

# ARKANSAS SENATE

81st GENERAL ASSEMBLY  
Regular Session, 1997

## Amendment Form

Amendment No. \_\_\_\_\_ to HOUSE Bill No. 2011

Amend HOUSE Bill No. 2011 as engrossed H3/21/97  
by

deleting Section 1 and substituting therefor the following:

"SECTION 1. (a) As used in this section, the term Genetic test means a laboratory test of human DNA or RNA used to identify the presence or absence of inherited alterations in genetic material which cause predisposition to disease or illness.

(b) Except as otherwise provided in this subdivision (b) a genetic test may be performed only with the informed consent of the person to be tested. This subdivision (b) shall not apply to a genetic test for the following purposes:

- (1) criminal prosecution;
- (2) criminal investigation by a law enforcement agency;
- (3) determination of paternity;
- (4) acquiring specimens, as may be required by law, from persons convicted of certain offenses; and
- (5) anonymous research where the identity of the subject will not be released.

(c) Notwithstanding any other provision of law in this state, no insurer may utilize a disclosure authorization for the collection of the results of a genetic test unless the authorization:

- (1) is written in plain language;
- (2) is dated;
- (3) identifies or describes generically the persons authorized to

The amendment was read the first time, rules suspended and read the second time and

Senator Russ

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disclose such results of a genetic test to the insurer;

(4) identifies or describes generically the individuals or entities to whom the disclosure, or subsequent redisclosures, of the results of the genetic test may be made;

(5) describes the purposes of the disclosure;

(6) is signed by:

(A) the individual;

(B) such other person authorized to consent for such individual if such individual lacks the capacity to consent; or

(C) the claimant for the proceeds of an insurance policy;

(7) advises the individual or person authorized to act on behalf of the individual that the individual or the individual s authorized representative is entitled to receive a copy of the authorization form; and

(8) specifies the length of time such authorization shall remain valid for the purposes of collecting the results of a genetic test which shall be no longer than:

(A) thirty (30) months from the date the authorization is signed for the purpose of collecting the results of a genetic test in connection with an application for an insurance policy, policy reinstatement or request for change in policy benefits; and

(B) in the case of authorizations signed for the purpose of collecting the results of a genetic test in connection with a claim for

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benefits:

(i) the term of coverage if the claim is for a disability, disability income or long-term care insurance benefit;

(ii) the duration of the claim if the claim is not for a disability, disability income or long-term care insurance benefit.

(d) No insurer may redisclose the results of a genetic test about an individual to any person unless such redisclosure is consistent with the redisclosures authorized by the individual pursuant to disclosure authorization meeting the requirements of subsection (c) hereof or is:

(1) otherwise with the written authorization of the individual or, if the individual lacks the capacity to consent, the written authorization of such other person authorized to consent for such individual;

(2) reasonably related to the protection of the interests of the insurer in the detection or prevention of criminal activity, fraud, material misrepresentation or material nondisclosure;

(3) to an insurance regulatory authority, or in response to a facially valid administrative or judicial order, including a search warrant or subpoena;

(4) for purposes of enabling business decisions to be made about the purchase, transfer, merger, reinsurance or sale of all or part of an insurance business or businesses;

(5) for actuarial or research studies, provided that no

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individual may be identified in any actuarial or research report and any materials allowing individuals to be identified are returned or destroyed as soon as reasonably practicable;

(6) otherwise permitted or required by law.

(e) The information held by a public entity is exempt from the provisions of the Freedom of Information Act, § 25-19-101 et seq.

(f) The results of a genetic test shall not be used in any decision to grant or deny disability insurance, excluding disability income and long-term care insurance.

SECTION 2. Arkansas Code 23-66-206(7) is amended by adding a new subsection to read as follows:

(H) Granting or denying a life insurance, disability income insurance, or long-term care insurance policy on the basis of the results of a genetic test where the underwriting action is not based on sound actuarial principles or related to actual or reasonably anticipated experience. "

and

by appropriately renumbering the subsequent sections of the bill

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