

By: Duncan

S.B. No. 1651

A BILL TO BE ENTITLED

AN ACT

relating to state indemnification and defense of certain judges and certain judicial appointees.

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

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

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

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

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

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

(3-a) a phlebotomist licensed in this state who was performing services under a contract with the Texas Department of

1 Criminal Justice when the act or omission on which the damages are
2 based occurred;

3 (4) a chaplain or spiritual advisor who was performing
4 services under contract with the Texas Department of Criminal
5 Justice, the Texas Youth Commission, or the Texas Juvenile
6 Probation Commission when the act or omission on which the damages
7 are based occurred;

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

13 (6) a state contractor who signed a waste manifest as
14 required by a state contract; ~~or~~

15 (7) a current or former appointee of the supreme court
16 to a judicial board, commission, or task force who was acting in an
17 official capacity as an appointee when the act or omission on which
18 the damages are based occurred; or

19 (8) the estate of a person listed in this section.

20 SECTION 2. Section 74.141, Government Code, is amended to
21 read as follows:

22 Sec. 74.141. DEFENSE OF JUDGES. The attorney general shall
23 defend a state district judge, a presiding judge of an
24 administrative region, ~~or~~ an active, retired, or former judge
25 assigned under this chapter, or a current or former appointee of the
26 supreme court to a judicial board, commission, or task force in any
27 action or suit in any court in which the judge or appointee is a

1 defendant because of his office as judge or service on the board,
2 commission, or task force if the judge or appointee requests the
3 attorney general's assistance in the defense of the suit.

4 SECTION 3. The change in law made by this Act providing
5 indemnification and defense to certain individuals applies only to
6 a cause of action that accrues on or after the effective date of
7 this Act. A cause of action that accrues before the effective date
8 of this Act is governed by the law as it existed immediately before
9 that date, and that law is continued in effect for that purpose.

10 SECTION 4. This Act takes effect immediately if it receives
11 a vote of two-thirds of all the members elected to each house, as
12 provided by Section 39, Article III, Texas Constitution. If this
13 Act does not receive the vote necessary for immediate effect, this
14 Act takes effect September 1, 2009.