

**House Bill 3058**  
Senate Amendments  
Section-by-Section Analysis

HOUSE VERSION

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;

(E) not experimental or investigative; and

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

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

Sec. 74.552. EFFECT OF PATIENT CONSENT TO MEDICALLY NECESSARY SERVICES. For purposes of this chapter or any other law, a physician engaged in a physician-patient relationship is not liable in a proceeding conducted under the laws of this state solely for providing

SENATE VERSION (CS)

No equivalent provision.

CONFERENCE

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medically necessary services to the patient if the physician complies with Subchapter C and the patient consents to the services.

No equivalent provision.

SENATE VERSION (CS)

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

SUBCHAPTER L. ACTIONS ARISING FROM PREGNANCY COMPLICATIONS

Sec. 74.551. APPLICATION. An action to which Section 74.552 applies is a health care liability claim for purposes of this chapter 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) 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, Health and Safety Code, including an action to recover a civil penalty under Section 170A.005, 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) 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) This section does not create a civil cause of action.

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No equivalent provision.

No equivalent provision.

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

SENATE VERSION (CS)

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

(c) Notwithstanding Subsection (a), the board may not take 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. Subchapter C, Chapter 9, Penal Code, is amended by adding Section 9.35 to read as follows:

Sec. 9.35. CERTAIN MEDICAL TREATMENT PROVIDED TO PREGNANT WOMAN. 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. Same as House version.

CONFERENCE