



SB 283 (Gonzalez) – Strengthening the Equal Insurance HIV Act of 2020

SUMMARY

Senate Bill (SB) 283 would strengthen the Equal Insurance HIV Act of 2020 (Act) by clarifying and making technical changes to the provisions set forth in the Act, which prohibit an insurer from declining an insurance application or enrollment solely based on a positive HIV test.

Specifically, SB 283 would 1) prohibit an insurer from considering an applicant's occupation in determining whether to require an HIV test; 2) prohibit an insurer from limiting benefits payable for a loss caused or contributed by HIV; and 3) conform the Act's penalty of imprisonment to not exceed 364 calendar days as established under Penal Code section 18.5.

EXISTING LAW

Existing law, on and after January 1, 2023, prohibits an insurer from declining a life or disability income insurance application or enrollment solely based on a positive HIV test.

Existing law imposes a civil penalty on a person who negligently or willfully discloses results of an HIV antibody test to a third party, except pursuant to written authorization or informed consent, in a manner that identifies or provides identifying characteristics of the person to whom the test results apply.

Existing law, on and after January 1, 2023, imposes criminal penalties, including imprisonment in a county jail for a period not to exceed one year, and civil penalties for the negligent, willful, or malicious disclosure of results of an HIV test to a third party, and makes a person liable for all actual damages, including

those for economic, bodily, or psychological harm that is a proximate cause of the disclosure.

Penal Code 18.5 provides that a person who was sentenced to a term of up to one year in county jail for any offense shall only be punishable by imprisonment in a county jail for a period not to exceed 364 days.

BACKGROUND/PROBLEM

Insurance application denials have been based on outdated survival statistic bias that allows discrimination against individuals who are HIV-positive based on test results only, not considering other health and wellness factors. HIV positive individuals are living longer, healthier lives than before, their need for life and disability income insurance is imperative in order for them to protect themselves and their loved ones.

In 2020, Governor Newsom signed SB 1255, also known as the Equal Insurance HIV Act, which deletes an outdated law that allowed for discrimination of insurance applicants based solely on their HIV status. To ensure that the Equal Insurance HIV Act is implemented as it was intended and to protect the privacy of HIV positive applicants from unlawful disclosure of test results, it is necessary to make important clarifying changes.

SOLUTION

SB 283 strengthens the Insurance HIV Act of 2020 by further clarifying provisions established in law by the Act.

Specifically, SB 283 would prohibit an insurer from 1) considering an applicant's occupation in determining whether to require an HIV test; 2) limiting benefits

payable for a loss caused or contributed by HIV; and 3) conforms the Act's civil penalty of imprisonment to not exceed 364 calendar days as established under Penal Code section 18.5.

SUPPORT

Insurance Commissioner Ricardo Lara (Co-Sponsor)
Equality California (Co-Sponsor)

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