

SESSION OF 2021

**SECOND CONFERENCE COMMITTEE REPORT BRIEF
SENATE BILL NO. 29**

As Agreed to May 6, 2021

Brief*

SB 29 would amend law in the Insurance Code governing specially designed policies and short-term policies to update references to short-term limited duration (STLD) policies.

Under current law, “short-term” means an insurance policy period of 6 or 12 months, based upon policy design, which offers not more than one renewal period with or without a requirement of medical re-underwriting or medical requalification. The bill would amend this definition to update the term to “short-term limited duration” and would specify a policy period of less than 12 months and a policy that offers renewal or extension periods up to a maximum policy period of 36 months total in duration.

The bill would remove language specifying the benefits or services that could be included in specially designed policies. The definition of “specially designed policies” would be updated by the bill to provide that these policies are issued on a short-term, limited duration basis. The bill would also remove language required to be included in contracts and application material by insurance companies issuing STLD policies.

*Conference committee report briefs are prepared by the Legislative Research Department and do not express legislative intent. No summary is prepared when the report is an agreement to disagree. Conference committee report briefs may be accessed on the Internet at <http://www.kslegislature.org/kldr>

Conference Committee Action

The second Conference Committee agreed to remove the contents of SB 29, as amended by the House Committee on Insurance and Pensions, and insert the language of SB 199, as amended by the Senate Committee on Financial Institutions and Insurance.

Background

The second Conference Committee removed the contents of SB 29 and inserted the provisions of SB 199, as amended by the Senate Committee on Financial Institutions and Insurance. SB 29, as introduced, would have amended the effective date specified in the Insurance Code for the risk-based capital instructions promulgated by the National Association of Insurance Commissioners for property and casualty companies and for life insurance companies. [Note: The contents of SB 29, as amended by the House Committee on Insurance and Pensions, was inserted into the Conference Committee Report for House Sub. for SB 78, which is pending adoption.]

On October 12, 2017, the President issued Executive Order 13813 (“Promoting Healthcare Choice and Competition Across the United States”), which, among other things, encourages expanded access to association health plans (AHP) and the expanded availability of STLD insurance. [Note: Legislation pertaining to AHPs was enacted in 2019 HB 2209. This legislation was introduced in a package of six bills, HB 2054-2059 and companion bills SB 29-34. SB 35 was the Senate’s STLD bill.]

SB 199

SB 199 was introduced by the Senate Committee on Public Health and Welfare at the request of Senator Gossage. [Note: SB 199 is similar to 2019 HB 2053, as amended by House Committee on Insurance.]

Senate Committee on Financial Institutions and Insurance

In the Senate Committee hearing on SB 199 on March 18, 2021, **proponent** testimony was presented by Senator Gossage who stated STLD plans offer an affordable option to persons between jobs or who have other short-term needs for health insurance. Senator Gossage indicated the bill had the support of the Kansas Association of Health Underwriters and also stated STLD plans are not right for all Kansans, but for many people are the difference between being insured and forgoing coverage. Senator Gossage noted the bill would allow Kansans more choices in purchasing private insurance for longer durations without underwriting. Written-only **proponent** testimony was provided by a Kansas insurance agent and a former special assistant to President Trump at the White House National Economic Council.

In the March 18, 2021, Senate Committee hearing, **opponent** testimony was provided by a representative of the American Cancer Society Cancer Action Network, who stated STLD plans may deny coverage to individuals with pre-existing conditions, choose not to cover services related to those pre-existing conditions, or charge enrollees higher premiums because of their pre-existing conditions. The opponent stated STLD plans fail to provide the kind of comprehensive coverage needed if an individual was diagnosed with a serious unplanned disease such as cancer. Written-only **opponent** testimony was provided by the American Heart Association, Cigna Legal, Kansas Chapter of the American Academy of Pediatrics, National Multiple Sclerosis Society, Susan G. Komen Center for Public Policy, a private citizen, and a representative on behalf of the

American Academy of Pediatrics Kansas Chapter, American Cancer Society Cancer Action Network, American Heart Association, American Lung Association, Arthritis Foundation, Be The Match/National Marrow Donor Program, Leukemia and Lymphoma Society, National Multiple Sclerosis Society, National Alliance on Mental Illness Kansas, and Susan G. Komen Center for Public Policy.

The Senate Committee hearing remained open, and the hearing resumed on March 25, 2021.

In the Senate Committee hearing on March 25, 2021, **proponent** testimony was provided by a former special assistant to President Trump on the White House Economic Council. The proponent generally stated extending the duration of STLD plans will likely reduce adverse selection against Affordable Care Act (ACA) compliant insurance policies and could spur individual market insurers to become more efficient since they are a substitute for individual market coverage for some people. Written-only **proponent** testimony was provided by Senator Gossage, two private citizens, and representatives of Americans for Prosperity–Kansas, Kansas Policy Institute, and Opportunity Solutions Project.

A representative of the Cato Institute provided information regarding changes made by the federal government in STLD plans; the need for stronger patient protections in health insurance, particularly with respect to STLD plans; and the need to protect the sickest Kansas residents by allowing all residents the freedom to purchase STLD plans that protect them from re-underwriting and canceled coverage after they fall ill.

Opponent testimony was provided at the March 25, 2021, hearing by representatives of the National Multiple Sclerosis Society and Susan G. Komen Center for Public Policy, a private citizen, and a representative on behalf of the American Academy of Pediatrics Kansas Chapter, American Cancer Society Cancer Action Network, American Heart Association, American Lung Association, Arthritis Foundation,

Be The Match/National Marrow Donor Program, Leukemia and Lymphoma Society, National Multiple Sclerosis Society, National Alliance on Mental Illness Kansas, and Susan G. Komen Center for Public Policy. The opponents generally stated STLD plans discriminate against persons with pre-existing conditions, as these policies are permitted to take into account an individual's pre-existing condition or health status when issuing coverage. Opponents also noted the plans do not provide comprehensive coverage and do not have to provide for Essential Health Benefits (a requirement of ACA-compliant plans), and allowing STLD policies to be sold for extended periods of time would cause confusion to consumers who may be misled into believing these products to be comprehensive and prevent them from enrolling in more comprehensive plans. Written-only **opponent** testimony was provided by a representative of the Sunflower Health Plan.

On March 25, 2021, the Senate Committee amended the bill to remove specific language required to be included in contracts and application material by insurance companies issuing STLD policies. The Senate Committee amendment was requested by Senator Gossage (testimony indicated federal law requires inclusion of this language on contracts and application material). [*Note:* The second Conference Committee retained this amendment.]

Financial Information

According to the fiscal note prepared by the Division of the Budget on SB 199, as introduced, the Kansas Insurance Department and the Kansas Department of Administration state enactment of the bill would have no fiscal effect.

Insurance; health insurance; short-term limited-duration health plans; specially designed policies; policy period extension; renewal

ccrb_sb29_02_std.odt