

# FINAL BILL REPORT

## SSB 5003

---

---

C 172 L 21  
Synopsis as Enacted

**Brief Description:** Enacting the living donor act.

**Sponsors:** Senate Committee on Health & Long Term Care (originally sponsored by Senators Keiser, Conway, Kuderer, Randall, Saldaña, Stanford and Wilson, C.).

**Senate Committee on Health & Long Term Care**  
**House Committee on Health Care & Wellness**

**Background:** There are over 108,000 people in the United States on the waiting list for an organ transplant. In 2020, of 39,034 organ donors in the United States, 5725 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, 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, not renewed, 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

---

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

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—age, location, tobacco use, and whether the plan covers an individual or family. 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:** Insurers, fraternal benefit societies, and health carriers, including disability insurers, health maintenance organizations, and health care service contractors, 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.

Except when barred by specified statutory provisions prohibiting discrimination by health carriers, insurers may engage in fair discrimination based on bona fide statistical differences in risk or exposure.

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.

**Votes on Final Passage:**

Senate	46	0	
House	97	0	(House amended)
Senate	48	0	(Senate concurred)

**Effective:** July 25, 2021