**BILL ANALYSIS**

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| Senate Research Center | S.B. 1188 |
| 89R6209 EAS-F | By: Kolkhorst |
|  | Health & Human Services |
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|  | As Filed |

**AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Medical records provide vital patient information to healthcare providers, informing patient care. Therefore, it is imperative that these records are secure, accessible to relevant patient parties, accurate, and used for their intended purpose.

Currently, some medical record systems automatically remove parental access from their child's medical record, only allowing "proxy" access if the child subsequently grants it. Not only do parents need to understand and be up to date on their child's medical history as legal guardians, but children also may not fully understand their own medical record and require assistance. Furthermore, though the development of artificial intelligence can prove helpful in the medical field, it should not replace the role of the physician with regard to medical records.

Additionally, in order to ensure accuracy and allow doctors to make informed, personalized decisions regarding patient care, medical records must include vital information such as a patient's biological sex at birth. Biological sex informs medical care decisions with regard to the anatomy of organ systems, disease prevalence, drug and toxin tolerance, and other relevant factors for determining care.

Lastly, medical records also have recently been used for voter registration purposes and for entities to determine credit score reports. Medical records should be used for their intended purpose—communication between providers and patients—rather than as a financial or social engineering tool.

S.B. 1188 seeks to address these issues, as well as improve patient care by adding a place for doctors to address metabolic health and other root-causes of health issues.

As proposed, S.B. 1188 amends current law relating to electronic health record requirements.

**RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the Health and Human Services Commission in SECTION 1 (Section 183.010, Health and Safety Code) of this bill.

Rulemaking authority is expressly granted to the Texas Medical Board in SECTION 1 (Section 183.010, Health and Safety Code) of this bill.

Rulemaking authority is expressly granted to the Texas Department of Insurance in SECTION 1 (Section 183.010, Health and Safety Code) of this bill.

**SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Subtitle I, Title 2, Health and Safety Code, by adding Chapter 183, as follows:

CHAPTER 183. ELECTRONIC HEALTH RECORDS

Sec. 183.001. DEFINITIONS. Defines "biological sex," "female," "governmental entity," "health care practitioner," "male," "medical facility," and "sexual development disorder."

Sec. 183.002. REQUIREMENTS FOR ELECTRONIC HEALTH RECORD STORAGE. (a) Requires each medical facility, health care practitioner, and governmental entity to store all electronic health record information of residents of this state only at a location in the United States.

(b) Requires each medical facility, health care practitioner, and governmental entity to ensure electronic health record information of residents of this state, other than open data, is inaccessible to any person located outside of the United States.

Sec. 183.003. REQUIRED MEDICAL HISTORY INFORMATION IN ELECTRONIC HEALTH RECORD. Requires a medical facility, health care practitioner, or governmental entity to ensure each electronic health record maintained for an individual includes the individual's medical history and any communications between the practitioner and a specialty health care practitioner related to the individual's metabolic health and diet in the treatment of a chronic disease or illness.

Sec. 183.004. INFORMATION RESTRICTIONS IN ELECTRONIC HEALTH RECORD. Prohibits a medical facility, health care practitioner, or governmental entity from collecting or storing any information regarding an individual's credit score or voter registration status in the individual's electronic health record.

Sec. 183.005. ARTIFICIAL INTELLIGENCE IN ELECTRONIC HEALTH RECORD. Requires a health care practitioner who uses artificial intelligence for diagnostic or other purposes, including the use of artificial intelligence for recommendations on a diagnosis or course of treatment based on a patient's medical record, to review all information obtained through the artificial intelligence process to ensure the accuracy of the information for that patient before entering the information in the patient's electronic health record.

Sec. 183.006. ACCESS TO ELECTRONIC HEALTH RECORD OF MINOR. (a) Defines "minor."

(b) Requires a medical facility, health care practitioner, or governmental entity to ensure each electronic health record system the facility, practitioner, or entity uses to store electronic health records of minors automatically allows a minor's parent, guardian, or conservator to fully access the minor's electronic health record unless access to all or a portion of the record is restricted under state or federal law or by a court order.

Sec. 183.007. ELECTRONIC HEALTH RECORD REQUIREMENTS REGARDING BIOLOGICAL SEX. (a) Requires the Health and Human Services Commission (HHSC), the Texas Medical Board (TMB), and the Texas Department of Insurance (TDI) to jointly ensure that:

(1) each electronic health record prepared or maintained by a medical facility, health care practitioner, or governmental entity in this state includes a separate space for the health care practitioner to document:

(A) an individual's biological sex as either male or female based on the individual's observed biological sex recorded by a health care practitioner at birth; and

(B) information on any sexual development disorder of the individual, whether identified at birth or later in the individual's life; and

(2) any algorithm or decision assistance tool included in an electronic health record to assist a health care practitioner in making medical treatment decisions is based on an individual's biological sex as recorded in the space described by Subdivision (1)(A).

(b) Provides that this section does not prohibit an electronic health record from including spaces for recording other information related to an individual's biological sex or gender identity.

Sec. 183.008. AMENDING CERTAIN BIOLOGICAL SEX INFORMATION IN ELECTRONIC HEALTH RECORDS. (a) Provides that a medical facility, health care practitioner, or governmental entity is authorized to amend on an electronic health record an individual's biological sex as recorded in the space described by Section 183.007(a)(1)(A) only if:

(1) the amendment is to correct a clerical error; or

(2) the individual is diagnosed with a sexual development disorder and the amendment changes the individual's listed biological sex to the opposite biological sex.

(b) Requires the medical facility, health care practitioner, or governmental entity, if an individual's biological sex is amended under Subsection (a)(2), to include in the individual's electronic health record information on the individual's sexual development disorder in the space described by Section 183.007(a)(1)(B).

Sec. 183.009. DISCIPLINARY ACTION BY LICENSING AGENCY; MEDICAID REIMBURSEMENT INELIGIBILITY. (a) Authorizes the appropriate state licensing agency to take disciplinary action against a medical facility or health care practitioner that violates this chapter as if the medical facility or health care practitioner violated an applicable licensing law.

(b) Prohibits HHSC from providing Medicaid reimbursement to a medical facility or health care practitioner that violates this chapter and requires HHSC to disenroll the medical facility or health care practitioner from participation as a Medicaid provider.

Sec. 183.010. RULES. Requires HHSC, TMB, and TDI to adopt rules as necessary to implement this chapter.

SECTION 2. (a) Makes application of Chapter 183, Health and Safety Code, as added by this Act, except as provided by Subsection (b) of this section, prospective.

(b) Provides that Section 183.002, Health and Safety Code, as added by this Act, applies to the storage of an electronic health record on or after January 1, 2026, regardless of the date on which the electronic health record was prepared.

SECTION 3. Effective date: September 1, 2025.