

SUBJECT: Limited liability for neighborhood crime prevention organizations

COMMITTEE: Civil Practices — committee substitute recommended

VOTE: 8 ayes — Gray, Hilbert, Alvarado, Bosse, Dutton, Nixon, Roman, Zbranek
0 nays
1 absent — Goodman

WITNESSES: For — J.R. Hutcherson, Gene P. Morris
Against — None

BACKGROUND : The Charitable Immunity and Liability Act of 1987, chapter 84 of the Civil Practice and Remedies Code, provides civil liability protection for charitable organizations. Chapter 84 provides immunity to volunteer officers, directors and trustees 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. Charitable organizations must have liability insurance coverage to be eligible for limited liability.

DIGEST: CSHB 546 would include neighborhood crime prevention and patrol organizations in the definition of a charitable organization under the Charitable Immunity and Liability Act.

This bill would take effect September 1, 1997, and apply to a cause of action that accrues on or after that date.

SUPPORTERS SAY: This bill would specifically give volunteer neighborhood crime prevention and patrol organizations the same civil liability protections as other charitable organizations that operate for the public good. It also would benefit any injured parties by requiring such organizations to carry \$1 million of insurance for personal injuries if they wish to be eligible for limited liability.

Neighborhood crime prevention organizations, such as neighborhood watches, provide a valuable service to their communities, and their operations are almost entirely dependent on volunteers. However, recruitment and retention of volunteers is made difficult by liability concerns. Neighborhood watches cannot reassure their volunteers that they would not be held personally liable for unlimited damages for actions done in the performance of their duties. Other charitable organizations, such as homeowners associations and nonprofit corporations or foundations operated exclusively for religious purposes, prevention of cruelty to children or animals, youth sports, or educational purposes, have limited liability to encourage volunteers, and the same reasoning should apply to neighborhood watches.

Neighborhood crime prevention organizations already could be considered to be included under the act's protections, because the act generally refers to all nonprofit organizations that operate exclusively for "the promotion of common good and general welfare of the people in a community." CSHB 546 would simply clarify beyond doubt that neighborhood watches are under the definition of charitable organizations.

The risk that vigilante groups or other sinister organization would operate as "neighborhood crime prevention or patrol organizations" in order to receive civil liability protection is extremely small and is no greater for neighborhood watches than for other groups already allowed under the act. The committee substitute specifically changed the reference to "neighborhood crime prevention or patrol organizations" from "crime prevention and law enforcement" group to narrow and clarify the type of organizations this bill is targeting.

Neighborhood watches do not do anything inherently dangerous; most often they simply watch and report any suspicious activity to the police. However, should injury occur, neighborhood crime prevention organizations now may provide little or no compensation to an injured person since most do not now carry insurance. In order to received liability protections under Chapter 84, charitable organizations have to have insurance coverage that would provide up to \$500,000 for each person or \$1 million per occurrence of personal injury and \$100,000 per occurrence for damage to property.

**OPPONENTS
SAY:**

An organization that attempts to conduct volunteer neighborhood crime prevention and patrol services should not be held to the same standard as a religious or other charitable organizations because these groups are more loosely formed and less publicly monitored. They could include groups of people who act in a discriminating, prejudicial or vigilante manner or who are not acting entirely for the public good.

Also, the activities of these organizations are more inherently dangerous than other organizations whose liability is limited by the Charitable Immunity and Liability Act. If somebody gets hurt because of the group's actions, they should be allowed full legal recourse to recover damages.

NOTES:

The committee substitute refers to "neighborhood crime prevention or patrol" organizations instead of "crime prevention and law enforcement" organizations in the original version.

A similar bill, HB 428 by Bosse, passed the House during the 1995 regular session but died in the Senate Economic Development Committee.