

By: Representatives Scott (17th), Clarke,
Holland, Peranich, Thomas, Whittington

To: Insurance

HOUSE BILL NO. 1616

1 AN ACT TO PREVENT GENETIC DISCRIMINATION IN HEALTH INSURANCE;
2 TO PROVIDE FOR LEGISLATIVE FINDINGS AND THE PURPOSE OF THIS ACT;
3 TO DEFINE CERTAIN TERMS; TO PROHIBIT THE USE OF GENETIC
4 INFORMATION BY EMPLOYERS; TO PROHIBIT MANDATORY GENETIC TESTING;
5 TO PROHIBIT THE COLLECTION OF GENETIC INFORMATION; TO PROHIBIT THE
6 DISCLOSURE OF GENETIC INFORMATION WITHOUT CONSENT; TO PROVIDE FOR
7 ENFORCEMENT AND PENALTIES UNDER THIS ACT; AND FOR RELATED
8 PURPOSES.

9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

10 **SECTION 1.** (1) The Legislature hereby finds and declares
11 the following:

12 (a) The collection, retention, use and dissemination of
13 genetic information can threaten the right to privacy of
14 individuals and members of their families;

15 (b) Analysis of an individual's DNA provides
16 information not only about an individual, but also about that
17 individual's parents, siblings and children, thus implicating
18 family privacy;

19 (c) Improper disclosure of genetic information can lead
20 to significant harm to the individual, including stigmatization
21 and discrimination in health insurance; and

22 (d) Genetic information is uniquely private and
23 personal information that should not be collected or disclosed
24 without the individual's written authorization and informed
25 consent.

26 (2) The purpose of this act is:

27 (a) To protect the confidentiality of genetic
28 information.

29 (b) To regulate the collection, retention, disclosure,
30 or use of genetic information.



31 (c) To protect against discrimination by an insurer
32 based upon the genetic information of an individual or his/her
33 family members.

34 **SECTION 2.** The following words and phrases shall have the
35 meanings ascribed herein unless the context clearly indicates
36 otherwise:

37 (a) "Genetic information" means information about
38 genes, gene products or inherited characteristics that can be
39 derived from an individual or family member of the individual.

40 (b) "Genetic test" means any medical or scientific test
41 used to seek genetic information, including but not limited to
42 direct DNA analysis, chromosomal analysis or tests for the
43 presence or absence of gene products.

44 (c) "Insurer" means a company or a representative of a
45 company that provides health insurance.

46 **SECTION 3.** No insurer shall:

47 (a) Refuse to enroll any person or accept any person or
48 any person's family member as a subscriber on the basis of the
49 genetic information of that person or of their family members;

50 (b) Determine a rate on the basis of the of the genetic
51 information of that person or of their family members or an
52 individual's request for information;

53 (c) Offer or provide different terms, conditions or
54 benefits on the basis of the genetic information of that person or
55 of their family members; or

56 (d) Otherwise consider genetic information in the
57 provision of insurance coverage or benefits.

58 **SECTION 4.** No insurer shall:

59 (a) Require or request that any individual or a member
60 of an individual's family undergo a genetic test; or

61 (b) Offer inducements for genetic testing.

62 **SECTION 5.** No insurer shall:



63 (a) Require or request that any individual or a member
64 of the individual's family reveal whether the individual or a
65 member of the individual's family has obtained a genetic test or
66 what the results of the test were; or

67 (b) Otherwise seek, receive or maintain any genetic
68 information.

69 **SECTION 6.** (1) Genetic information, including but not
70 limited to, genetic test results, shall be confidential and
71 privileged and shall not be released except to the individual
72 tested and to persons specifically authorized by such individual
73 to receive the information after prior written and informed
74 consent.

75 (2) No one may disclose genetic information of any kind
76 without obtaining written informed consent for each disclosure.
77 This right may not be waived.

78 (3) No person may sell to or interpret for an insurer a
79 genetic test of an insured person.

80 (4) A general authorization for the release of medical
81 records or medical information shall not be construed as an
82 authorization for disclosure of genetic information.
83 Authorizations for the release of genetic information and for any
84 genetic test must, without exception, include specific, informed
85 consent for each instance of disclosure and for each test
86 performed.

87 **SECTION 7.** (1) Any person aggrieved by a violation of this
88 act shall have a cause of action against the person or institution
89 who committed such violation and may recover compensatory damages
90 or equitable relief or both. Compensatory damages shall be in an
91 amount equal to the actual damages suffered by the aggrieved
92 person or One Thousand Dollars (\$1,000.00), whichever is greater.
93 If the court finds that a person or institution in violation of
94 this act knew or should have known that such conduct was in
95 violation of this act, the court may award up to three (3) but not



96 less than two (2) times the amount of actual damages suffered by
97 the aggrieved individual.

98 (2) If the Attorney General has reason to believe that a
99 person or institution is violating or intends to violate the
100 provisions of this act, he or she may bring an action in the name
101 of the state against such person or institution to obtain
102 equitable relief or damages or both for any individual aggrieved
103 by a violation of this act.

104 (3) If the court finds that a person or institution has
105 inadvertently violated this act, the court may require such person
106 or institution to pay a civil penalty of One Thousand Dollars
107 (\$1,000.00) per violation. If the court finds that a person or
108 institution is in willful violation of this act, the court may
109 require such person or institution to pay a civil penalty of Five
110 Thousand Dollars (\$5,000.00) per violation. The court may award
111 the reasonable costs of investigation and litigation of a
112 violation of this act, including reasonable attorney fees.

113 (4) Nothing in this act shall be construed as limiting or
114 prohibiting the pursuit of any other remedies available under
115 common or statutory law in regard to genetic information privacy.

116 **SECTION 8.** This act shall take effect and be in force from
117 and after July 1, 2002.

