

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
A Bill

SENATE BILL 763

5 By: Senators Gullett, *Baker*
6 By: Representative Dees
7

8
9 **For An Act To Be Entitled**

10 THE "GENETIC NONDISCRIMINATION IN INSURANCE ACT".

11
12 **Subtitle**

13 THE "GENETIC NONDISCRIMINATION IN
14 INSURANCE ACT".

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17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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19 SECTION 1. (a) This act shall be known and may be cited as the "Genetic
20 Nondiscrimination in Insurance Act".

21 (b) For purposes of this section:

22 (1) "Disability insurance" means insurance of human beings
23 against bodily injury, disablement, or death by accident or accidental means,
24 or the expense thereof, or against disablement or expense resulting from
25 sickness, and every insurance appertaining thereto, but shall not include
26 disability income or long-term care insurance;

27 (2) "DNA" means deoxyribonucleic acid;

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

30 (B) Genetic information shall not include family history,
31 the results of a routine physical examination or test, the results of a
32 routine chemical, blood or urine analysis, the results of a test to determine
33 drug use, the results of a test for the presence of the human immunodeficiency
34 virus, or the results of any other test commonly accepted in clinical practice
35 at the time it is ordered by the insurer;

36 (4)(A) "Genetic test" means a laboratory test of the DNA, RNA,

1 chromosomes, or enzyme activity for genetic disease of an individual for the
2 purpose of identifying the presence or absence of inherited alterations in the
3 DNA, RNA, chromosomes, or enzyme activity for genetic disease that cause a
4 predisposition for a clinically recognized disease or disorder.

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

6 (i) A routine physical examination or a routine test
7 performed as a part of a physical examination;

8 (ii) A chemical, blood, or urine analysis;

9 (iii) A test to determine drug use;

10 (iv) A test for the presence of the human
11 immunodeficiency virus; or

12 (v) Any other test commonly accepted in clinical
13 practice at the time it is ordered by the insurer;

14 (5)(A) "Insurer" means any individual, corporation, association,
15 partnership, insurance support organization, fraternal benefit society,
16 insurance agent, third-party administration, self-insurer, or any other legal
17 entity engaged in the business of insurance which is licensed to do business
18 in or incorporated or domesticated or domiciled in or under the statutes of
19 this state, or actually engaged in business in this state, regardless of where
20 the contract of insurance is written or plan is administered or where the
21 corporation is incorporated, that issues disability policies or plans or that
22 administers any other type of disability insurance policy containing medical
23 provisions including, but not limited to, any nonprofit hospital service and
24 indemnity and medical service and indemnity corporation, health maintenance
25 organizations, preferred provider organizations, prepaid health plans and the
26 State and Public School Life and Health Insurance Plan.

27 (B) "Insurer" shall not include insurers issuing life,
28 disability income, or long-term care insurance;

29 (6)(A) "Policy" or "policy form" means any policy, contract, plan
30 or agreement of disability insurance, or subscriber certificates of medical
31 care corporations, health care corporations, hospital service associations, or
32 health care maintenance organizations, delivered or issued for delivery in
33 this state by any insurer; any certificate, contract or policy issued by a
34 fraternal benefit society; any certificate issued pursuant to a group
35 insurance policy delivered or issued for delivery in this state; and any
36 evidence of coverage issued by a health maintenance organization.

1 (B) "Policy" or "policy form" shall not include life,
2 disability income, and long-term care insurance policies; and

3 (7) "RNA" means ribonucleic acid.

4 (c) No insurer shall, for the purpose of determining eligibility of any
5 individual for any insurance coverage, establishing premiums, limiting
6 coverage, renewing coverage, terminating coverage or any other underwriting
7 decision in connection with the offer, sale or renewal or continuation of a
8 policy, except to the extent and in the same fashion as an insurer limits
9 coverage, or increases premiums for loss caused or contributed to by other
10 medical conditions presenting an increased degree of risk:

11 (1) Require or request, directly or indirectly, any individual or
12 a member of the individual's family to obtain a genetic test; and

13 (2) Condition the provision of the policy upon a requirement that
14 an individual take a genetic test.

15 (d) Nothing in this section shall limit an insurer's right to decline
16 an application or enrollment request for a policy, charge a higher rate or
17 premium for such a policy, or place a limitation on coverage under such a
18 policy, on the basis of manifestations of any condition, disease or disorder.

19 (e)(1) Any violation of subsections (c) and (d) of this section by an
20 insurer shall be deemed an unfair practice pursuant to Arkansas Code 23-66-
21 206.

22 (2) In addition, any individual who is damaged by an insurer's
23 violation of this section may recover in a court of competent jurisdiction
24 equitable relief, which may include a retroactive order, directing the insurer
25 to provide insurance coverage to the damaged individual under the same terms
26 and conditions as would have applied had the violation not occurred.

27 (f) Notwithstanding any language in this section to the contrary, this
28 section shall not apply to an insurer or to an individual or third-party
29 dealing with an insurer in the ordinary course of underwriting, conducting, or
30 administering the business of life, disability income, or long-term care
31 insurance.

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34 */s/ Gullett*