

## **BILL ANALYSIS**

C.S.H.B. 3742  
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Insurance  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Direct-to-consumer genetic testing kits are increasing in popularity. These kits allow individuals to assess their potential health risks by assessing risk for certain genetic diseases such as Alzheimer's or Parkinson's disease. These tests can also provide a "carrier status" report, which determines if a customer carries a genetic variant for certain health conditions. Having a genetic variant for a health condition means that the carrier does not have the disease, but that they have the potential to pass it on to their children. With these new types of testing services, there is the potential for third-party companies to purchase results from the test administrators.

The federal Genetic Information Nondiscrimination Act of 2008 prohibits health insurance companies from using genetic information to make coverage or rate decisions but does not apply to life, disability, or long-term care insurance. C.S.H.B. 3742 seeks to fill in the gaps of this federal legislation by prohibiting long-term care benefit plan insurers and life insurance companies from requiring an individual to furnish genetic information gathered from a direct-to-consumer genetic test or from using such information to adversely affect eligibility for or coverage under a plan or policy.

### **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. 3742 amends the Insurance Code to prohibit a long-term care benefit plan issuer or life insurance company from doing the following with respect to information gathered from a direct-to-consumer genetic test without written consent from an individual applying for coverage under a long-term care benefit plan or life insurance policy:

- requiring the individual to furnish genetic information gathered from such a test; or
- using genetic information gathered from such a test to reject, deny, limit, increase the premiums for, or otherwise adversely affect eligibility for or coverage under the plan or policy.

This prohibition may not be construed to prohibit or limit the ability of an insurer to request and obtain medical information from an individual applying for insurance.

C.S.H.B. 3742 specifies what constitutes a "long-term care benefit plan" and establishes that the term does not include an insurance policy, group certificate, or evidence of coverage that is offered primarily to provide one of the following:

- basic Medicare supplement coverage, basic hospital expense coverage, basic medical-surgical expense coverage, hospital confinement indemnity coverage, major medical expense coverage, disability income protection coverage, accident-only coverage, specified disease or specified accident coverage, or limited benefit health coverage; or
- basic or single health care services.

C.S.H.B. 3742 establishes, and provides certain exceptions to, the applicability of its provisions and applies only to an insurance policy, contract, or evidence of coverage delivered, issued for delivery, or renewed on or after January 1, 2022.

### **EFFECTIVE DATE**

September 1, 2021.

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

While C.S.H.B. 3742 may differ from the original in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The substitute revises the original's prohibition regarding the use of information gathered from direct-to-consumer genetic tests as follows:

- expands the prohibited conduct to include requiring an individual to furnish genetic information gathered from such a test;
- removes canceling or refusing to renew a plan or policy from the list of actions a plan issuer or insurance company may not take on the basis of genetic information gathered from such a test; and
- conditions the prohibition on the plan issuer or insurance company not receiving written consent from an individual applying for coverage under a long-term care benefit plan or life insurance policy.

The substitute includes a provision not in the original providing that the prohibition may not be construed to prohibit or limit the ability of an insurer to request and obtain medical information from an individual applying for insurance.

The substitute revises the bill's applicability as set out in the original to remove the following:

- a certificate issued under a group long-term care benefit plan issued to an eligible group that is delivered or issued for delivery in Texas; and
- a life insurance policy that is not issued or delivered in Texas but is issued by a life insurance company organized under state law.

The substitute expands the exemptions to the bill's provisions as set out in the original to include a group policy that is delivered or issued for delivery in Texas under a single employer or labor union group policy that is delivered or issued for delivery outside Texas. The substitute clarifies that the benefit plans exempted from the bill include health benefit plans that are not advertised, marketed, or offered as long-term care benefit plans or nursing home benefit plans.