

## **BILL ANALYSIS**

H.B. 20  
By: Darby  
Disaster Preparedness & Flooding, Select  
Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

During the catastrophic flooding in the Texas Hill Country, the Center Point Volunteer Fire Department of Kerr County lost most of its fire station to floodwaters while conducting rescue and recovery operations. As the department sought donations, fraudulent charitable solicitation schemes exploited the tragedy by impersonating the department, deceiving donors into sending money for personal gain. Attorney General Ken Paxton launched an investigation after these schemes were reported, citing the need to protect both disaster victims and charitable donors from predatory actors. This incident, coupled with broader reports of disaster-related fraudulent activity—including fake nonprofits, fraudulent missing-person hotlines, and false volunteer solicitations—brought the issue to the bill author's attention.

H.B. 20 addresses disaster-related fraud by establishing an enforcement and prevention framework that requires the Texas Division of Emergency Management, in consultation with the consumer protection division of the attorney general's office, to create educational materials to help the public identify scams. The bill establishes a voluntary accreditation program for reputable disaster relief organizations and provides for a fraud hotline during declared disasters. Moreover, the bill creates a new criminal offense for malicious solicitation of a disaster victim or for disaster response or recovery and enhances theft penalties for property stolen under the guise of disaster relief. The bill also provides for civil liability for malicious solicitation during a disaster.

### **CRIMINAL JUSTICE IMPACT**

It is the committee's opinion that this bill expressly does one or more of the following: creates a criminal offense, increases the punishment for an existing criminal offense or category of offenses, or changes the eligibility of a person for community supervision, parole, or mandatory supervision.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that rulemaking authority is expressly granted to the attorney general in SECTION 2.02 of this bill.

### **ANALYSIS**

#### **Consumer Protection**

##### **Educational Materials on Identifying and Avoiding Fraudulent Charitable Solicitations**

H.B. 20 amends the Government Code to require the Texas Division of Emergency Management (TDEM), in consultation with the consumer protection division of the attorney general's office, to create and make available to the public on the respective agencies' websites educational materials regarding identifying and avoiding fraudulent charitable solicitations during a disaster.

## Voluntary Accreditation of Disaster Relief Organizations; Fraud Hotline

H.B. 20 requires the attorney general, in consultation with TDEM, to establish and administer an accreditation program for nonprofit organizations that solicit and accept donations to provide disaster relief services during a declared disaster, defined by the bill as the following:

- a disaster declared by the U.S. president;
- a state of disaster declared by the governor under the Texas Disaster Act of 1975; or
- a local state of disaster declared by the presiding officer of the governing body of a political subdivision under that act.

The bill establishes that the purpose of the accreditation program is to assist the public in identifying reputable nonprofit organizations to which the public may donate to support disaster relief efforts. The bill also establishes that participation in the program is voluntary and that a nonprofit organization is not required to obtain accreditation issued to a disaster relief organization under the program to solicit or accept donations in response to a declared disaster.

H.B. 20 requires the attorney general, in consultation with TDEM, to establish by rule the following:

- eligibility criteria that a nonprofit organization must meet and maintain to qualify for an accreditation;
- procedures for evaluating accreditation applications; and
- procedures for renewal and revocation of accreditations.

The bill authorizes the attorney general to also consult with the emergency management council for purposes of adopting such rules and authorizes an organization to apply for an accreditation in the form and manner prescribed by the attorney general. The bill requires the attorney general to maintain and regularly update a public registry of nonprofit organizations accredited under the bill's provisions on the attorney general's website and to prescribe and approve a seal that may be used and displayed by a nonprofit organization accredited under the bill.

H.B. 20 authorizes a state or local government entity administering a grant or other program that provides state money to support mitigation, preparedness, response, recovery, or other relief efforts in response to a declared disaster to consider a nonprofit organization's accreditation status under the bill's provisions when evaluating the organization's application for state money under the grant or other program. The bill requires the attorney general, in consultation with TDEM, to establish by rule reporting and transparency standards for nonprofit organizations accredited under the bill. A state or local government entity may not prohibit or otherwise prevent volunteer efforts during a declared disaster based solely on a nonprofit organization's lack of accreditation under the bill's provisions. The bill requires the attorney general to operate a telephone hotline during each declared disaster for submission of reports of the following:

- a suspected fraudulent website or nonprofit organization soliciting charitable donations; and
- a suspected state jail felony offense of unlawfully appropriating certain property in a disaster area, as provided in the bill's Penal Code provisions, or a suspected offense related to malicious solicitation during disaster response and recovery, as provided in the bill's Penal Code provisions.

The bill requires the attorney general, in consultation with TDEM and as soon as practicable after the bill's effective date, to adopt rules to implement the bill's provisions related to voluntary accreditation of disaster relief organizations.

### **Criminal Penalties for Disaster Scams**

H.B. 20 amends the Penal Code to expand the conduct that constitutes a state jail felony theft offense of unlawfully appropriating property with intent to deprive the owner of property to include that conduct wherein the value of the property stolen is less than \$30,000 and the property was stolen in a disaster area and came into the actor's custody, possession, or control by virtue of the actor's status or purported status as a disaster volunteer, defined by reference to the bill's Penal Code provisions, as subsequently described, defining such a volunteer as a person

who provides or offers to provide a service at no cost to or at the direction of a victim of a disaster or a governmental entity engaged in disaster response or recovery. The bill defines "disaster area" for purposes of such theft offenses as an area that was, at the time of the offense, subject to an emergency evacuation order or subject to a disaster declaration issued by the U.S. president under specified federal law, the governor under the Texas Disaster Act of 1975, or the presiding officer of the governing body of a political subdivision under that act. The bill establishes that the increase in punishment provided by the Penal Code provisions that generally provide for such an increase if the offense is committed in a disaster area or evacuated area does not apply if the penalty described with respect to the expanded conduct applies. These bill provisions amending the Penal Code apply only to an offense committed on or after the bill's effective date. An offense committed before the bill's effective date is governed by the law in effect on the date the offense was committed, and the former law is continued in effect for that purpose. For these purposes, an offense was committed before the bill's effective date if any element of the offense occurred before that date.

H.B. 20 also creates the offense of malicious solicitation of a disaster victim or for disaster response or recovery for a person who, with the intent to defraud or harm any person, does the following:

- solicits a donation from another person while inducing the other person to believe that the donation will be used for disaster response or recovery, regardless of the manner of solicitation;
- solicits donations on behalf of a donee with the intent to retain the donations instead of delivering the donations to the donee on whose behalf the donations were solicited;
- solicits payment from a victim of a disaster after providing services to the victim that are related to disaster response or recovery, including debris removal or transportation, and inducing the victim to believe that the person is a disaster volunteer and the services would be provided at no cost to the victim; or
- solicits payment from a victim of a disaster while inducing the victim to believe that the actor will search for or return to the victim a relative who is believed to be missing as a result of the disaster.

The bill establishes penalties for the offense ranging from a third degree felony to a first degree felony, depending on the frequency and specific solicitation of the offense and whether the person fabricated an accreditation seal described under the bill's Government Code provisions. The bill establishes that if conduct that constitutes an offense under the bill also constitutes an offense under any other law, the actor may be prosecuted under the bill or the other law, or both. For purposes of the offense, the bill defines "disaster" by reference to the meaning assigned to that term by the Texas Disaster Act of 1975 and defines the following terms for purposes of this offense:

- "disaster volunteer" as a person who provides or offers to provide a service at no cost to or at the direction of a victim of a disaster or a governmental entity engaged in disaster response or recovery;
- "relative" by reference as a parent or stepparent, ancestor, sibling, or uncle or aunt, including an adoptive relative of the same degree through marriage or adoption; and
- "victim of a disaster" as a person who has suffered harm as a result of a disaster.

### **Civil Liability for Malicious Solicitation During Disaster**

H.B. 20 amends the Civil Practice and Remedies Code to make a person who engages in malicious solicitation that constitutes the Penal Code offense created by the bill during a disaster liable to the donee on whose behalf the payment was collected, the donee's estate, the donor from whom the payment was solicited, or the donor's estate. The bill establishes the following requirements in an action for damages brought under this provision:

- with respect to a donee or donee's estate who prevails in such an action, a court must award the donee or donee's estate 300 percent of the amount of donations the defendant collected on behalf of the donee and reasonable and necessary attorney's fees; and

- with respect to a donor or a donor's estate who prevails in such an action, a court must award the donor or donor's estate 300 percent of the amount of donations the defendant collected from the donor and reasonable and necessary attorney's fees.

The bill establishes that these provisions do not prevent a donee, donee's estate, donor, or donor's estate from pursuing a claim for exemplary damages under the general Civil Practice and Remedies Code provisions regarding damages for the defendant's malicious solicitation during a disaster. These bill provisions apply only to a cause of action that accrues on or after the bill's effective date.

**EFFECTIVE DATE**

91st day after the last day of the legislative session.