engaging in, or allowing a child to be trafficked in a manner punishable as an offense under <a href="#">§20A.02(a)(7) or (8)</a>, Penal Code, or the failure to make a reasonable effort to prevent a child from being trafficked in a manner punishable as an offense under any of these sections;</p> <p style="text-align: right;"><i>TFC <a href="#">§261.001(1)(L)</a></i></p> <p>compelling or encouraging the child in a manner to engage in sexual conduct that constitutes an offense of trafficking of persons under <a href="#">§20A.02 (a)(7) or (8)</a>, Penal Code, prostitution under <a href="#">§43.02(b)</a>, Penal Code, or compelling prostitution under <a href="#">§43.05(a)(2)</a>, Penal Code.</p> <p style="text-align: right;"><i>TFC <a href="#">§261.001(1)(G)</a></i></p>	<p><b>Caution: Ensure both SXAB and SXTR are considered fully</b></p> <p>Have the parents and/or child been given or promised anything of value by the prospective spouse or another individual and there is evidence that the child is otherwise opposed to the marriage?</p> <p>Have the parents and/or child been given or promised anything of value by the prospective spouse or another individual compelling or encouraging the child to engage in sexual conduct as defined by <a href="#">§43.01</a>, Penal Code and there is evidence that the child is otherwise opposed to the marriage?</p>

## References

American Bar Association – Commission on Domestic and Sexual Violence (August 2014). *Report to the House of Delegates*

Swegman, C., Tahirih Justice Center Forced Marriage Initiative (2016). The intersectionality of forced marriage with other forms of abuse in the United States. Harrisburg, PA: VAWnet, a project of the National Resource Center on Domestic Violence.

<sup>1</sup> A lack of consent can result from a lack of capacity to consent – for example, when an individual is a minor or has a developmental disability that prevents a mature understanding of what marriage is. See [US Department of State Foreign Affairs Manual 7 FAM 1740](#), US Department of State (a forced marriage is one in which “at least one party does not consent or is unable to give informed consent to the marriage, and some element of duress is generally present”).

<sup>2</sup> The US government considers forced marriage “a violation of basic human rights and in the case of minors, a form of child abuse.” See [Forced Marriage](#), US Department of State, Bureau of Consular Affairs. The UK government also considers forced marriage to be “a form of violence against women and men, domestic/child abuse and a serious abuse of human rights.” See [UK Forced Marriage Unit](#). Several international instruments underscore that there must be free and full consent to marriage. See, e.g., [Universal Declaration of Human Rights Article 16\(2\)](#) and [United Nations Convention on the Elimination of All Forms of Discrimination Against Women](#), Article 16(1)(b).