

HOUSE BILL 2961

State of Washington

55th Legislature

1998 Regular Session

By Representatives Wolfe, Constantine, Dickerson, Mason, Sullivan, Regala, Butler, Gombosky, Dunshee, Ogden, Appelwick, Kenney, Chopp, Costa, Scott, Keiser, Cole, Wood, Conway, Gardner and Cody; by request of Insurance Commissioner

Read first time 01/23/98. Referred to Committee on Financial Institutions & Insurance.

1 AN ACT Relating to discrimination by insurance companies against
2 victims of abuse and shelters for the protection of subjects of abuse;
3 adding a new section to chapter 48.30 RCW; and creating a new section.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** The legislature finds that domestic
6 violence, sexual assault, and child abuse exact a dramatic toll on our
7 communities, families, and individuals and should not be compounded
8 with discrimination by insurance carriers. Access to insurance is a
9 vital aspect of day-to-day living and equal access to insurance must be
10 assured.

11 NEW SECTION. **Sec. 2.** A new section is added to chapter 48.30 RCW
12 to read as follows:

13 (1) For purposes of this section the following definitions apply:

14 (a) "Abuse" means the occurrence of one or more of the following
15 acts by a current or former family member, household member, or
16 caretaker:

17 (i) Attempting to cause or intentionally, knowingly, or recklessly
18 causing another person, bodily injury or emotional distress;

1 (ii) Knowingly engaging in a course of conduct or repeatedly
2 committing acts toward another person, including stalking under RCW
3 9A.46.110, under circumstances that place the person in reasonable fear
4 of bodily injury;

5 (iii) Subjecting another person to false imprisonment; or

6 (iv) Attempting to cause, or intentionally, knowingly, or
7 recklessly causing, damage to property so as to intimidate or attempt
8 to control the behavior of another person;

9 (b) "Abuse status" means the fact or perception that a person is,
10 has been, or may be a subject of abuse or abuse-related claims,
11 regardless of whether the person has sustained abuse-related medical
12 conditions or has incurred abuse-related claims;

13 (c) "Confidential abuse information" means information about acts
14 of abuse or abuse status of a subject of abuse, the address and
15 telephone number of a subject of abuse or the status of an applicant or
16 insured as a family member, associate of, or a person in a relationship
17 with, a subject of abuse;

18 (d) "Insured" means a party named on a policy or certificate, or an
19 individual with legal rights to the benefits provided by such policy;
20 and

21 (e) "Insurer" means a person engaged in the business of insurance,
22 a health care service contractor, a health maintenance organization,
23 including producers and agents to the extent that they perform
24 underwriting or claims activities delegated by an insurer, or possess
25 confidential abuse information.

26 (2) The following acts are prohibited when based upon the
27 applicant's, insured's, or enrolled participant's abuse status or on
28 the basis of a property's use in the operation of a shelter for
29 subjects of abuse:

30 (a) Refusing to issue, renew, or reissue an insurance policy or
31 health benefit plan;

32 (b) Canceling or otherwise terminating an insurance policy or
33 health benefit plan;

34 (c) Restricting or excluding coverage or adding a premium
35 differential to an insurance policy or health benefit plan;

36 (d) Denying or limiting payment for a covered loss or denying a
37 covered claim;

38 (e) Failing to pay losses to an innocent claimant when the loss is
39 caused by the intentional act of a coinsured;

1 (f) Using other exclusions or limitations on coverage which the
2 commissioner has determined to unreasonably restrict the ability of
3 subjects of abuse or shelters to be indemnified for losses.

4 (3) The following acts are prohibited as unfair practices:

5 (a) Requesting information relating to acts of abuse or an
6 applicant's or insured's abuse status or making use of such
7 information, however obtained, except for the limited purpose of
8 complying with legal obligations or verifying a person's claim;

9 (b) Disclosure or transfer of confidential abuse information by a
10 person employed by or contracting with an insurer for any purpose or to
11 any person, except where required by the commissioner, a court of
12 competent jurisdiction, abuse reporting laws, or as otherwise required
13 in chapter 70.02 RCW.

14 (4) Nothing in this section prohibits a life insurer from declining
15 to issue a life insurance policy if the applicant or prospective owner
16 of the policy is or would be designated as a beneficiary of the policy,
17 and if:

18 (a) The applicant or prospective owner of the policy lacks an
19 insurable interest in the insured;

20 (b) The applicant or prospective owner of the policy is known, on
21 the basis of police or court records, to have committed an act of abuse
22 against a prospective insured; or

23 (c) The insured or prospective insured is a subject of abuse, and
24 that person, or a person who has assumed the care of that person if a
25 minor or an incapacitated adult, has objected to the issuance of the
26 policy in good faith and with probable cause on the grounds that the
27 policy would be issued to or for the direct or indirect benefit of the
28 abuser.

29 (5) Any insurer that takes an action, not prohibited by this
30 section, that adversely affects an applicant or insured on the basis of
31 an abuse-related medical condition or an abuse-related claim, shall
32 upon written request directly notify in writing the applicant, insured,
33 or enrolled participant, of the reason for the action and must be able
34 to demonstrate that the action, and any applicable policy provision;

35 (a) Does not have the purpose or effect of treating abuse status as
36 a medical condition or underwriting criterion;

37 (b) Is not based upon any actual or perceived correlation between
38 a medical condition or a type of property and casualty claim and abuse;

1 (c) Is otherwise permissible by law and applies in the same manner
2 and to the same extent to all applicants and insureds with a similar
3 medical condition or property and casualty claim without regard to
4 whether the condition or claim is abuse-related; and

5 (d) Is based on a determination, made in conformance with sound
6 actuarial principles and supported by reasonable statistical evidence,
7 that there is a correlation between the type of property and casualty
8 claim and a material increase in insurance risk.

9 (6) Insurers shall adhere to written procedures, developed and
10 filed with the commissioner, to be followed by employees, contractors,
11 producers, agents, and brokers to ensure the privacy of the subject of
12 abuse when taking an application, investigating a claim, pursuing
13 subrogation, or taking any other action relating to a policy or claim
14 involving a subject of abuse. Insurers shall distribute their written
15 procedures to employees, contractors, adjusters, producers, agents, and
16 brokers.

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