CONCURRENCE IN SENATE AMENDMENTS
AB 1798 (Wilson)
As Amended August 21, 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 that information is in the individual's medical record, is not derived from a direct-to-consumer (DTC) genetic test, and is for the purpose of ruling out an adverse finding based on the individual's medical record with the informed consent of the individual.

Senate Amendments

1) Remove authorization for the use of genetic information in underwriting life and disability insurance for policies with a face value greater than $1.5 million.

2) Authorize the use of genetic information in underwriting life and disability insurance only if the information is for the purpose of ruling out an adverse finding based on the individual's medical record and the individual has provided informed, written consent for the release, disclosure, and use of the genetic test results or has provided the genetic test results to the insurer.

3) Clarify that the bill does not prohibit a life insurer or disability insurer from considering a medical diagnosis included in an individual's medical record, even if the diagnosis was made based on the results of a genetic test.

4) Clarify that the bill does not authorize the use or disclosure of an individual's full genome.

5) Include chaptering-out amendments to resolve conflicts with SB 354 (Limón), of the current legislative session, in the event both bills are signed into law.

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 direct-to-consumer (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).

   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.

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 Senate Appropriations Committee:

1) Unknown, potentially significant workload cost pressures to the state funded trial court system to adjudicate any violations resulting from this bill (Trial Court Trust Fund, General Fund). The fiscal impact of this bill to the courts will depend on many unknowns, including the number of cases filed and the factors unique to each case. An eight-hour court day costs approximately $8,000 in staff in workload. If court days exceed 10, costs to the trial courts could reach hundreds of thousands of dollars. While the courts are not funded on a workload basis, an increase in workload could result in delayed court services and would put pressure on the General Fund to fund additional staff and resources and to increase the amount appropriated to backfill for trial court operations.

2) Unknown local county costs to the extent that a one-year misdemeanor jail sentence is imposed, though incarceration for this offense appears unlikely. The average annual cost to incarcerate one person in county jail is approximately $80,000. For historical context, Los Angeles County budgeted $1.3 billion for jail costs in 2021, averaging roughly $90,000 per incarcerated person. Actual county incarceration costs will depend on the number of convictions and the length of each sentence. Generally, county incarceration costs are not reimbursable state mandates pursuant to Proposition 30 (2012).

3) The California Department of Insurance (CDI) does not anticipate a fiscal impact from the bill (Insurance Fund).

   Staff notes there may be an unknown potential increase in enforcement workload for CDI to address violations of this bill, which may be offset to some extent by penalty revenue (Insurance Fund). It is possible that higher aggregate penalties may incentivize insurers to

contest enforcement actions through the administrative hearing process rather than opting for immediate compliance, which may increase administrative and adjudicatory workload. The magnitude of this workload would depend on the number and scope of violations, as well as any attached penalties

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

ASSEMBLY FLOOR: 57-18-5
YES: Addis, Aguiar-Curry, Ahrens, Alvarez, Arambula, Ávila Farías, Bains, Bauer-Kahan, Bennett, Berman, Boerner, Bonta, Bryan, Calderon, Caloza, Carrillo, Connolly, Elhawary, Fong, Gabriel, Gallagher, Garcia, Gipson, Mark González, Haney, Harabedian, Hart, Irwin, Jackson, Kalra, Krell, Lee, Lowenthal, McKinnor, Muratsuchi, Ortega, Pacheco, Papan, Patel, Pellerin, Petrie-Norris, Quirk-Silva, Ramos, Ransom, Rogers, Blanca Rubio, Schiavo, Schultz, Sharp-Collins, Solache, Soria, Stefani, Ward, Wicks, Wilson, Zbur, Rivas
NO: Alanis, Castillo, Chen, Davies, DeMaio, Ellis, Flora, Jeff Gonzalez, Hadwick, Hoover, Johnson, Macedo, Patterson, Sanchez, Ta, Tangipa, Valencia, Wallis
ABS, ABST OR NV: Dixon, Lackey, Nguyen, Celeste Rodriguez, Michelle Rodriguez

UPDATED

VERSION: August 21, 2026

CONSULTANT: Landon Klein / INS. / (916) 319-2086 FN: 0004375