

By: Bonnen, Orr, et al.

H.B. No. 3453

Substitute the following for H.B. No. 3453:

By: Leach

C.S.H.B. No. 3453

A BILL TO BE ENTITLED

AN ACT

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.

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

SECTION 1. Chapter 84, Civil Practice and Remedies Code, is amended by adding Section 84.0068 to read as follows:

Sec. 84.0068. LIABILITY OF SINGLE SOURCE CONTINUUM CONTRACTORS OR CERTAIN NONPROFIT ENTITIES PROVIDING COMMUNITY-BASED CARE OR CHILD WELFARE SERVICES. (a) This section applies only to an entity described by Section 264.170(a), Family Code.

(b) Subject to Subsection (c) and except as provided by Subsection (d), an entity may not be 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:

(1) conducted timely criminal background checks for the person as required by law;

(2) 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

1 or database that indicates the person is ineligible to supervise or
2 treat children;

3 (3) reported any known allegation of misconduct by the
4 person as required by law;

5 (4) taken timely and proportionate administrative or
6 personnel action in response to deficiency in the performance of
7 duties by the person; and

8 (5) required the person to complete training for:

9 (A) child sexual abuse prevention at least once
10 every five years; and

11 (B) the reporting of child abuse and neglect.

12 (c) An entity may be held vicariously liable by a claimant
13 on the basis of services received from the entity for the act or
14 omission of a person who is an employee or volunteer of the entity
15 or a caregiver providing services on behalf of the entity only if
16 the claimant shows:

17 (1) the entity was not in substantial compliance with
18 a requirement described by Subsection (b) at the time of the act or
19 omission giving rise to the claim;

20 (2) the requirement was designed to prevent the
21 specific type of harm alleged to have occurred; and

22 (3) the entity's failure to be in substantial
23 compliance with the requirement was a contributing factor in
24 bringing about the harm.

25 (d) Subsection (b) does not affect the liability of an
26 entity for damages resulting from the gross negligence of the
27 entity.

1 (e) This section may not be construed to limit:

2 (1) the liability of an entity for a claim otherwise
3 authorized by state or federal law; or

4 (2) the ability of a governmental entity to take
5 administrative, regulatory, or prosecutorial action against an
6 entity described by Section 264.170(a), Family Code.

7 SECTION 2. Section 264.170, Family Code, is amended to read
8 as follows:

9 Sec. 264.170. LIMITED LIABILITY FOR SINGLE SOURCE CONTINUUM
10 CONTRACTOR OR NONPROFIT ENTITY CONTRACTED TO PROVIDE
11 COMMUNITY-BASED CARE OR CHILD WELFARE SERVICES AND RELATED
12 PERSONNEL. (a) A nonprofit entity that contracts with the
13 department to provide services as a single source continuum
14 contractor under this subchapter or a nonprofit entity that
15 contracts with the department or with a single source continuum
16 contractor to provide community-based care or child welfare
17 services is considered to be a charitable organization for the
18 purposes of Chapter 84, Civil Practice and Remedies Code, with
19 respect to the provision of those services, and that chapter
20 applies to the entity and any person who is:

21 (1) an employee or volunteer of the entity; or

22 (2) a caregiver providing services on behalf of the
23 entity.

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

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

1 (A) while the entity or person is acting within
2 the course and scope of the entity's contract with the department or
3 with a single source continuum contractor; or

4 (B) while the person is acting within the course
5 and scope of [and] the person's duties for the entity; and

6 (2) only if insurance coverage in the minimum amounts
7 required by Chapter 84, Civil Practice and Remedies Code, is in
8 force and effect at the time a cause of action for personal injury,
9 death, or property damage accrues.

10 SECTION 3. Section 84.0068, Civil Practice and Remedies
11 Code, as added by this Act, and Section 264.170, Family Code, as
12 amended by this Act, apply only to a cause of action that accrues on
13 or after the effective date of this Act. A cause of action that
14 accrued before the effective date of this Act is governed by the law
15 as it existed immediately before the effective date of this Act, and
16 that law is continued in effect for that purpose.

17 SECTION 4. This Act takes effect September 1, 2025.