ASSEMBLY THIRD READING
AB 1798 (Wilson)
As Amended April 16, 2026
Majority vote

SUMMARY

Prohibits life and non-health disability insurers from using genetic information for any insurance purpose other than paying benefits or for a therapeutic purpose, unless the policy has a face value exceeding $1,500,000, and that information is in the individual's medical record and is not derived from a direct-to-consumer (DTC) genetic test.

Major Provisions

1) Prohibits an insurance institution, agent, or insurance-support organization from seeking information in connection with an insurance transaction concerning an individual's full genome or genetic information, except as specified.

2) Prohibits a life or disability insurer from cancelling, limiting, or denying coverage, establishing differentials in premium rates, conditions, or terms, or making an adverse underwriting decision based on a test for a genetic characteristic, except as specified.

3) Prohibits a life or disability insurer from requiring, requesting, or soliciting genetic information, using genetic test results, or considering a person's decisions or actions relating to genetic testing in any manner for an insurance purpose, except as necessary for the payment of benefits or for a therapeutic purpose, and except as specified.

4) Specifies that 1-3), above, do not apply to a life or disability insurance policy with a face value exceeding $1,500,000, provided the genetic information or test results are in the individual's medical record and are not derived from a DTC genetic test

5) Prohibits a life or disability insurer from requiring a person to undergo a test of the person's genetic characteristics to determine eligibility or insurability or for other insurance purposes.

6) Prohibits a life or disability insurer from asking a person if they or any member of their family have taken a genetic test, or asking about the result of a genetic test.

COMMENTS

1) *Genetic nondiscrimination in insurance.* In 2008, Congress passed the Genetic Information Nondiscrimination Act (GINA), which prohibits discrimination based on genetic information in group health plan coverage and employment, but GINA does not address discrimination based on genetic information in life and non-health disability insurance.

   In California, the Unruh Civil Rights Act prohibits discrimination on the basis of genetic information with respect to "the full and equal accommodations, advantages, facilities, privileges, or services in all business establishments of every kind whatsoever". California law prohibits life and disability insurers from refusing to issue/sell or renew a policy, or from requiring beneficiaries to accept less than the full sum of the policy, solely because the person to be insured carries a gene "which may, under some circumstances, be associated with disability in that person's offspring, but which causes no adverse effects to the carrier.

California law also lays out specific criteria controlling the practice of underwriting on the basis of genetic characteristics for the life and disability insurance industries.

Existing law further prohibits a life or disability insurer from requiring a test for the presence of a genetic characteristic for the purpose of determining insurability, other than for policies that are contingent on review or testing for other diseases or medical conditions, and requires informed consent and specified privacy protections if such a test is conducted. It also prohibits a policy from limiting benefits otherwise payable if loss results from genetic characteristics, except to the extent that coverage is limited for loss caused or contributed to by other medical conditions presenting an increased degree of risk. These protections do not go as far as prohibiting consideration of genetic information in life and disability insurance underwriting, resulting in less expansive protections for genetic information in the life and disability insurance space than in the health insurance space pursuant to GINA.

In 2021, Governor Newsom signed into law SB 41 (Umberg, Ch. 596, Stats. 2021), the Genetic Information Privacy Act (GIPA), which provides several privacy and consumer protections for genetic information collected through DTC testing. Among these protections is a prohibition on DTC genetic testing companies disclosing a consumer's genetic data "to any entity responsible for administering or making decisions regarding health insurance, life insurance, long-term care insurance, disability insurance, or employment, or to any entity that provides advice to an entity that is responsible for performing these functions."

2) *Asymmetry of information and adverse selection.* For all insurance products, the premiums set by the insurer must accurately reflect the risk assumed in order to ensure the product remains accessible and the market remains stable. In the life and disability insurance space, this means insurers comprehensively assess the applicant’s medical information, family history, lifestyle choices such as smoking, alcohol consumption, and drug use, occupation, hobbies, and driving record, among other things. Applicants who present higher morbidity or disability risk are offered higher premiums or denied coverage, while lower risk applicants can receive lower premiums. Regardless of risk category, the value of the insurance to the applicant should remain relatively equal – if risk is high, the potential benefit of having insurance is high, but so is cost, while if risk is low, the potential benefit of having insurance is lower, but cost is also lower.

   If the applicant has exclusive access to material information, this balance can be disrupted. If it becomes commonplace that the insurer cannot adequately account for associated risks in premiums, the insurer may not take in the requisite revenue to cover the frequency of necessary payouts, and the value of the insurance to a high-risk individual may increase, incentivizing more high-risk individuals to purchase the product. As unanticipated costs compound, the average risk of the insured population can increase, meaning premiums must increase for all policyholders, including those who are low risk. This reduces the value of the product for lower risk individuals who may consequently be less likely to purchase the product, creating a feedback loop that can further increase the high-risk segment of the insured population. This is known as adverse selection.

   Most insurance markets tolerate some information asymmetry to avoid unfair discrimination. For instance, California law prohibits life and disability insurers from declining an application for insurance, and from issuing insurance under conditions less favorable to the insured than in other comparable cases, except for reasons applicable to persons of every race, color, religion, sex, gender, gender identity, gender expression, national origin, ancestry, or sexual orientation. It also prohibits considering race, color, religion, national origin, ancestry, and sexual orientation from, of itself, constituting a condition or risk for which a higher rate may be charged. These factors may very well correlate with increased or decreased risk of mortality in certain circumstances, but costs associated with that variance are instead absorbed by the insured population as a whole, rather than by the higher-risk individuals, in the form of higher premiums. Whether it is appropriate to foreclose the use of genetic information in underwriting under certain conditions depends on the extent to which one considers genetic information to be a potential factor for unfair discrimination like race, or a critical factor in evaluating risk like medical history.

3) *Laws governing use of genetic information in life insurance elsewhere.* Several countries have implemented full or partial bans on the use of genetic information for underwriting life and disability insurance. France, Canada, and Australia, for instance, entirely prohibit the use of genetic information in all forms of insurance underwriting. Switzerland, the United Kingdom, and Singapore, on the other hand, all permit the use of genetic information for life and disability insurance underwriting, but only if the face value of the policy exceeds a certain financial threshold (e.g. ~ $500,000, $670,000, and $1,500,000 USD, respectively, for life insurance policies). This bill reflects the latter approach.

   In 2020, the Florida legislature passed HB 1189 (Ch. 2020-159), which, in the absence of a diagnosis of a condition related to genetic information, prohibits health insurers, life insurers, and long-term care insurers from canceling, limiting, or denying coverage, or establishing differentials in premium rates, based on genetic information. HB 1189 also prohibits these insurers from requiring or soliciting genetic information, using genetic test results, or considering a person's decisions or action relating to genetic testing in any manner for any insurance purpose. In the six years since HB 1189 has gone into effect, Florida has not seen a significant retreat of the life insurance industry, nor have premiums increased disproportionately relative to the national average. Life insurance trade groups who oppose this bill contend that because life insurance typically does not pay out for many years after a policy is purchased, the full effects of HB 1189 are not yet reflected in the market.

4) *Policy value threshold for use of genetic information in this bill.* Information asymmetry and resulting adverse selection for very large policies has the potential to disproportionately impact the stability of the market. While the cost of unanticipated risk from genetic information would, for the average policy, likely be relatively low, high-risk individuals purchasing particularly large policies without insurers being able to adequately establish premiums could be quite costly, resulting in increased premiums for high- and low-risk applicants alike. According to a study by LIMRA, in 2025, the average life insurance policy in the United States had a face value of $206,000.

   As a perspective published in the scientific journal *Nature Medicine* argues:

   > A different feature worth considering, shared by the Swiss, British and now Australian models, is a monetary cap for policies above which genetic information may be used. Such caps allow insurers to hedge against risk for their most expensive policies and distribute risk on high-net-worth individuals rather than the vulnerable. If one is convinced that genetic information is not fair to use for rate setting, it may seem to be an unacceptable compromise to create exceptions above a certain monetary threshold. But

> pragmatically, such limits may be an effective way of aligning ethical goals with the needs of the insurance industry. It also helps mitigate a concern of insurance companies of information asymmetry favoring underwrites who have access to their own genetic testing results.

Like Singapore, this bill would permit the use of genetic information in underwriting for policies with a face value in excess of $1,500,000. The bill would also specify that insurers can only use genetic information in the individual's medical record for underwriting, as such information is presumably the subset of genetic information deemed medically pertinent.

According to the Author

California has a responsibility to lead when it comes to protecting patients and advancing health equity. As genetic testing and biomarker screening become more widely used, we must ensure that these innovations don't deepen existing disparities or create new barriers to coverage. AB 1798 ensures that Californians are not penalized for taking proactive steps to understand their health. Genetic testing and biomarker screening should lead to better health, not higher premiums, reduced benefits, or denial of coverage.

Arguments in Support

This bill is sponsored by Insurance Commissioner Ricardo Lara, who argues in support:

> Californians are increasingly embracing genetic testing to learn about their potential health risks and make informed healthcare decisions. Yet insurers may reduce coverage or increase premiums based on these results, even for individuals who did not consent to sharing. This bill ensures that proactive, at-risk individuals are not discouraged from or punished for obtaining this important health genetic information. When consumers fear insurance consequences, they may avoid valuable genetic and biomarker tests. A 2023 Centers for Disease Control and Prevention survey indicated that 60% of respondents were concerned that results of genetic testing for higher risk of cancer would impact their life insurance. AB 1798 removes this barrier, promoting early detection, prevention, and better health outcomes.

Arguments in Opposition

A coalition of trade organizations representing the life insurance industry, consisting of the American Council of Life Insurers, Association of California Life and Health Insurance Companies, and National Association of Insurance and Financial Advisors – California, argues in opposition to the bill:

> At its core, life insurance works because both parties share the same material information at the time the policy is issued. Life insurance is a long-term promise. Once a policy is issued, an insurer cannot raise the premium, cannot cancel coverage so long as premiums are paid, and has only one chance to underwrite the risk.
>
> That system functions because underwriting is based on complete and accurate information from both the applicant and the insurer. When both sides have the same material medical information, premiums reflect the true level of risk. […]
>
> If AB 1798 allows applicants to withhold material medical information, it undermines the balanced symmetry of information these long-term contracts depend on and will force insurers to set premiums without a full and accurate picture of the risk they are insuring.

FISCAL COMMENTS

According to the Assembly Appropriations Committee:

> The Department of Insurance (CDI) reports it anticipates no costs. CDI does not anticipate needing to promulgate regulations. However, if regulations are needed, CDI would incur costs of an unknown amount, potentially in the tens of thousands of dollars (Insurance Fund).
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> Cost pressures (Trial Court Trust Fund, General Fund) of an unknown but potentially significant amount to the courts to adjudicate any additional filings. Actual costs will depend on the number of cases filed and the amount of court time needed to resolve each case.

VOTES

ASM INSURANCE: 11-5-1
YES: Calderon, Addis, Alvarez, Ávila Farías, Berman, Gipson, Harabedian, Krell, Ortega, Petrie-Norris, Michelle Rodriguez
NO: Wallis, Chen, Ellis, Hadwick, Valencia
ABS, ABST OR NV: Nguyen

ASM PRIVACY AND CONSUMER PROTECTION: 11-4-0
YES: Bauer-Kahan, Bryan, Irwin, Lowenthal, McKinnor, Ortega, Pellerin, Petrie-Norris, Ward, Wicks, Wilson
NO: Macedo, DeMaio, Hoover, Patterson

ASM APPROPRIATIONS: 12-2-1
YES: Wicks, Aguiar-Curry, Calderon, Caloza, Fong, Mark González, Krell, Pacheco, Pellerin, Sharp-Collins, Solache, Ta
NO: Hoover, Tangipa
ABS, ABST OR NV: Dixon

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