

# SENATE BILL REPORT

## ESSB 5084

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As Amended by House, February 27, 2018

**Title:** An act relating to providing women with timely information regarding their breast health.

**Brief Description:** Providing women with timely information regarding their breast health.

**Sponsors:** Senate Committee on Health Care (originally sponsored by Senators Rolfes, Angel, Hasegawa, Nelson, Honeyford, Darneille, Billig, Keiser, Wilson, Saldaña, Warnick and Kuderer).

**Brief History:**

**Committee Activity:** Health Care: 1/24/17, 2/02/17 [DPS, w/oRec].

**Floor Activity:**

Passed Senate: 1/31/18, 48-0.

Passed House: 2/27/18, 98-0.

**Brief Summary of Engrossed First Substitute Bill**

- Requires information identifying the patient's individual breast density classification to be included on mammography reports sent to patients.
- Requires a notice to patients that encourages patients to communicate with their health care providers about breast density and other breast cancer risks.

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### SENATE COMMITTEE ON HEALTH CARE

**Majority Report:** That Substitute Senate Bill No. 5084 be substituted therefor, and the substitute bill do pass.

Signed by Senators Rivers, Chair; Cleveland, Ranking Minority Member; Kuderer, Assistant Ranking Minority Member; Bailey, Conway, Keiser, Miloscia, Mullet, O'Ban and Walsh.

**Minority Report:** That it be referred without recommendation.

Signed by Senator Becker, Vice Chair.

**Staff:** Greg Attanasio (786-7410)

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

**Background:** Mammograms are screening tests used for early breast cancer detection and for breast evaluation. Breast density is a measure used to describe the proportion of the area of breast and connective, or fibroglandular, tissue to the area of fat. Breast and connective tissue is denser, meaning it blocks the passage of x-rays to a greater extent than fatty tissue. Dense tissue appears white or light gray on a mammogram. Lumps, both benign and cancerous, also appear white. Thus, mammograms may be less accurate in patients with dense breasts because it is more difficult to interpret or detect abnormalities.

A qualified health care provider reviews mammographic results to screen for visible abnormalities and may assign a mammogram to one of four categories of breast density, as published in the the Breast Imaging Reporting and Data System Atlas by the American College of Radiology. Patients classified in the highest two density levels have heterogeneously or extremely dense breast tissue.

The federal Mammography Quality Standards Act (Act) requires any facility that performs a mammogram to send each patient a summary of the mammography report written in lay terms within 30 days of the examination. Facilities must also send a full written report including a final assessment of breast density findings to the patient's physician, or directly to the patient if there is no identified physician, within 30 days of the examination. The Act does not require breast density information in the summary sent to the patient.

**Summary of Engrossed First Substitute Bill:** After a mammogram, a health care facility must send the patient the information required by the Act and information that identifies the patient's individual breast density classification. If a physician determines that the patient has heterogeneously dense or extremely dense breast tissue, the health care facility must include a notice to the patient that explains that roughly half of all women have dense breast tissue and that this is normal but may make it difficult to evaluate a mammogram and may be associated with an increased risk of breast cancer. The notice must also include a statement encouraging patients to discuss this with their health care providers to decide future screening options.

This bill does not create a duty of care or impose any liability on a physician or health care facility beyond the duty to provide notice as required in the bill.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Creates Committee/Commission/Task Force that includes Legislative members:** No.

**Effective Date:** The bill takes effect on January 1, 2019.

**Staff Summary of Public Testimony on Original Bill:** *Testimony from 2017 Regular Session. The committee recommended a different version of the bill than what was heard.*

PRO: The federal notice does not require a statement on whether dense breast tissue has been detected. Cancer shows up white on a mammogram, as does dense breast tissue. Other screening options are available for women who need further screening. People need to have full access to their health care records. This could prevent deaths. People with dense breast

tissue should demand extra screening. Women need this information so they can discuss their risk factors with their doctors. Women deserve guidance and perspective from their physicians on the limits of mammograms. Breast density can limit the ability to detect cancer; only 38 percent of cancers are detectable in women with dense breasts. Women need to be able to ask questions and receive supplemental screening; the ability to ask questions helps early detection of cancer.

CON: We support patient empowerment, but this does not meet the goals of patient empowerment. We have not heard of women not getting more treatment if their mammogram warrants more care. Additional screening is not recommended on the basis of high breast density. Extra screening limits health gains and increases health costs; science doesn't support additional testing. We are concerned that the liability section may provide liability for providers beginning January 1, 2018.

OTHER: The Washington State Radiological Society provided the notice language for the bill. Past versions of the bill did not have notice language that addressed the relevant issues; half of all women have dense breasts and this is normal. The language needs to reflect that.

**Persons Testifying:** PRO: Senator Christine Rolfes, Prime Sponsor; Kathy Vielhaber; Craig Hanson; Kristin Lamson, citizen.

CON: Dr. Judy Kimelman, American Congress of Obstetricians and Gynecologists; Lisa Thatcher, Washington State Hospital Association.

OTHER: Dr. Pooja Voria , Washington State Radiological Society President.

**Persons Signed In To Testify But Not Testifying:** No one.

**EFFECT OF HOUSE AMENDMENT(S):**

- Removes the requirement that the notice to patients state dense breast tissue may be associated with an increased risk of breast cancer.