

BILL ANALYSIS

C.S.H.B. 3453
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Judiciary & Civil Jurisprudence
Committee Report (Substituted)

BACKGROUND AND PURPOSE

The bill author has informed the committee that foster care providers are required to carry liability insurance coverage, yet these providers are experiencing skyrocketing premiums and limited carrier availability. The bill author has further informed the committee that there is a lack of clarity as to whether nonprofit foster care providers and nonprofit single source continuum contractors are covered under the Charitable Immunity and Liability Act of 1987. C.S.H.B. 3453 seeks to provide clarity to the law and to reinforce existing protections by including certain nonprofit entities and nonprofit contractors who provide community-based care or child welfare services among the entities covered under the Charitable Immunity and Liability Act of 1987 and limiting the liability of entities and contractors that meet certain requirements.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 3453 amends the Family Code to include a nonprofit entity that contracts with the Department of Family and Protective Services (DFPS) or with a single source continuum contractor to provide community-based care or child welfare services among the nonprofit entities considered to be charitable organizations for the purposes of the application of the Charitable Immunity and Liability Act of 1987 to the entity and any person who is an employee or volunteer of that entity. Accordingly, the bill makes the following revisions:

- includes any person who is a caregiver providing services on behalf of an applicable nonprofit entity among the persons to whom the act applies; and
- makes the limitations on liability for an act or omission by a nonprofit entity or person that occurs while the entity or person is acting within the course and scope of the entity's contract with DFPS applicable to an act or omission by a nonprofit entity or person that occurs while the entity or person is acting within the scope of the entity's contract with a single source continuum contractor.

C.S.H.B. 3453 amends the Civil Practice and Remedies Code to prohibit a nonprofit entity that contracts with DFPS to provide services as a single source continuum contractor for community-based care or a nonprofit entity that contracts with DFPS or a single source continuum contractor to provide community-based care or child welfare services from being held liable for damages resulting from an act or omission of a person who is an employee or volunteer of the entity or a

caregiver providing services on behalf of the entity if, at the time of the act or omission giving rise to the claim, the entity has met the following requirements:

- conducted timely criminal background checks as required by law;
- before hiring, contracting with, or otherwise enlisting the services of the person and then at least once every five years, confirmed the person is not listed in a state registry or database that indicates the person is ineligible to supervise or treat children;
- reported any known allegation of misconduct by the person as required by law;
- taken timely and proportionate administrative or personnel action in response to deficiency in the performance of duties by the person; and
- required the person to complete training for child sexual abuse prevention at least once every five years and for the reporting of child abuse and neglect.

This prohibition expressly does not affect the liability of such a nonprofit entity for damages resulting from the gross negligence of the entity.

C.S.H.B. 3453 establishes that such a nonprofit entity may be held vicariously liable by a claimant on the basis of services received from the entity for the act or omission of a person who is an employee or volunteer of the entity or a caregiver providing services on behalf of the entity only if the claimant shows the following:

- the entity was not in substantial compliance with the bill's requirements at the time of the act or omission giving rise to the claim;
- the requirement was designed to prevent the specific type of harm alleged to have occurred; and
- the entity's failure to be in substantial compliance with the requirement was a contributing factor in bringing about the harm.

C.S.H.B. 3453 establishes that its provisions relating to liability of single source continuum contractors or a nonprofit entity that contracts with DFPS or a single source continuum contractor may not be construed to limit the liability of an entity for a claim otherwise authorized by state or federal law or the ability of a governmental entity to take administrative, regulatory, or prosecutorial action against such an entity.

C.S.H.B. 3453 applies only to a cause of action that accrues on or after the bill's effective date. A cause of action that accrued before the bill's effective date is governed by the law as it existed immediately before the bill's effective date, and that law is continued in effect for that purpose.

EFFECTIVE DATE

September 1, 2025.

COMPARISON OF INTRODUCED AND SUBSTITUTE

While C.S.H.B. 3453 may differ from the introduced in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

While the introduced and substitute both include a nonprofit entity that contracts with DFPS or with a single source continuum contractor to provide certain services among the nonprofit entities considered to be charitable organizations for the purposes of the application of the Charitable Immunity and Liability Act of 1987 to the entity and any person who is an employee or volunteer of that entity, the versions differ as follows:

- the introduced applied to a caregiver or clinical professional providing services to an applicable nonprofit entity, whereas the substitute applies to a caregiver providing services on behalf of such an entity; and
- the introduced specified that the bill applies to a nonprofit entity that contracts with DFPS or with a single source continuum contractor to provide foster care or adoption services, whereas the substitute specifies that the bill applies to a nonprofit entity that

contracts with DFPS or a single source continuum contractor to provide community-based care or child welfare services.

Both the introduced and substitute prohibit a nonprofit entity that contracts with DFPS to provide services as a single source continuum contractor for community-based care or a nonprofit entity that contracts with DFPS or with a single source continuum contractor to provide certain services from being held liable for certain damages if the entity meets certain requirements. However, the versions differ as follows:

- whereas the introduced applied to damages in excess of \$500,000 for each person and \$1,000,000 for each single occurrence of bodily injury or death and \$100,000 for each single occurrence for injury to or destruction of property for an applicable act or omission to the entity, the substitute applies to any damages resulting from an applicable act or omission on behalf of the entity; and
- whereas the introduced included among the requirements that the entity has taken appropriate administrative or personnel action in response to misconduct by the person, the substitute includes among the requirements that the entity has taken timely and proportionate administrative or personnel action in response to deficiency in the performance of duties by the person.

The substitute includes a provision not in the introduced establishing that the bill's provisions relating to liability of single source continuum contractors or a nonprofit entity that contracts with DFPS or a single source continuum contractor may not be construed to limit the liability of an entity for a claim otherwise authorized by state or federal law or the ability of a governmental entity to take administrative, regulatory, or prosecutorial action against such an entity.