

SENATE BILL 2

C3

(PRE-FILED)

9lr0305

CF 9lr0303

By: **Senator Forehand**

Requested: June 25, 2008

Introduced and read first time: January 14, 2009

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Disability Insurance – Discrimination Based on Genetic Information or Tests**
3 **– Prohibited**

4 FOR the purpose of repealing an exemption for disability insurance policies from the
5 scope of certain provisions of law governing the use of certain genetic tests and
6 the use and disclosure of certain genetic information or the results of certain
7 genetic tests by certain health insurance carriers in connection with health
8 insurance policies and contracts; altering a certain definition; and generally
9 relating to genetic tests, genetic information, and disability insurance.

10 BY repealing and reenacting, without amendments,
11 Article – Insurance
12 Section 1–101(a) and (p)(1) and (2)
13 Annotated Code of Maryland
14 (2003 Replacement Volume and 2008 Supplement)

15 BY repealing and reenacting, with amendments,
16 Article – Insurance
17 Section 27–909
18 Annotated Code of Maryland
19 (2006 Replacement Volume and 2008 Supplement)

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

22 **Article – Insurance**

23 1–101.

24 (a) In this article the following words have the meanings indicated.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (p) (1) "Health insurance" means insurance of human beings against:

2 (i) bodily injury, disablement, or death by accident or
3 accidental means, or the expenses of bodily injury, disablement, or death by accident
4 or accidental means;

5 (ii) disablement or expenses resulting from sickness or
6 childbirth; and

7 (iii) expenses incurred in prevention of sickness or dental care.

8 (2) "Health insurance" includes:

9 (i) accident insurance;

10 (ii) disability insurance; and

11 (iii) each insurance appertaining to health insurance.

12 27-909.

13 (a) (1) In this section the following words have the meanings indicated.

14 (2) "Gene product" means the biochemical material, either RNA or
15 protein, made by a gene.

16 (3) (i) "Genetic information" means information:

17 1. about chromosomes, genes, gene products, or
18 inherited characteristics that may derive from an individual or a family member;

19 2. obtained for diagnostic and therapeutic purposes; and

20 3. obtained at a time when the individual to whom the
21 information relates is asymptomatic for the disease.

22 (ii) "Genetic information" does not include:

23 1. routine physical measurements;

24 2. chemical, blood, and urine analyses that are [widely
25 accepted and in use in clinical practice] **NOT USED TO DERIVE INFORMATION**
26 **ABOUT CHROMOSOMES, GENES, GENE PRODUCTS, OR INHERITED**
27 **CHARACTERISTICS;**

28 3. tests for use of drugs; or

1 4. tests for the presence of the human immunodeficiency
2 virus.

3 (4) “Genetic services” means health services that are provided to
4 obtain, assess, and interpret genetic information for diagnostic and therapeutic
5 purposes and for genetic education and counseling.

6 (5) “Genetic test” means a laboratory test of human chromosomes,
7 genes, or gene products that is used to identify the presence or absence of inherited or
8 congenital alterations in genetic material that are associated with disease or illness.

9 (b) This section does not apply to life insurance policies, annuity contracts,
10 **OR** long-term care insurance policies[, or disability insurance policies].

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

13 (1) use a genetic test, the results of a genetic test, genetic information,
14 or a request for genetic services, to reject, deny, limit, cancel, refuse to renew, increase
15 the rates of, affect the terms or conditions of, or otherwise affect a health insurance
16 policy or contract;

17 (2) request or require a genetic test, the results of a genetic test, or
18 genetic information for the purpose of determining whether or not to issue or renew
19 health benefits coverage; or

20 (3) release identifiable genetic information or the results of a genetic
21 test to any person who is not an employee of the insurer, nonprofit health service plan,
22 or health maintenance organization or a participating health care provider who
23 provides medical services to insureds or enrollees without the prior written
24 authorization of the individual from whom the test results or genetic information was
25 obtained.

26 (d) Disclosure of identifiable genetic information to an employee or health
27 care provider authorized under subsection (c)(3) of this section shall only be for the
28 purpose of:

29 (1) providing medical care to patients; or

30 (2) conducting research that has been approved by an institutional
31 review board established in accordance with federal law.

32 (e) The authorization described in subsection (c)(3) of this section is required
33 for each disclosure and shall describe the individual or entities making the disclosure,
34 to whom the disclosure is to be made, and the information to be disclosed.

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1 (f) (1) For purposes of this subsection, §§ 4–113, 4–114, 27–501, and
2 27–505 of this article apply to nonprofit health service plans and health maintenance
3 organizations.

4 (2) The Commissioner may issue an order under §§ 4–113, 4–114,
5 27–501, and 27–505 of this article if the Commissioner finds a violation of this section.

6 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
7 October 1, 2009.