

By: Oliverson

H.B. No. 3933

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 or child welfare services.

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 CHILD WELFARE
10 SERVICES AND RELATED PERSONNEL. (a) A nonprofit entity that
11 contracts with the department to provide services as a single
12 source continuum contractor under this subchapter is considered to
13 be a charitable organization for the purposes of Chapter 84, Civil
14 Practice and Remedies Code, with respect to the provision of those
15 services, and that chapter applies to the entity and any person who
16 is an employee or volunteer of the entity.

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

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

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

24 (B) while the person is acting within the course

1 and scope of [and] the person's duties for the entity; and

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

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

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

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

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

27 (e) An entity described by Subsection (a) may not be held

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

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

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