

By: Strama, Naishtat

H.B. No. 1299

Substitute the following for H.B. No. 1299:

By: Strama

C.S.H.B. No. 1299

A BILL TO BE ENTITLED

AN ACT

relating to the liability of the state for a violation of the federal Americans with Disabilities Act.

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

SECTION 1. Title 5, Civil Practice and Remedies Code, is amended by adding Chapter 111 to read as follows:

CHAPTER 111. LIABILITY OF STATE UNDER CERTAIN FEDERAL LAWS

Sec. 111.001. DEFINITIONS. In this chapter:

(1) "Readily achievable" means, with respect to an accommodation, that the accommodation can be accomplished without too much difficulty or expense.

(2) "State government" has the meaning assigned by Section 101.001.

(3) "Undue hardship" means, with respect to an accommodation, that the accommodation requires significant difficulty or expense.

Sec. 111.002. WAIVER OF IMMUNITY. (a) The sovereign immunity of the state government from suit and from liability is waived for the limited purpose of allowing any person to maintain a lawsuit in state or federal court and obtain and, within the limits provided by Section 111.003, satisfy a judgment against the state government under the Americans with Disabilities Act (42 U.S.C. Section 12101 et seq.).

(b) This section does not require the state government to:

1 (1) provide an individual with a disability with:

2 (A) a personal or individually prescribed
3 device, such as a wheelchair, prescription eyeglasses, or a hearing
4 aid; or

5 (B) services of a personal nature, such as
6 assistance in eating, toileting, or dressing;

7 (2) make a change or adjustment to a program of the
8 state government if, under the circumstances, the change or
9 adjustment would result in a significant difficulty or expense
10 relative to the operation of the program; or

11 (3) otherwise provide an accommodation that is not
12 readily achievable by or that would cause undue hardship to the
13 state government.

14 (c) If a particular accommodation would result in
15 circumstances described by Subsection (b)(2) or (b)(3), the state
16 government must determine whether another accommodation is
17 available that would not result in those circumstances.

18 Sec. 111.003. LIMITATION ON AMOUNT OF LIABILITY. The
19 liability of the state government under Section 111.002 is limited
20 to money damages in a maximum amount of:

21 (1) \$250,000 for each person; and

22 (2) \$500,000 for each single occurrence.

23 SECTION 2. The change in law made by this Act applies only
24 to a cause of action that accrues on or after the effective date of
25 this Act. A cause of action that accrues before the effective date
26 of this Act is governed by the law in effect immediately before that
27 date, and that law is continued in effect for that purpose.

1 SECTION 3. This Act takes effect September 1, 2007.