

SUBJECT: Recovery of damages for a person who pays an injured child's medical bills.

COMMITTEE: Civil Practices — favorable, without amendment

VOTE: 7 ayes — Bosse, Janek, Clark, Hope, Nixon, Smithee, Zbrank

0 nays

2 absent — Dutton, Martinez Fischer

WITNESSES: For — Rep. Craig Eiland

Against — None

BACKGROUND: Family Code, chapter 154, subchapter D requires parents to pay for their children's medical expenses as part of their support obligations. Civil Practice and Remedies Code, sec. 16.003 sets the statute of limitations for adults to bring a personal injury lawsuit at two years. Under Sec. 16.003, read together with Civil Practice and Remedies Code sec. 16.001, if a child younger than 18 sustains an injury, the two-year statute of limitations for bringing a personal injury suit does not start until the child's 18th birthday.

If parents incur expenses as a result of an injury to their child, they may sue to recover the expenses. A parent has two years to bring such a suit. A child may sue for his or her own injuries up to two years after turning 18. The child cannot, however, recover damages for the medical expenses incurred by the parent, since those expenses were not incurred by the child.

DIGEST: HB 1515 would permit a parent, managing conservator, or guardian (collectively, "the parent") of a child who was responsible for paying the child's medical expenses to join a suit brought by the child after the child reached age 18 to recover those medical expenses, regardless of whether the statute of limitations for the parent's own suit had expired. The parent could join the suit if the child was under 18 at the time the cause of action accrued. The bill would allow the parent to recover in the parent's own name even if the statute of limitations on the parent's own cause of action had expired, provided the parent had not recovered damages for those expenses in a previous suit.

The bill would take effect September 1, 2001, and would apply only to causes of action brought after the effective date. The current law would remain in effect to govern actions filed before the bill became effective.

**SUPPORTERS
SAY:**

HB 1515 would help eliminate legal confusion about when parents must sue to recover their child's medical expenses. At issue is whether parents must sue within their own two-year statute of limitations, which runs from the date of the child's injury, or whether they can wait and join a suit brought by the child after the child turns 18, even if the child's suit is brought after the parent's statute of limitations has run. The bill would clarify that as long as the parent had not previously recovered damages, the parent could join the child's suit.

HB 1515 also would prevent a child from being penalized if the parent failed to pay the children's medical bills and then missed the deadline for suing the injuring party within the parent's two-year statute of limitations. When a young person sues after turning 18 for an injury incurred as a minor, medical providers can seek to collect unpaid medical expenses from any recovery the young person receives through that suit. This is problematic because the newly emancipated child on his or her own cannot seek recovery of the medical expenses since the child was not responsible for paying the expenses. Thus, expenses that should have been paid by the parent or through the parent's lawsuit end up being deducted from the child's damages for pain and suffering, disfigurement, and the like.

Further, this bill would prevent the parent from having to bring a separate claim within two years of the injury. This would save court resources by consolidating all claims into one suit. It also would make damage awards for future medical expenses less speculative by postponing claims for them until the expenses have already been incurred.

**OPPONENTS
SAY:**

Under HB 1515, the statute of limitation for parents to sue to collect medical expenses of their child could be extended by as much as 18 years, depending upon when the child was injured. This could create a legal nightmare for potential defendants whose liability could remain uncertain for decades, defeating one of the purposes of the statute of limitations.