

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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SENATE BILL 254*

Pensions & Retirement and Insurance Committee Substitute Adopted 4/3/97

House Committee Substitute Favorable 7/7/97

Fourth Edition Engrossed 7/15/97

Short Title: Genetic Info/No Discrimination.

(Public)

Sponsors:

Referred to:

February 27, 1997

A BILL TO BE ENTITLED

AN ACT TO PROHIBIT DISCRIMINATION IN HEALTH INSURANCE AND EMPLOYMENT BASED ON GENETIC INFORMATION.

The General Assembly of North Carolina enacts:

Section 1. Article 3 of Chapter 58 of the General Statutes is amended by adding a new section to read:

"§ 58-3-215. Genetic information in health insurance.

(a) Definitions. – As used in this section:

(1) 'Genetic information' means information about genes, gene products, or inherited characteristics that may derive from an individual or a family member. 'Genetic information' does not include the results of routine physical measurements, blood chemistries, blood counts, urine analyses, tests for abuse of drugs, and tests for the presence of human immunodeficiency virus.

(2) 'Health benefit plan' means an accident and health insurance policy or certificate; a nonprofit hospital or medical service corporation contract; a health maintenance organization subscriber contract; a plan provided

1 by a multiple employer welfare arrangement; or a plan provided by
2 another benefit arrangement, to the extent permitted by the Employee
3 Retirement Income Security Act of 1974, as amended, or by any waiver
4 of or other exception to that Act provided under federal law or
5 regulation. 'Health benefit plan' does not mean any plan implemented or
6 administered through the Department of Human Resources or its
7 representatives. 'Health benefit plan' also does not mean any of the
8 following kinds of insurance:

- 9 a. Accident
- 10 b. Credit
- 11 c. Disability income
- 12 d. Long-term or nursing home care
- 13 e. Medicare supplement
- 14 f. Specified disease
- 15 g. Dental or vision
- 16 h. Coverage issued as a supplement to liability insurance
- 17 i. Workers' compensation
- 18 j. Medical payments under automobile or homeowners
- 19 k. Hospital income or indemnity
- 20 l. Insurance under which benefits are payable with or without
21 regard to fault and that is statutorily required to be contained in
22 any liability policy or equivalent self-insurance
- 23 m. Blanket accident and sickness.

24 (3) 'Insurer' means an insurance company subject to this Chapter; a service
25 corporation organized under Article 65 of this Chapter; a health
26 maintenance organization organized under Article 67 of this Chapter; or
27 a multiple employer welfare arrangement subject to Article 49 of this
28 Chapter.

29 (b) For the purpose of this section, routine physical measurements, blood
30 chemistries, blood counts, urine analyses, tests for abuse of drugs, and tests for the
31 presence of human immunodeficiency virus are not to be considered genetic tests.

32 (c) No insurer shall:

- 33 (1) Raise the premium or contribution rates paid by a group for a group
34 health benefit plan on the basis of genetic information obtained about an
35 individual member of the group.
- 36 (2) Refuse to issue or deliver a health benefit plan because of genetic
37 information obtained about any person to be insured by the health
38 benefit plan.
- 39 (3) Charge a higher premium rate or charge for a health benefit plan
40 because of genetic information obtained about any person to be insured
41 by the health benefit plan."

42 Section 2. Article 3 of Chapter 95 of the General Statutes is amended by
43 adding the following new section to read:

1 **"§ 95-28.1A. Discrimination against persons based on genetic testing or genetic**
2 **information prohibited.**

3 (a) No person, firm, corporation, unincorporated association, State agency, unit of
4 local government, or any public or private entity shall deny or refuse employment to any
5 person or discharge any person from employment on account of the person's having
6 requested genetic testing or counseling services, or on the basis of genetic information
7 obtained concerning the person or a member of the person's family. This section shall
8 not be construed to prevent the person from being discharged for cause.

9 (b) As used in this section, the term 'genetic test' means a test for determining the
10 presence or absence of genetic characteristics in an individual or a member of the
11 individual's family in order to diagnose a genetic condition or characteristic or ascertain
12 susceptibility to a genetic condition. The term 'genetic characteristic' means any
13 scientifically or medically identifiable genes or chromosomes, or alterations or products
14 thereof, which are known individually or in combination with other characteristics to be a
15 cause of a disease or disorder, or determined to be associated with a statistically increased
16 risk of development of a disease or disorder, and which are asymptomatic of any disease
17 or disorder. The term 'genetic information' means information about genes, gene
18 products, or inherited characteristics that may derive from an individual or a family
19 member."

20 Section 3. G.S. 95-241(a), as rewritten by S.L. 1997-153, reads as rewritten:

21 "(a) No person shall discriminate or take any retaliatory action against an employee
22 because the employee in good faith does or threatens to do any of the following:

23 (1) File a claim or complaint, initiate any inquiry, investigation, inspection,
24 proceeding or other action, or testify or provide information to any
25 person with respect to any of the following:

- 26 a. Chapter 97 of the General Statutes.
27 b. Article 2A or Article 16 of this Chapter.
28 c. Article 2A of Chapter 74 of the General Statutes.
29 d. G.S. 95-28.1.
30 e. Article 16 of Chapter ~~127A~~ 127A of the General Statutes.
31 f. G.S. 95-28.1A.

32 (2) Cause any of the activities listed in subdivision (1) of this subsection to
33 be initiated on an employee's behalf.

34 (3) Exercise any right on behalf of the employee or any other employee
35 afforded by Article 2A or Article 16 of this Chapter or by Article 2A of
36 Chapter 74 of the General Statutes."

37 Section 4. Nothing in this act applies to specified accident, specified disease,
38 hospital indemnity, disability, or long-term care health insurance policies.

39 Section 5. This act is effective when it becomes law.