

By: Darby

H.B. No. 270

A BILL TO BE ENTITLED

AN ACT

relating to disasters, including the regulation of social media platforms, disaster relief organizations, and disaster volunteers; creating criminal offenses; increasing criminal penalties; authorizing a fee.

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

SECTION 1. This Act may be cited as the Disaster Volunteer Management and Scam Prevention Act.

SECTION 2. Subtitle A, Title 16, Business & Commerce Code, is amended by adding Chapter 722 to read as follows:

CHAPTER 722. SOCIAL MEDIA POSTS SOLICITING OR PROMOTING
DISASTER-RELATED DONATIONS

Sec. 722.001. DEFINITIONS. In this chapter:

(1) "Disaster" has the meaning assigned by Section 418.004, Government Code.

(2) "Social media platform" and "user" have the meanings assigned by Section 120.001.

Sec. 722.002. APPLICABILITY OF CHAPTER. This chapter applies only with respect to a user who resides in this state.

Sec. 722.003. WARNING REQUIRED ON CERTAIN POSTS SOLICITING OR PROMOTING DISASTER-RELATED DONATIONS. (a) Except as provided by Subsection (b), an operator of a social media platform shall include a warning to users of its platform in connection with any post that solicits or promotes the donation of money in relation to

1 a disaster. The warning must inform users of potential scams and
2 encourage users to verify the source of the post.

3 (b) An operator of a social media platform is not required
4 to include a warning described by Subsection (a) on a post
5 originating from an account associated with a governmental entity.

6 SECTION 3. Chapter 402, Government Code, is amended by
7 adding Subchapter E to read as follows:

8 SUBCHAPTER E. VOLUNTARY STATE CERTIFICATION FOR DISASTER RELIEF
9 ORGANIZATIONS

10 Sec. 402.121. DUTY TO ESTABLISH PROGRAM. (a) The consumer
11 protection division of the office of the attorney general, in
12 consultation with the Texas Division of Emergency Management, shall
13 establish a program by which a disaster relief organization may
14 apply for and be certified as a state-recognized disaster relief
15 organization.

16 (b) The attorney general shall adopt rules to implement this
17 section.

18 SECTION 4. Subchapter F, Chapter 411, Government Code, is
19 amended by adding Section 411.14104 to read as follows:

20 Sec. 411.14104. ACCESS TO CRIMINAL HISTORY RECORD
21 INFORMATION: TEXAS DIVISION OF EMERGENCY MANAGEMENT. (a) The
22 Texas Division of Emergency Management is entitled to obtain
23 criminal history record information as provided by Subsection (b)
24 that relates to a person who applies to register as a volunteer
25 under Subchapter M, Chapter 418.

26 (b) Subject to Sections 411.087 and 418.457 of this code and
27 consistent with the public policy of this state, the Texas Division

1 of Emergency Management is entitled to:

2 (1) obtain through the Federal Bureau of Investigation
3 criminal history record information maintained or indexed by that
4 bureau that relates to a person described by Subsection (a); and

5 (2) obtain from the department or any other criminal
6 justice agency in this state criminal history record information
7 maintained by the department or that criminal justice agency that
8 relates to a person described by Subsection (a).

9 (c) The Texas Division of Emergency Management may not
10 release or disclose to any person criminal history record
11 information obtained from the Federal Bureau of Investigation under
12 Subsection (b)(1). Criminal history record information obtained by
13 the Texas Division of Emergency Management under Subsection (b)(2)
14 may not be released or disclosed to any person except on court order
15 or as provided by Subsection (d).

16 (d) The Texas Division of Emergency Management is not
17 prohibited from disclosing criminal history record information
18 obtained under Subsection (b)(2) in a criminal proceeding.

19 (e) The Texas Division of Emergency Management shall
20 destroy criminal history record information that is obtained under
21 this section after the information is used for its authorized
22 purpose.

23 SECTION 5. Chapter 418, Government Code, is amended by
24 adding Subchapter M to read as follows:

25 SUBCHAPTER M. REGISTRATION OF CERTAIN DISASTER VOLUNTEERS REQUIRED

26 Sec. 418.451. DEFINITIONS. In this subchapter:

27 (1) "Disaster" has the meaning assigned by Section

418.004.

(2) "Disaster area" means a county any part of which is subject to:

(A) a disaster declaration issued by:

(i) the president of the United States under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. Section 5121 et seq.);

(ii) the governor under Section 418.014; or

(iii) the presiding officer of the governing body of a political subdivision under Section 418.108; or

(B) an emergency evacuation order.

(3) "Disaster volunteer" means a person who provides or offers to provide a service at no cost to or at the direction of:

(A) a victim of a disaster; or

(B) a governmental entity engaged in disaster response or recovery.

(4) "Relative" has the meaning assigned by Section 20.01, Penal Code.

(5) "Volunteer firefighter" and "volunteer fire department" have the meanings assigned by Section 88.123, Education Code.

Sec. 418.452. NONAPPLICABILITY. This subchapter does not apply to a person who:

(1) resides in a disaster area;

(2) resides in a county adjacent to a disaster area;

(3) assists only a relative who is a victim of a disaster; or

1 (4) is an officer, employee, agent, contractor,
2 subcontractor, or other person acting on behalf of a governmental
3 entity, including a volunteer firefighter or other person acting on
4 behalf of a volunteer fire department.

5 Sec. 418.453. DIVISION AS ADMINISTRATOR; RULES. (a) The
6 division shall administer and enforce this subchapter.

7 (b) The division may adopt rules to implement this
8 subchapter.

9 Sec. 418.454. REGISTRATION REQUIRED. A person may not
10 serve in-person as a disaster volunteer in a disaster area unless
11 the person registers with the division under this subchapter.

12 Sec. 418.455. ELIGIBILITY. (a) A person may not register
13 under this subchapter if the person is subject to:

14 (1) the sex offender registration requirements of
15 Chapter 62, Code of Criminal Procedure; or

16 (2) an outstanding arrest warrant in any state or
17 federal jurisdiction.

18 (b) The division shall establish other minimum eligibility
19 criteria for a person to register under this subchapter as a
20 disaster volunteer to ensure the safety of victims of a disaster and
21 the effective and efficient use of government resources.

22 Sec. 418.456. APPLICATION. (a) A person must apply in
23 writing to register under this subchapter.

24 (b) The application must inquire whether the applicant is
25 subject to:

26 (1) the sex offender registration requirements of
27 Chapter 62, Code of Criminal Procedure; or

1 (2) an outstanding arrest warrant in any state or
2 federal jurisdiction.

3 (c) As part of the application, the applicant must provide
4 the division with a copy of:

5 (1) the applicant's current driver's license or
6 identification card issued by any state; or

7 (2) as the division determines sufficient, other
8 identification documents issued by this state, another state, or
9 the federal government.

10 Sec. 418.457. AUTHORITY TO CONDUCT CRIMINAL HISTORY CHECK.

11 (a) The division may conduct a criminal history check, including a
12 check of any criminal history record information maintained by the
13 Federal Bureau of Investigation, in the manner provided by
14 Subchapter F, Chapter 411, on each person who applies to register
15 under this subchapter.

16 (b) For purposes of conducting the criminal history check,
17 the division may require an applicant to submit a complete and
18 legible set of fingerprints, on a form prescribed by the division,
19 to the division or to the department for the purpose of obtaining
20 criminal history record information from the department and the
21 Federal Bureau of Investigation.

22 (c) The division may require the applicant to pay a fee to
23 cover any costs associated with conducting a criminal history check
24 under this section.

25 Sec. 418.458. LIMITATION ON REGISTRATION REQUIREMENT. A
26 registration under this subchapter applies only to a disaster area
27 and only for the period in which the applicable disaster

declaration or emergency evacuation order is in effect.

Sec. 418.459. PENALTY FOR FAILURE TO REGISTER. (a) A person commits an offense if the person violates Section 418.454.

(b) An offense under this section is:

(1) for a first offense, a Class C misdemeanor punishable by a fine not to exceed \$25; or

(2) for a second or subsequent offense, a Class C misdemeanor.

SECTION 6. Section 31.03, Penal Code, is amended by amending Subsection (e) and adding Subsection (f-3) to read as follows:

(e) Except as otherwise provided by this section [~~Subsections (f) and (f-1)~~], an offense under this section is:

(1) a Class C misdemeanor if the value of the property stolen is less than \$100;

(2) a Class B misdemeanor if:

(A) the value of the property stolen is \$100 or more but less than \$750;

(B) the value of the property stolen is less than \$100 and the defendant has previously been convicted of any grade of theft; or

(C) the property stolen is a driver's license, commercial driver's license, or personal identification certificate issued by this state or another state;

(3) a Class A misdemeanor if the value of the property stolen is \$750 or more but less than \$2,500;

(4) a state jail felony if:

1 (A) the value of the property stolen is \$2,500 or
2 more but less than \$30,000, or the property is less than 10 head of
3 sheep, swine, or goats or any part thereof under the value of
4 \$30,000;

5 (B) regardless of value, the property is stolen
6 from the person of another or from a human corpse or grave,
7 including property that is a military grave marker;

8 (C) the property stolen is a firearm;

9 (D) the value of the property stolen is less than
10 \$2,500 and the defendant has been previously convicted two or more
11 times of any grade of theft;

12 (E) the property stolen is an official ballot or
13 official carrier envelope for an election;

14 (F) the value of the property stolen is less than
15 \$20,000 and the property stolen is:

16 (i) aluminum;

17 (ii) bronze;

18 (iii) copper; or

19 (iv) brass; ~~or~~

20 (G) the cost of replacing the property stolen is
21 less than \$30,000 and the property stolen is a catalytic converter;
22 or

23 (H) the value of the property stolen is less than
24 \$30,000 and the property was stolen in a disaster area and came into
25 the actor's custody, possession, or control by virtue of the actor's
26 status or purported status as a disaster volunteer, as that term is
27 defined by Section 418.451, Government Code;

1 (5) a felony of the third degree if the value of the
2 property stolen is \$30,000 or more but less than \$150,000, or the
3 property is:

4 (A) cattle, horses, or exotic livestock or exotic
5 fowl as defined by Section 142.001, Agriculture Code, stolen during
6 a single transaction and having an aggregate value of less than
7 \$150,000;

8 (B) 10 or more head of sheep, swine, or goats
9 stolen during a single transaction and having an aggregate value of
10 less than \$150,000; or

11 (C) a controlled substance, having a value of
12 less than \$150,000, if stolen from:

13 (i) a commercial building in which a
14 controlled substance is generally stored, including a pharmacy,
15 clinic, hospital, nursing facility, or warehouse; or

16 (ii) a vehicle owned or operated by a
17 wholesale distributor of prescription drugs;

18 (6) a felony of the second degree if:

19 (A) the value of the property stolen is \$150,000
20 or more but less than \$300,000; or

21 (B) the value of the property stolen is less than
22 \$300,000 and the property stolen is an automated teller machine or
23 the contents or components of an automated teller machine; or

24 (7) a felony of the first degree if the value of the
25 property stolen is \$300,000 or more.

26 (f-3) The increase in the punishment provided by Section
27 12.50 for an offense under this section does not apply if the

1 penalty described by Subsection (e)(4)(H) applies.

2 SECTION 7. Section 31.03(h), Penal Code, is amended by
3 adding Subdivision (9) to read as follows:

4 (9) "Disaster area" is an area that was, at the time of
5 the offense:

6 (A) subject to a disaster declaration issued by:

7 (i) the president of the United States
8 under the Robert T. Stafford Disaster Relief and Emergency
9 Assistance Act (42 U.S.C. Section 5121 et seq.);

10 (ii) the governor under Section 418.014,
11 Government Code; or

12 (iii) the presiding officer of the
13 governing body of a political subdivision under Section 418.108,
14 Government Code; or

15 (B) subject to an emergency evacuation order.

16 SECTION 8. Subchapter D, Chapter 32, Penal Code, is amended
17 by adding Section 32.61 to read as follows:

18 Sec. 32.61. MALICIOUS SOLICITATION OF DISASTER VICTIM OR
19 FOR DISASTER RESPONSE OR RECOVERY. (a) In this section:

20 (1) "Disaster" has the meaning assigned by Section
21 418.004, Government Code.

22 (2) "Disaster volunteer" has the meaning assigned by
23 Section 418.451, Government Code.

24 (3) "Victim of a disaster" means a person who has
25 suffered harm as a result of a disaster.

26 (b) A person commits an offense if the person, with the
27 intent to defraud or harm any person:

1 (1) solicits a donation from another person while
2 inducing the other person to believe that the donation will be used
3 for disaster response or recovery, regardless of the manner of
4 solicitation;

5 (2) solicits payment from a victim of a disaster
6 after:

7 (A) providing services to the victim that are
8 related to disaster response or recovery, including debris removal
9 or transportation; and

10 (B) inducing the victim to believe that:

11 (i) the person is a disaster volunteer; and

12 (ii) the services described by Paragraph

13 (A) would be provided at no cost to the victim; or

14 (3) solicits payment from a victim of a disaster while
15 inducing the victim to believe that the actor will search for or
16 return to the victim a relative who is believed to be missing as a
17 result of the disaster.

18 (c) An offense under Subsection (b)(1) or (2) is:

19 (1) for a first offense, a felony of the third degree;
20 or

21 (2) for a second or subsequent offense, a felony of the
22 second degree.

23 (d) An offense under Subsection (b)(3) is a felony of the
24 first degree.

25 (e) If conduct that constitutes an offense under this
26 section also constitutes an offense under any other law, the actor
27 may be prosecuted under this section or the other law, or both.

1 SECTION 9. Subchapter M, Chapter 418, Government Code, as
2 added by this Act, applies only to a disaster declaration or
3 emergency evacuation order issued or renewed on or after the
4 effective date of this Act.

5 SECTION 10. Section 31.03, Penal Code, as amended by this
6 Act, applies only to an offense committed on or after the effective
7 date of this Act. An offense committed before the effective date of
8 this Act is governed by the law in effect on the date the offense was
9 committed, and the former law is continued in effect for that
10 purpose. For purposes of this section, an offense was committed
11 before the effective date of this Act if any element of the offense
12 occurred before that date.

13 SECTION 11. This Act takes effect on the 91st day after the
14 last day of the legislative session.