

# SENATE BILL 918

C3

8lr3330

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By: **Senator Forehand**

Introduced and read first time: February 20, 2008

Assigned to: Rules

Re-referred to: Finance, March 10, 2008

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Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 20, 2008

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Long-Term Care Insurance - ~~Discrimination Based on Genetic Information~~**  
3 **or Tests - ~~Prohibited~~ Prohibited Acts - Genetic Tests, Genetic Information,**  
4 **or Genetic Services**

5 FOR the purpose of ~~repealing an exemption for long-term care insurance policies from~~  
6 ~~the scope of certain provisions of law regulating the use and disclosure of~~  
7 ~~certain genetic information, certain genetic tests, and the results of certain~~  
8 ~~genetic tests by certain health insurance carriers in connection with health~~  
9 ~~insurance policies and contracts; and generally relating to genetic tests, genetic~~  
10 ~~information, and long-term care insurance~~ prohibiting a carrier or insurance  
11 producer of a carrier that provides long-term care insurance from requesting or  
12 requiring a genetic test or from using a genetic test, the results of a genetic test,  
13 genetic information, or a request for genetic services to take certain actions with  
14 regard to long-term care insurance; providing for a certain exception; defining  
15 certain terms; and generally relating to prohibited acts relating to genetic tests,  
16 genetic information, and genetic services with regard to long-term care  
17 insurance.

18 BY repealing and reenacting, without amendments,  
19 Article - Insurance  
20 Section 18-101(a) and (d)  
21 Annotated Code of Maryland  
22 (2006 Replacement Volume and 2007 Supplement)

23 BY repealing and reenacting, with amendments,

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike-out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 Article – Insurance  
 2 Section ~~27-909~~ 18-120  
 3 Annotated Code of Maryland  
 4 (2006 Replacement Volume and 2007 Supplement)

5 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
 6 MARYLAND, That the Laws of Maryland read as follows:

7 **Article – Insurance**

8 18-101.

9 (a) In this title the following words have the meanings indicated.

10 (d) “Carrier” means an insurer, nonprofit health service plan, health  
 11 maintenance organization, or preferred provider organization.

12 ~~27-909.~~

13 (a) ~~(1) In this section the following words have the meanings indicated.~~

14 ~~(2) “Gene product” means the biochemical material, either RNA or~~  
 15 ~~protein, made by a gene.~~

16 ~~(3) (i) “Genetic information” means information:~~

17 ~~1. about chromosomes, genes, gene products, or~~  
 18 ~~inherited characteristics that may derive from an individual or a family member;~~

19 ~~2. obtained for diagnostic and therapeutic purposes; and~~

20 ~~3. obtained at a time when the individual to whom the~~  
 21 ~~information relates is asymptomatic for the disease.~~

22 ~~(ii) “Genetic information” does not include:~~

23 ~~1. routine physical measurements;~~

24 ~~2. chemical, blood, and urine analyses that are widely~~  
 25 ~~accepted and in use in clinical practice;~~

26 ~~3. tests for use of drugs; or~~

27 ~~4. tests for the presence of the human immunodeficiency~~  
 28 ~~virus.~~

1           ~~(4) “Genetic services” means health services that are provided to~~  
2 ~~obtain, assess, and interpret genetic information for diagnostic and therapeutic~~  
3 ~~purposes and for genetic education and counseling.~~

4           ~~(5) “Genetic test” means a laboratory test of human chromosomes,~~  
5 ~~genes, or gene products that is used to identify the presence or absence of inherited or~~  
6 ~~congenital alterations in genetic material that are associated with disease or illness.~~

7           ~~(b) This section does not apply to life insurance policies, annuity contracts,~~  
8 ~~[long term care insurance policies,] or disability insurance policies.~~

9           ~~(c) An insurer, nonprofit health service plan, or health maintenance~~  
10 ~~organization may not:~~

11           ~~(1) use a genetic test, the results of a genetic test, genetic information,~~  
12 ~~or a request for genetic services, to reject, deny, limit, cancel, refuse to renew, increase~~  
13 ~~the rates of, affect the terms or conditions of, or otherwise affect a health insurance~~  
14 ~~policy or contract;~~

15           ~~(2) request or require a genetic test, the results of a genetic test, or~~  
16 ~~genetic information for the purpose of determining whether or not to issue or renew~~  
17 ~~health benefits coverage; or~~

18           ~~(3) release identifiable genetic information or the results of a genetic~~  
19 ~~test to any person who is not an employee of the insurer, nonprofit health service plan,~~  
20 ~~or health maintenance organization or a participating health care provider who~~  
21 ~~provides medical services to insureds or enrollees without the prior written~~  
22 ~~authorization of the individual from whom the test results or genetic information was~~  
23 ~~obtained.~~

24           ~~(d) Disclosure of identifiable genetic information to an employee or health~~  
25 ~~care provider authorized under subsection (c)(3) of this section shall only be for the~~  
26 ~~purpose of:~~

27           ~~(1) providing medical care to patients; or~~

28           ~~(2) conducting research that has been approved by an institutional~~  
29 ~~review board established in accordance with federal law.~~

30           ~~(e) The authorization described in subsection (c)(3) of this section is required~~  
31 ~~for each disclosure and shall describe the individual or entities making the disclosure,~~  
32 ~~to whom the disclosure is to be made, and the information to be disclosed.~~

33           ~~(f) (1) For purposes of this subsection, §§ 4-113, 4-114, 27-501, and~~  
34 ~~27-505 of this article apply to nonprofit health service plans and health maintenance~~  
35 ~~organizations.~~

1           ~~(2) The Commissioner may issue an order under §§ 4-113, 4-114,~~  
 2 ~~27-501, and 27-505 of this article if the Commissioner finds a violation of this section.~~  
 3 18-120.

4           **(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE**  
 5 **MEANINGS INDICATED.**

6           **(2) (I) "GENETIC INFORMATION" MEANS INFORMATION**  
 7 **DERIVED FROM A GENETIC TEST:**

8                           **1. ABOUT CHROMOSOMES, GENES, GENE PRODUCTS,**  
 9 **OR INHERITED CHARACTERISTICS THAT MAY DERIVE FROM AN INDIVIDUAL OR A**  
 10 **FAMILY MEMBER;**

11                           **2. NOT OBTAINED FOR DIAGNOSTIC AND**  
 12 **THERAPEUTIC PURPOSES; AND**

13                           **3. OBTAINED AT A TIME WHEN THE INDIVIDUAL TO**  
 14 **WHOM THE INFORMATION RELATES IS ASYMPTOMATIC FOR THE DISEASE,**  
 15 **DISORDER, ILLNESS, OR IMPAIRMENT TO WHICH THE INFORMATION RELATES.**

16                           **(II) "GENETIC INFORMATION" DOES NOT INCLUDE**  
 17 **INFORMATION:**

18                           **1. RELATING TO A DISEASE, DISORDER, ILLNESS, OR**  
 19 **IMPAIRMENT THAT IS OR HAS BEEN MANIFESTED OR FOR WHICH THE**  
 20 **INDIVIDUAL IS OR HAS BEEN SYMPTOMATIC; OR**

21                           **2. DERIVED FROM:**

22                           **A. ROUTINE PHYSICAL MEASUREMENTS;**

23                           **B. CHEMICAL, BLOOD, AND URINE ANALYSES;**

24                           **C. TESTS FOR THE USE OF DRUGS;**

25                           **D. TESTS FOR THE PRESENCE OF THE HUMAN**  
 26 **IMMUNODEFICIENCY VIRUS; OR**

27                           **E. TESTS FOR THE PURPOSE OF DIAGNOSING A**  
 28 **MANIFESTED DISEASE, DISORDER, ILLNESS, OR IMPAIRMENT.**

1           **(3) “GENETIC SERVICES” MEANS HEALTH SERVICES THAT ARE**  
2 **PROVIDED TO OBTAIN, ASSESS, OR INTERPRET GENETIC INFORMATION OR THE**  
3 **RESULTS OF GENETIC TESTS.**

4           **(4) (I) “GENETIC TEST” MEANS AN ANALYSIS OF HUMAN DNA,**  
5 **RNA, CHROMOSOMES, PROTEINS, OR METABOLITES THAT DETECTS**  
6 **GENOTYPES, MUTATIONS, OR CHROMOSOMAL CHANGES.**

7                   **(II) “GENETIC TEST” DOES NOT INCLUDE:**

8                           **1. ROUTINE PHYSICAL MEASUREMENTS;**

9                           **2. CHEMICAL, BLOOD, AND URINE ANALYSES;**

10                          **3. TESTS FOR THE USE OF DRUGS;**

11                          **4. TESTS FOR THE PRESENCE OF THE HUMAN**  
12 **IMMUNODEFICIENCY VIRUS; OR**

13                          **5. TESTS THAT ARE DIRECTLY RELATED TO A**  
14 **MANIFESTED DISEASE, DISORDER, ILLNESS, OR IMPAIRMENT THAT COULD**  
15 **REASONABLY BE DETECTED BY A HEALTH CARE PROFESSIONAL WITH**  
16 **APPROPRIATE TRAINING AND EXPERTISE IN THE FIELD OF MEDICINE**  
17 **INVOLVED.**

18           **(B) In addition to the other practices prohibited under this article, a carrier**  
19 **or insurance producer of a carrier that provides long-term care insurance may not:**

20                   **(1) employ a method of marketing that induces or tends to induce the**  
21 **purchase of long-term care insurance through undue pressure;**

22                   **(2) use a method of marketing that fails to disclose in a conspicuous**  
23 **manner that a purpose of the method of marketing is solicitation of insurance, and**  
24 **that contact will be made by an insurance producer or carrier; [or]**

25                   **(3) knowingly make a misleading representation or an incomplete or**  
26 **fraudulent comparison of policies or carriers to induce a person to lapse, forfeit,**  
27 **surrender, terminate, retain, pledge, assign, borrow on, or convert a policy or take out**  
28 **a policy with another carrier[.];**

29                   **(4) REQUEST OR REQUIRE A GENETIC TEST TO:**

30                          **(I) DENY OR LIMIT THE AMOUNT, EXTENT, OR KIND OF**  
31 **LONG-TERM CARE INSURANCE COVERAGE AVAILABLE TO AN INDIVIDUAL; OR**

1                    (II) CHARGE A DIFFERENT RATE FOR THE SAME  
2 LONG-TERM CARE INSURANCE COVERAGE; OR

3                    (5) USE A GENETIC TEST, THE RESULTS OF A GENETIC TEST,  
4 GENETIC INFORMATION, OR A REQUEST FOR GENETIC SERVICES TO:

5                    (I) DENY OR LIMIT THE AMOUNT, EXTENT, OR KIND OF  
6 LONG-TERM CARE INSURANCE COVERAGE AVAILABLE TO AN INDIVIDUAL; OR

7                    (II) CHARGE A DIFFERENT RATE FOR THE SAME  
8 LONG-TERM CARE INSURANCE.

9                    (C) NOTWITHSTANDING SUBSECTION (B)(5) OF THIS SECTION, IF THE  
10 USE IS BASED ON SOUND ACTUARIAL PRINCIPLES, THE RESULTS OF A GENETIC  
11 TEST OR GENETIC INFORMATION MAY BE USED TO:

12                    (1) DENY OR LIMIT THE AMOUNT, EXTENT, OR KIND OF  
13 LONG-TERM CARE INSURANCE COVERAGE MADE AVAILABLE TO AN INDIVIDUAL;  
14 OR

15                    (2) CHARGE A DIFFERENT RATE FOR THE SAME LONG-TERM CARE  
16 INSURANCE.

17                    SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
18 October 1, 2008.

Approved:

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Governor.

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President of the Senate.

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Speaker of the House of Delegates.