

SENATE AMENDMENTS

2nd Printing

By: A. Johnson of Harris, Leach, Slawson

H.B. No. 3058

A BILL TO BE ENTITLED

AN ACT

relating to the operation of the physician-patient relationship
with respect to certain medically necessary services.

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

SECTION 1. Chapter 74, Civil Practice and Remedies Code, is
amended by adding Subchapter L to read as follows:

SUBCHAPTER L. MEDICALLY NECESSARY SERVICES

Sec. 74.551. DEFINITIONS. In this subchapter:

(1) "Medically necessary" means medical services that
are supported by documentation which show the services are:

(A) 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;

(B) consistent with health care practice
guidelines and standards that are issued by professionally
recognized health care organizations or governmental agencies;

(C) consistent with the diagnoses of the
conditions;

(D) no more intrusive or restrictive than
necessary to provide a proper balance of safety, effectiveness, and
efficiency;

1 (E) not experimental or investigative; and

2 (F) not primarily for the convenience of the
3 physician or patient engaged in a physician-patient relationship.

4 (2) "Physician-patient relationship" means a
5 consensual relationship that exists because of a contract, express
6 or implied, that the physician will treat the patient with proper
7 professional skill.

8 Sec. 74.552. EFFECT OF PATIENT CONSENT TO MEDICALLY
9 NECESSARY SERVICES. For purposes of this chapter or any other law,
10 a physician engaged in a physician-patient relationship is not
11 liable in a proceeding conducted under the laws of this state solely
12 for providing medically necessary services to the patient if the
13 physician complies with Subchapter C and the patient consents to
14 the services.

15 SECTION 2. This Act takes effect September 1, 2023.

By: Bryan Hughes

H.B. No. 3058

Substitute the following for H.B. No. 3058

By: Bryan Hughes

ADOPTED

C.S. H.B. No. 3058
MAY 24 2023

Lacey Spaw
Secretary of the Senate

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the provision of certain medical treatment to a
3 pregnant woman by a physician or health care provider.

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

5 SECTION 1. Chapter 74, Civil Practice and Remedies Code, is
6 amended by adding Subchapter L to read as follows:

7 SUBCHAPTER L. ACTIONS ARISING FROM PREGNANCY COMPLICATIONS

8 Sec. 74.551. APPLICATION. An action to which Section 74.552
9 applies is a health care liability claim for purposes of this
10 chapter and is subject to the same requirements as any other
11 health care liability claim.

12 Sec. 74.552. AFFIRMATIVE DEFENSE IN CERTAIN ACTIONS ARISING
13 FROM CERTAIN PREGNANCY COMPLICATIONS. (a) It is an affirmative
14 defense to liability in a civil action brought against a physician
15 or health care provider for a violation of Section 170A.002, Health
16 and Safety Code, including an action to recover a civil penalty
17 under Section 170A.005, Health and Safety Code, that the physician
18 or health care provider exercised reasonable medical judgment in
19 providing medical treatment to a pregnant woman in response to:

20 (1) an ectopic pregnancy at any location; or

21 (2) a previable premature rupture of membranes.

22 (b) A pharmacist or pharmacy that receives, processes, or
23 dispenses a prescription drug or medication order written by a
24 physician or health care provider to whom Subsection (a) applies

1 is entitled to the affirmative defense provided by Subsection (a).

2 (c) This section does not create a civil cause of action.

3 SECTION 2. Section 164.055, Occupations Code, is amended by
4 adding Subsection (c) to read as follows:

5 (c) Notwithstanding Subsection (a), the board may not take
6 disciplinary action against a physician who exercised reasonable
7 medical judgment in providing medical treatment to a pregnant woman
8 as described by Section 74.552, Civil Practice and Remedies Code.

9 SECTION 3. Subchapter C, Chapter 9, Penal Code, is amended by
10 adding Section 9.35 to read as follows:

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

16 SECTION 4. This Act takes effect September 1, 2023.

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 88TH LEGISLATIVE REGULAR SESSION

May 25, 2023

TO: Honorable Dade Phelan, Speaker of the House, House of Representatives

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB3058 by Johnson, Ann (Relating to the provision of certain medical treatment to a pregnant woman by a physician or health care provider.), **As Passed 2nd House**

No significant fiscal implication to the State is anticipated.

It is assumed that any costs associated with the bill could be absorbed using existing resources.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 529 Health and Human Services Commission

LBB Staff: JMc, SD, SMAT, JPa

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 88TH LEGISLATIVE REGULAR SESSION

May 19, 2023

TO: Honorable Bryan Hughes, Chair, Senate Committee on State Affairs

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB3058 by Johnson, Ann (relating to the provision of certain medical treatment to a pregnant woman by a physician or health care provider.), **Committee Report 2nd House, Substituted**

No significant fiscal implication to the State is anticipated.

It is assumed that any costs associated with the bill could be absorbed using existing resources.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 529 Health and Human Services Commission

LBB Staff: JMc, SMAT, JPa

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 88TH LEGISLATIVE REGULAR SESSION

May 19, 2023

TO: Honorable Bryan Hughes, Chair, Senate Committee on State Affairs

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB3058 by Johnson, Ann (Relating to the operation of the physician-patient relationship with respect to certain medically necessary services.), **As Engrossed**

No significant fiscal implication to the State is anticipated.

It is assumed that any costs associated with the bill could be absorbed using existing resources.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 529 Health and Human Services Commission

LBB Staff: JMc, SMAT, KDw, PBO

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 88TH LEGISLATIVE REGULAR SESSION

April 22, 2023

TO: Honorable Jeff Leach, Chair, House Committee on Judiciary & Civil Jurisprudence

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB3058 by Johnson, Ann (Relating to the operation of the physician-patient relationship with respect to certain medically necessary services.), **As Introduced**

No significant fiscal implication to the State is anticipated.

It is assumed that any costs associated with the bill could be absorbed using existing resources.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 529 Health and Human Services Commission

LBB Staff: JMc, KDw, PBO