

SENATE BILL REPORT

SB 6039

As Reported by Senate Committee On:
Health & Long Term Care, January 22, 2020

Title: An act relating to enacting the living donor act.

Brief Description: Enacting the living donor act.

Sponsors: Senators Keiser, Hunt, Saldaña and Wilson, C.

Brief History:

Committee Activity: Health & Long Term Care: 1/15/20, 1/22/20 [DPS].

Brief Summary of First Substitute Bill

- Prohibits life, disability, health, and long-term care insurance policies from discriminating against living organ donors.
- Requires the insurance commissioner to make educational materials available on the access of living organ donors to insurance.

SENATE COMMITTEE ON HEALTH & LONG TERM CARE

Majority Report: That Substitute Senate Bill No. 6039 be substituted therefor, and the substitute bill do pass.

Signed by Senators Cleveland, Chair; Randall, Vice Chair; O'Ban, Ranking Member; Becker, Conway, Dhingra, Frockt, Keiser, Muzzall and Van De Wege.

Staff: Evan Klein (786-7483)

Background: There are nearly 114,000 people in the United States on the waiting list for an organ transplant. In 2018, of 17,553 organ donors in the United States, 6,831 were living donors. Those who are living can donate one kidney, a lung, or a portion of the liver, pancreas, or intestine.

No insurer may make or permit any unfair discrimination between enrollees having substantially alike insuring, risk, and exposure factors, and expense elements, in the terms or conditions of an insurance contract, or in the rate of premium charged or benefits provided,

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except that life insurers may fairly discriminate between individuals who have unequal life expectancies.

Long-term care insurance policies in Washington may not:

- limit or reduce coverage or benefits with riders or waivers;
- be canceled, nonrenewed, or segregated at the time of rating solely on the grounds of the age or the deterioration of the mental or physical health of the covered person; or
- exclude or limit coverage for preexisting conditions for a period of more than one year prior to the effective date of the policy or more than six months after the effective date of the policy.

The Affordable Care Act (ACA) requires health plans to permit individuals to enroll in the plan regardless of health status, age, gender, or other factors that might predict the use of health services. The ACA also prohibits the extent of coverage offered to an individual from being limited due to the individual's health status. The ACA prohibits variation in rates for a given plan except based on four factors. The insurance commissioner, using an analysis of various health status, claims, and utilization factors, sets the geographic rating areas and permissible age bands. The ACA prohibits group and individual health plans from rescinding coverage once an individual is covered under the plan, unless the individual performs an act, practice, or omission that constitutes fraud or makes an intentional misrepresentation of material fact.

Summary of Bill (First Substitute): Anyone engaged in offering life, disability, health, or long-term care insurance may not:

- decline or limit coverage of a person under a policy, solely due to the status of the person as a living organ donor;
- prevent a person from donating all or part of an organ as a condition of receiving a policy; or
- otherwise discriminate in the offering, issuance, cancellation, amount of coverage, price, or other condition of a policy for a person based solely upon the status of the person as a living organ donor.

The insurance commissioner must make educational materials available to health plans and the public on the access of living organ donors to insurance.

The insurance commissioner may adopt rules to implement the act.

EFFECT OF CHANGES MADE BY HEALTH & LONG TERM CARE COMMITTEE (First Substitute):

- Clarifies that no one engaged in insurance can decline or limit coverage solely due to the status of a person as a living organ donor.
- Removes the prohibition on insurers considering the status of a person as a living organ donor in determining the premium rate for coverage.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: The bill takes effect on January 1, 2021.

Staff Summary of Public Testimony on Original Bill: *The committee recommended a different version of the bill than what was heard.* PRO: There are around 100,000 people in the country on a wait list for a kidney transplant. Twenty five percent of people who try to donate an organ report that their insurance tried to discriminate in the offering of insurance to them or the premium they are required to pay. Proponents would be happy to work with the insurance industry to ensure this bill addresses concerns from the industry.

OTHER: The American Council of Life Insurance (ACLI) would like to support the bill, but would like the bill to be amended to conform with federal legislation that is pending in congress. ACLI would like to be able to continue to underwrite the substantiated health and mortality risks of a potential enrollee, but accepts a standard where they cannot underwrite solely based on someone's status as a living organ donor. One of the benefits of a competitive life insurance market is that most individuals can purchase standard life insurance at standard rates.

Persons Testifying: PRO: Senator Karen Keiser, Prime Sponsor.

OTHER: Mel Sorensen, American Council of Life Insurers.

Persons Signed In To Testify But Not Testifying: No one.