

BILL ANALYSIS

Senate Research Center

H.B. 3479
By: Greenberg (Zaffirini)
Human Services
5/13/1999
Engrossed

DIGEST

Persons in need of mental health services can often find themselves in vulnerable positions that may impair their ability to think clearly or use sound judgment. In some cases, the situation calls for intervention from a mental health care professional. The duty of the mental health services provider is to guide the patient or client (patient) to appropriate medical or mental assistance and to discourage ongoing dependence on the mental health care professional. However, because of the imbalance of power inherent in the provider and patient relationship, a patient can be vulnerable to sexual exploitation by the professional in whom the patient has placed his or her trust. The relationship between the special officer for a mental health assignment and the patient is not covered in the Civil Practice and Remedies Code. H.B. 3479 provides certain mental health patients protection against sexual exploitation by the health care providers in whom they place their trust by expanding the definitions of mental health services provider and patient. This bill also waives the governmental immunity for a governmental unit that employs mental health services providers and allows an individual to sue the governmental unit for damages, with certain provided limitations.

PURPOSE

As proposed, H.B. 3479 would establish provisions regarding the liability for sexual exploitation by mental health service providers who are officers or employees or governmental units.

RULEMAKING AUTHORITY

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

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Sections 81.001(2) and (3), Civil Practice and Remedies Code, to redefine "mental health services provider" and "patient."

SECTION 2. Amends Chapter 81, Civil Practice and Remedies Code, by adding Section 81.010, as follows:

Sec. 81.010. WAIVER OF GOVERNMENTAL IMMUNITY; PERMISSION TO SUE. Defines "governmental unit." Provides that a governmental unit that is an employer of a mental health services provider, including a special officer for mental health assignment, is liable under this chapter to the same extent as another employer of a mental health services provider. Provides that the liability of a governmental unit under this chapter is limited to money damages in the maximum amounts established under Section 101.023, Civil Practice and Remedies Code. Provides that governmental immunity to suit is waived and abolished to the extent of the liability created by this section. Authorizes a person having a claim under this section to sue a governmental unit for damages allowed by this section. Provides that Subchapter D, Chapter 101, Civil Practice and Remedies Code, applies to a suit brought under this section.

SECTION 3. Effective date: September 1, 1999.

SECTION 4. Makes application of this Act prospective.

SECTION 5. Emergency clause.