

BILL ANALYSIS

Senate Research Center

C.S.H.B. 3058
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State Affairs
5/18/2023
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

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.

Committee Substitute

The committee substitute provides an affirmative defense for physicians or medical providers attending to a pregnant woman who is experiencing serious pregnancy complications.

The bill specifically expressly identifies the medical situations of ectopic pregnancies at any location and previable premature rupture of membranes where the affirmative defense may be asserted.

The intent of this bill is to ensure that pregnant women who are experiencing complications receive the medical treatment they need in a timely manner.

C.S.H.B. 3058 amends current law relating to the provision of certain medical treatment to a pregnant woman by a physician or health care provider.

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 Chapter 74, Civil Practice and Remedies Code, by adding Subchapter L, as follows:

SUBCHAPTER L. ACTIONS ARISING FROM PREGNANCY COMPLICATIONS

Sec. 74.551. APPLICATION. Provides that an action to which Section 74.552 applies is a health care liability claim for purposes of Chapter 74 (Medical Liability) and is subject to the same requirements as any other health care liability claim.

Sec. 74.552. AFFIRMATIVE DEFENSE IN CERTAIN ACTIONS ARISING FROM CERTAIN PREGNANCY COMPLICATIONS. (a) Provides that it is an affirmative defense to liability in a civil action brought against a physician or health care provider for a violation of Section 170A.002 (Prohibited Abortion; Exceptions), Health and Safety Code, including an action to recover a civil penalty under Section 170A.005 (Civil Penalty), Health and Safety Code, that the physician or health care provider exercised reasonable medical judgment in providing medical treatment to a pregnant woman in response to:

(1) an ectopic pregnancy at any location; or

(2) a previable premature rupture of membranes.

(b) Provides that a pharmacist or pharmacy that receives, processes, or dispenses a prescription drug or medication order written by a physician or health care provider to whom Subsection (a) applies is entitled to the affirmative defense provided by Subsection (a).

(c) Provides that this section does not create a civil cause of action.

SECTION 2. Amends Section 164.055, Occupations Code, by adding Subsection (c), as follows:

(c) Prohibits the Texas Medical Board (TMB), notwithstanding Subsection (a) (relating to requiring TMB to take disciplinary action against a physician who violates certain sections), from taking disciplinary action against a physician who exercised reasonable medical judgment in providing medical treatment to a pregnant woman as described by Section 74.552, Civil Practice and Remedies Code.

SECTION 3. Amends Subchapter C, Chapter 9, Penal Code, by adding Section 9.35, as follows:

Sec. 9.35. CERTAIN MEDICAL TREATMENT PROVIDED TO PREGNANT WOMAN. Provides that a physician or health care provider is justified in exercising reasonable medical judgment in providing medical treatment to a pregnant woman as described by Section 74.552, Civil Practice and Remedies Code.

SECTION 4. Effective date: September 1, 2023.