

BILL ANALYSIS

Senate Research Center
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S.B. 1401
By: Ellis
State Affairs
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As Filed

AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

The law on immunity for emergency care prior to the passage of H.B. 4, 78th Legislature, Regular Session, 2003, under Section 74.151, said that a physician or health care provider is liable if the individual acted with "willful or wanton negligence." H.B. 4 changed that provision to read that the provider acted with "willful and wanton negligence." As proposed, S.B. 1401 addresses the problem of emergency care centers that hold themselves out to fix certain problems but are then not subject to liability.

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 Section 74.153, Civil Practice and Remedies Code, as follows:

Sec. 17.153. STANDARD OF PROOF IN CASES INVOLVING EMERGENCY MEDICAL CARE. (a) Creates subsection from existing text. Provides that a claimant bringing a suit may prove that the treatment or lack of treatment by a physician or healthcare provider departed from accepted standards of care only if the claimant shows that the physician or health care provider acted with willful or wanton negligence, rather than with willful and wanton negligence.

(b) Provides that the standard of proof in Subsection (a) does not apply to claims against any individual or entity described by Section 74.151(b) or (e) who is regularly in the business of providing emergency medical care.

SECTION 2. Makes application of this Act prospective.

SECTION 3. Effective date: September 1, 2005.