To: Insurance

MISSISSIPPI LEGISLATURE
REGULAR SESSION 2002

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

To: Insurance

HOUSE BILL NO. 1616

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

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

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

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

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

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

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

(2) The purpose of this act is:

(a) To protect the confidentiality of genetic
information.

(b) To regulate the collection, retention, disclosure,
or use of genetic information.
(c) To protect against discrimination by an insurer based upon the genetic information of an individual or his/her family members.

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

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

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

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

SECTION 3. No insurer shall:

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

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

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

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

SECTION 4. No insurer shall:

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

(b) Offer inducements for genetic testing.

SECTION 5. No insurer shall:
(a) Require or request that any individual or a member of the individual’s family reveal whether the individual or a member of the individual’s family has obtained a genetic test or what the results of the test were; or

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

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

(2) No one may disclose genetic information of any kind without obtaining written informed consent for each disclosure.

This right may not be waived.

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

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

SECTION 7. (1) Any person aggrieved by a violation of this act shall have a cause of action against the person or institution who committed such violation and may recover compensatory damages or equitable relief or both. Compensatory damages shall be in an amount equal to the actual damages suffered by the aggrieved person or One Thousand Dollars ($1,000.00), whichever is greater.

If the court finds that a person or institution in violation of this act knew or should have known that such conduct was in violation of this act, the court may award up to three (3) but not...
less than two (2) times the amount of actual damages suffered by
the aggrieved individual.

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

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

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

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