

Legislative History of sSB 358 (2022)

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Issue

Provide a legislative history of [sSB 358](#) (2022) – An Act Concerning Required Health Insurance Coverage For Breast and Ovarian Cancer Susceptibility Screening.

Summary

In the 2022 legislative session, the Insurance and Real Estate Committee raised SB 358 and, after a public hearing, favorably reported it out of committee to the floor of the Senate with substitute language ([sSB 358](#)). The substitute bill was amended in the Senate, and after robust debates, both chambers passed it as amended. On May 12, 2022, the bill was enacted as [PA 22-90](#). It was signed by the Governor almost 3 weeks later, on May 31, 2022. It generally expanded coverage under fully-insured health insurance policies for specific procedures used to treat or prevent ovarian cancer. Among other things, for policies issued or renewed on or after January 1, 2023, the act:

1. expanded health insurance coverage requirements for breast mammograms, ultrasounds, and magnetic resonance imaging (MRIs);
2. required coverage of certain procedures related to breast cancer treatment, including breast biopsies; certain prophylactic mastectomies; and breast reconstruction surgery, subject to certain conditions; and
3. required coverage for certain (a) genetic testing, including for breast cancer gene one (BRCA1) and breast cancer gene two (BRCA2), under certain circumstances; (b) post-treatment CA-125 monitoring (i.e., a test measuring the amount of the cancer antigen 125 protein); and (c) routine ovarian cancer screenings, including surveillance tests for certain insureds.

Additionally, the act requires the applicable plans to provide these coverages without any cost-sharing (i.e., coinsurance, copayments, deductibles, or other out-of-pocket expenses). The act also made minor changes, including adopting gender-neutral language (specifying mammography, ultrasound, and certain other coverage applies to any insured and not just women).

Background Information

The bill follows a recent legislative trend of expanding fully-insured health insurance coverage for breast health, the public push for which was often attributed by legislators to [Nancy Cappello](#), founder of the "[Are You Dense?](#)" advocacy group. In 2016 and 2018, the legislature expanded mammography coverage to include 13 related procedures, including tomosynthesis (i.e., a 3-dimensional mammogram particularly effective for women with dense breast tissue) ([PA 16-82](#) & [PA 18-159](#)). In 2019, the legislature prohibited these policies from charging coinsurance, copayments, deductibles, or other out-of-pocket expenses for covered breast ultrasounds, mammograms, and MRIs ([PA 19-117](#), §§ 209 & 210).

Raised Bill

Raised Bill 358, "An Act Concerning Required Health Insurance Coverage for Breast Health Benefits" was a committee bill referred to the Insurance and Real Estate Committee on March 7, 2022. The final bill was eventually sponsored by a bipartisan group of 62 legislators.

The raised bill broadly expanded health insurance coverage requirements for mammograms, ultrasounds, and MRIs for breast screenings under certain commercial health insurance policies. It also required the effected policies to cover certain procedures related to breast cancer treatment, including breast biopsies; certain prophylactic mastectomies; and breast reconstruction surgery, subject to certain conditions. The raised bill prohibited the policies from imposing cost sharing (i.e., coinsurance, copayments, deductibles, or other out-of-pocket expenses) for the covered services. This cost-sharing prohibition applies to all affected policies, but applied to high deductible health plans only (1) to the extent federal law permits and (2) so long as it does not disqualify a medical or health savings account from preferable tax treatment.

Public Hearing

A public hearing was held on March 15, 2022, with 21 people submitting relevant written [testimony](#). Representatives [Johnson](#) and [Turco](#) expressed support, as did the [Radiological Society of Connecticut](#), [the Connecticut Academy of Physician Assistants](#), and 13 members of the public. Generally, testimony in support noted that lowering barriers to treatment, expanding coverage, and reducing cost led to earlier detection of cancers and better patient outcomes.

The [Connecticut Insurance Department](#) neither supported nor opposed the bill, but questioned whether it would constitute a benefit mandate under the federal Affordable Care Act, for which the state would have to defray the cost. This question was echoed by [Connecticut Business & Industry Association](#), who opposed the bill without an accompanying cost-benefit analysis.

The [CT Association of Health Plans](#) also asked the committee to consider whether the expanded coverage would constitute a benefit mandate, and opposed the increased cost the bill would place on health insurance consumers.

The committee's [joint favorable report](#) describes the oral testimony in more detail.

Joint Favorable Substitute

On March 22, 2022, the Insurance and Real Estate Committee voted 16-1 to favorably report a substitute bill to the Senate floor. sSB 358 maintained the raised bill's language, and added two additional sections that required the health insurance policies to cover the following services related to the testing and treatment of ovarian cancer: (1) genetic testing, including for breast cancer gene one (BRCA1) and breast cancer gene two (BRCA2), under certain circumstances; (2) post-treatment CA-125 monitoring (i.e., a test measuring the amount of the cancer antigen 125 protein); and (3) routine ovarian cancer screenings, including surveillance tests for certain insureds. As with expanded coverage under the raised bill, these substitute bill required these services to be provided without any cost-sharing, to the extent federal law permits and that it does not impact any federally tax-advantaged health accounts.

The substitute bill was referred from the Senate floor to the Appropriations Committee, which favorably reported it with a unanimous vote of 48-0.

Senate Debate

The bill was brought out for debate by Senator Lesser, who immediately called an amendment. The bipartisan [amendment](#), sponsored by Senators Lesser and Hwang, made minor and technical changes to the underlying bill, including (1) fixing incorrect references and (2) specifying that mammograms may be provided by breast tomosynthesis at the insured's option. This latter provision existed in prior law, but the substitute bill's language made its ongoing effect unclear. Senator Lesser summarized the amendment:

This is a mostly technical Amendment, but it does have one very important provision, in which it prevents an inadvertent move to reduce existing coverage of tomosynthesis coverage for women seeking access to breast health screening.

The amendment was adopted by a voice vote. Senator Lesser noted that the bill: “attempts to strengthen screening and other important coverage for breast and ovarian cancer, which are two incredibly dangerous killers in Connecticut” and will “make a real difference.” Senator Hwang agreed, noting that the cost was worth the benefit. The bill was placed on the consent calendar, where it passed 34-0.

House Debate

The substitute bill as amended was brought out on the floor by Representative Borer who was asked by Representative Pavalock-D’Amato to explain the amendment, which was adopted by a voice vote. Representative Borer spoke on the bill as amended, generally arguing that early detection and lower barriers will save lives:

We know that one in eight women will be diagnosed with breast cancer each year. And in Connecticut, sadly, those statistics are even greater because we ranked number two in the incidence of breast cancer in the country. A ranking that we should not be proud of. The American Cancer Society has indicated that if breast cancer is detected in late stages, stage four, the survival rate is 25%. If breast cancer is detected in the early stages, the survival rate is 98%. So, we know how critical early detection is, and that’s what most of this bill does. It talks to early detection of breast cancer and helps with the early detection of ovarian cancer.

Representative Borer continued the floor debate by discussing the disproportionate impact of breast cancer on women with dense breast tissue and describing how the expanded coverage will make it easier for women to access breast health-related services.

Representative Pavalock-D’Amato agreed with the underlying coverage issues but questioned the bill’s cost and applicability. Regarding applicability, Representative Borer noted that the bill only covers people in the fully insured health insurance market. Representative Pavalock-D’Amato explained that this is only about 30% of the total health insurance market in Connecticut.

Regarding cost, Representative Pavalock-D’Amato expressed frustration about rising health care costs and expanded coverage:

I do get a little frustrated when on one side we can complain about the increased costs, and on the other side keep passing bills that contribute to those increased costs.

She suggested that the legislature should focus on a mandate review, which is an accounting of the cost of legislative mandates on health insurance premiums, and then determine which potential mandates to pass. She noted that the increased cost of mandates on health insurance premiums might lead people to forgo insurance altogether:

And as Legislators, of course, knowing what the cost of something is, is something that, I think, usually contributes to our decision as lawmakers, whether this is in the best interests of everyone or is this going to put a burden on certain people who now can't afford coverage at all, and avoid it altogether.

Representatives Borer and Pavalock-D'Amato continued to discuss the expanded coverages under the bill, including whether it would impact people on the Connecticut Health Insurance Exchange. The debate focused on the cost of coverage and how many people it would impact. Representative Pavalock-D'Amato then called an amendment, [LCO 5865](#). Sponsored by Representative Dauphinais, it would have required the Office of Fiscal Analysis's fiscal note to include the impact of health insurance benefit mandates on (1) state and local governments and (2) the Connecticut Health Insurance Exchange. Representative Pavalock-D'Amato explained: "[It] simply requires us to find out what this mandate would cost and what it would cost the individuals who are on the exchange."

Representative Borer spoke on the amendment, noting that cost was an important factor but:

At this point in time, time is of the essence when you experience breast cancer, and I think that if we wait any further and we continue to ask for analysis and ask for reports – you know, every day that goes by, somebody's, the breast cancer isn't detected through screening purposes, is a potential loss of life. And I think at this point, I'd rather have this bill go forward, and I'm asking my colleagues to vote no on this amendment.

Representatives Mastrofrancesco and Dauphinais spoke in favor of the amendment, which failed by a [vote](#) of 51-97. Six other amendments were filed in the House, but none were called.

Several legislators spoke in favor of the bill, including discussing their personal connection to people who have suffered from ovarian or breast cancer. Legislators who opposed the bill on the House floor discussed the cost of health insurance mandates and that the state would be picking and choosing who received the health insurance coverage (because it only applied to fully insured plans).

Following the floor debate, the substitute bill passed the House on a [145-3 vote](#).

The text of the Senate and House floor debates are available [here](#).

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