

BILL ANALYSIS

Senate Research Center
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S.B. 207
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

If an injured person succeeds in the civil justice system in proving that another person's wrongful conduct caused the injurious event, the victim is entitled to recover medical expenses paid or incurred in the past, and in reasonable probability will be incurred in the future, to treat the injury. Given the complex nature of medical billing and payment, current law does not adequately provide for how such medical damages should be determined by the jury.

Current law as interpreted by the Texas Supreme Court provides that a jury should hear about the amount actually paid for medical services by a third party (such as an insurer), not the amount billed by the provider. However, if no third party has paid, often only the provider's billed charges are presented. Weaknesses in current law have created an environment where plaintiff's lawyers will sometimes work with cooperative healthcare providers who over-diagnose, over-treat and overbill for the services they provide the plaintiff, turning medical bills into a litigation profit center by avoiding compliance with the "paid or incurred" statute.

S.B. 207 addresses the presentation of past and future medical evidence at trial by proposing to amend the "paid or incurred" statute.

As proposed, S.B. 207 amends current law relating to recovery of medical or health care expenses in civil actions.

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 and makes no further changes.

(b) Authorizes a party in an action in which a claimant seeks recovery of medical or health care expenses, subject to Subsection (a) (relating to providing that recovery of medical or health care expenses incurred is limited to certain amounts), to introduce evidence of the reasonableness of the amount charged for medical or health care services provided to the claimant, including:

(1) the amount actually paid for the medical or health care services provided to the claimant, unless there is a formal or informal agreement that the medical or health care provider will wholly or partly refund, rebate, or remit the amount paid to the payer or another person, in which case the amount actually paid is not admissible in evidence;

(2) the amount billed by the medical or health care provider for the medical or health care services provided to the claimant;

(3) the amount paid, the amount that would have been paid, or the amount likely to be paid for the medical or health care services provided to the claimant by a health benefit plan, workers' compensation insurance, an employer-provided plan, Medicaid, Medicare, or another similar source available to pay for services provided to the claimant at the time the services were provided or available to pay for the services after the services were provided, as applicable;

(4) the average amount typically paid or allowed by health benefit plan issuers or governmental payers at or near the time the medical or health care services were provided to the claimant to medical or health care providers who:

(A) are located in the same geographic area as the medical or health care provider who provided the services to the claimant; and

(B) offer the same type of medical or health care services as the services provided to the claimant; or

(5) the average of the amounts actually accepted for payment in the previous 12 months by the medical or health care provider who provided medical or health care services to the claimant for the same services provided to patients other than the claimant.

SECTION 2. Makes application of Section 41.0105, Civil Practice and Remedies Code, as amended by this Act, prospective.

SECTION 3. Effective date: September 1, 2021.