

BILL ANALYSIS

Senate Research Center
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S.B. 1119
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State Affairs
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As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

H.B. 4, 78th Legislature, Regular Session, 2003, amended the Civil Practice and Remedies Code, placing caps on non-economic damages in medical lawsuits. The legislation explicitly stated that caps did not apply to claims for damages for necessary medical, hospital, or custodial care received before the judgment or for future medical or health expenses.

Courts have experienced difficulty in determining how the "paid or incurred" standard in Section 41.0105 (Evidence Relating to Amount of Economic Damages) affects a plaintiff's rights to medical expense damages. Further complications arise in understanding the section's impact on the long-standing collateral sources rule, which does not credit third-party benefits received by the plaintiff to the wrongdoer.

As proposed, S.B. 1119 clarifies the legislature's intent by stating that Section 41.0105 applies only to health care liability claims under Chapter 74 (Medical Liability). S.B. 1119 also provides that Section 41.0105 does not apply to future claims for medical or health care expenses.

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 41.0105, Civil Practice and Remedies Code, as follows:

Sec. 41.0105. EVIDENCE RELATING TO AMOUNT OF ECONOMIC DAMAGES.

(a) Creates this subsection from existing text.

(b) Provides that this section applies only to a health care liability claim under Chapter 74 (Medical Liability).

(c) Provides that this section does not apply to a claim for future medical or health care expenses.

SECTION 2. Makes application of this Act prospective.

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