

## **BILL ANALYSIS**

Senate Research Center

C.S.S.B. 468

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State Affairs

3/14/2007

Committee Report (Substituted)

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

Current law provides that the negligence standard for emergency care providers is gross negligence, whereby an injured patient must show that the physician or health care provider intended to harm the patient with a conscious indifference and malice. Gross negligence places a burden on injured patients and grants favored status, special privileges, and immunities to physicians and health care providers. Low-income Texans who rely on emergency rooms as primary health care facilities are particularly burdened by that standard.

C.S.S.B. 468 restores Texas' law to an ordinary negligence standard with regard to emergency room physicians and health care providers, holding those individuals and organizations to the same standard of care as other physicians and providers.

### **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 Practices and Remedies Code, as follows:

Sec.74.153. STANDARD PROOF IN CASES INVOLVING EMERGENCY MEDICAL CARE. Authorizes a claimant, in a suit involving a claim regarding emergency care, to prove that the physician or health care provider departed from accepted standards of care only if the claimant shows by clear and convincing evidence, rather than a preponderance of the evidence, that the physician or health care provider deviated from the degree of care and skill that is reasonably expected. Deletes existing text requiring that the deviation be made with wilful and wanton negligence.

SECTION 2. Makes application of this Act prospective.

SECTION 3. Effective date: September 1, 2007.