

BILL ANALYSIS

C.S.S.B 575
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State Affairs
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested observers contend that certain qualified health plans should be prohibited from providing coverage for abortions except under certain circumstances. C.S.S.B 575 seeks to address this issue.

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

C.S.S.B. 575 amends the Insurance Code to prohibit a qualified health plan offered through a health benefit exchange administered by the federal government or created under the federal Patient Protection and Affordable Care Act from providing coverage for an abortion other than coverage for an abortion performed due to a medical emergency, as defined by the Woman's Right to Know Act. The bill establishes that the exception to the coverage prohibition for an abortion performed due to a medical emergency does not authorize coverage for an abortion based on a potential future medical condition that may result from a voluntary act of the woman or minor. The bill establishes that the prohibition against providing coverage for abortion through a qualified health plan does not prevent a person from purchasing optional or supplemental coverage for abortions under a health benefit plan other than a qualified health plan offered through a health benefit exchange. The bill establishes that its provisions regarding qualified health plan abortion coverage do not constitute an acknowledgment by the Texas Legislature of the legitimacy of the federal Patient Protection and Affordable Care Act as a constitutional exercise of the power of the United States Congress.

C.S.S.B. 575 conditions the authorization for a health benefit plan to provide coverage for abortion on the coverage being provided to an enrollee separately from other health benefit plan coverage offered by the health benefit plan issuer; an enrollee paying a premium for coverage for abortion separately from, and in addition to, the premium for other health benefit plan coverage; an enrollee providing a signature for coverage for abortion, separately and distinct from the signature required for other health benefit plan coverage offered by the health benefit plan issuer; or the coverage providing benefits only for an abortion due to a medical emergency. The bill establishes that a health benefit plan's authority to provide coverage for an abortion due to a medical emergency does not authorize coverage for an abortion based on a potential future medical condition that may result from a voluntary act of the enrollee.

C.S.S.B 575 requires a health benefit plan issuer that provides coverage for abortion to calculate the premium for the coverage so that the premium fully covers the estimated cost of abortion per enrollee, determined on an average actuarial basis. The bill prohibits a health benefit plan issuer, in calculating a premium for abortion coverage, from taking into account any cost savings in other health benefit plan coverage offered by the health benefit plan issuer that is estimated to result from coverage for abortion. The bill prohibits a health benefit plan issuer that provides coverage other than coverage for abortion from providing a premium discount to, or reducing the premium for, an enrollee for coverage other than coverage for abortion on the basis that the enrollee has health benefit plan coverage for abortion.

C.S.S.B 575 requires a health benefit plan issuer that provides coverage for abortion to provide each enrollee at the time of enrollment in the health benefit plan with a notice that coverage for abortion is optional and separate from other health benefit plan coverage offered by the health benefit plan issuer, that the premium cost for coverage for abortion is a premium paid separately from, and in addition to, the premium for other health benefit plan coverage offered by the health benefit plan issuer, and that the enrollee may enroll in a health benefit plan that provides coverage other than coverage for abortion without obtaining coverage for abortion.

C.S.S.B 575 requires an employer or entity offering a health benefit plan that offers coverage for abortion to provide each employee or group member with an opportunity to accept or reject supplemental coverage for abortion at the beginning of employment or when the group member's coverage begins, as applicable, and at least one time in each calendar year after the first year of employment or group coverage.

C.S.S.B 575 applies its provisions governing coverage for abortion through a health benefit plan to specified health benefit plans. The bill applies only to a qualified health plan offered through a health benefit exchange or a health benefit plan that is delivered, issued for delivery, or renewed on or after January 1, 2016.

EFFECTIVE DATE

September 1, 2015.

COMPARISON OF SENATE ENGROSSED AND SUBSTITUTE

While C.S.S.B 575 may differ from the engrossed in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the engrossed and committee substitute versions of the bill.

SENATE ENGROSSED

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Title 8, Insurance Code, is amended by adding Subtitle L.

SECTION 1. Same as engrossed version.

SECTION 2. Subtitle A, Title 8, Insurance Code, is amended by adding Chapter 1218 to read as follows:

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CHAPTER 1218. COVERAGE FOR ABORTION; PROHIBITIONS AND REQUIREMENTS

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Sec. 1218.001. DEFINITIONS. In this chapter, "abortion" and "medical emergency" have the meanings assigned by Section 171.002, Health and Safety Code.

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Sec. 1218.002. APPLICABILITY OF

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CHAPTER. (a) This chapter applies only to a health benefit plan that provides benefits for medical or surgical expenses incurred as a result of a health condition, accident, or sickness, including an individual, group, blanket, or franchise insurance policy or insurance agreement, a group hospital service contract, or an individual or group evidence of coverage or similar coverage document that is offered by:

- (1) an insurance company;
- (2) a group hospital service corporation operating under Chapter 842;
- (3) a fraternal benefit society operating under Chapter 885;
- (4) a stipulated premium company operating under Chapter 884;
- (5) an exchange operating under Chapter 942;
- (6) a health maintenance organization operating under Chapter 843;
- (7) a multiple employer welfare arrangement that holds a certificate of authority under Chapter 846; or
- (8) an approved nonprofit health corporation that holds a certificate of authority under Chapter 844.

(b) This chapter applies to group health coverage made available by a school district in accordance with Section 22.004, Education Code.

(c) Notwithstanding any provision in Chapter 1551, 1575, 1579, or 1601 or any other law, this chapter applies to:

- (1) a basic coverage plan under Chapter 1551;
- (2) a basic plan under Chapter 1575;
- (3) a primary care coverage plan under Chapter 1579; and
- (4) basic coverage under Chapter 1601.

(d) Notwithstanding Section 1501.251 or any other law, this chapter applies to coverage under a small or large employer health benefit plan subject to Chapter 1501.

(e) Notwithstanding Section 1507.003 or 1507.053, this chapter applies to a standard health benefit plan provided under Chapter 1507.

Sec. 1218.003. COVERAGE BY HEALTH BENEFIT PLAN. (a) A health benefit plan may provide coverage for abortion only if:

- (1) the coverage is provided to an enrollee separately from other health benefit plan coverage offered by the health benefit plan

CHAPTER. (a) This chapter applies only to a health benefit plan described by Subsection (b) or (c).

(b) This chapter applies to group health coverage made available by a school district in accordance with Section 22.004, Education Code.

(c) Notwithstanding any provision in Chapter 1551, 1575, 1579, or 1601 or any other law, this chapter applies to:

- (1) a basic coverage plan under Chapter 1551;
- (2) a basic plan under Chapter 1575;
- (3) a primary care coverage plan under Chapter 1579; and
- (4) basic coverage under Chapter 1601.

Sec. 1218.003. COVERAGE BY HEALTH BENEFIT PLAN. (a) A health benefit plan may provide coverage for abortion only if:

- (1) the coverage is provided to an enrollee separately from other health benefit plan coverage offered by the health benefit plan

issuer;

(2) an enrollee pays separately from, and in addition to, the premium for other health benefit plan coverage a premium for coverage for abortion;

(3) an enrollee provides a signature for coverage for abortion, separately and distinct from the signature required for other health benefit plan coverage offered by the health benefit plan issuer; or

(4) the coverage provides benefits only for an abortion performed due to a medical emergency.

(b) Subsection (a)(4) does not authorize coverage for an abortion based on a potential future medical condition that may result from a voluntary act of the enrollee.

Sec. 1218.004. CALCULATION OF PREMIUM. (a) A health benefit plan issuer that provides coverage for abortion shall calculate the premium for the coverage so that the premium fully covers the estimated cost of abortion per enrollee, determined on an average actuarial basis.

(b) In calculating a premium under Subsection (a), the health benefit plan issuer may not take into account any cost savings in other health benefit plan coverage offered by the health benefit plan issuer that is estimated to result from coverage for abortion, including costs associated with prenatal care, delivery, or postnatal care.

(c) A health benefit plan issuer that provides coverage other than coverage for abortion may not provide a premium discount to or reduce the premium for an enrollee for coverage other than coverage for abortion on the basis that the enrollee has health benefit plan coverage for abortion.

Sec. 1218.005. NOTICE BY ISSUER. A health benefit plan issuer that provides coverage for abortion shall at the time of enrollment in the health benefit plan provide each enrollee with a notice that:

(1) coverage for abortion is optional and separate from other health benefit plan coverage offered by the health benefit plan issuer;

(2) the premium cost for coverage for abortion is a premium paid separately from, and in addition to, the premium for other health benefit plan coverage offered by the health benefit plan issuer; and

(3) the enrollee may enroll in a health

issuer;

(2) an enrollee pays separately from, and in addition to, the premium for other health benefit plan coverage a premium for coverage for abortion;

(3) an enrollee provides a signature for coverage for abortion, separately and distinct from the signature required for other health benefit plan coverage offered by the health benefit plan issuer; or

(4) the coverage provides benefits only for an abortion performed due to a medical emergency.

(b) Subsection (a)(4) does not authorize coverage for an abortion based on a potential future medical condition that may result from a voluntary act of the enrollee.

Sec. 1218.004. CALCULATION OF PREMIUM. (a) A health benefit plan issuer that provides coverage for abortion shall calculate the premium for the coverage so that the premium fully covers the estimated cost of abortion per enrollee, determined on an average actuarial basis.

(b) In calculating a premium under Subsection (a), the health benefit plan issuer may not take into account any cost savings in other health benefit plan coverage offered by the health benefit plan issuer that is estimated to result from coverage for abortion, including costs associated with prenatal care, delivery, or postnatal care.

(c) A health benefit plan issuer that provides coverage other than coverage for abortion may not provide a premium discount to or reduce the premium for an enrollee for coverage other than coverage for abortion on the basis that the enrollee has health benefit plan coverage for abortion.

Sec. 1218.005. NOTICE BY ISSUER. A health benefit plan issuer that provides coverage for abortion shall at the time of enrollment in the health benefit plan provide each enrollee with a notice that:

(1) coverage for abortion is optional and separate from other health benefit plan coverage offered by the health benefit plan issuer;

(2) the premium cost for coverage for abortion is a premium paid separately from, and in addition to, the premium for other health benefit plan coverage offered by the health benefit plan issuer; and

(3) the enrollee may enroll in a health

benefit plan that provides coverage other than coverage for abortion without obtaining coverage for abortion.

Sec. 1218.006. ACCEPTANCE OR REJECTION OF SUPPLEMENTAL COVERAGE BY EMPLOYEES AND GROUP MEMBERS. If a small or large employer health benefit plan or group health benefit plan offers coverage for abortion, the employer offering the employer health benefit plan or the entity offering the group health benefit plan shall provide each employee or group member with an opportunity to accept or reject supplemental coverage for abortion:

(1) at the beginning of employment or when the group member's coverage begins, as applicable; and

(2) at least one time in each calendar year after the first year of employment or group coverage.

SECTION 3. This Act applies only to a qualified health plan offered through a health benefit exchange or a health benefit plan that is delivered, issued for delivery, or renewed on or after January 1, 2016. A qualified health plan offered through a health benefit exchange or a health benefit plan that is delivered, issued for delivery, or renewed before January 1, 2016, is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose.

SECTION 4. This Act takes effect September 1, 2015.

benefit plan that provides coverage other than coverage for abortion without obtaining coverage for abortion.

Sec. 1218.006. ACCEPTANCE OR REJECTION OF SUPPLEMENTAL COVERAGE BY EMPLOYEES AND GROUP MEMBERS. If a health benefit plan offers coverage for abortion, the employer or entity offering the health benefit plan shall provide each employee or group member with an opportunity to accept or reject supplemental coverage for abortion:

(1) at the beginning of employment or when the group member's coverage begins, as applicable; and

(2) at least one time in each calendar year after the first year of employment or group coverage.

SECTION 3. Same as engrossed version.

SECTION 4. Same as engrossed version.