SPONSOR: Rep. Spiegelman & Rep. Heffernan & Rep. Hilovsky & Rep. Bush & Rep. Dorsey Walker & Sen. Hansen & Sen. S. McBride & Sen. Paradee
Reps. Baumbach, Bolden, Collins, Gray, Hensley, K. Johnson, Lambert, Morrison, Osienski, Ramone, Romer, Michael Smith, Harris; Sens. Hoffner, Huxtable, Sokola, Walsh, Wilson

HOUSE OF REPRESENTATIVES
152nd GENERAL ASSEMBLY

HOUSE SUBSTITUTE NO. 1
FOR
HOUSE BILL NO. 286
AS AMENDED BY
HOUSE AMENDMENT NO. 1
AND
SENATE AMENDMENT NO. 1

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.~~ discrimination prohibited; health insurance.

(a) For purposes of 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, or syndrome, or to be associated with a statistically significant increased risk of development of a disease, 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. "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, or syndrome.

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(4) “Insurance” means ~~health coverage~~ “health insurance” as defined in § 3602(11) of this ~~title or in regulations promulgated by the Insurance Commissioner, not including~~ title. “Insurance” does not include disability 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) “Direct-to-consumer genetic testing” means any of the following:

a. A consumer-initiated genetic testing product or service offered directly to a consumer.

b. The collection, use, or analysis of genetic data that is collected or derived from a direct-to-consumer genetic testing product or service and is directly provided by a consumer.

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

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

a. “Genetic characteristic”.

b. “Genetic information”.

c. “Genetic test”.

(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 based solely on any genetic characteristic or genetic information contained in 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 is in an individual’s medical record or pertinent family history.

(d) A person engaged in the business of life insurance may not do any of the following:

(1)a. Require or request that an individual or a member of the individual’s family take a genetic test.

b. Take into consideration the refusal by an individual to take a genetic test.

(2)a. Require or request that an individual provide genetic information received from an entity providing direct-to-consumer genetic testing.

b. Require or request that an individual provide written consent for an entity providing direct-to-consumer genetic testing to share information about the individual.

c. Take into consideration the refusal by an individual to provide genetic information or written consent under paragraphs (d)(2)a. or (d)(2)b. of this section.

(e) A person engaged in the business of life insurance cannot attempt to obtain or obtain information from an entity providing direct-to-consumer genetic testing without the written informed consent of the individual as required under § 1202 of Title 16.

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