

BILL ANALYSIS

Senate Research Center

S.B. 1558
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Health & Human Services
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Liability insurance is a critical yet increasingly inaccessible requirement for foster care providers in Texas. Rising premiums, limited carrier availability, and burdensome policy changes, combined with costly lawsuits and settlements, threaten the viability of these essential services, potentially leaving thousands of children without placement and destabilizing the child welfare system. Foster care providers are required by contract to maintain liability insurance, but the availability of coverage, skyrocketing premiums, and insufficient coverage threaten the ability of providers to continue their critical work.

Other than the systemic risk to the structure of the Texas foster care system, failure to address this crisis risks profound harm, including re-traumatization of vulnerable children and youth, job losses among care staff, and ripple effects on local communities. Providers unable to secure or afford the required liability insurance may exit the market, leaving gaps in the care infrastructure and reducing options for children in foster care.

Providers have no direct explanation for rising insurance premiums and a contracting insurance market, though some insurers point to regulatory structure and requirements, as well as increased risk of lawsuits or settlements. States across the country are facing the same problem, as well as other industries in Texas.

S.B. 1558 clarifies that non-profit foster care providers and single source continuum contractors (SSCCs) are protected under the Charitable Immunity and Liability Act (CILA), aiming to improve access to liability insurance. It also defines the requirements for providers to be in "good standing," ensuring proper background checks, training, and reporting. This framework helps distinguish responsible providers from employees who harm children, maintaining accountability while protecting providers who follow due diligence.

As proposed, S.B. 1558 amends current law relating to the liability of nonprofit entities contracted with the Department of Family and Protective Services or with a single source continuum contractor to provide community-based care or child welfare services.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 84, Civil Practice and Remedies Code, by adding Section 84.0068, as follows:

Section 84.0068. LIABILITY FOR SINGLE SOURCE CONTINUUM CONTRACTORS AND CONTRACTED CHILD WELFARE CONTINUUM PROVIDERS. (a) Provides that an entity considered to be a charitable organization under Section 264.170, Family Code, and that is in good standing under Subsection (b) of this section is immune from civil liability under this chapter, except as provided by Subsection (d) of this section.

(b) Provides that, with respect to a claim under this chapter, a nonprofit entity (entity) is in good standing if it has substantially complied with certain actions with respect to each of its staffers.

(c) Authorizes an entity described by Subsection (a) that fails to be in substantial compliance with any applicable requirement of Subsection (b) to be held vicariously liable to the recipient of the entity's services, or to the recipient's legally authorized representative, for acts of the entity's employees, contractors, or volunteers only if the plaintiff can show the requirement with which the entity failed to be in substantial compliance was designed to prevent the specific type of harm that occurred and the failure to be in substantial compliance with the requirement was a substantial factor in causing the actual harm and damage.

(d) Provides that an entity that is in good standing under Subsection (b) has limited liability only in the absence of gross negligence, as that term is defined by Section 41.001 (Definitions), Civil Practice and Remedies Code, in the performance of a contract or other agreement.

(e) Defines "entity" and "staffer."

SECTION 2. Amends Section 264.170, Family Code, as follows:

Sec. 264.170. New heading: LIMITED LIABILITY FOR SINGLE SOURCE CONTINUUM CONTRACTOR OR OTHER NONPROFIT ENTITY CONTRACTED TO PROVIDE CHILD WELFARE SERVICES AND RELATED PERSONNEL. (a) Provides that a nonprofit entity that contracts with the Department of Family and Protective Services (DFPS) to provide services as a single source continuum contractor or a nonprofit entity that contracts with DFPS or with a single source continuum contractor to provide foster care or adoption services under this subchapter is considered to be a charitable organization for the purposes of Chapter 84 (Charitable Immunity and Liability), 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, clinical professional, caregiver, or volunteer of the entity.

(b) Provides that the limitations on liability provided by this section apply only to certain circumstances, including an act or omission by the entity or person, as applicable, that occurs while the entity or person is acting within the course and scope of the entity's contract with DFPS or a single continuum contractor or while the person is acting within the course and scope of the person's duties for the entity. Makes nonsubstantive changes.

SECTION 3. Makes application of Section 84.0068, Civil Practice and Remedies Code, as added by this Act, and Section 264.170, Family Code, as amended by this Act, prospective.

SECTION 4. Effective date: September 1, 2025.