

BILL ANALYSIS

S.B. 1318
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Public Health
Committee Report (Unamended)

BACKGROUND AND PURPOSE

A physician non-compete clause is a restrictive section in an employment contract that prevents a doctor or other health care provider from practicing medicine within a defined area. The bill sponsor has informed the committee that physician non-compete clauses are often extremely broad, with clauses often restricting a physician from practicing medicine by placing large geographic boundaries around the current employer's business, which can be problematic if the physician entered into a non-compete with a large hospital network that spans over a large region. The bill sponsor has also informed the committee that while physicians may be offered the option to complete a buyout of the covenant, the buyout amounts can be significant or even exorbitant. S.B. 1318 seeks to establish guardrails for physician non-competes that protect patient access to care, reduce the legal ambiguity and burdens of litigation, safeguard the integrity and mobility of the health care workforce, and promote competition by providing for restrictions regarding physician non-compete clauses with respect to the covenant's buyout.

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

S.B. 1318 amends the Business & Commerce Code to establish that a covenant not to compete against a health care practitioner is not enforceable unless the covenant does the following:

- provides for a buyout of the covenant by the health care practitioner in an amount that is not greater than the practitioner's total annual salary and wages at the time of termination of the practitioner's contract or employment;
- expires not later than the one-year anniversary of the date the contract or employment has been terminated; and
- limits the geographical area subject to the covenant to no more than a five-mile radius from the location at which the physician primarily practiced before contract or employment terminated, as specified in the covenant.

The bill defines "health care practitioner" as a state-licensed dentist, professional or vocational nurse, or physician assistant.

S.B. 1318 revises the criteria for enforceability of a covenant not to compete for a physician as follows:

- changes the amount of a physician's buyout for which the covenant must provide from a reasonable price or, at the option of either party, as determined by a mutually agreed

upon arbitrator or an arbitrator of the court, as applicable, to an amount that is not greater than the physician's total annual salary and wages at the time of termination of the contract or employment;

- provides that the covenant must expire not later than the one-year anniversary of the date the contract or employment has been terminated; and
- provides that the covenant must limit the geographical area subject to the covenant to no more than a five-mile radius from the location at which the physician primarily practiced before contract or employment terminated, as specified in the covenant.

The bill establishes that for purposes of the criteria for enforceability of such a covenant, the practice of medicine does not include managing or directing medical services in an administrative capacity for a medical practice.

S.B. 1318 specifies that the criteria for enforceability of a covenant not to compete provided by the bill with respect to a state-licensed dentist, professional or vocational nurse, or physician assistant are exclusive and preempt other law, including common law. The bill applies only to a covenant not to compete entered into or renewed on or after the bill's effective date. A covenant not to compete entered into or renewed before the bill's effective date is governed by the law in effect on the date the covenant was entered into or renewed, and the former law is continued in effect for that purpose.

EFFECTIVE DATE

September 1, 2025.