

## **BILL ANALYSIS**

Senate Research Center  
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S.B. 8  
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### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

#### *Affordable Care Act*

- The Affordable Care Act allows for states to set their own parameters for abortion coverage in the marketplace.
  - "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."
  - Texas is one of 25 states yet to enact legislation to ban abortion coverage offered through the federally mandated Texas health exchange marketplace.

#### *Governmental & Private Insurance Plans*

- States other than Texas have regulated the coverage for abortion offered under government and private insurance plans.
  - 21 other states restrict coverage for elective abortion in the insurance plans for government employees.
- Texas law, Section 1454.052 of the Insurance Code, affirms that employers are not required to provide insurance coverage for abortion to their employees.
  - 10 other states protect private insurance consumers from participating in abortion coverage.

#### *Texas' Definition of Medical Emergency*

State employee benefits provide coverage for abortion in a medical emergency, but medical emergency is vague and undefined.

As proposed, S.B. 8 amends current law relating to health plan and health benefit plan coverage for elective abortion.

### **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 acknowledgment 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 ELECTIVE ABORTION; PROHIBITIONS AND REQUIREMENTS

Sec. 1696.001. DEFINITIONS. Defines “elective abortion,” “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 elective abortion.

(b) Provides that this section does not prevent a person from purchasing optional or supplemental coverage for elective abortion under a health benefit plan (HBP) 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 ELECTIVE ABORTION; PROHIBITIONS AND REQUIREMENTS

Sec. 1218.001. DEFINITION. Defines “elective abortion.”

Sec. 1218.002. APPLICABILITY OF CHAPTER. (a) Provides that this chapter applies only to an HBP 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 entities or arrangements.

(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 certain chapters or any other law, this chapter applies to:

(1) a basic coverage plan under Chapter 1551 (Texas Employees Group Benefits Act);

(2) a basic plan under Chapter 1575 (Texas Public School Employees Group Benefits Program);

(3) a primary care coverage plan under Chapter 1579 (Texas School Employees Uniform Group Health Coverage); and

(4) basic coverage under Chapter 1601 (Uniform Insurance Benefits Act for Employees of The University of Texas System and The Texas A&M University System).

(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 HBP 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) or any other law, this chapter applies to a standard HBP provided under Chapter 1507 (Consumer Choice of Benefits Plans).

Sec. 1218.003. CERTAIN COVERAGE NOT AFFECTED. Provides that this chapter does not apply to HBP coverage provided to an enrollee for any abortion other than an elective abortion as defined by Section 1218.001.

Sec. 1218.004. COVERAGE BY HEALTH BENEFIT PLAN. Authorizes an HBP to provide coverage for elective abortion only if:

- (1) the coverage is provided to an enrollee separately from other HBP coverage offered by the HBP issuer;
- (2) the enrollee pays the premium for coverage for elective abortion separately from, and in addition to, the premium for other HBP coverage, if any; and
- (3) the enrollee provides a signature for coverage for elective abortion, separately and distinct from the signature required for other HBP coverage, if any, provided to the enrollee by the HBP issuer.

Sec. 1218.005. CALCULATION OF PREMIUM. (a) Requires an HBP issuer that provides coverage for elective abortion to calculate the premium for the coverage so that the premium fully covers the estimated cost of elective abortion per enrollee, determined on an actuarial basis.

(b) Prohibits the HBP issuer, in calculating a premium under Subsection (a), from taking into account any cost savings in other HBP coverage offered by the HBP issuer that is estimated to result from coverage for elective abortion.

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

Sec. 1218.006. NOTICE BY ISSUER. Requires an HBP issuer that provides coverage for elective abortion to at the time of enrollment in other HBP coverage provide each enrollee with a notice that:

- (1) coverage for elective abortion is optional and separate from other HBP coverage offered by the HBP issuer;
- (2) the premium cost for coverage for elective abortion is a premium paid separately from, and in addition to, the premium for other HBP coverage offered by the HBP issuer; and
- (3) the enrollee may enroll in an HBP without obtaining coverage for elective abortion.

SECTION 3. Makes application of this Act prospective to April 1, 2018, regarding a qualified health plan offered through a health benefit exchange or an HBP that is delivered, issued for delivery, or renewed.

SECTION 4. Effective date: December 1, 2017.