

SECOND REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 722
89TH GENERAL ASSEMBLY

Reported from the Committee on Insurance, April 21, 1998, with recommendation that the House Committee Substitute for Senate Committee Substitute for Senate Bill No. 722 Do Pass.
ANNE C. WALKER, Chief Clerk
L2741.06C

AN ACT

Relating to the use of genetic information and testing and domestic violence status for insurance purposes, with penalty provisions.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section 1. When used in sections 1 to 5 of this act, the following terms mean:

(1) "Consultant", an individual, partnership or corporation who, for a fee, holds himself or itself out to the public as engaged in the business of offering any advice, counsel, opinion or service with respect to the benefits, advantages or disadvantages promised under any policy of insurance that could be issued in this state;

(2) "Director", the director of the department of insurance of this state;

(3) "Genetic information", the results of a genetic test. Genetic information shall not include family history, the results of routine physical measurements, or the results of chemical, blood, urine analysis, or the results of tests for drugs or the presence of the human immunodeficiency virus, or from results of any other tests commonly accepted in clinical practice at the time;

(4) "Genetic test", a laboratory test of human deoxyribonucleic acid (DNA) or ribonucleic acid (RNA) used to identify the presence or absence of inherited alterations in the DNA or RNA which cause predisposition to disease or illness. The term does not include routine physical measurements and examinations, routine tests performed as a part of a physical examination, chemical, blood or urine analysis, cholesterol tests, tests for the presence of the human immunodeficiency virus, a test for drugs, or tests commonly accepted in clinical practice at the time;

(5) "Insurer", any person, reciprocal exchange, interinsurer, Lloyds insurer, fraternal benefit society, and any other legal entity engaged in the business of insurance, including agents, brokers, adjusters and third-party administrators. "Insurer" also includes health services corporations, health maintenance organizations, prepaid limited health care service plans, dental, optometry and other similar health service plans. For purposes of sections 375.930 to 375.948, RSMo, such entities shall be deemed to be engaged in the business of insurance. "Insurer" shall also include all companies organized, incorporated or doing business pursuant to the provisions of chapters 325, 375, 376, 377, 378, 379, 381 and 383, RSMo;

(6) "Person", any natural or artificial entity, including, but not limited to,

individuals, partnerships, associations, trusts or corporations;

(7) "Policy", "certificate" or "contract" includes any contract of insurance, indemnity, medical, health or hospital service, suretyship, or annuity issued, proposed for issuance, or intended for issuance by any insurer.

Section 2. 1. Any insurer, in determining eligibility for coverage, establishing premiums, limiting coverage, renewing coverage or any other underwriting decision, shall not, in connection with the offer, sale or renewal of a health plan:

(1) Require or request a person or blood relative of such person to provide genetic information or take a genetic test;

(2) Except as provided in subdivisions (3) and (4) of this subsection, inquire to determine whether a person or blood relative of such person has taken or refused a genetic test or what the results of any such test were;

(3) Consider without the approval of such person the fact that genetic information or a genetic test was taken or refused by a person or blood relative of such person; or

(4) Consider without the approval of such person genetic information or the results of any genetic test taken by a person or blood relative of such person.

2. A violation of this section shall be subject to the provisions of sections 375.930 to 375.948, RSMo, relating to unfair trade practices.

3. For purposes of this section, "health plan" does not include any policy, contract or certificate of life insurance, reinsurance, disability income or long-term care coverage. This section applies to applications for coverage made on or after January 1, 1999, and to policies, contracts and certificates issued or renewed on or after such date to provide coverage to residents of this state.

Section 3. 1. As used in this section, the following terms mean:

(1) "Domestic violence", the occurrence of one or more of the following acts between family or household members:

(a) Attempting to cause or intentionally or knowingly causing bodily injury or physical harm;

(b) Knowingly engaging in a course of conduct or repeatedly committing acts toward another person under circumstances that place the person in reasonable fear of bodily injury or physical harm; or

(c) Knowingly committing forcible rape, sexual assault or forcible sodomy, as defined in chapter 566, RSMo;

(2) "Family or household member", a spouse, former spouse, person living with another person, whether or not as spouses, parent or other adult person related by consanguinity or affinity who is residing or has resided with the person committing the domestic violence and dependents of such persons.

2. No insurer shall do any of the following on the sole basis of the status of an insured or prospective insured as a victim of domestic violence:

(1) Deny, cancel or refuse to issue or renew an insurance policy;

(2) Require a greater premium, deductible or any other payment;

(3) Exclude or limit coverage for losses or deny a claim;

(4) Designate domestic violence as a pre-existing condition for which coverage will be denied or reduced;

(5) Terminate group coverage because of claims relating to the status of any

individual in the groups as a victim of domestic violence; or

(6) Fix any lower rate or discriminate in the fees or commissions of an agent for writing or renewing a policy insuring an individual who has the status of being or having been a victim of domestic violence.

3. The fact that an insured or prospective insured has been a victim of domestic violence shall not be considered a permitted underwriting or rating criterion.

4. Nothing in this section shall prohibit an insurer from taking an action described in subsection 2 of this section if the action is otherwise permissible by law and is taken in the same manner and to the same extent with respect to all insureds and prospective insureds without regard to whether the insured or prospective insured is a victim of domestic violence.

5. A violation of this section shall be subject to the provisions of sections 375.930 to 375.948, RSMo, relating to unfair trade practices.

Section 4. 1. An employer shall not use any genetic information or genetic test results of an employee or prospective employee to distinguish between, discriminate against, or restrict any right or benefit otherwise due or available to such employee or prospective employee. The requirements of this section shall not prohibit:

(1) Underwriting in connection with individual or group life, disability income or long-term care insurance;

(2) Any action required or permissible by law or regulation;

(3) Action taken with the written permission of an employee or prospective employee or such person's authorized representative; or

(4) The use of genetic information when such information is directly related to a person's ability to perform assigned job responsibilities.

2. Any person who violates the provisions of this section shall be fined not more than five hundred dollars for each violation of this section.

Section 5. 1. Any person who, in the ordinary course of business, practice of a profession or rendering of a service, creates, stores, receives or furnishes genetic information shall hold such information as confidential medical records and shall not disclose such genetic information except pursuant to written authorization of the person to whom such information pertains or to that person's authorized representative. The requirements of this section shall not apply to:

(1) Statistical data compiled without reference to the identity of an individual;

(2) Health research conducted in accordance with the provisions of the federal common rule protecting the rights and welfare of research participants (45 CFR 46 and 21 CFR 50 and 56), or to health research using medical archives or databases in which the identity of individuals is protected from disclosure by coding or encryption, or by removing all identities;

(3) The release of such information pursuant to legal or regulatory process; or

(4) The release of such information for body identification.

2. Any person who violates the provisions of this section shall be fined not more than five hundred dollars.