

By: Hartnett

H.B. No. 2680

A BILL TO BE ENTITLED

AN ACT

relating to civil liability of and liability insurance for certain nursing institutions.

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

ARTICLE 1. LIMITATION ON CIVIL DAMAGES IN CERTAIN ACTIONS

SECTION 1.01. Sections 41.008(a), (b) and (c), Civil Practice and Remedies Code, are amended to read as follows:

(a) In an action in which a claimant seeks recovery of exemplary damages, the trier of fact shall determine the amount of economic damages separately from the amount of other compensatory damages.

(b) Exemplary damages awarded against a defendant to a claimant may not exceed an amount equal to the greater of:

(1)(A) two times the amount of economic damages to be awarded in the judgment; plus

(B) an amount equal to any noneconomic damages to be awarded in the judgment [~~found by the jury~~], not to exceed \$750,000; or

(2) \$200,000.

(c) Subsection (b) does not apply to a cause of action against a defendant from whom a plaintiff seeks recovery of exemplary damages based on conduct for which the defendant has been convicted of [~~described as~~] a felony in the following sections or chapter of the Penal Code if, except for Sections 49.07 and 49.08,

1 the conduct was committed knowingly or intentionally:

- 2 (1) Section 19.02 (murder);
- 3 (2) Section 19.03 (capital murder);
- 4 (3) Section 20.04 (aggravated kidnapping);
- 5 (4) Section 22.02 (aggravated assault);
- 6 (5) Section 22.011 (sexual assault);
- 7 (6) Section 22.021 (aggravated sexual assault);
- 8 (7) Section 22.04 (injury to a child, elderly
9 individual, or disabled individual);
- 10 (8) Section 32.21 (forgery);
- 11 (9) Section 32.43 (commercial bribery);
- 12 (10) Section 32.45 (misapplication of fiduciary
13 property or property of financial institution);
- 14 (11) Section 32.46 (securing execution of document by
15 deception);
- 16 (12) Section 32.47 (fraudulent destruction, removal,
17 or concealment of writing);
- 18 (13) Chapter 31 (theft) the punishment level for which
19 is a felony of the third degree or higher;
- 20 (14) Section 49.07 (intoxication assault); or
- 21 (15) Section 49.08 (intoxication manslaughter).

22 SECTION 1.02. Section 41.008, Civil Practice and Remedies
23 Code, as amended by this article, applies only to an action filed on
24 or after the effective date of this Act. An action filed before the
25 effective date of this Act is governed by the law in effect
26 immediately before that date, and that law is continued in effect
27 for that purpose.

ARTICLE 2. ADMISSIBILITY OF CERTAIN EVIDENCE IN CIVIL ACTION

SECTION 2.01. Subchapter B, Chapter 32, Human Resources Code, is amended by adding Section 32.060 to read as follows:

Sec. 32.060. ADMISSIBILITY OF CERTAIN EVIDENCE RELATING TO NOT-FOR-PROFIT NURSING INSTITUTIONS. (a) The following are not admissible as evidence in a civil action:

(1) any finding by the department that a not-for-profit institution licensed under Chapter 242, Health and Safety Code, has violated a standard for participation in the medical assistance program under this chapter; or

(2) the fact of the assessment of a monetary penalty against a not-for-profit institution under Section 32.021 or the payment of the penalty by an institution.

(b) This section does not apply in an enforcement action in which the state or an agency or political subdivision of the state is a party.

SECTION 2.02. Subchapter A, Chapter 242, Health and Safety Code, is amended by adding Section 242.017 to read as follows:

Sec. 242.017. ADMISSIBILITY OF CERTAIN EVIDENCE IN CIVIL ACTIONS. (a) The following are not admissible as evidence in a civil action:

(1) any finding by the department that a not-for-profit institution has violated this chapter or a rule adopted under this chapter; or

(2) the fact of the assessment of a penalty against a not-for-profit institution under this chapter or the payment of the penalty by an institution.

1 (b) This section does not apply in an enforcement action in
2 which the state or an agency or political subdivision of the state
3 is a party.

4 SECTION 2.03. The following laws are repealed:

5 (1) Sections 32.021(i) and (k), Human Resources Code;
6 and

7 (2) Section 242.050, Health and Safety Code, as added
8 by Chapter 1284, Acts of the 77th Legislature, Regular Session,
9 2001.

10 ARTICLE 3. EFFECTIVE DATE

11 SECTION 3.01. This Act takes effect immediately if it
12 receives a vote of two-thirds of all the members elected to each
13 house, as provided by Section 39, Article III, Texas
14 Constitution. If this Act does not receive the vote necessary for
15 immediate effect, this Act takes effect September 1, 2003.