

Senate Fiscal Agency
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SFA



BILL ANALYSIS

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Senate Bill 74 (as enrolled)
Senate Bill 75 (as enrolled)
Senate Bill 76 (as enrolled)
Senate Bill 434 (as enrolled)
Sponsor: Senator Jon Cisky (Senate Bills 74, 75, and 76)
Senator Dianne Byrum (Senate Bill 434)
Senate Committee: Health Policy and Senior Citizens
House Committee: Insurance

PUBLIC ACT 130 of 1998
PUBLIC ACT 131 of 1998
PUBLIC ACT 135 of 1998
PUBLIC ACT 136 of 1998

Date Completed: 6-25-98

RATIONALE

According to a February 1997 article in the *State Legislatures* magazine, "In recent years, some insurance companies have denied applications, canceled coverage, and raised rates for women who have sought legal or medical help because of injuries inflicted by their partner." Evidently, insurers justify this practice on the ground that victims of domestic violence have chosen to remain in risky and threatening circumstances. The article further states that at least half of the 16 largest insurers in the country use domestic violence as a factor in deciding whether to issue a policy and how much to charge for one. Reportedly, when the article was written, at least 13 other states had enacted legislation to prevent insurance discrimination against victims of domestic violence. Although there apparently have been no complaints about this practice in Michigan, many people believe that this State's laws also should prohibit insurers from treating domestic violence victims differently from other applicants or insured individuals.

CONTENT

The bills amended three statutes to prohibit a life insurer, an insurer that issues or renews an expense-incurred hospital, medical, or surgical policy, a health maintenance organization, or Blue Cross and Blue Shield of Michigan (BCBSM) from rating, canceling coverage on, refusing to provide coverage for, or refusing to issue or renew an insurance contract, policy, or certificate, solely because an insured, enrollee, or applicant is or has been a victim of domestic violence.

Senate Bill 74 and Senate Bill 434 amended the Insurance Code; Senate Bill 75 amended the Public Health Code (which governs health maintenance organizations); and Senate Bill 76 amended the Nonprofit Health Care Corporation Reform Act (which governs BCBSM).

The bills provide that an insurer, a health maintenance organization (HMO), or BCBSM cannot be held civilly liable for any cause of action that may result from compliance with the bills' provisions. The bills apply to all contracts, policies, or certificates issued or renewed on or after June 1, 1998.

Under the bills, "domestic violence" means "inflicting bodily injury, causing serious emotional injury or psychological trauma, or placing in fear of imminent physical harm by threat or force a person who is a spouse or former spouse of, has or has had a spouse relationship with, resides or has resided with, or has a child in common with the person committing the violence".

Senate Bills 74 and 434 also provide that a life insurer or an insurer that issues an expense-incurred hospital, medical, or surgical policy is not prohibited from inquiring about, underwriting, or charging a different premium on the basis of an individual's physical or mental condition, regardless of the cause of the condition. Further, Senate Bill 74 specifies that it does not prevent a life insurer from refusing to issue a life insurance policy insuring a person who has been the victim of domestic violence if the individual who commits the domestic violence is the applicant for, prospective

owner of, or beneficiary under the policy and one or more of the following apply:

- The applicant, prospective owner, or beneficiary under the policy is known on the basis of police or court records to have committed domestic violence.
- The insurer knows of an arrest or conviction for a domestic violence-related offense by the applicant for, prospective owner of, or beneficiary under the policy.
- The insurer has reasonable grounds to believe that the applicant for, prospective owner of, or beneficiary under the policy is committing domestic violence.

In addition, under Senate Bill 74, a life insurer is not prevented from refusing to issue a policy if the applicant, prospective owner, or beneficiary does not have an insurable interest in the life of the prospective insured individual.

MCL 500.2246 (S.B. 74)
333.21072 (S.B. 75)
550.1401 (S.B. 76)
500.3406j (S.B. 434)

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

Domestic violence should not be considered a pre-existing condition that allows insurance companies to deny coverage for the victims or to charge victims higher rates. These individuals already have been victimized and should not be subject to discriminatory practices by insurers. Although insurers in Michigan evidently do not discriminate against domestic violence victims, these bills establish a public policy that will prevent such discrimination in the future. This State already has many statutory provisions designed to protect individuals who are or have been abused by their partners, and these bills reinforce existing protections.

Legislative Analyst: S. Lowe

FISCAL IMPACT

The bills will have no apparent fiscal impact on State or local government.

Fiscal Analyst: J. Walker

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.