
By: Delegates Finifter, Frank, and Klausmeier

Introduced and read first time: January 31, 1997

Assigned to: Environmental Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Genetic Information Privacy Act**

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 or credit life or disability insurance
9 policies under certain circumstances; prohibiting an insurer, nonprofit health
10 service plan, or health maintenance organization from using a genetic test or the
11 results of a genetic test as a basis for affecting certain provisions of a life insurance
12 or annuity contract, disability insurance policy, or credit life or disability insurance
13 policy; prohibiting an insurer, nonprofit health service plan, or health maintenance
14 organization from requesting or requiring an individual to submit to a genetic test
15 for purposes of determining whether to issue or renew a life insurance policy or
16 contract, annuity contract, disability insurance policy, or credit life or disability
17 insurance policy; establishing the confidentiality of genetic information and
18 prohibiting the disclosure of the results of a genetic test except under certain
19 circumstances; establishing certain exceptions; requiring the Secretary of Health
20 and Mental Hygiene to adopt certain regulations; establishing a certain penalty for
21 violation of certain provisions of this Act; making certain stylistic changes; defining
22 certain terms; and generally relating to prohibiting discrimination against an
23 individual because of an individual's genetic information or the results of a genetic
24 test and establishing the confidentiality of genetic information and the methods of
25 disclosing genetic information and the results of genetic tests.

26 BY repealing and reenacting, with amendments,
27 Article 49B - Human Relations Commission
28 Section 15 and 16
29 Annotated Code of Maryland
30 (1994 Replacement Volume and 1996 Supplement)

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

2

1 Annotated Code of Maryland
2 (1994 Replacement Volume and 1996 Supplement)

3 BY repealing and reenacting, with amendments,
4 Article - Insurance
5 Section 27-208(a), 27-212(d), and 27-909
6 Annotated Code of Maryland
7 (1995 Volume and 1996 Supplement)
8 (As enacted by Chapter ____ (H.B. 11) of the Acts of the General Assembly of
9 1997)

10 BY repealing and reenacting, without amendments,
11 Article - Insurance
12 Section 27-212(a)
13 Annotated Code of Maryland
14 (1995 Volume and 1996 Supplement)
15 (As enacted by Chapter ____ (H.B. 11) of the Acts of the General Assembly of
16 1997)

17 BY adding to
18 Article - Insurance
19 Section 27-911
20 Annotated Code of Maryland
21 (1995 Volume and 1996 Supplement)
22 (As enacted by Chapter ____ (H.B. 11) of the Acts of the General Assembly of
23 1997)

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

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

27 15.

28 For the purposes of this subtitle:

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

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

3

1 (c) The term "employment agency" means any person regularly undertaking with
2 or without compensation to procure employees for an employer or to procure for
3 employees opportunities to work for an employer and includes an agent or such a person;
4 but shall not include an agency of the United States or an agency of the State of Maryland
5 or political subdivision thereof, except such term shall include the United States
6 Employment Service and the system of State and local employment services receiving
7 federal assistance.

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

16 (e) The term "employee" means an individual employed by an employer, except
17 that "employee" does not include any person elected to public office or any person chosen
18 by the officer to be on the officer's personnel staff, or an appointee in the policymaking
19 level or an immediate advisor with respect to the exercise of the constitutional or legal
20 powers of the office. The exception set forth in the preceding sentence does not include
21 employees subject to the State or local civil service laws.

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

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

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

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

41 16.

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

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

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

17 (b) It shall be an unlawful employment practice for an employment agency to fail
18 or refuse to refer for employment, or otherwise to discriminate against, any individual
19 because of [his] THE INDIVIDUAL'S race, color, religion, sex, age, national origin,
20 marital status, or physical or mental handicap unrelated in nature and extent so as to
21 reasonably preclude the performance of the employment, or to classify or refer for
22 employment any individual on the basis of [his] THE INDIVIDUAL'S race, color, religion,
23 sex, age, national origin, marital status, or physical or mental handicap unrelated in
24 nature and extent so as to reasonably preclude the performance of the employment;

25 (c) It shall be an unlawful employment practice for a labor organization: (1) to
26 exclude or to expel from its membership, or otherwise to discriminate against, any
27 individual because of [his] THE INDIVIDUAL'S race, color, religion, sex, age, national
28 origin, marital status, or physical or mental handicap unrelated in nature and extent so as
29 to reasonably preclude the performance of the employment; (2) to limit, segregate or
30 classify its membership, or to classify or fail or refuse to refer for employment any
31 individual, in any way which would deprive or tend to deprive any individual of
32 employment opportunities, or would limit such employment opportunities or otherwise
33 adversely affect [his] THE INDIVIDUAL'S status as an employee or as an applicant for
34 employment, because of such individual's race, color, religion, sex, age, national origin,
35 marital status, or physical or mental handicap unrelated in nature and extent so as to
36 reasonably preclude the performance of the employment; or (3) to cause or attempt to
37 cause an employer to discriminate against an individual in violation of this section;

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

1 (e) It is an unlawful employment practice for an employer, labor organization, or
2 employment agency to print or cause to be printed or published any notice or
3 advertisement relating to employment by the employer or membership in or any
4 classification or referral for employment by the labor organization, or relating to any
5 classification or referral for employment by the agency, indicating any preference,
6 limitation, specification, or discrimination, based on race, color, religion, sex, age,
7 national origin or on the basis of a physical or mental qualification. However, a notice or
8 advertisement may indicate a preference, limitation, specification, or discrimination
9 based on religion, sex, age, national origin or physical or mental qualification when
10 religion, sex, age, national origin or physical or mental qualification is a bona fide
11 occupational qualification for employment;

12 (f) It is an unlawful employment practice for an employer to discriminate against
13 any of [his] ITS employees or applicants for employment, for an employment agency to
14 discriminate against any individual, or for a labor organization to discriminate against any
15 member thereof or applicant for membership, because [he] THE INDIVIDUAL has
16 opposed any practice made an unlawful employment practice by this subtitle or because
17 [he] THE INDIVIDUAL has made a charge, testified, assisted, or participated in any
18 manner in an investigation, proceeding, or hearing under this subtitle;

19 (g) Notwithstanding any other provision of this subtitle, (1) it is not an unlawful
20 employment practice for an employer to hire and employ employees, for an employment
21 agency to classify, or refer for employment any individual, for a labor organization to
22 classify its membership or to classify or refer for employment any individual, or for an
23 employer, labor organization or joint labor-management committee controlling
24 apprenticeship or other training or retraining programs to admit or employ any individual
25 in any such program, on the basis of [his] THE INDIVIDUAL'S religion, national origin or
26 physical or mental qualification in those instances where sex, age, religion, national origin
27 or physical or mental qualification is a bona fide occupational qualification reasonably
28 necessary to the normal operation of that particular business or enterprise; (2) it is not an
29 unlawful employment practice for an employer to establish standards concerning an
30 employee's dress and grooming if the standards are directly related to the nature of the
31 employment of the employee; (3) it is not an unlawful employment practice for a school,
32 college, university, or other educational institution or institution of learning to hire and
33 employ employees of a particular religion if the school, college, university, or other
34 educational institution or institution of learning is, in whole or in substantial part, owned,
35 supported, controlled, or managed by a particular religion or by a particular religious
36 corporation, association, or society or if the curriculum of the school, college, university,
37 or other educational institution or institution of learning is directed toward the
38 propagation of a particular religion; and (4) it is not unlawful for an employer,
39 employment agency or labor organization to observe the terms of a bona fide seniority
40 system or any bona fide employee benefit plan such as a retirement, pension or insurance
41 plan, which is not a subterfuge to evade the purposes of this subtitle; however, no
42 employee benefit plan shall excuse the failure to hire any individual;

43 (h) Nothing contained in this subtitle shall be interpreted to require any
44 employer, employment agency, labor organization, or joint labor-management committee
45 subject to this subtitle to grant preferential treatment to any individual or to any group
46 because of the race, color, religion, sex, age, national origin or physical or mental

6

1 handicap of the individual or group on account of an imbalance which may exist with
2 respect to the total number or percentage of persons of any race, color, religion, sex, age,
3 national origin or physically or mentally handicapped persons employed by any employer,
4 referred or classified for employment by any employment agency or labor organization,
5 admitted to membership or classified by any labor agency or labor organization, admitted
6 to membership or classified by any labor organization, or admitted to, or employed in, any
7 apprenticeship or other training program, in comparison with the total number or
8 percentage of persons of such race, color, religion, sex, age, national origin or physically
9 or mentally handicapped persons in any community, State, section, or other area, or in
10 the available work force in any community, State, section, or other area.

11 **Article - Health - General**

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

13 4-501.

14 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
15 INDICATED.

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

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

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

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

28 4-502.

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

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

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

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

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

7

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

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

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

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

8 4-503.

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

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

15 (B) AN INDIVIDUAL'S GENETIC INFORMATION IS THE PROPERTY OF THE
16 INDIVIDUAL.

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

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

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

24 (3) AUTHORIZED BY ORDER OF A COURT OF COMPETENT
25 JURISDICTION; OR

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

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

31 (1) NECESSARY FOR PURPOSES OF A CRIMINAL OR DEATH
32 INVESTIGATION OR A CRIMINAL OR JUVENILE PROCEEDING; OR

33 (2) AUTHORIZED BY ORDER OF A COURT OF COMPETENT
34 JURISDICTION.

35 (E) UNLESS THE INDIVIDUAL OR A PERSON IN INTEREST DIRECTS
36 OTHERWISE BY WRITTEN INFORMED CONSENT, A DNA SAMPLE FROM AN
37 INDIVIDUAL WHO IS THE SUBJECT OF A RESEARCH PROJECT SHALL BE DESTROYED

8

1 PROMPTLY ON COMPLETION OF THE PROJECT OR THE WITHDRAWAL OF THE
2 INDIVIDUAL FROM THE PROJECT, WHICHEVER OCCURS FIRST.

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

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

10 4-504.

11 (A) NOTWITHSTANDING THE MANNER OF RECEIPT OR THE SOURCE OF
12 GENETIC INFORMATION, INCLUDING GENETIC INFORMATION RECEIVED FROM AN
13 INDIVIDUAL, A PERSON MAY NOT DISCLOSE OR BE COMPELLED BY SUBPOENA OR
14 ANY OTHER MEANS TO DISCLOSE THE IDENTITY OF AN INDIVIDUAL ON WHOM A
15 GENETIC TEST HAS BEEN PERFORMED OR TO DISCLOSE GENETIC INFORMATION
16 ABOUT THE INDIVIDUAL IN A MANNER THAT PERMITS IDENTIFICATION OF THE
17 INDIVIDUAL UNLESS THE DISCLOSURE IS:

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

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

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

25 (4) AUTHORIZED BY ORDER OF A COURT OF COMPETENT
26 JURISDICTION;

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

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

31 (7) FOR THE PURPOSE OF FURNISHING GENETIC INFORMATION
32 RELATING TO A DECEDENT FOR MEDICAL DIAGNOSIS OF BLOOD RELATIVES OF THE
33 DECEDENT;

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

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

37 (10) AUTHORIZED BY FEDERAL LAW FOR THE IDENTIFICATION OF AN
38 INDIVIDUAL; OR

9

1 (11) BY AN INSURER IN ACCORDANCE WITH § XX-XXX OF THIS ARTICLE
2 [48A, § 490E].

3 (B) A PERSON TO WHOM GENETIC INFORMATION OR THE IDENTITY OF AN
4 INDIVIDUAL ON WHOM A GENETIC TEST HAS BEEN PERFORMED IS DISCLOSED MAY
5 NOT REDISCLOSE THE INFORMATION OR IDENTITY OF THE INDIVIDUAL UNLESS
6 THE REDISCLOSURE IS:

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

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

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

14 4-505.

15 (A) A PERSON THAT PERFORMS A GENETIC TEST OR RECEIVES RECORDS,
16 RESULTS, OR FINDINGS OF A GENETIC TEST SHALL PROVIDE THE INDIVIDUAL ON
17 WHOM THE GENETIC TEST WAS PERFORMED WITH NOTICE THAT A GENETIC TEST
18 WAS PERFORMED OR THAT GENETIC INFORMATION RESULTING FROM A GENETIC
19 TEST WAS RECEIVED.

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

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

26 4-506.

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

29 (B) THE REGULATIONS SHALL INCLUDE PROCEDURES TO BE USED BY A
30 PERSON TO:

31 (1) OBTAIN THE WRITTEN INFORMED CONSENT REQUIRED UNDER §
32 4-504 OF THIS SUBTITLE, INCLUDING A DESCRIPTION OF THE GENETIC TEST TO BE
33 PERFORMED, ITS PURPOSE, POTENTIAL USES, AND LIMITATIONS AND THE MEANING
34 OF ITS RESULTS; AND

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

10

1 4-507.

2 (A) A PERSON THAT VIOLATES ANY PROVISION OF THIS SUBTITLE IS GUILTY
3 OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING
4 \$1,000 OR IMPRISONMENT NOT EXCEEDING 6 MONTHS OR BOTH.

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

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

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

13 **Article - Insurance**

14 27-208.

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

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

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

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

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

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

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

36 27-212.

37 (a) This section does not apply to life insurance, health insurance, and annuities.

11

1 (d) (1) An insurer may not make or allow unfair discrimination between
2 insureds or properties having like insuring or risk characteristics in:

3 (i) the premium or rates charged for insurance;

4 (ii) the dividends or other benefits payable on the insurance; or

5 (iii) any of the other terms or conditions of the insurance.

6 (2) [Notwithstanding] EXCEPT AS PROVIDED IN § 27-911 OF THIS TITLE
7 AND NOTWITHSTANDING any other provision of this section, an insurer may not make or
8 allow a differential in ratings, premium payments, or dividends for a reason based on the
9 sex, physical handicap, or disability of an applicant or policyholder unless there is
10 actuarial justification for the differential.

11 27-909.

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

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

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

19 (1) use a genetic test or the results of a genetic test to reject, deny, limit,
20 cancel, refuse to renew, increase the rates of, affect the terms or conditions OR PREMIUM
21 PAYMENTS OR DIVIDENDS of, or otherwise affect a health insurance OR LIFE
22 INSURANCE policy or contract, ANNUITY CONTRACT, OR DISABILITY INSURANCE
23 POLICY;

24 (2) request or require a genetic test for the purpose of determining whether
25 or not to issue or renew [health benefits coverage] A HEALTH INSURANCE OR LIFE
26 INSURANCE POLICY OR CONTRACT, ANNUITY CONTRACT, OR DISABILITY
27 INSURANCE POLICY; or

28 (3) release the results of a genetic test without the prior written
29 authorization of the individual from whom the test was obtained AS REQUIRED UNDER
30 § 4-502 OF THE HEALTH - GENERAL ARTICLE.

31 [(d)] (C) (1) For purposes of this subsection, §§ 4-113, 4-114, 27-501, and
32 27-505 of this article apply to nonprofit health service plans and health maintenance
33 organizations.

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

36 27-911.

37 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
38 INDICATED.

12

1 (2) "CREDIT LIFE OR DISABILITY INSURANCE" MEANS A TYPE OF
2 INSURANCE THAT WILL PAY ALL OR PART OF AN INDIVIDUAL'S DEBT ON THE
3 DEATH OR DISABILITY OF THE INDIVIDUAL.

4 (3) "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 (B) AN INSURER MAY NOT:

9 (1) USE A GENETIC TEST OR THE RESULTS OF A GENETIC TEST TO
10 REJECT, DENY, LIMIT, CANCEL, REFUSE TO RENEW, INCREASE THE RATES OF,
11 AFFECT THE TERMS OR CONDITIONS OR PREMIUM PAYMENTS OR DIVIDENDS OF, OR
12 OTHERWISE AFFECT A CREDIT LIFE OR DISABILITY INSURANCE POLICY;

13 (2) REQUEST OR REQUIRE A GENETIC TEST FOR THE PURPOSE OF
14 DETERMINING WHETHER OR NOT TO ISSUE OR RENEW A CREDIT LIFE OR
15 DISABILITY INSURANCE POLICY; OR

16 (3) RELEASE THE RESULTS OF A GENETIC TEST WITHOUT THE PRIOR
17 WRITTEN AUTHORIZATION OF THE INDIVIDUAL FROM WHOM THE TEST WAS
18 OBTAINED AS REQUIRED UNDER § 4-502 OF THE HEALTH - GENERAL ARTICLE.

19 (C) THE COMMISSIONER MAY ISSUE AN ORDER UNDER §§ 4-113, 4-114, 27-501,
20 AND 27-505 OF THIS ARTICLE IF THE COMMISSIONER FINDS A VIOLATION OF THIS
21 SECTION.

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