

- SUBJECT:** Liability of social workers who volunteer for charitable organizations
- COMMITTEE:** Judiciary and Civil Jurisprudence — favorable, without amendment
- VOTE:** 7 ayes — Jackson, Bohac, Castro, Madden, Raymond, Scott, Thompson
2 nays — Lewis, S. Davis
2 absent — Hartnett, Woolley
- WITNESSES:** For — Susan Milam, National Association of Social Workers, Texas Chapter; (*Registered, but did not testify:* Geoff Lorenz, Mental Health America of Texas)
Against — None
- BACKGROUND:** Ch. 84 of the Texas Civil Practice and Remedies Code is known as the Charitable Immunity and Liability Act of 1987. In an attempt to increase the services charitable organizations provide to Texas communities, the Legislature enacted the statute to reduce the liability exposure and insurance costs of the organizations, increase volunteerism, and maximize organization resources.

Sec. 84.003(5) classifies volunteer health care providers as persons who volunteer their health care service without payment or the expectation of payment. It lists occupations such as licensed physicians, retired physicians, physician assistants, and registered nurses. Each profession has to meet certain requirements under law, such as Texas licensure, to qualify as a volunteer health care provider.

Ch. 505 of the Occupations Code, the Social Work Practice Act, addresses all aspects of social work practice in Texas, including governance, ethics and conduct, and licensure of social work professionals.
- DIGEST:** HB 823 would add social workers licensed under ch. 505 of the Occupations Code and retired social workers eligible to practice in Texas to the occupations listed in sec. 84.003(5) under the Charitable Immunity and Liability Act.

The bill would apply only to a cause of action that accrued on or after the effective date of HB 823.

The bill would take effect September 1, 2011, and would apply only to a cause of action that accrued on or after that date.

**SUPPORTERS
SAY:**

HB 823 would include a very important sector of healthcare professionals in the Charitable Immunity and Liability Act. Effective disaster response requires the assistance of professionals from nearly every healthcare field, and the state cannot afford to lose the positive impact made by social workers who help victims in accessing needed services.

Immediately following disasters, there is a need to aid victims, and social workers all over Texas are called upon to help. Social workers even are included in the federally mandated Emergency Systems for the Advance Registration of Volunteer Health Professionals, which emergency management coordinators use to match volunteers' skills with disaster needs. Volunteer social workers need to benefit from the protection afforded to other healthcare volunteers, and HB 823 would provide that security.

The bill would encourage increased volunteerism in charitable organizations that provide services to the public, especially during times of disaster. Because many social workers are provided with professional liability insurance at their workplaces on an as-needed basis, they essentially would have to volunteer with no coverage. Retired social workers, who could have more time to devote to disaster relief efforts, would be exposed to potential liability as well. Social workers cited liability as a concern when the Department of State Health Services commissioned the research and social marketing firm SumaOrchard to determine barriers to volunteerism during a disaster. HB 823 would eliminate the hesitancy these professionals experience when deciding whether to lend a hand during their valuable free time.

HB 823 would not allow social workers to be completely unaccountable for actions undertaken in the course of their professional duties. They would be subject to malpractice lawsuits for engaging in willful or malicious conduct, as are other healthcare professionals covered by the act. The bill would not provide opportunities for social workers to exploit the limited measure of protection afforded to volunteer healthcare professionals.

The bill has the support of nearly 6,000 social workers who desire to provide volunteer services. The Texas Chapter of the National Association of Social Workers encourages the enactment of HB 823 so that the professionals represented by the organization more actively could provide valuable services to Texas communities.

**OPPONENTS
SAY:**

HB 823 would provide an unnecessary addition to the Charitable Immunity and Liability Act. There is no established problem, nor is there an evident necessity for social workers to obtain the liability protection granted to first responders and health care providers. There simply is no need for the bill.

NOTES:

The companion bill, SB 1090 by Rodriguez, was referred to the Senate State Affairs Committee on March 16.