

## **BILL ANALYSIS**

C.S.H.B. 3130  
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State Affairs  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Interested parties suggest that legislation is needed to give Texans greater flexibility to decline to pay for elective abortion coverage. C.S.H.B. 3130 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.H.B. 3130 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 when a life-threatening physical condition exists, based on reasonable medical judgment, that complicates the medical condition of the pregnant woman or pregnant minor to an extent that the immediate abortion of her pregnancy is necessary to avert her death or to an extent that a delay in performing the abortion creates a serious risk of substantial and irreversible physical impairment of a major bodily function, other than a psychological or emotional condition. The bill's provisions do 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 or prevent a person from purchasing optional or supplemental coverage for abortion under a health benefit plan other than a qualified health plan offered through a health benefit exchange. The bill's provisions relating to prohibitions and requirements for coverage for abortion by a qualified health plan offered through a health benefit exchange apply only to a qualified health plan offered through a health benefit exchange that is delivered, issued for delivery, or renewed on or after January 1, 2016.

C.S.H.B. 3130, in provisions that apply to group health coverage made available by a school district in accordance with Education Code provisions relating to group health benefits for school employees, a basic coverage plan under the Texas Employees Group Benefits Act, a basic plan under the Texas Public School Retired Employees Group Benefits Act, a primary care coverage plan under the Texas School Employees Uniform Group Health Coverage Act, and basic coverage under the State University Employees Uniform Insurance Benefits Act, authorizes a health benefit plan to provide coverage for abortion, except as otherwise provided by the bill's provisions, only if the coverage is provided to an enrollee separately from other health benefit plan coverage offered by the health benefit plan issuer; an enrollee pays separately from, and in addition to, the premium for other health benefit plan coverage a premium for coverage for

abortion; and 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. The bill authorizes a health benefit plan to provide coverage for an abortion performed when a life-threatening physical condition exists, based on the performing physician's reasonable medical judgment, that complicates the medical condition of a pregnant enrollee to the extent that the abortion of her pregnancy is necessary to prevent her death or a serious risk of substantial and irreversible physical impairment of a major bodily function of the enrollee, other than a psychological or emotional condition. The bill clarifies that this provision 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.H.B. 3130 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 the health benefit plan issuer, in calculating such a premium, 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, including costs associated with prenatal care, delivery, or postnatal care. 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.H.B. 3130 requires a health benefit plan issuer that provides coverage for abortion, at the time of enrollment in the health benefit plan, to provide each enrollee with a notice that coverage for abortion is optional and separate from other health benefit plan coverage offered by the health benefit plan issuer; 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 the enrollee may enroll in a health benefit plan that provides coverage other than coverage for abortion without obtaining coverage for abortion.

C.S.H.B. 3130 requires each employee or group member participating in a health benefit plan subject to the bill's provisions relating to prohibitions and restrictions on coverage for abortion under certain public health benefit plans to have 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.

### **EFFECTIVE DATE**

September 1, 2015.

### **COMPARISON OF ORIGINAL AND SUBSTITUTE**

While C.S.H.B. 3130 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

#### **INTRODUCED**

SECTION 1. Title 8, Insurance Code, is amended by adding Subtitle L to read as follows:

**SUBTITLE L. FEDERAL PATIENT PROTECTION AND AFFORDABLE CARE ACT**

#### **HOUSE COMMITTEE SUBSTITUTE**

SECTION 1. Title 8, Insurance Code, is amended by adding Subtitle L to read as follows:

**SUBTITLE L. FEDERAL PATIENT PROTECTION AND AFFORDABLE CARE ACT**

CHAPTER 1692. COVERAGE FOR ABORTION; PROHIBITIONS AND REQUIREMENTS

Sec. 1692.001. DEFINITIONS.

Sec. 1692.002. PROHIBITED COVERAGE THROUGH HEALTH BENEFIT EXCHANGE. (a) A qualified health plan offered through a health benefit exchange may not provide coverage for an abortion other than coverage for an abortion performed when a condition exists, based on reasonable medical judgment, that complicates the medical condition of the pregnant woman or pregnant minor to an extent that:

(1) the immediate abortion of her pregnancy is necessary to avert her death; or  
(2) a delay in performing the abortion creates a serious risk of substantial and irreversible physical impairment of a major bodily function, other than a psychological or emotional condition.

(b) 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 after the abortion is performed.

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

No equivalent provision.

CHAPTER 1692. COVERAGE FOR ABORTION; PROHIBITIONS AND REQUIREMENTS

Sec. 1692.001. DEFINITIONS.

Sec. 1692.002. PROHIBITED COVERAGE THROUGH HEALTH BENEFIT EXCHANGE. (a) A qualified health plan offered through a health benefit exchange may not provide coverage for an abortion other than coverage for an abortion performed when a life-threatening physical condition exists, based on reasonable medical judgment, that complicates the medical condition of the pregnant woman or pregnant minor to an extent that:

(1) the immediate abortion of her pregnancy is necessary to avert her death; or  
(2) a delay in performing the abortion creates a serious risk of substantial and irreversible physical impairment of a major bodily function, other than a psychological or emotional condition.

(b) 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) This section does not prevent a person from purchasing optional or supplemental coverage for abortion under a health benefit plan other than a qualified health plan offered through a health benefit exchange.

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

CHAPTER 1218. COVERAGE FOR ABORTION; PROHIBITIONS AND REQUIREMENTS

Sec. 1218.001. DEFINITION. In this chapter, "abortion" has the meaning assigned by Section 171.002, Health and Safety Code.

Sec. 1218.002. APPLICABILITY OF CHAPTER. (a) This chapter applies to group health coverage made available by a school district in accordance with Section 22.004, Education Code.

(b) 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) Except as provided by Subsection (b), 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; and
- (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.

(b) Notwithstanding Subsection (a), a health benefit plan may provide coverage for an abortion performed when a life-threatening physical condition exists, based on the performing physician's reasonable medical judgment, that complicates the medical condition of a pregnant enrollee to the extent that the abortion of her pregnancy is necessary to prevent her death or a serious risk of substantial and irreversible physical impairment of a major bodily function of the enrollee, other than a psychological or emotional condition.

(c) Subsection (b) 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. Each employee or group member participating in a health benefit plan subject to this chapter must have 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 2. This Act applies only to a qualified health plan offered through a health benefit exchange that is delivered, issued for delivery, or renewed on or after January 1, 2016. A qualified health plan offered through a health benefit exchange 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 3. (a) Chapter 1692, Insurance Code, as added by this Act, applies only to a qualified health plan offered through a health benefit exchange that is delivered, issued for delivery, or renewed on or after January 1, 2016. A qualified health plan offered through a health benefit exchange 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.

(b) Chapter 1218, Insurance Code, as added by this Act, applies only to a health benefit plan that is delivered, issued for delivery, or

renewed for a plan year beginning on or after September 1, 2015. A health benefit plan that is delivered, issued for delivery, or renewed for a plan year beginning before September 1, 2015, 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 3. This Act takes effect September 1, 2015.

SECTION 4. Same as introduced version.