

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas  
2 83rd General Assembly  
3 Regular Session, 2001  
4

As Engrossed: S3/7/01 H3/28/01

# A Bill

Act 1407 of 2001  
SENATE BILL 766

5 By: Senators Gullett, *Baker*  
6 By: Representative Dees  
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8

## For An Act To Be Entitled

9 AN ACT TO AMEND ARKANSAS CODE TITLE 11, CHAPTER 5  
10 TO ADD AN ADDITIONAL SUBCHAPTER 4 TO REGULATE  
11 EMPLOYER USE OF GENETIC INFORMATION IN THE  
12 WORKPLACE; AND FOR OTHER PURPOSES.  
13  
14

### Subtitle

15 TO REGULATE EMPLOYER USE OF GENETIC  
16 INFORMATION IN THE WORKPLACE.  
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20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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22 SECTION 1. Arkansas Code Title 11, Chapter 5, is amended to add an  
23 additional subchapter to read as follows:

24 SUBCHAPTER 4 - GENETIC INFORMATION IN THE WORKPLACE

25 11-5-401. Title.

26 The subchapter shall be known and may be cited as the "Genetic  
27 Information in the Workplace Act".  
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29 11-5-402. Definitions.

30 As used in this subchapter, unless the context otherwise requires:

31 (1) "DNA" means deoxyribonucleic acid;

32 (2) "Employer" means employer as the term is defined in Section 3(d) of  
33 the Fair Labor Standards Act of 1938, 29 U.S.C. Section 203(d);

34 (3)(A) "Genetic information" means information derived from the results  
35 of a genetic test.

36 (B) "Genetic information" shall not include:

- 1                   (i) Family history;
- 2                   (ii) Results of a routine physical examination or test;
- 3                   (iii) Results of a chemical, blood or urine analysis;
- 4                   (iv) Results of a test to determine drug use;
- 5                   (v) Results of a test for the presence of the human
- 6 immunodeficiency virus; or
- 7                   (vi) Results of any other test commonly accepted in
- 8 clinical practice at the time it is ordered by the insurer;

9           (4)(A) "Genetic test" means a laboratory test of the DNA, RNA, or  
10 chromosomes of an individual for the purpose of identifying the presence or  
11 absence of inherited alterations in the DNA, RNA, or chromosomes that cause a  
12 predisposition for a clinically recognized disease or disorder.

13           (B) "Genetic test" shall not include:

- 14                   (i) Routine physical examination or a routine test
- 15 performed as a part of a physical examination;
- 16                   (ii) Chemical, blood, or urine analysis;
- 17                   (iii) Test to determine drug use;
- 18                   (iv) Test for the presence of the human immunodeficiency
- 19 virus; or
- 20                   (v) Any other test commonly accepted in clinical practice
- 21 at the time it is ordered by the insurer; and

22           (5) "RNA" means ribonucleic acid.

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24           11-5-403. Prohibition of employer use of genetic test or information.

25           (a) An employer shall not seek to obtain, or use a genetic test or  
26 genetic information of the employee or the prospective employee for the  
27 purposes of distinguishing between or discriminating against or restricting  
28 any right or benefit otherwise due or available to an employee or prospective  
29 employee.

30           (b) An employer shall not require a genetic test of or require genetic  
31 information from the employee or prospective employee for the purposes of  
32 distinguishing between or discriminating against or restricting any right or  
33 benefit otherwise due or available to an employee or prospective employee.

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35           11-5-404. Any employer who violates the prohibitions of § 11-5-403  
36 shall be guilty of a misdemeanor and may be punished by a fine of not more

1 than twenty-five thousand dollars (\$25,000) or by imprisonment in the county  
2 jail for not more than one (1) year, or by both fine and imprisonment.

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4 11-5-405. Exclusion for insurers.

5 Notwithstanding any language in this subchapter to the contrary, this  
6 subchapter shall not apply to an insurer or to an individual or third-party  
7 dealing with an insurer in the ordinary course of underwriting, conducting, or  
8 administering the business of life, disability income, or long-term care  
9 insurance, including, but not limited to, actions taken by an insurer or to an  
10 individual or third-party dealing with an insurer in connection with life,  
11 disability income, or long-term care insurance made available by an employer  
12 to its employees.

13 */s/ Gullett, et al.*

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16 APPROVED: 4/9/2001  
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