

## **BILL ANALYSIS**

Senate Research Center

S.B. 1884  
By: Sibley  
Economic Development  
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As Filed

### **DIGEST**

Currently, the Health Care Liability Act, passed by the legislature in 1997, allows an individual to sue a health insurance carrier, health maintenance organization, or managed care entity for damages resulting from the entity's failure to exercise ordinary care when making a health care treatment decision. In addition, the Act requires that an insured or enrollee submit a claim to an independent review organization before maintaining an action under the Act if the review is requested by the managed care entity. Case law has held that the independent review mechanism contained in the legislation is preempted by federal law as it relates to certain employee benefit plans governed by the Employee Retirement Income Security Act of 1974. This bill would create a separate voluntary independent review mechanism within the Health Care Liability Act of 1997, that would apply only at the request of a managed care entity to an insured or enrollee as long as the entity agrees to comply with certain provisions relating to independent reviews.

### **PURPOSE**

As proposed, S.B. 1884 creates a separate voluntary independent review mechanism within the Health Care Liability Act of 1997, that would apply only at the request of a managed care entity to an insured or enrollee as long as the entity agrees to comply with certain provisions relating to independent reviews.

### **RULEMAKING AUTHORITY**

This bill does not grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 88.003, Civil Practice and Remedies Code, to require a review conducted under Subsection (c) as requested by a health insurance carrier, health maintenance organization, or managed care entity to be performed in accordance with Article 21.58C, Insurance Code. Requires the health insurance carrier, health maintenance organization, or managed care entity requesting the review to agree to comply with Subdivisions (2), (3) and (4) of Section 6A, Article 21.58A, Insurance Code. Makes conforming and nonsubstantive changes.

SECTION 2. Effective date: September 1, 1999.

SECTION 3. Makes application of this Act prospective.

SECTION 4. Emergency clause.