

By: Duncan

S.B. No. 679

A BILL TO BE ENTITLED

AN ACT

relating to certain records and supporting affidavits filed as evidence in certain actions.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subsections (b) and (d), Section 18.001, Civil Practice and Remedies Code, are amended to read as follows:

(b) Unless a controverting affidavit is served [~~filed~~] as provided by this section, 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 evidence to support a finding of fact by judge or jury that the amount charged was reasonable or that the service was necessary.

(d) The party offering the affidavit in evidence or the party's attorney must serve a copy of the affidavit on each other party to the case at least 30 days before the day on which evidence is first presented at the trial of the case. Except as provided by the Texas Rules of Evidence, the records attached to the affidavit are not required to be filed with the clerk of the court before the trial commences.

SECTION 2. Section 18.002, Civil Practice and Remedies Code, is amended by adding Subsections (b-1) and (b-2) to read as follows:

(b-1) Notwithstanding Subsection (b), an affidavit

1 concerning proof of medical expenses is sufficient if it
2 substantially complies with the following form:

3 Affidavit of Records Custodian of

4 _____

5 STATE OF TEXAS §

6 §

7 COUNTY OF _____ §

8 Before me, the undersigned authority, personally appeared
9 _____ , who, being by me duly sworn, deposed as follows:

10 My name is _____ . I am of
11 sound mind and capable of making this affidavit, and personally
12 acquainted with the facts herein stated.

13 I am a custodian of records for _____ . Attached to this
14 affidavit are records that provide an itemized statement of the
15 service and the charge for the service that _____ provided to
16 _____ on ____ . The attached records are a part of this
17 affidavit.

18 The attached records are kept by _____ in the regular
19 course of business, and it was the regular course of business of
20 _____ for an employee or representative of _____ , with
21 knowledge of the service provided, to make the record or to transmit
22 information to be included in the record. The records were made in
23 the regular course of business at or near the time or reasonably
24 soon after the time the service was provided. The records are the
25 original or a duplicate of the original.

26 The services provided were necessary and the amount charged
27 for the services was reasonable at the time and place that the

1 services were provided.

2 The total amount paid for the services was \$_____ and the
3 amount currently unpaid but which _____ has a right to be paid
4 after any adjustments or credits is \$_____.

5 _____
6 Affiant

7 SWORN TO AND SUBSCRIBED before me on the _____ day of _____,
8 _____.

9 _____
10 Notary Public, State of Texas

11 Notary's printed name:_____

12 My commission expires:_____

13 (b-2) If a medical bill or other itemized statement attached
14 to an affidavit under Subsection (b-1) reflects a charge that is not
15 recoverable, the reference to that charge is not admissible.

16 SECTION 3. As soon as practicable after the effective date
17 of this Act, the Texas Supreme Court shall amend Rule 902(10), Texas
18 Rules of Evidence, to provide that medical records and medical
19 billing information otherwise attached to an affidavit made for the
20 purposes of that rule and served with the affidavit on the other
21 parties to the relevant action are not required to be filed with the
22 clerk of the court before the trial commences.

23 SECTION 4. The change in law made by this Act applies only
24 to an action commenced on or after the effective date of this Act.
25 An action commenced before the effective date of this Act is
26 governed by the law applicable to the action immediately before the
27 effective date of this Act, and that law is continued in effect for

1 that purpose.

2 SECTION 5. This Act takes effect September 1, 2013.