

AN ACT

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IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To amend the Human Rights Act of 1977 to prohibit employment discrimination based on genetic information; to prohibit an employer, employment agency, or labor organization from requesting or requiring a genetic test of, or administering a genetic test to, an employee or applicant for employment or membership; to prohibit an employer, employment agency, or labor organization from seeking to obtain, obtaining, or using genetic information of an employee or applicant for employment; to provide an exemption that allows the use of genetic testing or information with the written and informed consent of the employee or applicant for employment to determine the existence of a bona fide occupational qualification, investigate a workers' compensation or disability compensation claim, or determine an employee's susceptibility or exposure to potentially toxic substances in the workplace; to prohibit health benefit plans and health insurers from using genetic information as a condition of eligibility or in setting premium rates; and to prohibit health benefit plans and health insurers from requesting or requiring genetic testing.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Human Rights Genetic Information Amendment Act of 2004".

Sec. 2. The Human Rights Act of 1977, effective December 13, 1977 (D.C. Law 2-38; D.C. Official Code § 2-1401.01 *et seq.*), is amended as follows:

(a) Section 101 (D.C. Official Code § 2-1401.01) is amended by striking the word "disability," and inserting the phrase "genetic information, disability," in its place.

Amend
§ 2-1401.01

(b) Section 102 (D.C. Official Code § 2-1401.02) is amended by adding new paragraphs (k-2), (l-1), (l-2), (l-3), and (l-4) to read as follows:

Amend
§ 2-1401.02

"(k-2) "Family member" means, with respect to an individual and genetic information, the spouse of the individual, dependent child (whether born to or placed for adoption with the individual), and all other individuals related by blood to the individual, spouse, or child.

"(l-1) "Genetic information" means information about the presence of any gene, chromosome, protein, or certain metabolites that indicate or confirm that an individual or an

individual's family member has a mutation or other genotype that is scientifically or medically believed to cause a disease, disorder, or syndrome, if the information is obtained from a genetic test.

“(1-2) “Genetic test” means an analysis of human chromosomes, genes, gene products, or genetic information that is used to identify the presence or absence of inherited or congenital alterations in genetic material that are associated with disease or illness. A genetic test shall not include a test for the presence of illegal drugs, routine physical measurements, or chemical, blood or urine analysis, unless conducted purposefully to obtain genetic information.

“(1-3) “Health benefit plan” means any accident and health insurance policy or certificate, hospital and medical services corporation contract, health maintenance organization subscriber contract, plan provided by a multiple employer welfare arrangement, or plan provided by another benefit arrangement. The term “health care benefit plan” does not mean accident only, credit or disability insurance; coverage of Medicare services or federal employee benefit plans, pursuant to contracts with the United States government; Medicare supplemental or long-term care insurance; dental only or vision only insurance; specified disease insurance; hospital confinement indemnity coverage; limited benefit health coverage; coverage issued as supplemental to liability insurance, insurance arising out of workers compensation or similar law; automobile medical payment insurance; medical expense and loss of income benefits; insurance under which benefits are payable with or without regard to fault and that is statutorily required to be contained in any liability insurance policy or equivalent self-insurance; or life insurance.”

“(1-4) “Health insurer” means any person that provides one or more health benefits plans, or insurance in the District of Columbia, including an insurer, a hospital and medical services corporation, a fraternal benefits society, a health maintenance organization, a multiple employer welfare arrangement, or any other person providing a plan of health insurance subject to the authority of the Commissioner of the Department of Insurance, Securities, and Banking.”

(c) Section 103 (D.C. Official Code § 2-1401.03) is amended by adding new subsections (e) and (f) to read as follows:

Amend
§ 2-1401.03

“(e) Nothing in this act shall prohibit an employer, an employment agency, or a labor organization from seeking, obtaining, or using genetic information to determine the existence of a bona fide occupational qualification reasonably necessary for the normal operation of an employer's business or enterprise; provided, that the employee or applicant for employment provides, in writing, his or her informed consent, the genetic information is provided to the employee or applicant for employment in writing as soon as it is available, and the genetic information is not disclosed to any other person.

“(f) Nothing in this act shall prohibit an employer from seeking, obtaining, or using genetic information about an employee to:

“(1) Investigate a workers' compensation or disability compensation claim; or

“(2) Determine an employee's susceptibility or level of exposure to potentially toxic substances in the workplace; provided, that the employee provides, in writing, his or her

informed consent, and the genetic information is provided to the employee in writing as soon as it is available, and the genetic information is not disclosed to any other person.”.

(d) Section 211 (D.C. Official Code § 2-1402.11) is amended as follows:

(1) Subsection (a) is amended as follows:

Amend § 2-1402.11

(A) The first sentence is amended by striking the word “disability,” and inserting the phrase “genetic information, disability,” in its place.

(B) Paragraph 4 is amended as follows:

(i) Subparagraph (B) is amended by striking the word “disability,” and inserting the phrase “genetic information, disability,” in its place.

(ii) A new subparagraph (C) is added to read as follows:

“(C) To request or require a genetic test of, or administer a genetic test to, any individual as a condition of employment, application for employment, or membership, or to seek to obtain, obtain, or use genetic information of an employee or applicant for employment or membership.”.

(2) Subsection (b) is amended by striking the word “disability,” and inserting the phrase “genetic information, disability,” in its place.

(e) Section 231 (D.C. Official Code § 2-1402.31) is amended as follows:

(1) Subsection (a) is amended as follows:

Amend § 2-1402.31

(A) The first sentence is amended by striking the word “disability,” and inserting the phrase “genetic information, disability,” in its place.

(B) New paragraphs (3) and (4) are added to read as follows:

“(3) A health benefit plan or health insurer shall not establish rules for the eligibility, new or continued, of any individual or adjust premium or contribution amounts for an individual on the basis of genetic information concerning the individual or family member of the individual, including information about a request for or receipt of genetic services by an individual or the individual’s family member.

“(4) A health benefit plan or health insurer shall not request or require an individual or the individual’s family member to undergo a genetic test. Nothing in this paragraph shall:

“(A) Limit the authority of a health care professional who is providing health care services to an individual to request that the individual or the individual’s family member undergo a genetic test;

“(B) Limit the authority of a health care professional who is employed by or affiliated with a health benefit plan or a health insurer and who is providing health care services to an individual to notify such individual of the availability of a genetic test or to provide information to such individual regarding such genetic test; or

“(C) Authorize or permit a health care professional to require that an individual undergo a genetic test.”.

(2) Subsection (b) is amended by striking the word “disability,” and inserting the

phrase “genetic information, disability,” in its place.

Sec. 3. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813 D.C. Official Code § 1-206.02(c)(3)).

Sec. 4. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.

Chairman
Council of the District of Columbia

Mayor
District of Columbia