

BILL ANALYSIS

Senate Research Center

C.S.S.B. 98
By: Zaffirini
Economic Development
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Committee Report (Substituted)

DIGEST

Currently, persons may choose not to undergo genetic testing because they fear results will be released to employers and/or insurers who will use this information to discriminate in employment practices or insurance coverage. S.B. 98 prohibits the use of genetic-test information to discriminate against persons in the workplace or to deny persons insurance coverage and prohibits disclosing that information without authorization from the individuals who were tested.

PURPOSE

As proposed, C.S.S.B. 98 outlines provisions and provides an administrative penalty relating to a prohibition of discrimination in the determination of eligibility for employment and coverage under certain group health benefit plans based on the use of certain genetic tests and to limitations on the use of information derived from those tests.

RULEMAKING AUTHORITY

Rulemaking authority is granted to the commissioner of insurance under SECTION 2 (Section 4(b), Insurance Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 21, Labor Code, by adding Subchapter H, as follows:

SUBCHAPTER H. DISCRIMINATORY USE OF GENETIC INFORMATION

Sec. 21.401. DEFINITIONS. Defines "DNA," "genetic information," "genetic test," and "RNA."

Sec. 21.402. DISCRIMINATORY USE OF GENETIC INFORMATION PROHIBITED. Sets forth the conditions under which an employee, a labor organization, or an employment agency commits an unlawful practice regarding the use of genetic information.

Sec. 21.403. INFORMATION CONFIDENTIAL; EXCEPTIONS. Provides that genetic information is confidential and privileged and the holder of that information is prohibited from disclosing genetic information about an individual unless authorized by the individual to do so. Sets forth the provisions by which the disclosure of genetic information is authorized.

Sec. 21.404. RIGHT TO KNOW TEST RESULTS. Provides that an individual who submits to a genetic test has the right to know the results of that test. Requires the entity that performed the test to disclose the test results to the individual or to a physician designated by the individual on the written request of the individual.

Sec. 21.405. RETENTION OF SAMPLE. Sets forth instances in which a sample of genetic material taken for a genetic test from an individual is not required to be destroyed after the purpose for which the sample was taken is accomplished.

SECTION 2. Amends Chapter 21E, Insurance Code, by adding Article 21.73, as follows:

Art. 21.73. USE OF GENETIC TESTING INFORMATION BY INSURERS

Sec. 1. DEFINITIONS. Defines "DNA," "genetic information," "genetic test," "group health benefit plan," and "RNA."

Sec. 2. SCOPE OF ARTICLE. Sets forth certain group health benefit plans to which this article applies. Sets forth certain plans to which this article does not apply.

Sec. 3. USE OF GENETIC INFORMATION BY GROUP HEALTH BENEFIT PLAN. Prohibits the issuer of a group health benefit plan from discriminating against a person as a result of genetic information.

Sec. 4. INFORMATION CONFIDENTIAL; EXCEPTIONS. Provides that genetic information is confidential and privileged and the holder of that information is prohibited from disclosing genetic information about an individual unless authorized by the individual to do so. Sets forth provisions by which the disclosure of genetic information is authorized.

Sec. 5. RIGHT TO KNOW TEST RESULTS. Provides that an individual who submits to a genetic test has the right to know the results of that test. Requires the issuer of the group health benefit plan or other entity that performed the test to disclose the test results to the individual or to a physician designated by the individual on the written request of the individual.

Sec. 6. RETENTION OF A SAMPLE. Makes a conforming change.

Sec. 7. UNFAIR PRACTICE; REMEDIES. Provides that an issuer of a group health benefit plan that requires an individual to submit to a genetic test or that uses or reveals genetic information in violation of the requirements of this article commits an unfair practice under Article 21.21 of this code and is liable to the individual as provided by that article.

Sec. 8. CEASE AND DESIST ORDER; ADMINISTRATIVE PENALTY. Authorizes the commissioner of insurance (commissioner) to enter a cease and desist order in the manner provided under Article 1.10A of this code on a finding by the commissioner that the insurer of a group health benefit plan is in violation of this article. Authorizes the commissioner, in the manner provided by this code and the other insurance laws of this state, to revoke or suspend the entity's certificate of authority or other authorization to engage in the operation of a group health benefit plan in this state if the issuer of the plan refuses or fails to comply with the cease and desist order. Provides that an issuer of a group health benefit plan that operates the plan in violation of this article is subject to an administrative penalty as provided by Article 1.10E of this code.

SECTION 3. Effective date: September 1, 1997.

SECTION 4. Makes application of this Act prospective to January 1, 1998.

SECTION 5. Emergency clause.

SUMMARY OF COMMITTEE CHANGES

Amends proposed relating clause.

SECTION 1.

Amends Chapter 21, Labor Code, to delete the definition of "genetic characteristic," define "DNA," and "RNA" and to redefine previous definitions. Adds an exception and text regarding confidential information. Adds text regarding the right to know test results. Deletes text regarding retention of genetic sample material by the individual. Makes nonsubstantive deletions.

SECTION 2.

Amends Chapter 21E, Insurance Code, to delete the definitions of "genetic characteristic" and "insurer" and to define "group health benefit plan." Adds text regarding the scope of Art. 21.73, V.T.C.S., and rulemaking authority. Adds text regarding unfair practice and provides remedies for unfair practices for an issuer of a group health benefit plan. Adds text and provides an administrative penalty regarding a cease and desist order. Makes conforming and nonsubstantive additions and deletions.

SECTION 4.

Provides that a certain Act applies only to a group health benefit plan. Makes a nonsubstantive deletion.