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HOUSE OF REPRESENTATIVES
152nd GENERAL ASSEMBLY

HOUSE BILL NO. 286

AN ACT TO AMEND TITLE 18 OF THE DELAWARE CODE RELATING TO GENETICS BASED
DISCRIMINATION.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

1 Section 1. Amend § 2317, Title 18 of the Delaware Code by making deletions as shown by strike through and
2 insertions as shown by underline as follows:

3 § 2317. Genetics based ~~discrimination~~; discrimination prohibited; health insurance.

4 (a) For purposes of this section:

5 (1) “Genetic characteristic” means any inherited gene or chromosome, or alteration thereof, that is
6 scientifically or medically believed to predispose an individual to a disease, disorder, or syndrome, or to be associated
7 with a statistically significant increased risk of development of a disease, disorder, or syndrome.

8 (2) “Genetic information” means information about inherited genes or chromosomes, and of alterations
9 thereof, whether obtained from an individual or family member, that is scientifically or medically believed to
10 predispose an individual to disease, disorder, or syndrome, or believed to be associated with a statistically significant
11 increased risk of development of a disease, disorder, or syndrome. “Genetic information” includes information
12 regarding carrier status, information regarding an increased likelihood of future disease or increased sensitivity to any
13 substance, information derived from laboratory tests that identify mutations in specific genes or chromosomes, requests
14 for genetic services or counseling, tests of gene products, and direct analysis of genes or chromosomes.

15 (3) “Genetic test” means a test for determining the presence or absence of an inherited genetic characteristic in
16 an individual, including tests of nucleic acids such as DNA, RNA and mitochondrial DNA, chromosomes or proteins
17 in order to identify a predisposing genetic characteristic associated with disease, disorder, or syndrome.

18 (4) “Insurance” means ~~health coverage~~ “health insurance” as defined in § 3602(11) of this title or in
19 regulations promulgated by the Insurance Commissioner, not including title. “Insurance” does not include disability
20 insurance or long-term care insurance.

Section 2. Amend Chapter 23, Title 18 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 2317A. Genetics based discrimination prohibited; life insurance and annuities.

(a) For purposes of this section:

(1) The following terms mean as defined in § 2317 of this title:

a. "Genetic characteristic".

b. "Genetic information".

c. "Genetic test".

(2) "Life insurance" means contracts for life insurance and annuities under Chapter 29, Chapter 31, or Chapter 32 of this title.

(b) Except as provided under subsection (c) of this section, a person engaged in the business of life insurance may not do any of the following solely based on any genetic characteristic, genetic information, or the result of any genetic test:

(1) Deny, refuse to issue, refuse to renew, refuse to reissue, cancel, or otherwise terminate an insurance policy or restrict coverage.

(2) Add any surcharge or rating factor to a premium of an insurance policy.

(3) Otherwise discriminate in the offering, issuance, cancellation, amount of coverage, price, payment of claims, or any other condition of an insurance policy without additional actuarial justification.

(c) Subsection (b) of this section does not apply to any genetic characteristic, genetic information, or the result of any genetic test that are any of the following:

(1) In a medical record as a basis for an individual's medical diagnosis.

(2) The basis of a medical diagnosis included in an individual's pertinent family history.

(d) A person engaged in the business of life insurance may not request, require, or purchase information obtained from an entity providing direct-to-consumer genetic testing.

Section 3. This Act is known as "The Ericka Byler Act".

SYNOPSIS

This Act prohibits discrimination in life insurance based on genetic characteristics, genetic information, or the result of any genetic test that is not in a medical record as a basis for an individual's medical diagnosis or the basis of a medical diagnosis included in an individual's pertinent family history. In addition, this Act prohibits a person engaged in the business of life insurance from requesting, requiring, or purchasing information obtained from an entity providing direct-to-consumer genetic testing. This Act also makes corresponding corrections to § 2317 of Title 18 by revising the heading for clarity and the definition of "insurance" to conform with the terms and definitions used in Title 18.

This Act is known as "The Ericka Byler Act".