

1-1 By: Duncan S.B. No. 1651  
1-2 (In the Senate - Filed March 10, 2009; March 20, 2009, read  
1-3 first time and referred to Committee on State Affairs;  
1-4 March 31, 2009, reported favorably by the following vote: Yeas 9,  
1-5 Nays 0; March 31, 2009, sent to printer.)

1-6 A BILL TO BE ENTITLED  
1-7 AN ACT

1-8 relating to state indemnification and defense of certain judges and  
1-9 certain judicial appointees.

1-10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-11 SECTION 1. Section 104.001, Civil Practice and Remedies  
1-12 Code, is amended to read as follows:

1-13 Sec. 104.001. STATE LIABILITY; PERSONS COVERED. In a cause  
1-14 of action based on conduct described in Section 104.002, the state  
1-15 shall indemnify the following persons, without regard to whether  
1-16 the persons performed their services for compensation, for actual  
1-17 damages, court costs, and attorney's fees adjudged against:

1-18 (1) an employee, a member of the governing board, or  
1-19 any other officer of a state agency, institution, or department;

1-20 (2) a former employee, former member of the governing  
1-21 board, or any other former officer of a state agency, institution,  
1-22 or department who was an employee or officer when the act or  
1-23 omission on which the damages are based occurred;

1-24 (3) a physician or psychiatrist licensed in this state  
1-25 who was performing services under a contract with any state agency,  
1-26 institution, or department or a racing official performing services  
1-27 under a contract with the Texas Racing Commission when the act or  
1-28 omission on which the damages are based occurred;

1-29 (3-a) a phlebotomist licensed in this state who was  
1-30 performing services under a contract with the Texas Department of  
1-31 Criminal Justice when the act or omission on which the damages are  
1-32 based occurred;

1-33 (4) a chaplain or spiritual advisor who was performing  
1-34 services under contract with the Texas Department of Criminal  
1-35 Justice, the Texas Youth Commission, or the Texas Juvenile  
1-36 Probation Commission when the act or omission on which the damages  
1-37 are based occurred;

1-38 (5) a person serving on the governing board of a  
1-39 foundation, corporation, or association at the request and on  
1-40 behalf of an institution of higher education, as that term is  
1-41 defined by Section 61.003(8), Education Code, not including a  
1-42 public junior college;

1-43 (6) a state contractor who signed a waste manifest as  
1-44 required by a state contract; ~~or~~

1-45 (7) a current or former appointee of the supreme court  
1-46 to a judicial board, commission, or task force who was acting in an  
1-47 official capacity as an appointee when the act or omission on which  
1-48 the damages are based occurred; or

1-49 (8) the estate of a person listed in this section.

1-50 SECTION 2. Section 74.141, Government Code, is amended to  
1-51 read as follows:

1-52 Sec. 74.141. DEFENSE OF JUDGES. The attorney general shall  
1-53 defend a state district judge, a presiding judge of an  
1-54 administrative region, ~~or~~ an active, retired, or former judge  
1-55 assigned under this chapter, or a current or former appointee of the  
1-56 supreme court to a judicial board, commission, or task force in any  
1-57 action or suit in any court in which the judge or appointee is a  
1-58 defendant because of his office as judge or service on the board,  
1-59 commission, or task force if the judge or appointee requests the  
1-60 attorney general's assistance in the defense of the suit.

1-61 SECTION 3. The change in law made by this Act providing  
1-62 indemnification and defense to certain individuals applies only to  
1-63 a cause of action that accrues on or after the effective date of  
1-64 this Act. A cause of action that accrues before the effective date

2-1 of this Act is governed by the law as it existed immediately before  
2-2 that date, and that law is continued in effect for that purpose.

2-3 SECTION 4. This Act takes effect immediately if it receives  
2-4 a vote of two-thirds of all the members elected to each house, as  
2-5 provided by Section 39, Article III, Texas Constitution. If this  
2-6 Act does not receive the vote necessary for immediate effect, this  
2-7 Act takes effect September 1, 2009.

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