

HOUSE BILL 155

C4, J1

3lr0373
CF 3lr1648

By: **Delegate Kipke**

Introduced and read first time: January 16, 2023

Assigned to: Health and Government Operations

A BILL ENTITLED

1 AN ACT concerning

2 **Genetic Testing – Prohibitions on Disability, Life, and Long-Term Care**
3 **Insurance and Educational Materials**
4 **(Genetic Testing Protection Act of 2023)**

5 FOR the purpose of prohibiting carriers that offer life insurance, long-term care insurance,
6 and disability insurance policies or contracts from taking certain action regarding
7 coverage based on whether an applicant or policy or contract holder has requested or
8 undergone genetic testing or the results of the genetic testing; requiring the
9 Maryland Department of Health to review and update certain materials relating to
10 genetic testing on or before a certain date; and generally relating to genetic testing.

11 BY repealing and reenacting, without amendments,
12 Article – Insurance
13 Section 27–909
14 Annotated Code of Maryland
15 (2017 Replacement Volume and 2022 Supplement)

16 BY adding to
17 Article – Insurance
18 Section 27–909.1
19 Annotated Code of Maryland
20 (2017 Replacement Volume and 2022 Supplement)

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

23 **Article – Insurance**

24 27–909.

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter deleted from existing law.

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1 (2) “Gene product” means the biochemical material, either RNA or protein,
2 made by a gene.

3 (3) (i) “Genetic information” means information:

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

6 2. obtained for diagnostic and therapeutic purposes; and

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

9 (ii) “Genetic information” does not include:

10 1. routine physical measurements;

11 2. chemical, blood, and urine analyses that are widely
12 accepted and in use in clinical practice;

13 3. tests for use of drugs; or

14 4. tests for the presence of the human immunodeficiency
15 virus.

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

19 (5) “Genetic test” means a laboratory test of human chromosomes, genes,
20 or gene products 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,
23 long-term care insurance policies, or disability insurance policies.

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

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

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

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

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

8 (1) providing medical care to patients; or

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

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

14 (f) (1) For purposes of this subsection, §§ 4–113 and 4–114 of this article and
15 §§ 27–501 and 27–505 of this title apply to nonprofit health service plans and health
16 maintenance organizations.

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

20 **27–909.1.**

21 (A) IN THIS SECTION, “GENETIC TEST” HAS THE MEANING STATED IN §
22 27–909 OF THIS SUBTITLE.

23 (B) THIS SECTION APPLIES ONLY TO LIFE INSURANCE, LONG–TERM CARE
24 INSURANCE, AND DISABILITY INSURANCE POLICIES OR ANNUITY CONTRACTS.

25 (C) ~~A CARRIER~~ INSURER THAT OFFERS, ISSUES, OR DELIVERS A LIFE
26 INSURANCE,
27 LONG–TERM CARE INSURANCE, OR DISABILITY INSURANCE POLICY OR CONTRACT IN
THE STATE MAY NOT:

28 (1) DENY OR LIMIT COVERAGE BASED ~~SOLELY~~ ON WHETHER AN
29 APPLICANT OR POLICY OR CONTRACT HOLDER HAS UNDERGONE GENETIC TESTING;

30 (2) PROHIBIT, AS A CONDITION OF CONTINUING COVERAGE, A POLICY
31 OR CONTRACT HOLDER FROM UNDERGOING A GENETIC TEST; OR

1 **(3) OTHERWISE USE A GENETIC TEST, THE RESULTS OF A GENETIC**
 2 **TEST, GENETIC INFORMATION, OR A REQUEST FOR GENETIC SERVICES TO REJECT,**
 3 **DENY, LIMIT, CANCEL, REFUSE TO RENEW, INCREASE THE RATES OF, AFFECT THE**
 4 **TERMS OR CONDITIONS OF, OR OTHERWISE AFFECT A LIFE INSURANCE, LONG-TERM**
 5 **CARE INSURANCE, OR DISABILITY INSURANCE POLICY OR CONTRACT.**

6 **(D) (1) FOR PURPOSES OF THIS SUBSECTION, §§ 4-113 AND 4-114 OF**
 7 **THIS ARTICLE AND §§ 27-501 AND 27-505 OF THIS TITLE APPLY TO CARRIERS THAT**
 8 **OFFER, ISSUE, OR DELIVER LIFE INSURANCE, LONG-TERM CARE INSURANCE, OR**
 9 **DISABILITY INSURANCE POLICIES OR CONTRACTS IN THE STATE.**

10 **(2) THE COMMISSIONER MAY ISSUE AN ORDER UNDER §§ 4-113 AND**
 11 **4-114 OF THIS ARTICLE OR §§ 27-501 AND 27-505 OF THIS TITLE IF THE**
 12 **COMMISSIONER FINDS A VIOLATION OF THIS SECTION.**

Requiring that § 18-120 be updated to reflect the provisions of this
legislation at the time of implementation.

Nothing in this Section may be construed as preventing a long-term care,
life, or disability insurer from accessing an individual's medical record as
part of an application exam.

32

1 SECTION 2. AND BE IT FURTHER ENACTED, That:

2 (a) On or before April 1, 2024, the Maryland Department of Health shall review
 3 and update materials relating to genetic testing in order to educate the public on:

4 (1) the benefits of genetic testing; and

5 (2) the impact of genetic testing on access to life insurance, disability
 6 insurance, and long-term care insurance policies and contracts.

7 (b) The update required under subsection (a) of this section shall include:

8 (1) the incorporation of information regarding the changes to Title 27,
 9 Subtitle 9 of the Insurance Article enacted by Section 1 of this Act; and

10 (2) if applicable, updates to:

11 (i) public service announcements previously released by the
 12 Maryland Department of Health;

13 (ii) publicly accessible websites maintained by the Maryland
 14 Department of Health that contain information and resources regarding genetic testing;
 15 and

16 (iii) other media as determined appropriate by the Maryland
17 Department of Health.

18 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
31 October 1, 2023.