

SENATE BILL 324

Unofficial Copy
C3

1998 Regular Session
8r1257
CF 8r1094

By: **Senator Forehand**

Introduced and read first time: February 5, 1998

Assigned to: Finance

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 18, 1998

CHAPTER _____

1 AN ACT concerning

2 **Genetic Information Nondiscrimination in Health Insurance Act of 1998**

3 FOR the purpose of prohibiting the denial of health insurance to certain individuals
4 based upon the individuals' genetic information; prohibiting the requirement of
5 genetic information as a basis for not issuing or renewing health benefits
6 coverage; prohibiting the disclosure of ~~an individual's~~ genetic information
7 without the ~~written consent~~ prior written authorization of the individual from
8 whom the genetic information was obtained for each disclosure; ~~providing for~~
9 ~~tort liability for violating the provisions of this subtitle;~~ identifying permissible
10 purposes for disclosure of an individual's genetic information; defining certain
11 terms; and generally relating to the prohibition of discrimination on the basis of
12 genetic information.

13 BY repealing and reenacting, with amendments,
14 Article - Insurance
15 Section 27-909
16 Annotated Code of Maryland
17 (1997 Volume)

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

20 **Article - Insurance**

21 27-909.

22 (a) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
23 INDICATED.

1 (2) "GENE PRODUCT" MEANS THE BIOCHEMICAL MATERIAL, EITHER RNA
 2 OR PROTEIN, MADE BY A GENE.

3 ~~(2)~~ (3) (I) "GENETIC INFORMATION" MEANS INFORMATION:

4 (4) 1. ABOUT CHROMOSOMES, GENES, GENE PRODUCTS, OR
 5 INHERITED CHARACTERISTICS THAT MAY DERIVE FROM AN INDIVIDUAL OR A
 6 FAMILY MEMBER;

7 (4) 2. OBTAINED FOR ~~PREDICTIVE~~ DIAGNOSTIC AND
 8 THERAPEUTIC PURPOSES; AND

9 (4) 3. OBTAINED AT SUCH TIME WHEN THE INDIVIDUAL TO
 10 WHOM THE INFORMATION RELATES IS ASYMPTOMATIC FOR THE DISEASE.

11 (II) "GENETIC INFORMATION" DOES NOT INCLUDE:

12 1. ROUTINE PHYSICAL MEASUREMENTS;

13 2. CHEMICAL, BLOOD, AND URINE ANALYSES THAT ARE
 14 WIDELY ACCEPTED AND IN USE IN CLINICAL PRACTICE;

15 3. TESTS FOR USE OF DRUGS; AND

16 4. TESTS FOR THE PRESENCE OF THE HUMAN
 17 IMMUNODEFICIENCY VIRUS.

18 ~~(3)~~ (4) "GENETIC SERVICES" MEANS HEALTH SERVICES THAT ARE
 19 PROVIDED TO OBTAIN, ASSESS, AND INTERPRET GENETIC INFORMATION FOR
 20 ~~PREDICTIVE DIAGNOSTIC AND THERAPEUTIC PURPOSES AND FOR GENETIC~~
 21 ~~EDUCATION AND COUNSELING.~~

22 (4) (5) [In this section, "genetic] "GENETIC test" means a laboratory
 23 test of human chromosomes [or DNA], GENES, OR GENE PRODUCTS that is used to
 24 identify the presence or absence of inherited or congenital alterations in genetic
 25 material that are associated with disease or illness.

26 ~~(5)~~ ~~"PREDICTIVE PURPOSES" MEANS ASSESSING THE RISK OF DISEASE~~
 27 ~~AND IDENTIFYING CARRIERS OF DISEASE-RELATED GENETIC MUTATIONS OR~~
 28 ~~ALTERATIONS.~~

29 (b) This section does not apply to life insurance policies, annuity contracts,
 30 LONG-TERM CARE INSURANCE, or disability insurance policies.

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

33 (1) use a genetic test or the results of a genetic test, GENETIC
 34 INFORMATION, OR A REQUEST FOR GENETIC SERVICES, to reject, deny, limit, cancel,
 35 refuse to renew, increase the rates of, affect the terms or conditions of, or otherwise
 36 affect a health insurance policy or contract;

1 (2) request or require a genetic test, THE RESULTS OF A GENETIC TEST,
 2 OR GENETIC INFORMATION for the purpose of determining whether or not to issue or
 3 renew health benefits coverage; or

4 (3) release [the results of a genetic test] IDENTIFIABLE GENETIC
 5 INFORMATION OR THE RESULTS OF A GENETIC TEST TO ANY PERSON WHO IS NOT AN
 6 EMPLOYEE OF THE PLAN OR A PARTICIPATING HEALTH CARE PROVIDER WHO
 7 PROVIDES MEDICAL SERVICES TO ENROLLEES without the prior written
 8 authorization of the individual from whom the test RESULTS OR GENETIC
 9 INFORMATION was obtained ~~OR TO WHOM THE GENETIC INFORMATION RELATES.~~

10 (D) DISCLOSURE OF IDENTIFIABLE GENETIC INFORMATION TO AN EMPLOYEE
 11 OR HEALTH CARE PROVIDER AUTHORIZED PURSUANT TO SUBSECTION (C)(3) OF THIS
 12 SECTION SHALL ONLY BE FOR THE PURPOSE OF:

13 (1) PROVIDING MEDICAL CARE TO PATIENTS; OR

14 (2) CONDUCTING RESEARCH THAT HAS BEEN APPROVED BY AN
 15 INSTITUTIONAL REVIEW BOARD ESTABLISHED IN ACCORDANCE WITH FEDERAL LAW.

16 ~~(D)~~ (E) (1) For purposes of this subsection, §§ 4-113, 4-114, 27-501, and
 17 27-505 of this article apply to nonprofit health service plans and health maintenance
 18 organizations.

19 (2) The Commissioner may issue an order under §§ 4-113, 4-114,
 20 27-501, and 27-505 of this article if the Commissioner finds a violation of this
 21 section.

22 ~~(E)~~ (F) THE AUTHORIZATION DESCRIBED IN SUBSECTION (C)(3) OF THIS
 23 SECTION IS REQUIRED FOR EACH DISCLOSURE AND SHALL ~~IDENTIFY THE PERSON~~
 24 DESCRIBE THE INDIVIDUAL OR ENTITIES MAKING THE DISCLOSURE AND TO WHOM
 25 THE DISCLOSURE IS TO BE MADE.

26 ~~(F)~~ AN INSURER, NONPROFIT HEALTH SERVICE PLAN, OR HEALTH
 27 MAINTENANCE ORGANIZATION THAT VIOLATES ANY PROVISION OF THIS SECTION
 28 MAY, IN THE DISCRETION OF A COURT OF COMPETENT JURISDICTION, BE LIABLE FOR
 29 COMPENSATORY, CONSEQUENTIAL, AND PUNITIVE DAMAGES.

30 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
 31 October 1, 1998.

