

By: Villarreal

H.B. No. 2935

A BILL TO BE ENTITLED

1 AN ACT

2 relating to state liability for conduct of certain child-placement  
3 agencies.

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

5 SECTION 1. Section 104.001, Civil Practice and Remedies  
6 Code, is amended to read as follows:

7 Sec. 104.001. STATE LIABILITY; PERSONS COVERED. In a cause  
8 of action based on conduct described in Section 104.002, the state  
9 shall indemnify the following persons, without regard to whether  
10 the persons performed their services for compensation, for actual  
11 damages, court costs, and attorney's fees adjudged against:

12 (1) an employee, a member of the governing board, or  
13 any other officer of a state agency, institution, or department;

14 (2) a former employee, former member of the governing  
15 board, or any other former officer of a state agency, institution,  
16 or department who was an employee or officer when the act or  
17 omission on which the damages are based occurred;

18 (3) a physician or psychiatrist licensed in this state  
19 who was performing services under a contract with any state agency,  
20 institution, or department or a racing official performing services  
21 under a contract with the Texas Racing Commission when the act or  
22 omission on which the damages are based occurred;

23 (4) a chaplain or spiritual advisor who was performing  
24 services under contract with the Texas Department of Criminal

1 Justice, the Texas Youth Commission, or the Texas Juvenile  
2 Probation Commission when the act or omission on which the damages  
3 are based occurred;

4 (5) a person serving on the governing board of a  
5 foundation, corporation, or association at the request and on  
6 behalf of an institution of higher education, as that term is  
7 defined by Section 61.003(8), Education Code, not including a  
8 public junior college;

9 (6) a state contractor who signed a waste manifest as  
10 required by a state contract; [or]

11 (7) the estate of a person listed in this section; or

12 (8) a social service agency that:

13 (A) is nationally accredited by the Council of  
14 Accreditation or the Joint Commission on Accreditation of  
15 Healthcare Organizations; and

16 (B) serves children under the conservatorship of  
17 the state through a contract with the Department of Protective and  
18 Regulatory Services.

19 SECTION 2. Section 42.049(e), Human Resources Code, is  
20 amended to read as follows:

21 (e) This section does not apply to:

22 (1) a group day-care home or a listed or registered  
23 family home; or

24 (2) a social service agency described by Section  
25 104.0011, Civil Practice and Remedies Code.

26 SECTION 3. Section 104.001, Civil Practice and Remedies  
27 Code, as amended by this Act, applies only to damages awarded

1 against a social service agency on or after the effective date of  
2 this Act. Damages awarded against a social service agency before  
3 the effective date of this Act are governed by the law in effect  
4 immediately before that date, and that law is continued in effect  
5 for that purpose.

6 SECTION 4. This Act takes effect September 1, 2003.