

## **BILL ANALYSIS**

Senate Research Center  
87R7868 MWC-D

S.B. 2124  
By: Blanco  
Business & Commerce  
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As Filed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Most health and dental enrollees do not read the fine print provided to them during open enrollment when initially advised of the opportunity to opt-in to paperless transactions. This causes many to miss the opportunity to opt-in, even though they likely would prefer e-communications to paper-based health and insurance documents. The failure to engage a higher percentage of enrollee populations to opt-in raises the cost of healthcare for all Texans, harms the environment, and increases carbon emissions.

S.B. 2124 authorizes an employer to choose on behalf of all employees with a known e-mail address, who engage in routine employer-employee electronic communications, to be opted-in to paperless transactions with their health plans by default. The employee still retains the right to opt-out of e-communications.

As proposed, S.B. 2124 amends current law relating to the authority of a health benefit plan sponsor to consent to electronic delivery of certain communications on behalf of a party enrolled in the plan.

### **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 Section 35.001, Insurance Code, by adding Subdivision (4-a), to define "plan sponsor" for purposes of Chapter 35 (Electronic Transactions).

SECTION 2. Amends Chapter 35, Insurance Code, by adding Section 35.0041, as follows:

Sec. 35.0041. CONSENT TO ELECTRONIC DELIVERY BY PLAN SPONSOR. (a) Authorizes the plan sponsor of a health benefit plan, including a vision or dental benefit plan, to, on behalf of a party enrolled in the plan, give the consent required by Section 35.004(c)(1) (relating to authorizing delivery of written communication by electronic means if the party affirmatively consented to delivery by electronic means).

(b) Requires a plan sponsor, before consenting on behalf of a party, to provide the party with the statements required by Sections 35.004(c)(2) (relating to a statement informing the party of certain rights and information) and (c)(3)(A) (relating to a statement identifying hardware and software requirements); to confirm that the party routinely uses electronic communications during the normal course of employment, and to provide the party an opportunity to opt out of delivery by electronic means.

SECTION 3. Provides that the change in law made by this Act applies only to a health benefit plan delivered, issued for delivery, or renewed on or after January 1, 2022.

SECTION 4. Effective date: September 1, 2021.