

## **BILL ANALYSIS**

S.B. 53  
By: Zaffirini  
Civil Practices  
Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

Under current Texas law, an employer institution is not held liable for a mental health services provider's sexual exploitation of a patient unless the employer has reason to believe that the abuse would occur. Because the current statute describes the victim as "the person" instead of "a" or "any" person, "reason to believe" can only be established if the mental health services provider abused the same person twice. Therefore, under current law, a mental health services provider could continue to abuse into perpetuity without any liability assigned to the perpetrator's employer as long as the mental health services provider does not victimize the same person twice.

S.B. 53 provides that an institution will be held liable if there is reason to believe that a mental health provider sexually exploited any patient, rather than the same patient twice.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

SECTION 1. Amends Sections 81.003(a) and (b), Civil Practice and Remedies Code, as follows:

(a) Provides that in addition to being liable for damages, in certain instances, to a patient or former patient who is sexually exploited by a mental health services provider, an employer of the provider is liable for damages if the employer knows or has reason to know that the provider engaged in sexual exploitation of a patient or former patient and the employer:

(1) fails to make inquiries of an employer or former employer, whose name and address have been disclosed to the employer and who employed the mental health services provider as a mental health services provider within the five years before the date of disclosure, concerning the possible occurrence of sexual exploitation by the mental health services provider of patients or former patients of the mental health services provider; or

(2) knows or has reason to know that the mental health services provider engaged in sexual exploitation of a patient or former patient and the employer failed to:

(A) report the suspected sexual exploitation as required by Section 81.006; or

(B) take necessary action to prevent or stop the sexual exploitation by the mental health services provider.

(b) An employer or former employer of a mental health services provider is liable to a patient or former patient of the mental health services provider for damages if the patient or former patient is injured as described by Section 81.002 and the employer or former employer:

(1) knows of the occurrence of sexual exploitation by the mental health services provider of a patient or former patient;

(2) receives a specific request by an employer or prospective employer of the mental health services provider, engaged in the business of providing mental

health services, concerning the possible existence or nature of sexual exploitation by the mental health services provider; and  
(3) fails to disclose the occurrence of the sexual exploitation.

SECTION 2. Makes application of this Act prospective.

SECTION 3. Effective date: upon passage or September 1, 2007.

**EFFECTIVE DATE**

Upon passage, or, if the Act does not receive the necessary vote, the Act takes effect September 1, 2007.