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**By: Delegate Pitkin**

Introduced and read first time: January 31, 1997

Assigned to: Environmental Matters

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## A BILL ENTITLED

1 AN ACT concerning

2 **Confidentiality and Disclosure of Genetic Information**

3 FOR the purpose of making it an unlawful employment practice for an employer to fail or  
4 refuse to hire or to discharge an individual or otherwise discriminate against an  
5 individual because of the individual's genetic information or the individual's refusal  
6 to submit to a genetic test or make available the results of a genetic test; prohibiting  
7 an insurer from making certain differentials in ratings, premium payments, or  
8 dividends in life insurance or annuity contracts under certain circumstances;  
9 prohibiting an insurer, nonprofit health service plan, or health maintenance  
10 organization from using a genetic test or the results of a genetic test as a basis for  
11 affecting certain provisions of a life insurance or annuity contract; prohibiting an  
12 insurer, nonprofit health service plan, or health maintenance organization from  
13 requesting or requiring an individual to submit to a genetic test for purposes of  
14 determining whether to issue or renew a life insurance policy or contract or annuity  
15 contract; establishing the confidentiality of genetic information and prohibiting the  
16 disclosure of the results of a genetic test except under certain circumstances;  
17 establishing certain exceptions; requiring the Secretary of Health and Mental  
18 Hygiene to adopt certain regulations; establishing a certain penalty for violation of  
19 certain provisions of this Act; making certain stylistic changes; defining certain  
20 terms; and generally relating to prohibiting discrimination against an individual  
21 because of an individual's genetic information or the results of a genetic test and  
22 establishing the confidentiality of genetic information and the methods of disclosing  
23 genetic information and the results of genetic tests.

24 BY repealing and reenacting, with amendments,  
25 Article 49B - Human Relations Commission  
26 Section 15 and 16  
27 Annotated Code of Maryland  
28 (1994 Replacement Volume and 1996 Supplement)

29 BY adding to  
30 Article - Health - General  
31 Section 4-501 through 4-507, inclusive, to be under the new subtitle "Subtitle 5.  
32 Confidentiality and Disclosure of Genetic Information"  
33 Annotated Code of Maryland

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1 (1994 Replacement Volume and 1996 Supplement)

2 BY repealing and reenacting, with amendments,

3 Article - Insurance

4 Section 27-208(a) and 27-909

5 Annotated Code of Maryland

6 (1995 Volume and 1996 Supplement)

7 (As enacted by Chapter \_\_\_\_\_ (H.B. 11) of the Acts of the General Assembly of 1997)

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

10 **Article 49B - Human Relations Commission**

11 15.

12 For the purposes of this subtitle:

13 (a) The term "person" includes one or more individuals, labor unions,  
14 partnerships, associations, corporations, legal representatives, mutual companies,  
15 joint-stock companies, trusts, unincorporated organizations, trustees, trustees in  
16 bankruptcy, or receivers.

17 (b) The term "employer" means a person engaged in an industry or business who  
18 has fifteen or more employees for each working day in each of twenty or more calendar  
19 weeks in the current or preceding calendar year, and any agent of such a person; such  
20 term does include the State of Maryland to the extent as may be provided in this article  
21 but such term does not include a bona fide private membership club (other than a labor  
22 organization) which is exempt from taxation under § 501(c) of the Internal Revenue  
23 Code.

24 (c) The term "employment agency" means any person regularly undertaking with  
25 or without compensation to procure employees for an employer or to procure for  
26 employees opportunities to work for an employer and includes an agent or such a person;  
27 but shall not include an agency of the United States or an agency of the State of Maryland  
28 or political subdivision thereof, except such term shall include the United States  
29 Employment Service and the system of State and local employment services receiving  
30 federal assistance.

31 (d) The term "labor organization" means a labor organization engaged in an  
32 industry and any agent of such an organization, and includes any organization of any kind,  
33 any agency, or employee representation committee, group, association, or plan so  
34 engaged in which employees participate and which exists for the purpose, in whole or in  
35 part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay,  
36 hours, or other terms or conditions of employment, and any conference, general  
37 committee, joint or system board, or joint council so engaged which is subordinate to a  
38 national or international labor organization.

39 (e) The term "employee" means an individual employed by an employer, except  
40 that "employee" does not include any person elected to public office or any person chosen  
41 by the officer to be on the officer's personnel staff, or an appointee in the policymaking

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1 level or an immediate advisor with respect to the exercise of the constitutional or legal  
2 powers of the office. The exception set forth in the preceding sentence does not include  
3 employees subject to the State or local civil service laws.

4 (f) The term "religion" includes all aspects of religious observances and practice,  
5 as well as belief, except in those cases when the observance, practice, or belief cannot be  
6 reasonably accommodated by an employer without causing undue hardship on the  
7 conduct of the employer's business.

8 (g) The term "physical or mental handicap" means any physical disability,  
9 infirmity, malformation or disfigurement which is caused by bodily injury, birth defect or  
10 illness including epilepsy, and which shall include, but not be limited to, any degree of  
11 paralysis, amputation, lack of physical coordination, blindness or visual impairment,  
12 deafness or hearing impairment, muteness or speech impediment or physical reliance on  
13 a seeing eye dog, wheelchair, or other remedial appliance or device; and any mental  
14 impairment or deficiency as, but not limited to, retardation or such other which may have  
15 necessitated remedial or special education and related services.

16 (H) "GENETIC INFORMATION" MEANS THE INFORMATION ABOUT GENES,  
17 GENE PRODUCTS, OR INHERITED CHARACTERISTICS THAT MAY DERIVE FROM AN  
18 INDIVIDUAL OR FAMILY MEMBER OF THE INDIVIDUAL.

19 (I) "GENETIC TEST" MEANS A LABORATORY TEST OF HUMAN  
20 CHROMOSOMES OR DNA THAT IS USED TO IDENTIFY THE PRESENCE OR ABSENCE OF  
21 INHERITED OR CONGENITAL ALTERATIONS IN GENETIC MATERIAL THAT ARE  
22 ASSOCIATED WITH DISEASE OR ILLNESS.

23 16.

24 (a) It shall be an unlawful employment practice for an employer:

25 (1) To fail or refuse to hire or to discharge any individual, or otherwise to  
26 discriminate against any individual with respect to [his] THE INDIVIDUAL'S  
27 compensation, terms, conditions, or privileges of employment, because of such  
28 individual's race, color, religion, sex, age, national origin, marital status, GENETIC  
29 INFORMATION, or physical or mental handicap OR BECAUSE OF THE INDIVIDUAL'S  
30 REFUSAL TO SUBMIT TO A GENETIC TEST OR MAKE AVAILABLE THE RESULTS OF A  
31 GENETIC TEST unrelated in nature and extent so as to reasonably preclude the  
32 performance of the employment; or

33 (2) To limit, segregate, or classify [his] ITS employees or applicants for  
34 employment in any way which would deprive or tend to deprive any individual of  
35 employment opportunities or otherwise adversely affect [ his] THE INDIVIDUAL'S status  
36 as an employee, because of the individual's race, color, religion, sex, age, national origin,  
37 marital status, GENETIC INFORMATION, or physical or mental handicap OR BECAUSE  
38 OF THE INDIVIDUAL'S REFUSAL TO SUBMIT TO A GENETIC TEST OR MAKE  
39 AVAILABLE THE RESULTS OF A GENETIC TEST unrelated in nature and extent so as to  
40 reasonably preclude the performance of the employment;

41 (b) It shall be an unlawful employment practice for an employment agency to fail  
42 or refuse to refer for employment, or otherwise to discriminate against, any individual  
43 because of [his] THE INDIVIDUAL'S race, color, religion, sex, age, national origin,

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1 marital status, or physical or mental handicap unrelated in nature and extent so as to  
2 reasonably preclude the performance of the employment, or to classify or refer for  
3 employment any individual on the basis of [his] THE INDIVIDUAL'S race, color, religion,  
4 sex, age, national origin, marital status, or physical or mental handicap unrelated in  
5 nature and extent so as to reasonably preclude the performance of the employment;

6 (c) It shall be an unlawful employment practice for a labor organization: (1) to  
7 exclude or to expel from its membership, or otherwise to discriminate against, any  
8 individual because of [his] THE INDIVIDUAL'S race, color, religion, sex, age, national  
9 origin, marital status, or physical or mental handicap unrelated in nature and extent so as  
10 to reasonably preclude the performance of the employment; (2) to limit, segregate or  
11 classify its membership, or to classify or fail or refuse to refer for employment any  
12 individual, in any way which would deprive or tend to deprive any individual of  
13 employment opportunities, or would limit such employment opportunities or otherwise  
14 adversely affect [his] THE INDIVIDUAL'S status as an employee or as an applicant for  
15 employment, because of such individual's race, color, religion, sex, age, national origin,  
16 marital status, or physical or mental handicap unrelated in nature and extent so as to  
17 reasonably preclude the performance of the employment; or (3) to cause or attempt to  
18 cause an employer to discriminate against an individual in violation of this section;

19 (d) It shall be an unlawful employment practice for any employer, labor  
20 organization, or joint labor-management committee controlling apprenticeship or other  
21 training or retraining, including on-the-job training programs to discriminate against any  
22 individual because of [his] THE INDIVIDUAL'S race, color, religion, sex, age, national  
23 origin, marital status, or physical or mental handicap unrelated in nature or extent so as  
24 to reasonably preclude the performance of the employment in admission to, or  
25 employment in, any program established to provide apprenticeship or other training;

26 (e) It is an unlawful employment practice for an employer, labor organization, or  
27 employment agency to print or cause to be printed or published any notice or  
28 advertisement relating to employment by the employer or membership in or any  
29 classification or referral for employment by the labor organization, or relating to any  
30 classification or referral for employment by the agency, indicating any preference,  
31 limitation, specification, or discrimination, based on race, color, religion, sex, age,  
32 national origin or on the basis of a physical or mental qualification. However, a notice or  
33 advertisement may indicate a preference, limitation, specification, or discrimination  
34 based on religion, sex, age, national origin or physical or mental qualification when  
35 religion, sex, age, national origin or physical or mental qualification is a bona fide  
36 occupational qualification for employment;

37 (f) It is an unlawful employment practice for an employer to discriminate against  
38 any of [his] ITS employees or applicants for employment, for an employment agency to  
39 discriminate against any individual, or for a labor organization to discriminate against any  
40 member thereof or applicant for membership, because [he] THE INDIVIDUAL has  
41 opposed any practice made an unlawful employment practice by this subtitle or because  
42 [he] THE INDIVIDUAL has made a charge, testified, assisted, or participated in any  
43 manner in an investigation, proceeding, or hearing under this subtitle;

44 (g) Notwithstanding any other provision of this subtitle, (1) it is not an unlawful  
45 employment practice for an employer to hire and employ employees, for an employment

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1 agency to classify, or refer for employment any individual, for a labor organization to  
2 classify its membership or to classify or refer for employment any individual, or for an  
3 employer, labor organization or joint labor-management committee controlling  
4 apprenticeship or other training or retraining programs to admit or employ any individual  
5 in any such program, on the basis of [his] THE INDIVIDUAL'S religion, national origin or  
6 physical or mental qualification in those instances where sex, age, religion, national origin  
7 or physical or mental qualification is a bona fide occupational qualification reasonably  
8 necessary to the normal operation of that particular business or enterprise; (2) it is not an  
9 unlawful employment practice for an employer to establish standards concerning an  
10 employee's dress and grooming if the standards are directly related to the nature of the  
11 employment of the employee; (3) it is not an unlawful employment practice for a school,  
12 college, university, or other educational institution or institution of learning to hire and  
13 employ employees of a particular religion if the school, college, university, or other  
14 educational institution or institution of learning is, in whole or in substantial part, owned,  
15 supported, controlled, or managed by a particular religion or by a particular religious  
16 corporation, association, or society or if the curriculum of the school, college, university,  
17 or other educational institution or institution of learning is directed toward the  
18 propagation of a particular religion; and (4) it is not unlawful for an employer,  
19 employment agency or labor organization to observe the terms of a bona fide seniority  
20 system or any bona fide employee benefit plan such as a retirement, pension or insurance  
21 plan, which is not a subterfuge to evade the purposes of this subtitle; however, no  
22 employee benefit plan shall excuse the failure to hire any individual;

23 (h) Nothing contained in this subtitle shall be interpreted to require any  
24 employer, employment agency, labor organization, or joint labor-management committee  
25 subject to this subtitle to grant preferential treatment to any individual or to any group  
26 because of the race, color, religion, sex, age, national origin or physical or mental  
27 handicap of the individual or group on account of an imbalance which may exist with  
28 respect to the total number or percentage of persons of any race, color, religion, sex, age,  
29 national origin or physically or mentally handicapped persons employed by any employer,  
30 referred or classified for employment by any employment agency or labor organization,  
31 admitted to membership or classified by any labor agency or labor organization, admitted  
32 to membership or classified by any labor organization, or admitted to, or employed in, any  
33 apprenticeship or other training program, in comparison with the total number or  
34 percentage of persons of such race, color, religion, sex, age, national origin or physically  
35 or mentally handicapped persons in any community, State, section, or other area, or in  
36 the available work force in any community, State, section, or other area.

37 **Article - Health - General**

38 **SUBTITLE 5. CONFIDENTIALITY AND DISCLOSURE OF GENETIC INFORMATION.**

39 4-501.

40 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS  
41 INDICATED.

42 (B) "DNA" MEANS THE MOLECULES IN ALL CELLULAR FORMS THAT CONTAIN  
43 GENETIC INFORMATION IN A PATTERNED CHEMICAL STRUCTURE OF EACH  
44 INDIVIDUAL.

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1 (C) "GENETIC INFORMATION" MEANS THE INFORMATION ABOUT GENES,  
2 GENE PRODUCTS, OR INHERITED CHARACTERISTICS THAT MAY DERIVE FROM AN  
3 INDIVIDUAL OR FAMILY MEMBER OF THE INDIVIDUAL.

4 (D) "GENETIC TEST" MEANS A LABORATORY TEST OF HUMAN  
5 CHROMOSOMES OR DNA THAT IS USED TO IDENTIFY THE PRESENCE OR ABSENCE OF  
6 INHERITED OR CONGENITAL ALTERATIONS IN GENETIC MATERIAL THAT ARE  
7 ASSOCIATED WITH DISEASE OR ILLNESS.

8 (E) "PERSON IN INTEREST" HAS THE MEANING STATED IN § 4-301 OF THIS  
9 TITLE.

10 4-502.

11 (A) A PERSON MAY NOT OBTAIN GENETIC INFORMATION FROM AN  
12 INDIVIDUAL OR FROM AN INDIVIDUAL'S DNA WITHOUT FIRST OBTAINING  
13 INFORMED CONSENT FROM THE INDIVIDUAL OR A PERSON IN INTEREST.

14 (B) THIS SECTION DOES NOT APPLY TO GENETIC INFORMATION OBTAINED:

15 (1) BY A STATE, COUNTY, MUNICIPAL, OR FEDERAL LAW  
16 ENFORCEMENT AGENCY FOR THE PURPOSE OF ESTABLISHING THE IDENTITY OF AN  
17 INDIVIDUAL IN THE COURSE OF A CRIMINAL INVESTIGATION OR PROSECUTION;

18 (2) TO DETERMINE PATERNITY IN ACCORDANCE WITH THE PROVISIONS  
19 OF TITLE 5, SUBTITLE 10 OF THE FAMILY LAW ARTICLE;

20 (3) IN ACCORDANCE WITH THE PROVISIONS OF ARTICLE 88B, § 12A OF  
21 THE CODE;

22 (4) TO DETERMINE THE IDENTITY OF A DECEASED INDIVIDUAL;

23 (5) FOR ANONYMOUS RESEARCH WHERE THE IDENTITY OF THE  
24 SUBJECT WILL NOT BE RELEASED;

25 (6) IN ACCORDANCE WITH NEWBORN SCREENING REQUIREMENTS  
26 ESTABLISHED BY STATE OR FEDERAL LAW; OR

27 (7) AS AUTHORIZED BY FEDERAL LAW FOR THE IDENTIFICATION OF  
28 INDIVIDUALS.

29 4-503.

30 (A) (1) THIS SECTION APPLIES ONLY TO GENETIC INFORMATION THAT CAN  
31 BE IDENTIFIED AS BELONGING TO AN INDIVIDUAL OR FAMILY.

32 (2) THIS SECTION DOES NOT APPLY TO ANY LAW, CONTRACT, OR  
33 OTHER ARRANGEMENT THAT DETERMINES A PERSON'S RIGHTS TO COMPENSATION  
34 RELATING TO SUBSTANCES OR INFORMATION DERIVED FROM AN INDIVIDUAL'S  
35 DNA SAMPLE.

36 (B) AN INDIVIDUAL'S GENETIC INFORMATION IS THE PROPERTY OF THE  
37 INDIVIDUAL.

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1 (C) A PERSON MAY NOT RETAIN AN INDIVIDUAL'S GENETIC INFORMATION  
2 WITHOUT FIRST OBTAINING AUTHORIZATION FROM THE INDIVIDUAL OR A PERSON  
3 IN INTEREST UNLESS RETENTION IS:

4 (1) NECESSARY FOR THE PURPOSES OF A CRIMINAL OR DEATH  
5 INVESTIGATION OR A CRIMINAL OR JUVENILE PROCEEDING;

6 (2) NECESSARY TO DETERMINE PATERNITY IN ACCORDANCE WITH  
7 TITLE 5, SUBTITLE 10 OF THE FAMILY LAW ARTICLE;

8 (3) AUTHORIZED BY ORDER OF A COURT OF COMPETENT  
9 JURISDICTION; OR

10 (4) IN ACCORDANCE WITH ARTICLE 88B, § 12A OF THE CODE.

11 (D) THE DNA SAMPLE OF AN INDIVIDUAL FROM WHOM GENETIC  
12 INFORMATION HAS BEEN OBTAINED SHALL BE DESTROYED PROMPTLY ON THE  
13 SPECIFIC REQUEST OF THE INDIVIDUAL OR A PERSON IN INTEREST UNLESS  
14 RETENTION IS:

15 (1) NECESSARY FOR PURPOSES OF A CRIMINAL OR DEATH  
16 INVESTIGATION OR A CRIMINAL OR JUVENILE PROCEEDING; OR

17 (2) AUTHORIZED BY ORDER OF A COURT OF COMPETENT  
18 JURISDICTION.

19 (E) UNLESS THE INDIVIDUAL OR A PERSON IN INTEREST DIRECTS  
20 OTHERWISE BY WRITTEN INFORMED CONSENT, A DNA SAMPLE FROM AN  
21 INDIVIDUAL WHO IS THE SUBJECT OF A RESEARCH PROJECT SHALL BE DESTROYED  
22 PROMPTLY ON COMPLETION OF THE PROJECT OR THE WITHDRAWAL OF THE  
23 INDIVIDUAL FROM THE PROJECT, WHICHEVER OCCURS FIRST.

24 (F) UNLESS RETENTION IS AUTHORIZED BY ORDER OF A COURT OF  
25 COMPETENT JURISDICTION, A DNA SAMPLE FROM AN INDIVIDUAL FOR INSURANCE  
26 OR EMPLOYMENT PURPOSES SHALL BE DESTROYED PROMPTLY AFTER THE  
27 PURPOSE FOR WHICH THE SAMPLE WAS OBTAINED HAS BEEN ACCOMPLISHED.

28 (G) PROMPTLY ON REQUEST, AN INDIVIDUAL OR A PERSON IN INTEREST MAY  
29 INSPECT, REQUEST CORRECTION OF, OR OBTAIN GENETIC INFORMATION FROM THE  
30 RECORDS OF THE INDIVIDUAL.

31 4-504.

32 (A) NOTWITHSTANDING THE MANNER OF RECEIPT OR THE SOURCE OF  
33 GENETIC INFORMATION, INCLUDING GENETIC INFORMATION RECEIVED FROM AN  
34 INDIVIDUAL, A PERSON MAY NOT DISCLOSE OR BE COMPELLED BY SUBPOENA OR  
35 ANY OTHER MEANS TO DISCLOSE THE IDENTITY OF AN INDIVIDUAL ON WHOM A  
36 GENETIC TEST HAS BEEN PERFORMED OR TO DISCLOSE GENETIC INFORMATION  
37 ABOUT THE INDIVIDUAL IN A MANNER THAT PERMITS IDENTIFICATION OF THE  
38 INDIVIDUAL UNLESS THE DISCLOSURE IS:

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1 (1) AUTHORIZED BY THE INDIVIDUAL ON WHOM THE GENETIC TEST  
2 WAS PERFORMED, OR A PERSON IN INTEREST, BY THE SIGNING OF A CONSENT FORM  
3 THAT COMPLIES WITH THE REQUIREMENTS OF THE DEPARTMENT;

4 (2) NECESSARY FOR THE PURPOSES OF A CRIMINAL OR DEATH  
5 INVESTIGATION OR A CRIMINAL OR JUVENILE PROCEEDING;

6 (3) NECESSARY TO DETERMINE PATERNITY IN ACCORDANCE WITH  
7 TITLE 5, SUBTITLE 10 OF THE FAMILY LAW ARTICLE;

8 (4) AUTHORIZED BY ORDER OF A COURT OF COMPETENT  
9 JURISDICTION;

10 (5) IN ACCORDANCE WITH THE PROVISIONS OF ARTICLE 88B, § 12A OF  
11 THE CODE;

12 (6) IN ACCORDANCE WITH THE PROVISIONS OF ARTICLE 88A, § 6 OF THE  
13 CODE;

14 (7) FOR THE PURPOSE OF FURNISHING GENETIC INFORMATION  
15 RELATING TO A DECEDENT FOR MEDICAL DIAGNOSIS OF BLOOD RELATIVES OF THE  
16 DECEDENT;

17 (8) FOR THE PURPOSE OF IDENTIFYING A DECEASED INDIVIDUAL;

18 (9) IN ACCORDANCE WITH NEWBORN SCREENING REQUIREMENTS  
19 ESTABLISHED BY STATE OR FEDERAL LAW;

20 (10) AUTHORIZED BY FEDERAL LAW FOR THE IDENTIFICATION OF AN  
21 INDIVIDUAL; OR

22 (11) BY AN INSURER IN ACCORDANCE WITH § XX-XXX OF THIS ARTICLE  
23 [48A, § 490E].

24 (B) A PERSON TO WHOM GENETIC INFORMATION OR THE IDENTITY OF AN  
25 INDIVIDUAL ON WHOM A GENETIC TEST HAS BEEN PERFORMED IS DISCLOSED MAY  
26 NOT REDISCLOSE THE INFORMATION OR IDENTITY OF THE INDIVIDUAL UNLESS  
27 THE REDISCLOSURE IS:

28 (1) AUTHORIZED BY THE INDIVIDUAL ON WHOM THE GENETIC TEST  
29 WAS PERFORMED, OR A PERSON IN INTEREST, BY THE SIGNING OF A CONSENT FORM  
30 THAT COMPLIES WITH THE REQUIREMENTS OF THE DEPARTMENT; OR

31 (2) OTHERWISE PERMITTED UNDER SUBSECTION (A) OF THIS SECTION.

32 (C) THIS SECTION APPLIES TO ANY SUBSEQUENT DISCLOSURE BY ANY  
33 PERSON AFTER ANOTHER PERSON HAS DISCLOSED GENETIC INFORMATION OR THE  
34 IDENTITY OF AN INDIVIDUAL ON WHOM A GENETIC TEST HAS BEEN PERFORMED.

35 4-505.

36 (A) A PERSON THAT PERFORMS A GENETIC TEST OR RECEIVES RECORDS,  
37 RESULTS, OR FINDINGS OF A GENETIC TEST SHALL PROVIDE THE INDIVIDUAL ON  
38 WHOM THE GENETIC TEST WAS PERFORMED WITH NOTICE THAT A GENETIC TEST



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1 WAS PERFORMED OR THAT GENETIC INFORMATION RESULTING FROM A GENETIC  
2 TEST WAS RECEIVED.

3 (B) THE NOTICE PROVIDED UNDER SUBSECTION (A) OF THIS SECTION SHALL  
4 STATE THAT THE GENETIC INFORMATION MAY NOT BE DISCLOSED TO ANY PERSON  
5 WITHOUT THE INFORMED WRITTEN CONSENT OF THE INDIVIDUAL TESTED UNLESS  
6 THE DISCLOSURE IS MADE IN ACCORDANCE WITH § 4-504 OF THIS SUBTITLE.

7 (C) THIS SECTION DOES NOT APPLY TO NEWBORN SCREENING  
8 REQUIREMENTS ESTABLISHED BY STATE OR FEDERAL LAW.

9 4-506.

10 (A) THE SECRETARY SHALL ADOPT REGULATIONS NECESSARY TO CARRY  
11 OUT THE PROVISIONS OF THIS SUBTITLE.

12 (B) THE REGULATIONS SHALL INCLUDE PROCEDURES TO BE USED BY A  
13 PERSON TO:

14 (1) OBTAIN THE WRITTEN INFORMED CONSENT REQUIRED UNDER §  
15 4-504 OF THIS SUBTITLE, INCLUDING A DESCRIPTION OF THE GENETIC TEST TO BE  
16 PERFORMED, ITS PURPOSE, POTENTIAL USES, AND LIMITATIONS AND THE MEANING  
17 OF ITS RESULTS; AND

18 (2) NOTIFY AN INDIVIDUAL ON WHOM A GENETIC TEST HAS BEEN  
19 PERFORMED OF ITS RESULTS AND THE INDIVIDUAL'S RIGHT TO CONFIDENTIAL  
20 TREATMENT OF THE RESULTS.

21 4-507.

22 (A) A PERSON THAT VIOLATES ANY PROVISION OF THIS SUBTITLE IS GUILTY  
23 OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING  
24 \$1,000 OR IMPRISONMENT NOT EXCEEDING 6 MONTHS OR BOTH.

25 (B) A PERSON THAT WILLFULLY DISCLOSES AN INDIVIDUAL'S GENETIC  
26 INFORMATION TO ANOTHER PERSON IN VIOLATION OF § 4-504 OF THIS SUBTITLE IS:

27 (1) GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A  
28 FINE NOT EXCEEDING \$5,000 OR IMPRISONMENT NOT EXCEEDING 1 YEAR OR BOTH;  
29 AND

30 (2) LIABLE TO THE INDIVIDUAL FOR ACTUAL DAMAGES, INCLUDING  
31 DAMAGES FOR ECONOMIC, BODILY, OR EMOTIONAL HARM THAT IS PROXIMATELY  
32 CAUSED BY THE DISCLOSURE.

33 **Article - Insurance**

34 27-208.

35 (a) (1) A person may not make or allow unfair discrimination between  
36 individuals of the same class and equal expectation of life in:

37 (i) the rates charged for a contract of life insurance or an annuity  
38 contract;

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1 (ii) the dividends or other benefits payable on a contract of life  
2 insurance or an annuity contract; or

3 (iii) any of the other terms and conditions of a contract of life  
4 insurance or an annuity contract.

5 (2) (i) [Notwithstanding] EXCEPT AS PROVIDED IN § 27-909 OF THIS  
6 TITLE AND NOTWITHSTANDING any other provision of this section, an insurer may not  
7 make or allow a differential in ratings, premium payments, or dividends for contracts of  
8 life insurance or annuity contracts for a reason based on the blindness or other physical  
9 handicap or disability of an applicant or policyholder.

10 (ii) [Actuarial] EXCEPT AS PROVIDED IN § 27-909 OF THIS TITLE,  
11 ACTUARIAL justification for the differential may be considered for a physical handicap or  
12 disability other than blindness or hearing impairment.

13 [(3) Unless there is actuarial justification, an insurer may not refuse to insure  
14 or make or allow a differential in ratings, premium payments, or dividends in connection  
15 with life insurance and annuity contracts solely because the applicant or policyholder has  
16 the sickle-cell trait, thalassemia-minor trait, hemoglobin C trait, Tay-Sachs trait, or a  
17 genetic trait that is harmless in itself.]

18 27-909.

19 (a) In this section, "genetic test" means a laboratory test of human chromosomes  
20 or DNA that is used to identify the presence or absence of inherited or congenital  
21 alterations in genetic material that are associated with disease or illness.

22 (b) [This section does not apply to life insurance policies, annuity contracts, or  
23 disability insurance policies.

24 (c) An insurer, nonprofit health service plan, or health maintenance organization  
25 may not:

26 (1) use a genetic test or the results of a genetic test to reject, deny, limit,  
27 cancel, refuse to renew, increase the rates of, affect the terms or conditions OR PREMIUM  
28 PAYMENTS OR DIVIDENDS of, or otherwise affect a health insurance OR LIFE  
29 INSURANCE policy or contract OR ANNUITY CONTRACT;

30 (2) request or require a genetic test for the purpose of determining whether  
31 or not to issue or renew [health benefits coverage] A HEALTH INSURANCE OR LIFE  
32 INSURANCE POLICY OR CONTRACT OR ANNUITY CONTRACT; or

33 (3) release the results of a genetic test without the prior written  
34 authorization of the individual from whom the test was obtained AS REQUIRED UNDER  
35 § 4-502 OF THE HEALTH - GENERAL ARTICLE.

36 [(d)] (C) (1) For purposes of this subsection, §§ 4-113, 4-114, 27-501, and  
37 27-505 of this article apply to nonprofit health service plans and health maintenance  
38 organizations.

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

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1           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
2 October 1, 1997.