

By: Oliverson

H.B. No. 3926

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to the liability of entities contracted with the  
3 Department of Family and Protective Services to provide  
4 community-based care.

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

6 SECTION 1. Section 264.170, Family Code, is amended to read  
7 as follows:

8 Sec. 264.170. LIMITED LIABILITY FOR SINGLE SOURCE CONTINUUM  
9 CONTRACTOR OR OTHER ENTITY CONTRACTED TO PROVIDE COMMUNITY-BASED  
10 CARE AND RELATED PERSONNEL. (a) A nonprofit entity that contracts  
11 with the department to provide community-based care or to provide  
12 community-based care services as a single source continuum  
13 contractor under this subchapter is considered to be a charitable  
14 organization for the purposes of Chapter 84, Civil Practice and  
15 Remedies Code, with respect to the provision of those services, and  
16 that chapter applies to the entity and any person who is an employee  
17 or volunteer of the entity.

18 (b) The limitations on liability provided by this section  
19 apply:

20 (1) only to an act or omission by the entity or person,  
21 as applicable, that occurs:

22 (A) while the entity or person is acting within  
23 the course and scope of the entity's contract with the department;  
24 or

1                   (B) while the person is acting within the course  
2 and scope of [and] the person's duties for the entity; and

3                   (2) only if insurance coverage in the minimum amounts  
4 required by Chapter 84, Civil Practice and Remedies Code, is in  
5 force and effect at the time a cause of action for personal injury,  
6 death, or property damage accrues.

7                   (c) An entity or person described by Subsection (a) may not  
8 be held liable for damages in excess of the amounts provided by  
9 Section 84.006, Civil Practice and Remedies Code, for a claim of  
10 negligence in the supervision or treatment of a child in the  
11 entity's custody or control unless the claimant establishes by  
12 clear and convincing evidence that the entity or person failed to  
13 comply with laws or rules regarding the supervision or treatment of  
14 children.

15                   (d) An entity or person described by Subsection (a) may not  
16 be held liable for damages in excess of the amounts provided by  
17 Section 84.006, Civil Practice and Remedies Code, for a claim of  
18 negligence in the hiring, training, supervision, or retention of an  
19 employee or volunteer unless the claimant establishes by clear and  
20 convincing evidence that the entity or person failed to comply  
21 with:

22                   (1) the terms of the entity's contract with the  
23 department; or

24                   (2) laws or rules applicable to child-care facilities,  
25 as defined by Section 42.002, Human Resources Code.

26                   (e) An entity described by Subsection (a) may not be held  
27 liable under a theory of vicarious liability for damages in excess

1 of the amounts provided by Section 84.006, Civil Practice and  
2 Remedies Code, if the claim is based on an employee's or a  
3 volunteer's conduct that is intentional or done with conscious  
4 indifference or reckless disregard for the safety of others.

5 SECTION 2. Section 264.170, Family Code, as amended by this  
6 Act, applies only to a cause of action that accrues on or after the  
7 effective date of this Act. A cause of action that accrued before  
8 the effective date of this Act is governed by the law as it existed  
9 immediately before the effective date of this Act, and that law is  
10 continued in effect for that purpose.

11 SECTION 3. This Act takes effect September 1, 2023.