

SUBJECT: Limited liability for crime prevention/law enforcement organizations

COMMITTEE: Civil Practices — favorable, without amendment

VOTE: 5 ayes — T. Hunter, Culberson, Hartnett, Moffat, Zbranek

0 nays

4 absent — Hilbert, Alvarado, Sadler, Tillery

WITNESSES: For — Jack Hutcherson

Against — None

On — None

BACKGROUND: The Charitable Immunity and Liability Act of 1987, chapter 84 of the Texas Civil Practice and Remedies Code, provides civil liability protection for charitable organizations. Chapter 84 immunizes a volunteer officer, director, or trustee, and direct service volunteers from any civil liability for acts that are not intentional, willfully or wantonly negligent, or done with conscious indifference or reckless disregard for the safety of others. A volunteer is liable if the injury involved the operation of a motor vehicle, to the extent covered by insurance.

The liability of an employee of a non-hospital charitable organization and a non-hospital charitable organization itself is limited to \$500,000 for each person and \$1,000,000 per occurrence for personal injury and \$100,000 per occurrence for damage to property, but only if the organization insures itself and its employees for those amounts.

Chapter 84 has a three part definition of what constitutes a charitable organization. A charitable organization may be:

(A) an organization exempt from federal tax under sec. 501 of the Internal Revenue code, organized for charitable purposes;

(B) any other organization operated exclusively for charitable purposes so long as it does not engage in activities not related to its purpose, does not participate in political campaigns, and normally receives more than one-third of its yearly support from gifts, grants, contributions or membership fees; or

(C) a homeowners association as defined by the Internal Revenue Code.

DIGEST: HB 428 would amend the definition of charitable organizations with limited liability to include organizations organized and operated for the purpose of crime prevention or law enforcement.

The bill would not apply to causes of action that accrue before its effective date of September 1, 1995.

SUPPORTERS SAY: Volunteer crime prevention and law enforcement organizations have recently become very popular in many Texas communities. Organizations such as neighborhood watches provide a valuable service to the community, but are in danger of being eliminated because the volunteers of such organization can be held personally liable for unlimited damages for actions done in the performance of their duties. These groups do not do anything inherently dangerous; most often they simply watch and report any suspicious activity to the police. Such organizations should be entitled to receive the same benefits as other charitable and volunteer organizations.

While HB 428 would limit the liability of volunteers to these organizations, it would actually serve to benefit injured parties as well. Currently, charitable crime prevention or law enforcement organizations do not need to carry any insurance. Under this bill, they would be required to carry \$1,000,000 of insurance for personal injuries if they wish to be eligible for limited liability. Therefore, anyone injured by the actions of these organization or their volunteers could receive as much as \$1,000,000 per occurrence (\$500,000 for an individual personal injury); without this legislation, the injured person might receive little or nothing from such an organization.

OPPONENTS SAY: An organization that attempts to conduct volunteer crime prevention and law enforcement activities should not be held to the same standard as a religious or other charitable organization. The activities of these crime prevention organizations are more inherently dangerous than other organizations whose liability is limited by the Charitable Immunity and Liability Act.