

BILL ANALYSIS

Senate Research Center
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S.B. 20
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

In March 2010, President Barack Obama signed the Patient Protection and Affordable Care Act (PPACA) into law. Currently, the federal government is administering and overseeing the American Health Benefit Exchange in Texas, mandated by PPACA. Under Section 1303 of the federal law, "A state may elect to prohibit abortion coverage in qualified health plans offered through an exchange in such state if such state enacts a law to provide for such prohibition." Since enactment, at least 25 other states have chosen to omit abortion coverage through the federally mandated exchanges.

S.B. 20 affirms Texas' right to prohibit coverage for abortion offered through the federally mandated exchange, except for medical emergencies. The bill does not prevent an enrollee from purchasing optional or supplemental coverage for elective abortion.

S.B. 20 also extends the requirement to purchase separate supplemental coverage for elective abortion to an enrollee under a state-issued health benefit plan and a private individual or employer-based health benefit plan. The bill does not preclude a health benefit plan from issuing coverage for abortion under a medical emergency. S.B. 20 prescribes the calculation of premium per enrollee for optional or supplemental abortion coverage and prohibits a premium discount for such coverage from being offered by the health benefit plan issuer. The bill requires a health benefit plan issuer to provide notice of abortion coverage options and premium cost. S.B. 20 requires an employer or the entity offering the group health benefit plan to provide each employee or group member with an opportunity to accept or reject supplemental coverage for abortion.

Texas lawmakers have a long-standing history of enacting legislation to protect the life of the unborn. S.B. 20 updates state law to reflect pro-life values, while also ensuring Texas' employers, state entities, and individual enrollees are not mandated to purchase abortion coverage without their knowledge and approval.

As proposed, S.B. 20 amends current law relating to health plan and health benefit plan coverage for abortions.

RULEMAKING AUTHORITY

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

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Title 8, Insurance Code, by adding Subtitle M, as follows:

SUBTITLE M. FEDERAL PATIENT PROTECTION AND AFFORDABLE CARE ACT

CHAPTER 1695. LEGISLATIVE CONSIDERATIONS

Sec. 1695.001. CONSTITUTIONALITY OF PATIENT PROTECTION AND AFFORDABLE CARE ACT. Provides that this subtitle does not constitute an acknowledgement by the legislature of the legitimacy of the Patient Protection and

Affordable Care Act (Pub. L. No. 111-148) as a constitutional exercise of the power of the United States Congress.

CHAPTER 1696. COVERAGE FOR ABORTION; PROHIBITIONS AND REQUIREMENTS

Sec. 1696.001. DEFINITIONS. Defines "abortion," "medical emergency," "health benefit exchange," and "qualified health plan."

Sec. 1696.002. PROHIBITED COVERAGE THROUGH HEALTH BENEFIT EXCHANGE. (a) Prohibits a qualified health plan offered through a health benefit exchange from providing coverage for an abortion other than coverage for an abortion performed due to a medical emergency.

(b) Provides that Subsection (a) 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.

(c) Provides that this section does not prevent a person from purchasing optional or supplemental coverage for abortions under a health benefit plan (plan) other than a qualified health plan offered through a health benefit exchange.

SECTION 2. Amends Subtitle A, Title 8, Insurance Code, by adding Chapter 1218, as follows:

CHAPTER 1218. COVERAGE FOR ABORTION; PROHIBITIONS AND REQUIREMENTS

Sec. 1218.001. DEFINITIONS. Defines "abortion" and "medical emergency."

Sec. 1218.002. APPLICABILITY OF CHAPTER. (a) Provides that this chapter applies only to a 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 certain companies or organizations.

(b) Provides that this chapter applies to group health coverage made available by a school district in accordance with Section 22.004 (Group Health Benefits for School Employees), Education Code.

(c) Provides that, notwithstanding any provision in Chapter 1551 (Texas Employees Group Benefits Act), 1575 (Texas Public School Employees Group Benefits Program), 1579 (Texas School Employees Uniform Group Health Coverage), or 1601 (Uniform Insurance Benefits Act for Employees of The University of Texas System and The Texas A&M University System) or any other law, this chapter applies to a basic coverage plan under Chapter 1551, a basic plan under Chapter 1575, a primary care coverage plan under Chapter 1579, and basic coverage under Chapter 1601.

(d) Provides that, notwithstanding Section 1501.251 (Exception From Certain Mandated Benefit Requirements) or any other law, this chapter applies to coverage under a small or large employer health benefit plan subject to Chapter 1501 (Health Insurance Portability and Availability Act).

(e) Provides that, notwithstanding Section 1507.003 (State-Mandated Health Benefits) or 1507.053 (State-Mandated Health Benefits), this chapter applies to a standard health benefit plan provided under Chapter 1507 (Consumer Choice of Benefits Plans).

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

(1) the coverage is provided to an enrollee separately from other plan coverage offered by the plan issuer;

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

(3) an enrollee provides a signature for abortion coverage separately and distinctly from the signature required for other plan coverage offered by the plan issuer;

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

(b) Provides that 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) Requires a 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.

(b) Prohibits the plan issuer, in calculating a premium, from taking into account any cost savings in other coverage offered by the plan issuer that is estimated to result from coverage for abortion, including costs associated with prenatal care, delivery, or postnatal care.

(c) Prohibits a plan issuer that provides coverage other than abortion coverage from providing a premium discount to or reducing the premium for an enrollee for coverage other than abortion coverage on the basis that the enrollee has plan coverage for abortion.

Sec. 1218.005. NOTICE BY ISSUER. Requires a plan issuer that provides abortion coverage to provide each enrollee at the time of enrollment in the plan with a notice that abortion coverage is optional and separate from other coverage offered by the issuer; the premium cost for abortion coverage is paid separately from, and in addition to, the premium for other coverage offered by the plan issuer; and the enrollee may enroll in a plan that provides coverage other than abortion coverage without obtaining coverage for abortion.

Sec. 1218.006. ACCEPTANCE OR REJECTION OF SUPPLEMENTAL COVERAGE BY EMPLOYEES AND GROUP MEMBERS. Requires an employer or entity offering a small or large employer plan or group plan that offers abortion coverage 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 coverage begins, as applicable; and at least one time in each calendar year after the first year of employment or group coverage.

SECTION 3. Makes application of this Act prospective to January 1, 2018.

SECTION 4. Effective date: September 1, 2017.

