

BILL ANALYSIS

H.B. 3058
By: Johnson, Ann
Judiciary & Civil Jurisprudence
Committee Report (Unamended)

BACKGROUND AND PURPOSE

There is some confusion surrounding the liability of a physician engaged in a physician-patient relationship who is providing a medically necessary service. H.B. 3058 seeks to address this issue by clarifying that if a physician performs a medically necessary service for a patient with whom the physician has a physician-patient relationship and for which the patient has given informed consent in compliance with current state law, the physician may not be held liable solely for performing the service. Nothing in the legislation exempts a physician from liability for negligence or gross negligence, provided that the other requirements of the law with respect to health care liability claims are satisfied.

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

H.B. 3058 amends the Civil Practice and Remedies Code to exempt a physician engaged in a physician-patient relationship from liability in a proceeding conducted under state laws solely for providing medically necessary services to the patient if the physician complies with informed consent laws and the patient consents to the services.

H.B. 3058 defines "medically necessary" as medical services that are supported by documentation which show the services are:

- reasonable and necessary to prevent illness, medical, or dental conditions, or provide early screening, interventions, or treatments for conditions that cause suffering or pain, cause physical deformity or limitations in function, threaten to cause or worsen a disability, cause illness or infirmity of a patient, or endanger the patient's life;
- consistent with health care practice guidelines and standards that are issued by professionally recognized health care organizations or governmental agencies;
- consistent with the diagnoses of the conditions;
- no more intrusive or restrictive than necessary to provide a proper balance of safety, effectiveness, and efficiency;
- not experimental or investigative; and
- not primarily for the convenience of the physician or patient engaged in a physician-patient relationship.

The bill also defines "physician-patient relationship" for the purposes of these provisions as a consensual relationship that exists because of a contract, express or implied, that the physician will treat the patient with proper professional skill.

EFFECTIVE DATE

September 1, 2023.