

## **BILL ANALYSIS**

Senate Research Center  
81R2120 AJA-D

S.B. 74  
By: Nelson  
State Affairs  
3/23/2009  
As Filed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

During the 78th Legislature, Regular Session, 2003, malpractice reform was enacted (H.B. 4), which limits the liability of emergency care providers and requires jury instructions on malpractice suits involving emergency care to include the circumstances surrounding the emergency. Current liability protections cover individuals, including providers, who administer emergency care if the provider does not expect compensation for his or her services. This also applies to volunteer first responders. There are more stringent liability protections in place for physicians and other health care providers who administer care in hospital emergency departments.

As proposed, S.B. 74 provides that certain health care providers who respond appropriately and in good faith to administer emergency services during disasters are not liable in civil damages for an act or omission performed during the emergency if the act was also performed during the management of an incident that has resulted in a declaration of disaster, regardless of whether the care is provided for in expectation of remuneration.

### **RULEMAKING AUTHORITY**

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

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Subchapter D, Chapter 74, Civil Practice and Remedies Code, by adding Section 74.1511, as follows:

Sec. 74.1511. EMERGENCY CARE DURING DECLARED DISASTER. (a) Provides that, except as provided by Subsection (c), a physician or health care provider who in good faith administers emergency care in the course and scope of the physician's or provider's employment at the scene of an emergency or at a health care institution is not liable in civil damages for an act or omission performed during the emergency if the act was also performed during the management of an incident that has resulted in a declaration of disaster by a federal, state, or local official as authorized by a federal or state statute.

(b) Provides that this section applies regardless of whether the care is administered for or in expectation of remuneration.

(c) Provides that this section does not apply to an act or omission that is intentional, willfully negligent, or done with conscious indifference or reckless disregard for the safety of others.

SECTION 2. Makes application of this Act prospective.

SECTION 3. Effective date: upon passage or September 1, 2009.