

BILL ANALYSIS

Senate Research Center

S.B. 1105
By: Duncan
Economic Development
4-13-97
As Filed

DIGEST

Currently, Texas law provides only limited protections from liability to volunteer health care professionals who provide free medical services. Increased protections may be needed to ensure continued access to volunteer health care, especially for low-income and uninsured Texans. This bill would provide civil immunity from liability to volunteer health care providers who provide health care services free of charge. Additionally, this bill would set forth exceptions to such immunity.

PURPOSE

As proposed, S.B. 1105 provides for civil immunity from liability to volunteer health care providers who provide health care services free of charge, and sets forth exceptions to such immunity.

RULEMAKING AUTHORITY

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

SECTION BY SECTION ANALYSIS

SECTION 1. Sets forth the legislative findings regarding the need to encourage health care providers to contribute their services on a voluntary basis by reducing their exposure to civil liability.

SECTION 2. Amends Title 4, Civil Practice and Remedies Code, by adding Chapter 88, as follows:

CHAPTER 88. LIABILITY OF VOLUNTEER HEALTH CARE PROVIDERS

Sec. 88.001. DEFINITION. Defines "health care provider."

Sec. 88.002. IMMUNITY FROM LIABILITY. Provides that subject to Section 88.003, a health care provider is not liable for an act or omission resulting in personal injury to or death of a patient if the health care provider commits the act or omission in the course of providing health care services or services related to health care to the patient; the care is not administered for or in expectation of compensation; and the services provided are within the scope of the license, certification, registration, or other recognition of the health care provider.

Sec. 88.003. WAIVER BY PATIENT. Provides that Section 88.002 applies only if, before the provision of services to the patient, the patient signs a written statement that acknowledges that the health care provider is providing services without compensation; and waives the right to recover damages to the extent described by Section 88.002 in exchange for receiving the uncompensated services. Requires the written statement, if the patient is a minor or is otherwise legally incompetent, to be signed by the parent, managing conservator, or legal guardian of the patient or other person with legal responsibility for the care of the patient.

Sec. 88.004. EXCEPTION. Provides that this chapter does not apply to an act or omission that is intentional, wilfully or wantonly negligent, or done with conscious indifference or reckless disregard for the safety of others.

SECTION 3. Effective date: September 1, 1997.
Makes application of this Act prospective.

SECTION 4. Emergency clause.