
**By: Senators Forehand, Hollinger, Kelley, Lawlah, Ruben, Hoffman, Teitelbaum,
Hughes, Collins, Sfikas, Roesser, and Van Hollen**

Introduced and read first time: January 29, 1996

Assigned to: Finance

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 1, 1996

CHAPTER ____

1 AN ACT concerning

2 Insurance - Unfair Trade Practices - Discrimination Based on Domestic Violence

3 FOR the purpose of prohibiting insurers, nonprofit health service plans, and health
4 maintenance organizations from taking certain actions or engaging uncertain
5 practices related to underwriting, issuance or renewal of, or payment of claims on
6 life or health insurance policies or health benefit plans based on certain information
7 related to domestic violence; establishing immunity from certain actions for insurers
8 under certain circumstances; defining certain terms; granting certain powers to the
9 Insurance Commissioner; and generally relating to a prohibition against
10 discrimination by certain entities based on domestic violence.

11 BY repealing and reenacting, with amendments,
12 Article 48A - Insurance Code
13 Section 234C
14 Annotated Code of Maryland
15 (1994 Replacement Volume and 1995 Supplement)

16 BY adding to
17 Article 48A - Insurance Code
18 Section 234D
19 Annotated Code of Maryland
20 (1994 Replacement Volume and 1995 Supplement)

21 BY repealing and reenacting, with amendments,
22 Article - Health - General
23 Section 19-706(g)

2

1 Annotated Code of Maryland
2 (1990 Replacement Volume and 1995 Supplement)

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

5 **Article 48A - Insurance Code**

6 234C.

7 If the Commissioner in a specific instance shall make a finding that an insurer has
8 violated [§ 234A or § 234B,] § 234A, § 234B, OR § 234D, he may, in addition to the exercise
9 of any power granted elsewhere in this article, order the insurer to accept the risk, or
10 accept the business, as the case may be. All hearings and proceedings conducted under
11 this section and §§ 234A [and 234B], 234B, AND 234D of this article, as well as any
12 decision of the Commissioner, shall be subject to appeal by any party involved; said
13 hearings, proceedings, and appeal shall be in accordance with the provisions of § 40 of
14 this article.

15 234D.

16 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
17 INDICATED.

18 (2) "ABUSE" HAS THE MEANING STATED IN § 4-501 OF THE FAMILY LAW
19 ARTICLE.

20 ~~(3) "VICTIM OF DOMESTIC VIOLENCE" HAS THE MEANING STATED IN §~~
21 ~~4-513 OF THE FAMILY LAW ARTICLE.~~

22 (3) "COHABITANT" MEANS A PERSON WHO HAS HAD A SEXUAL
23 RELATIONSHIP WITH AN INDIVIDUAL AND RESIDED WITH THE INDIVIDUAL FOR A
24 PERIOD OF AT LEAST 90 DAYS.

25 (4) "VICTIM OF DOMESTIC VIOLENCE" MEANS AN INDIVIDUAL WHO:

26 (I) HAS RECEIVED DELIBERATE, SEVERE, AND DEMONSTRABLE
27 PHYSICAL INJURY FROM A CURRENT OR FORMER SPOUSE, OR A CURRENT OR
28 FORMER COHABITANT; OR

29 (II) IS IN FEAR OF IMMINENT DELIBERATE, SEVERE, AND
30 DEMONSTRABLE PHYSICAL INJURY FROM A CURRENT OR FORMER SPOUSE, OR A
31 CURRENT OR FORMER COHABITANT.

32 (B) EXCEPT AS OTHERWISE PROVIDED IN THIS ARTICLE, IF AN INDIVIDUAL IS
33 ~~OR MAY BE~~ A VICTIM OF DOMESTIC VIOLENCE OR SUBJECT TO ABUSE, AN INSURER,
34 NONPROFIT HEALTH SERVICE PLAN, OR HEALTH MAINTENANCE ORGANIZATION
35 MAY NOT USE INFORMATION ABOUT ABUSE OR THE INDIVIDUAL'S STATUS AS A
36 VICTIM OF DOMESTIC VIOLENCE TO:

37 (1) CANCEL, REFUSE TO UNDERWRITE OR RENEW, OR REFUSE TO ISSUE
38 A POLICY OF LIFE INSURANCE OR HEALTH INSURANCE OR A HEALTH BENEFITS
39 PLAN;

3

1 (2) REFUSE TO PAY A CLAIM, CANCEL, OR OTHERWISE TERMINATE A
2 POLICY OF LIFE INSURANCE OR HEALTH INSURANCE OR A HEALTH BENEFITS PLAN;

3 (3) INCREASE RATES FOR LIFE INSURANCE, HEALTH INSURANCE, OR A
4 HEALTH BENEFITS PLAN; OR

5 (4) ADD A SURCHARGE, APPLY A RATING FACTOR, OR USE ANY OTHER
6 UNDERWRITING PRACTICE THAT ADVERSELY TAKES INTO ACCOUNT THE
7 INFORMATION.

8 ~~(C) AN INSURER IS NOT SUBJECT TO CIVIL LIABILITY FOR ANY CAUSE OF~~
9 ~~ACTION ARISING FROM INJURY TO OR DEATH OF AN INDIVIDUAL FOR WHOM A LIFE~~
10 ~~INSURANCE POLICY IS ISSUED AND WHO SUBSEQUENTLY SUFFERS DOMESTIC~~
11 ~~VIOLENCE OR ABUSE OR WHO DIES AS A RESULT OF DOMESTIC VIOLENCE OR~~
12 ~~ABUSE.~~

13 ~~(D) THIS SECTION DOES NOT REQUIRE AN INSURER TO MAKE A PAYMENT~~
14 ~~FOR ANY LOSS UNDER A LIFE INSURANCE POLICY THAT WOULD DIRECTLY BENEFIT~~
15 ~~A PERSON WHO WILLFULLY CAUSED AN INJURY THAT GAVE RISE TO THE LOSS.~~

16 (C) IF AN INSURER ACTS IN GOOD FAITH, THE INSURER IS NOT SUBJECT TO
17 TORT LIABILITY FOR A CAUSE OF ACTION ARISING FROM THE INSURER'S LAWFUL
18 ISSUANCE OF AND LAWFUL COMPLIANCE WITH A LIFE INSURANCE POLICY FOR AN
19 INSURED WHO SUBSEQUENTLY SUFFERS DOMESTIC VIOLENCE OR ABUSE.

20 (D) THIS SECTION DOES NOT REQUIRE AN INSURER:

21 (1) TO MAKE A PAYMENT TO AN INDIVIDUAL WHO WILLFULLY CAUSED
22 AN INJURY THAT GAVE RISE TO A LOSS UNDER A LIFE INSURANCE POLICY; OR

23 (2) TO ISSUE, WITHOUT THE CONSENT OF THE PROPOSED INSURED,
24 LIFE INSURANCE OR DISABILITY INCOME INSURANCE TO AN APPLICANT KNOWN TO
25 HAVE ABUSED THE PROPOSED INSURED.

26 (E) THIS SECTION MAY NOT BE INTERPRETED TO PRECLUDE AN INSURER
27 FROM USING MENTAL OR PHYSICAL CONDITIONS, REGARDLESS OF CAUSE, IN
28 DETERMINING THE ELIGIBILITY, RATE, OR UNDERWRITING CLASSIFICATION OF
29 THE APPLICANT OR INSURED.

30 **Article - Health - General**

31 19-706.

32 (g) The provisions of Article 48A,[§ 230A] §§ 230A AND 234D of the Code shall
33 apply to health maintenance organizations.

34 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
35 October 1, 1996.

