

BILL ANALYSIS

C.S.H.B. 1403
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Judiciary & Civil Jurisprudence
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties report that a recent Texas court case held that a health care liability claim could include an employee's claim against an employer for a workplace injury, but the claimant's case was dismissed for the claimant's failure to provide an expert report in a health care liability claim. Some parties contend that the state Medical Liability and Insurance Improvement Act did not intend to classify a claim by an employee against an employer as a health care liability claim. C.S.H.B. 1403 seeks to clarify this issue.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 1403 amends the Civil Practice and Remedies Code to specify that the term "health care liability claim," as defined in statutory provisions governing medical liability, does not include certain causes of action under the Texas Workers' Compensation Act against an employer by an employee or the employee's surviving spouse or heir to recover damages for personal injuries or death sustained by an employee in the course and scope of the employment or to recover exemplary damages for death caused by an intentional act or omission of the employer or by the employer's gross negligence.

C.S.H.B. 1403 requires an expert report served by a claimant in a health care liability claim on each defendant or the defendant's attorney to address at least one theory of direct liability asserted against each physician or health care provider against whom a theory of direct liability is asserted.

EFFECTIVE DATE

September 1, 2015.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 1403 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

SECTION 1. Section 74.001(a)(13), Civil Practice and Remedies Code, is amended.

No equivalent provision.

SECTION 2. The change in law made by this Act applies only to a cause of action that accrues on or after the effective date of this Act. A cause of action that accrues before the effective date of this Act is governed by the law applicable to the cause of action immediately before the effective date of this Act, and that law is continued in effect for that purpose.

SECTION 3. This Act takes effect September 1, 2015.

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Same as introduced version.

SECTION 2. Section 74.351(a), Civil Practice and Remedies Code, is amended to read as follows:

(a) In a health care liability claim, a claimant shall, not later than the 120th day after the date each defendant's original answer is filed, serve on that party or the party's attorney one or more expert reports, with a curriculum vitae of each expert listed in the report for each physician or health care provider against whom a liability claim is asserted. The report must address at least one theory of direct liability asserted against each physician or health care provider against whom a theory of direct liability is asserted. The date for serving the report may be extended by written agreement of the affected parties. Each defendant physician or health care provider whose conduct is implicated in a report must file and serve any objection to the sufficiency of the report not later than the later of the 21st day after the date the report is served or the 21st day after the date the defendant's answer is filed, failing which all objections are waived.

SECTION 3. Same as introduced version.

SECTION 4. Same as introduced version.