

HOUSE BILL 862

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SB 324/98 - FIN

1999 Regular Session
9lr2117

By: **Delegates Finifter, Zirkin, Morhaim, and Pitkin Pitkin, Barve, Brown, Donoghue, Fulton, Goldwater, Harrison, Hill, Kirk, Krysiak, La Vay, Love, McHale, Minnick, Moe, and Pendergrass**

Introduced and read first time: February 12, 1999
Assigned to: Economic Matters

Committee Report: Favorable with amendments
House action: Adopted
Read second time: March 16, 1999

CHAPTER _____

1 AN ACT concerning

2 **Genetic Information Nondiscrimination in Health Insurance Act of 1999**

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 for the purpose of determining whether to issue or renew
6 health benefits coverage; prohibiting the disclosure of genetic information
7 without the prior written authorization of the individual from whom the genetic
8 information was obtained for each disclosure; identifying permissible purposes
9 for disclosure of an individual's genetic information; defining certain terms;
10 repealing the termination date of certain provisions of law that relate to the use
11 of genetic tests; and generally relating to health benefits and genetic
12 information.

13 BY repealing and reenacting, with amendments,
14 Article - Insurance
15 Section 27-909
16 Annotated Code of Maryland
17 (1997 Volume and 1998 Supplement)

18 BY repealing and reenacting, with amendments,
19 Chapter 24 of the Acts of the General Assembly of 1996
20 Section 2

21 BY repealing
22 Chapter 70 of the Acts of the General Assembly of 1997

1 Section 21, 23, and 26

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

4 **Article - Insurance**

5 27-909.

6 (a) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
7 INDICATED.

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

10 (3) (I) "GENETIC INFORMATION" MEANS INFORMATION:

11 1. ABOUT CHROMOSOMES, GENES, GENE PRODUCTS, OR
12 INHERITED CHARACTERISTICS THAT MAY DERIVE FROM AN INDIVIDUAL OR A
13 FAMILY MEMBER;

14 2. OBTAINED FOR DIAGNOSTIC AND THERAPEUTIC
15 PURPOSES; AND

16 3. OBTAINED AT SUCH TIME WHEN THE INDIVIDUAL TO
17 WHOM THE INFORMATION RELATES IS ASYMPTOMATIC FOR THE DISEASE.

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

19 1. ROUTINE PHYSICAL MEASUREMENTS;

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

22 3. TESTS FOR USE OF DRUGS; AND

23 4. TESTS FOR THE PRESENCE OF THE HUMAN
24 IMMUNODEFICIENCY VIRUS.

25 (4) "GENETIC SERVICES" MEANS HEALTH SERVICES THAT ARE
26 PROVIDED TO OBTAIN, ASSESS, AND INTERPRET GENETIC INFORMATION FOR
27 DIAGNOSTIC AND THERAPEUTIC PURPOSES AND FOR GENETIC EDUCATION AND
28 COUNSELING.

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

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

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

3 (1) use a genetic test [or the], THE results of a genetic test, GENETIC
4 INFORMATION, OR A REQUEST FOR GENETIC SERVICES to reject, deny, limit, cancel,
5 refuse to renew, increase the rates of, affect the terms or conditions of, or otherwise
6 affect a health insurance policy or contract;

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

10 (3) release [the results of a genetic test] IDENTIFIABLE GENETIC
11 INFORMATION OR THE RESULTS OF A GENETIC TEST TO ANY PERSON WHO IS NOT AN
12 EMPLOYEE OF THE INSURER, NONPROFIT HEALTH SERVICE PLAN, OR HEALTH
13 MAINTENANCE ORGANIZATION OR A PARTICIPATING HEALTH CARE PROVIDER WHO
14 PROVIDES MEDICAL SERVICES TO INSUREDS OR ENROLLEES without the prior
15 written authorization of the individual from whom the test RESULTS OR GENETIC
16 INFORMATION was obtained.

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

20 (1) PROVIDING MEDICAL CARE TO PATIENTS; OR

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

23 [(d)] (E) (1) For purposes of this subsection, §§ 4-113, 4-114, 27-501, and
24 27-505 of this article apply to nonprofit health service plans and health maintenance
25 organizations.

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

29 (F) THE AUTHORIZATION DESCRIBED IN SUBSECTION (C)(3) OF THIS SECTION
30 IS REQUIRED FOR EACH DISCLOSURE AND SHALL DESCRIBE THE INDIVIDUAL OR
31 ENTITIES MAKING THE DISCLOSURE, AND TO WHOM THE DISCLOSURE IS TO BE
32 MADE, AND THE INFORMATION TO BE DISCLOSED.

33 **Chapter 24 of the Acts of 1996**

34 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
35 October 1, 1996. [It shall remain in effect for a period of 6 years and, at the end of
36 September 30, 2002, with no further action required by the General Assembly, this
37 Act shall be abrogated and of no further force and effect.]

1

Chapter 70 of the Acts of 1997

2 [SECTION 21. AND BE IT FURTHER ENACTED, That, at the end of
3 September 30, 2002, and with no further action required by the General Assembly, §
4 27-909 of the Insurance Article, as enacted by Chapter _____ (H.B. 11) of the Acts of
5 the General Assembly of 1997, shall be void. This section supersedes the termination
6 and abrogation provisions of Section 2 of Chapter 24 of the Acts of the General
7 Assembly of 1996.

8 SECTION 23. AND BE IT FURTHER ENACTED, That, at the end of September
9 30, 2002, and with no further action required by the General Assembly, § 19-706(k) of
10 the Health - General Article shall be void and § 19-706(l) of the Health - General
11 Article, as enacted by Section 5 of this Act, shall take effect. This section supersedes
12 the termination and abrogation provisions of Section 2 of Chapter 24 of the Acts of the
13 General Assembly of 1996.

14 SECTION 26. AND BE IT FURTHER ENACTED, That, at the end of September
15 30, 2002, and with no further action required by the General Assembly, § 27-208 of
16 the Insurance Article, as enacted by Chapter _____ (H.B. 11) of the Acts of the General
17 Assembly of 1997, shall be void and § 27-208 of the Insurance Article, as enacted by
18 Section 11 of this Act, shall take effect. This section supersedes the termination and
19 abrogation provisions of Section 2 of Chapter 24 of the Acts of the General Assembly
20 of 1996.]

21 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take
22 effect October 1, 1999.