

BILL ANALYSIS

Senate Research Center
83R6378 AJA-F

S.B. 679
By: Duncan
State Affairs
3/21/2013
As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Due to an inconsistency and lack of clarity under Section 18.001 (Affidavit Concerning Cost and Necessity of Services), Civil Practice and Remedies Code, and Rule 902, Texas Rules of Evidence, practitioners often file medical records and medical billing information with the court prior to trial. Medical records and medical billing information contain highly sensitive information and are voluminous in nature. Thus, filing these records raise confidentiality concerns and overwhelm the court with unnecessary paperwork and filing.

Further, the current expense affidavit in Section 18.002 (Form of Affidavit), Civil Practice and Remedies Code, is insufficient to prove medical expenses in light of a recent Supreme Court of Texas decision, which held that damages for medical expenses are only those medical expenses that are actually paid or to which the provider has a legal right to be paid.

S.B. 679 clarifies that billing records are not required to be filed with the court under Section 18.001, Civil Practice and Remedies Code, and instructs the Supreme Court of Texas to amend Rule 902(10)(a), Texas Rules of Evidence, to provide that medical records and medical billing information attached to a business affidavit are not required to be filed with the court prior to trial. It also harmonizes the expense affidavit in Section 18.002, Civil Practice and Remedies Code, with the recently adopted affidavit under Rule 902(c), Texas Rules of Evidence, reflecting the supreme court's recent ruling.

As proposed, S.B. 679 amends current law relating to evidence in a civil action concerning the provision and cost of certain services.

RULEMAKING AUTHORITY

Rulemaking authority previously granted to the Supreme Court of Texas is restricted in SECTION 1 (Section 18.001, Civil Practice and Remedies Code) of this bill.

Rulemaking authority is expressly granted to the Supreme Court of Texas in SECTION 3 of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Sections 18.001(b) and (d), Civil Practice and Remedies Code, as follows:

(b) Provides that an affidavit that the amount a person charged for a service was reasonable at the time and place that the service was provided and that the service was necessary is sufficient evidence to support a finding of fact by judge or jury that the amount charged was reasonable or that the service was necessary, unless a controverting affidavit is served, rather than is filed, as provided by this section.

(d) Provides that the records attached to the affidavit are not required to be filed with the court before the trial commences. Prohibits the Supreme Court of Texas, notwithstanding Section 22.004 (Rules of Civil Procedure), Government Code, from amending or adopting a rule requiring the attached records to be filed with the court before the trial commences.

SECTION 2. Amends Section 18.002(b), Civil Practice and Remedies Code, as follows:

(b) Provides that an affidavit concerning cost and necessity of services by the person who is a custodian, rather than the person who is in charge, of records showing the service provided and the charge made is sufficient if it follows a certain form. Sets forth the required form of the affidavit.

SECTION 3. Requires the Supreme Court of Texas, as soon as practicable after the effective date of this Act, to amend Rule 902(10), Texas Rules of Evidence, to provide that medical records and medical billing information otherwise attached to an affidavit made for the purpose of that rule and served with the affidavit on the other parties to the relevant action are not required to be filed with the court before the trial commences.

SECTION 4. Makes application of the change in law made by this Act prospective.

SECTION 5. Effective date: September 1, 2013.