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**Health Care & Wellness Committee**

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**HB 2330**

**Brief Description:** Concerning health plan coverage for the voluntary termination of a pregnancy.

**Sponsors:** Representatives Cody, Jenkins, Darneille, Pollet, Wylie, Appleton, Goodman, Pedersen, Roberts, Van De Wege, Carlyle, Maxwell, Fitzgibbon, Hudgins, Reykdal, Santos, McCoy, Clibborn, Kagi, Lytton, Moscoso, Springer, Eddy, Liias, Hunt, Moeller, Tharinger, Billig, Kenney, Ryu, Dickerson, Stanford and Ormsby.

**Brief Summary of Bill**

- Requires health plans that cover maternity care or services to cover the voluntary termination of pregnancy.

**Hearing Date:** 1/19/12

**Staff:** Jim Morishima (786-7191).

**Background:**

I. Insurance Coverage of Abortion Under State Law

Under state law, the state may not deny or interfere with a woman's right to choose to have an abortion prior to viability or to protect the woman's life or health. All other types of abortions are unlawful and any person who performs such an abortion is guilty of a class C felony.

If the state provides, directly or by contract, maternity care benefits, services, or information to women through any program administered by the state, the state must also provide women otherwise qualified for the program with substantially equivalent benefits, services, or information to permit them to voluntarily terminate their pregnancies. Private insurance carriers are not required to cover the voluntary termination of a pregnancy under state law.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

A religiously sponsored health carrier may not be required to pay for a specific service if it objects to doing so by reason of conscience or religion. Similarly, no individual or organization with a religious or moral tenet opposed to a specific service may be required to purchase coverage for that service if they object to doing so because of conscience or religion.

## II. Insurance Coverage of Abortion under Federal Law

### A. Federal Funding of Abortion

Under the "Hyde Amendment," federal law bans the use of federal funds for abortions, except for pregnancies resulting from rape or incest or if the pregnancy would endanger the woman's life. Most abortions are therefore not covered by federal programs such as Medicaid. However, states have the option to cover abortions under Medicaid as long as only state funds are used for such coverage.

### B. Abortion under the Patient Protection and Affordable Care Act

Under the federal Patient Protection and Affordable Care Act as amended by the Health Care and Education Reconciliation Act of 2010 (ACA), each state must establish a Health Benefit Exchange (Exchange). The federal government will operate an Exchange in a state that elects not to establish its own Exchange. Plans sold in the Exchange (and in the small group and individual markets outside the Exchange) will be required to offer an "essential health benefits" package, which will initially be established using a "benchmark" insurance plan selected by the state. Individuals between 134 percent and 400 percent of the federal poverty level will be eligible for federal premium and cost sharing subsidies on a sliding scale.

Under the ACA, a state has the option to prohibit coverage of abortions in its Exchange. If a state chooses to allow coverage for abortions in the Exchange, at least one federally designated multi-state plan must not provide coverage for abortions beyond what is allowed by the Hyde Amendment. Coverage of abortions may not be part of the essential health benefits package and premium and cost sharing subsidies may not be used to purchase abortion coverage.

The ACA, however, states that it does not preempt or affect state laws regarding the prohibition of (or requirement of) coverage, funding, or procedural requirements on abortion. Any plan in the Exchange that covers abortions must collect two separate payment, one for the abortion services and one for all other benefits. A plan that covers abortions must segregate the funds attributable to the abortion benefit in a separate account. The actuarial value of the abortion benefit must be at least \$1 per month and may not take into account any savings that may accrue due to an abortion.

### **Summary of Bill:**

If a health plan issued or renewed on or after June 7, 2012, provides coverage for maternity care or services, it must also provide substantially equivalent coverage to permit the voluntary termination of a pregnancy. The plan may not limit a woman's access to services related to the voluntary termination of a pregnancy, except for generally applicable terms and conditions, including cost sharing. A health plan is not required to cover abortions that would be illegal

under state law. The coverage requirement does not apply to a federally designated multi-state plan that does not, under federal law, cover the voluntary termination of pregnancy.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.