



SPONSOR: Sen. Hansen & Rep. Bentz  
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DELAWARE STATE SENATE  
150th GENERAL ASSEMBLY

SENATE BILL NO. 144

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:

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

§ 2317. Genetics based discrimination.

(a) As used in this section:

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

(2) "Genetic information" means information about inherited genes or chromosomes, and of alterations  
thereof, whether obtained from an individual or family member, that is scientifically or medically believed to  
predispose an individual to disease, disorder or syndrome, or believed to be associated with a statistically significant  
increased risk of development of a disease, disorder or syndrome. ~~This includes, but is not limited to,~~ "Genetic  
information" includes information regarding carrier status, information regarding an increased likelihood of future  
disease or increased sensitivity to any substance, information derived from laboratory tests that identify mutations in  
specific genes or chromosomes, requests for genetic services or counseling, tests of gene products, and direct analysis  
of genes or chromosomes.

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

(4) "Insurance" means ~~health~~ insurance coverage as defined in this title or in regulations promulgated by the  
Insurance Commissioner, ~~not including disability insurance or long term care insurance.~~ Commissioner.

(b) ~~No~~ A person ~~shall~~ may not discriminate against any individual in the issuance, ~~denial~~ withholding, denial,  
extension, or renewal of or in the fixing of the rates, ~~terms~~ terms, or conditions for insurance ~~as defined in paragraph (a)~~ (4)

23 ~~of this section.~~ based on any genetic characteristic, genetic information, or the result of any genetic test. Except as provided  
24 under subsection (c) of this section, discrimination under this subsection means any of the following:

25 (1) Seeking or requiring information about an individual's genetic information for a nontherapeutic purpose.

26 (2) Making decisions based on an individual's genetic information, including failing or refusing to accept an  
27 application for insurance or to issue insurance, canceling insurance, or in establishing rates or other the terms for  
28 insurance.

29 (c)(1) Results of a genetic test ordered by a health-care practitioner may be used for disability insurance or long-  
30 term care insurance in a manner that is reasonably related to anticipated claims experience if permitted under paragraph  
31 (c)(2) of this section.

32 (2) The Department shall promulgate regulations regarding the use of genetic information and testing in  
33 underwriting under paragraph (c)(1) of this section.

34 (d) A person who provides commercial genetic testing may not share genetic test information, results, or  
35 personally identifiable information about an individual with an insurer without the written consent of the individual.

#### SYNOPSIS

The use of genetic information in disqualifying coverage for non-health insurance products is a gap in the protection provided by the federal Genetic Information Nondiscrimination Act. As a result, patients who seek genetic counseling to determine whether they may be at risk for certain diseases, such as genetic testing for the BRCA gene to determine predisposition for breast and prostate cancers, are cautioned that a positive result could result in the person being denied insurance. The potential denial of insurance has a chilling effect on patients seeking genetic testing, blocking them from being proactive by putting in place a preventative care plan that would reduce the likelihood of them getting the specific disease in the future.

This Act follows the lead of other states and prohibits discrimination based upon genetic information in the issuance or renewal of disability, long-term care, and life insurance by doing the following:

1. Clearly explains what constitutes discrimination under this Act.
2. Allows the results of genetic information approved by the Insurance Commissioner to be used for disability or long-term care insurance in a manner that is reasonably related to anticipated claims experience.
3. Prohibits sharing the results of direct-to-consumer genetic tests with insurers.

This Act also makes technical corrections to conform existing law to the standards of the Delaware Legislative Drafting Manual.

Author: Senator Hansen