

By: Perry

S.B. No. 2022

A BILL TO BE ENTITLED

AN ACT

relating to the liability of entities contracted with the Department of Family and Protective Services to provide community-based care or child welfare services.

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

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

Sec. 264.170. LIMITED LIABILITY FOR SINGLE SOURCE CONTINUUM CONTRACTOR OR OTHER ENTITY CONTRACTED TO PROVIDE CHILD WELFARE SERVICES AND RELATED PERSONNEL. (a) A nonprofit entity that contracts with the department to provide services as a single source continuum contractor under this subchapter is considered to be a charitable organization for the purposes of Chapter 84, Civil Practice and Remedies Code, with respect to the provision of those services, and that chapter applies to the entity and any person who is an employee or volunteer of the entity.

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

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

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

(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  
10 amounts provided by Section 84.006, Civil Practice and Remedies  
11 Code, for a claim of negligence in the supervision or treatment of  
12 a child in the entity's custody or control unless the claimant  
13 establishes by clear and convincing evidence that the entity or  
14 person failed to comply with laws or rules regarding the  
15 supervision or treatment of 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.

13