

House Bill 115

By: Representatives Wilensky of the 79th, Anulewicz of the 42nd, Hawkins of the 27th, Cooper of the 43rd, Williams of the 145th, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 33 of the Official Code of Georgia Annotated, relating to insurance, so as to
2 prohibit certain insurers from using information derived from genetic testing for any
3 nontherapeutic purpose in the absence of a diagnosis of a condition related to such
4 information; to provide for definitions; to provide for related matters; to provide for an
5 effective date and applicability; to repeal conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Title 33 of the Official Code of Georgia Annotated, relating to insurance, is amended by
9 revising Chapter 54, relating to genetic testing, as follows:

10 "CHAPTER 54

11 33-54-1.

12 The General Assembly finds and determines that recent advances in genetic science have
13 led to improvements in the diagnosis, treatment, and understanding of a significant number
14 of human diseases. The General Assembly further finds and declares that:

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- 15 (1) Genetic information is the unique property of the individual tested;
- 16 (2) The use and availability of information concerning an individual obtained through
17 the use of genetic testing techniques may be subject to abuses if disclosed to unauthorized
18 third parties without the willing consent of the individual tested;
- 19 (3) To protect individual privacy and to preserve individual autonomy with regard to an
20 individual's genetic information, it is appropriate to limit the use and availability of
21 genetic information; and
- 22 (4) The intent of this chapter is to prevent ~~accident and sickness insurance companies,~~
23 ~~health maintenance organizations, managed care organizations, and other payors~~ health
24 insurers and insurers of life or long-term care insurance from using information derived
25 from genetic testing ~~to deny access to accident and sickness insurance for any~~
26 nontherapeutic purpose in the absence of a diagnosis of a condition related to such
27 information.

28 33-54-2.

29 As used in this chapter, the term:

- 30 (1) 'Genetic testing' means laboratory tests of human DNA or chromosomes for the
31 purpose of identifying the presence or absence of inherited alterations in genetic material
32 or genes which are associated with a disease or illness that is asymptomatic at the time
33 of testing and that arises solely as a result of such abnormality in genes or genetic
34 material. For purposes of this chapter, genetic testing shall not include routine physical
35 measurements; chemical, blood, and urine analysis; tests for abuse of drugs; and tests for
36 the presence of the human immunodeficiency virus.
- 37 (2) ~~'Insurer'~~ 'Health insurer' means ~~an insurer,~~ a fraternal benefit society, an accident and
38 sickness insurer, a ~~health care~~ healthcare corporation, a health maintenance ~~corporation,~~
39 organization, a provider sponsored healthcare corporation, or a self-insured health plan
40 not subject to the exclusive jurisdiction of the Employee Retirement Income Security Act

41 of 1974, 29 U.S.C. Section 1001, et seq, or any similar entity regulated by the
42 Commissioner.

43 (3) 'Insurer' means a health, life, or long-term care insurer.

44 (4) 'Life insurance' means insurance on human lives and insurance appertaining to or
45 connected with such lives. Such term includes the granting of endowment benefits,
46 additional benefits in the event of death or dismemberment by accident or accidental
47 means, additional benefits in the event of the disability of the insured, and optional modes
48 of settlement of proceeds of life insurance.

49 (5) 'Life insurer' means an insurer engaged in the business of life insurance.

50 (6) 'Long-term care insurance' means any accident and sickness insurance policy or rider
51 advertised, marketed, offered, or designed primarily to provide coverage for not less
52 than 12 consecutive benefit months or which provides coverage for recurring
53 confinements separated by a period not to exceed six months with a minimum aggregate
54 period of one year for each covered person on an expense incurred, indemnity, prepaid,
55 or other basis for one or more necessary or medically necessary diagnostic, preventive,
56 therapeutic, rehabilitative, maintenance, or personal care services provided in a setting
57 other than an acute care unit of a hospital. Such term includes group and individual
58 accident and sickness policies or riders whether issued by insurers, fraternal benefit
59 societies, healthcare plans, health maintenance organizations, or other similar
60 organizations. Such term shall not include any accident and sickness insurance policy
61 which is offered primarily to provide basic Medicare supplement coverage, basic hospital
62 expense coverage, basic medical-surgical expense coverage, hospital confinement
63 indemnity coverage, major medical expense coverage, disability income protection
64 coverage, catastrophic coverage, comprehensive coverage, accident only coverage,
65 specified disease or specified accident coverage, or limited benefit health coverage.

66 (7) 'Long-term care insurer' means an insurer engaged in the business of long-term care
67 insurance.

68 33-54-3.

69 (a) Except as otherwise provided in this chapter, genetic testing ~~may~~ shall only be
70 conducted to obtain information for therapeutic or diagnostic purposes. Genetic testing ~~may~~
71 shall not be conducted without the prior written consent of the person to be tested.

72 (b) Information derived from genetic testing shall be confidential and privileged and may
73 be released only to the individual tested and to persons specifically authorized by such
74 individual to receive ~~the~~ such information. Any insurer that possesses information derived
75 from genetic testing ~~may~~ shall not release the information to any third party without the
76 explicit written consent of the individual tested. Information derived from genetic testing
77 ~~may~~ shall not be sought by any insurer as defined in Code Section 33-54-2.

78 33-54-4.

79 (a) Any health insurer that receives information derived from genetic testing ~~may~~ shall not
80 use the information for any nontherapeutic purpose, including, but not limited to,
81 canceling, limiting, or denying coverage or establishing differentials in premium rates
82 based on such information.

83 (b) In the absence of a diagnosis of a condition related to genetic information, neither a life
84 insurer nor a long-term care insurer that receives information from genetic testing shall use
85 such information for any nontherapeutic purpose, including, but not limited to, those
86 purposes described in subsection (a) of this Code section.

87 (c) Insurers shall not require or solicit genetic information, use genetic testing results, or
88 consider a person's decisions or actions related to genetic testing in any manner for any
89 insurance purpose.

90 (d) Nothing in this chapter shall be interpreted as preventing a life insurer or long-term
91 care insurer from accessing an individual's medical record as part of an application exam.

92 (e) Nothing in this chapter prohibits a life insurer or long-term care insurer from
93 considering a medical diagnosis included in an individual's medical record, even if a
94 diagnosis was made based on the results of genetic testing.

95 33-54-5.

96 Notwithstanding the provisions of Code Sections 33-54-3 and 33-54-4, information derived
97 from genetic testing regarding the identity of any individual who is the subject of a criminal
98 investigation or a criminal prosecution may be disclosed to appropriate legal authorities
99 conducting the investigation or prosecution. The information may be used during the
100 course of the investigation or prosecution with respect to the individual tested without the
101 consent of such individual.

102 33-54-6.

103 Notwithstanding the provisions of Code Sections 33-54-3 and 33-54-4, any research
104 facility may conduct genetic testing and may use the information derived from genetic
105 testing for scientific research purposes so long as the identity of any individual tested is not
106 disclosed to any third party, except that the individual's identity may be disclosed to the
107 individual's physician with the consent of the individual.

108 33-54-7.

109 This chapter shall not apply to a ~~life insurance policy, disability income policy, accidental~~
110 ~~death or dismemberment policy, medicare~~ Medicare supplement policy, ~~long-term care~~
111 ~~insurance policy~~, credit insurance policy, specified disease policy, hospital indemnity
112 policy, blanket accident and sickness policy, franchise policy issued on an individual basis
113 to members of an association, limited accident policy, health insurance policy written as
114 a part of workers' compensation equivalent coverage, or other similar limited accident and
115 sickness policy.

116 33-54-8.

117 Nothing in this chapter shall be interpreted to prevent any individual from requesting and
118 receiving his or her genetic testing results.

119 33-54-9.

120 (a) Any violation of this chapter by an insurer shall be unfair trade practice subject to the
121 provisions of Article 1 of Chapter 6 of this title, and a violation of this chapter by any other
122 person shall be an unfair practice and shall be subject to the provisions of Part 2 of
123 Article 15 of Chapter 1 of Title 10, the 'Fair Business Practices Act of 1975.' In addition,
124 any individual who is harmed as a result of a violation of this chapter shall have a cause of
125 action against the person whose violation caused the harm.

126 (b) Any insurer that is found in violation of the provisions of this chapter by a court of
127 competent jurisdiction is liable to the individual injured by the violation in an amount equal
128 to any actual damages suffered by the individual. In the alternative, the court may issue an
129 order directing the insurer to provide accident and sickness insurance to the injured
130 individual under the same terms and conditions as would have applied had the violation not
131 occurred.

132 (c) The court shall award costs and reasonable attorney's fees to any individual who is
133 successful in enforcing the provision of this chapter."

134 **SECTION 2.**

135 This Act shall become effective on January 1, 2022, and shall apply to all policies issued,
136 delivered, issued for delivery, or renewed in this state on or after such date.

137 **SECTION 3.**

138 All laws and parts of laws in conflict with this Act are repealed.