

BILL ANALYSIS

S.B. 679
By: Duncan
Judiciary & Civil Jurisprudence
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Interested parties assert that because statutory provisions regarding affidavits concerning cost and necessity of services are unclear and inconsistent with Texas Rules of Evidence, practitioners often file medical records and medical billing information with the court prior to trial. The parties contend that the filing of such records and information, which contain highly sensitive information and are often voluminous in nature, raises confidentiality concerns and overwhelms the court with unnecessary paperwork and filing. In addition, there is concern that the current expense affidavit is insufficient to prove medical expenses in light of a recent Texas Supreme Court decision, which held that damages for medical expenses are only those medical expenses that are actually paid or to which the provider has a legal right to be paid. S.B. 679 seeks to address these issues and to clarify current law relating to certain records and supporting affidavits filed as evidence in certain actions.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the Texas Supreme Court in SECTION 3 of this bill.

ANALYSIS

S.B. 679 amends the Civil Practice and Remedies Code to clarify, for purposes of a civil action other than an action on a sworn account, that unless a controverting affidavit is served, rather than filed, an affidavit that the amount a person charged for a service was reasonable at the time and place that the service was provided and that the service was necessary is sufficient to support a finding of fact by judge or jury that the amount charged was reasonable or that the service was necessary. The bill establishes that, except as provided by the Texas Rules of Evidence, the records attached to such an affidavit are not required to be filed with the clerk of the court before the trial commences. The bill establishes that an affidavit concerning proof of medical expenses is sufficient if it substantially complies with a specified form provided by the bill and that, if a medical bill or other itemized statement attached to such an affidavit reflects a charge that is not recoverable, the reference to that charge is not admissible.

S.B. 679 requires the Texas Supreme Court, as soon as practicable after the bill's effective date, to amend Rule 902(10), Texas Rules of Evidence, to provide that medical records and medical billing information otherwise attached to an affidavit made for the purposes of that rule and served with the affidavit on the other parties to the relevant action are not required to be filed with the clerk of the court before the trial commences.

EFFECTIVE DATE

September 1, 2013.