

By: Burnam

H.B. No. 961

A BILL TO BE ENTITLED

AN ACT

relating to the liability of a governmental unit.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Sections 101.021 and 101.057, Civil Practice and Remedies Code, are amended to read as follows:

Sec. 101.021. GOVERNMENTAL LIABILITY. A governmental unit in the state is liable for:

(1) property damage, personal injury, and death proximately caused by the wrongful act or omission or the negligence of an employee acting within the employee's ~~his~~ scope of employment if:

(A) the property damage, personal injury, or death arises from the operation or use of a motor-driven vehicle or motor-driven equipment; and

(B) the employee would, were the employee privately employed, be personally liable to the claimant according to Texas law; and

(2) personal injury and death proximately ~~so~~ caused by:

(A) the wrongful act or omission or the negligence of an employee acting within the employee's scope of employment if the employee would, were the employee privately employed, be personally liable to the claimant according to Texas law; or

1 (B) a condition or use of tangible personal or
2 real property if the governmental unit would, were it a private
3 person, be liable to the claimant according to Texas law.

4 Sec. 101.057. CIVIL DISOBEDIENCE AND CERTAIN INTENTIONAL
5 TORTS. (a) Except as provided by Subsection (b), this [~~This~~]
6 chapter does not apply to a claim:

7 (1) based on an injury or death connected with any act
8 or omission arising out of civil disobedience, riot, insurrection,
9 or rebellion; or

10 (2) arising out of assault, battery, false
11 imprisonment, or any other intentional tort, including a tort
12 involving disciplinary action by school authorities.

13 (b) Subsection (a)(2) does not preclude a negligence or
14 premises defect cause of action under Section 101.021 if property
15 damage, personal injury, or death is caused by an intentional tort
16 and:

17 (1) a negligent act or omission; or

18 (2) a premises or special defect.

19 SECTION 2. (a) Except as provided by Subsection (b) of
20 this section, Sections 101.021 and 101.057, Civil Practice and
21 Remedies Code, as amended by this Act, apply to all actions:

22 (1) commenced on or after the effective date of this
23 Act; or

24 (2) pending on that effective date and in which the
25 trial, or any new trial or retrial following motion, appeal, or
26 otherwise, begins on or after that effective date.

27 (b) In an action commenced before the effective date of this

1 Act, a trial, new trial, or retrial that is in progress on the
2 effective date is governed by the law applicable to the trial, new
3 trial, or retrial immediately before the effective date, and that
4 law is continued in effect for that purpose.

5 SECTION 3. This Act takes effect September 1, 2003.