

SESSION OF 2022

SUPPLEMENTAL NOTE ON SENATE BILL NO. 199

As Amended by House Committee on Insurance
and Pensions

Brief*

SB 199 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.

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

Background

The bill was introduced by the Senate Committee on Public Health and Welfare at the request of Senator Gossage. [Note: During the 2021 Session, the contents of SB 199 were inserted into a conference committee report for SB 29. The second conference committee report was adopted. The bill was subsequently vetoed by the Governor. SB 199 is similar to 2019 HB 2053, as amended by House Committee on Insurance.]

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

Senate Committee on Financial Institutions and Insurance

In the Senate Committee hearing 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. The proponent 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. The proponent 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 representatives of the American Heart Association, Cigna Legal, Kansas Chapter of the American Academy of Pediatrics, National Multiple Sclerosis Society, and Susan G. Komen Center for Public Policy; a private citizen; and a representative 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.

In the continued 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 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 are 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. [Note: Testimony indicated federal law requires inclusion of this language on contracts and application material.]

House Committee on Insurance and Pensions

In House Committee hearing on February 7, 2022, Senator Gossage and a former special assistant to President Trump on the White House Economic Council, representing Paragon Health Institute, provided **proponent** testimony, stating that short-term, limited-duration health plans are designed to fill gaps for people between jobs and offer an alternative to more expensive plans offered through the ACA. The senator stated that such plans are regulated by the federal government and do not have a limited open enrollment period, making the health plans accessible at times when ACA open enrollment is not available. Written-only proponent testimony was provided by a private citizen and representatives of Americans for Prosperity–Kansas, the Cato Institute, Kansas Policy Institute, and Opportunity Solutions Project.

Representatives of American Cancer Society Cancer Action Network, American Heart Association, Leukemia and Lymphoma Society, and the National Multiple Sclerosis Society provided **opponent** testimony, stating STLD plans do not provide adequate coverage for major illnesses or health crises. Opponents expressed concern that the plans are attractive for their low up-front cost but put consumers at risk for incurring large amounts of medical debt. Written-only opponent testimony was provided by a private citizen and representatives of the American Academy of Pediatrics, Kansas Chapter; American Lung Association of Kansas and Greater Kansas City; Arthritis Foundation; Be the Match/National Marrow Donor Program; Cigna; Kansas National Alliance on Mental Illness; Kansas Society of Clinical Oncology; National Psoriasis Foundation; Susan G. Komen Center for Public Policy; and Wichita Medical Research and Education Foundation.

No neutral testimony was provided.

The House Committee adopted a technical amendment requested by the Committee revisor to update a statutory reference in the bill.

Fiscal Information

According to the fiscal note prepared by the Division of the Budget on the bill, 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