

CHAPTER 201

H.B. No. 294

AN ACT

relating to the liability of certain governmental employees for acts or omissions in connection with inmate work programs and community service projects.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Section 8(f), Article 42.03, Code of Criminal Procedure, as added by Section 15.03, Chapter 10, Acts of the 72nd Legislature, 2nd Called Session, 1991, is redesignated as Section 8(g) and amended to read as follows:

(g) *An employee of the Texas Department of Criminal Justice, [~~f~~ A] sheriff, employee of a sheriff's department, county commissioner, county employee, county judge, employee of a community corrections and supervision department, restitution center, or officer or employee of a political subdivision other than a county is not liable for damages arising from an act or failure to act in connection with community service performed by an inmate pursuant to court order under this article or in connection with an inmate or offender programmatic or nonprogrammatic activity, including work, educational, and treatment activities, if the act or failure to act[;*

~~[(1) was performed pursuant to court order; and~~

~~[(2)] was not intentional, wilfully or wantonly negligent, or performed with conscious indifference or reckless disregard for the safety of others.~~

SECTION 2. Article 42.036(h), Code of Criminal Procedure, is amended to read as follows:

(h) *An employee of the Texas Department of Criminal Justice, [A] sheriff, employee of a sheriff's department, county commissioner, county employee, county judge, employee of a community corrections and supervision department, restitution center, or officer or employee of a political subdivision other than a county is not liable for damages arising from an act or failure to act in connection with community service performed by an inmate pursuant to court order under this article or in connection with an inmate or offender programmatic or nonprogrammatic activity, including work, educational, and treatment activities, if the act or failure to act[;*

~~[(1) was performed pursuant to court order; and~~

~~[(2)] was not intentional, wilfully or wantonly negligent, or performed with conscious indifference or reckless disregard for the safety of others.~~

SECTION 3. Section 17(e), Article 42.12, Code of Criminal Procedure, is amended to read as follows:

(e) *An employee of the Texas Department of Criminal Justice, [A] sheriff, employee of a sheriff's department, county commissioner, county employee, county judge, employee of a community corrections and supervision department, restitution center, or officer or employee of a political subdivision other than a county is not liable for damages arising from an act or failure to act in connection with community service performed by an inmate pursuant to court order under this article or in connection with an inmate or offender programmatic or nonprogrammatic activity, including work, educational, and treatment activities, if the act or failure to act:*

~~(1) was performed pursuant to court order; and~~

(2) was not intentional, wilfully or wantonly negligent, or performed with conscious indifference or reckless disregard for the safety of others.

SECTION 4. Article 42.12, Code of Criminal Procedure, is amended by adding Section 29 to read as follows:

Sec. 29. LIABILITY PROTECTIONS. An employee of the Texas Department of Criminal Justice, sheriff, employee of a sheriff's department, county commissioner, county employee, county judge, employee of a community corrections and supervision department, restitution center, or officer or employee of a political subdivision other than a county is not liable for damages arising from an act or failure to act in connection with community service performed by an inmate or releasee pursuant to a condition of release imposed by the board or the pardons and paroles division or in connection with an inmate or releasee programmatic or nonprogrammatic activity, including work, educational, and treatment activities, if the act or failure to act was not intentional, wilfully or wantonly negligent, or performed with conscious indifference or reckless disregard for the safety of others.

SECTION 5. Subchapter E, Chapter 497, Government Code, is amended by adding Section 497.096 to read as follows:

Sec. 497.096. LIABILITY PROTECTIONS. An employee of the Texas Department of Criminal Justice, sheriff, employee of a sheriff's department, county commissioner, county employee, county judge, employee of a community corrections and supervision department, restitution center, or officer or employee of a political subdivision other than a county is not liable for damages arising from an act or failure to act in connection with community service performed by an inmate pursuant to court order or in connection with an inmate or offender programmatic or nonprogrammatic activity, including work, educational, and treatment activities, if the act or failure to act was not intentional, wilfully or wantonly negligent, or performed with conscious indifference or reckless disregard for the safety of others.

SECTION 6. Section 142.004(a), Human Resources Code, is amended to read as follows:

(a) A juvenile probation officer or an employee of a juvenile probation community service restitution program is not liable for damages arising from an act or failure to act in connection with manual labor performed by a child who has been *placed on informal adjustment or who has been adjudicated a delinquent child or a child in need of supervision and the labor was performed as a condition to probation ordered under Section 54.04(d)(1), Family Code, and the act or failure to act was not intentional, wilfully or wantonly negligent, or performed with conscious indifference or reckless disregard for the safety of others.*

SECTION 7. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

Passed by the House on March 16, 1993, by a non-record vote; the House concurred in Senate amendments to H.B. No. 294 on May 10, 1993, by a non-record vote; passed by the Senate, with amendments, on May 7, 1993: Yeas 30, Nays 0.

Approved May 19, 1993.

Effective Aug. 30, 1993, 90 days after date of adjournment.