

1 S.21

2 Introduced by Senators Lyons and Hooker

3 Referred to Committee on

4 Date:

5 Subject: Genetic information; discrimination

6 Statement of purpose of bill as introduced: This bill proposes to prohibit
7 discrimination based on an individual's genetic information in relation to
8 employment, labor relations, insurance coverage, and the provision of social
9 and medical services.

10 An act relating to prohibiting discrimination based on genetic information

11 It is hereby enacted by the General Assembly of the State of Vermont:

12 * * * Genetic Information and Testing * * *

13 Sec. 1. 18 V.S.A. § 9331 is amended to read:

14 § 9331. DEFINITIONS

15 ~~For purposes of~~ As used in this chapter:

16 * * *

17 (6) "Genetic information" means:

18 (A) the results of genetic testing related to an individual or a family
19 member of the individual contained in any report, interpretation, evaluation, or
20 other record ~~thereof; or~~

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Sec. 3. 18 V.S.A. § 9334 is amended to read:

§ 9334. GENETIC TESTING AS A CONDITION OF INSURANCE
COVERAGE

(a) No policy of insurance offered for delivery or issued in this State shall be underwritten or conditioned on the basis of:

(1) any requirement or agreement of the individual to undergo genetic testing; ~~or~~

(2) genetic information of the individual that may be associated with a potential genetic condition in that individual but that has not resulted in a diagnosed condition in the individual; or

~~(3) the results of genetic testing of genetic information of~~ a member of the individual's family.

* * *

* * * Insurance * * *

Sec. 4. 8 V.S.A. § 3702 is amended to read:

§ 3702. OTHER PROHIBITED PRACTICES

A life insurance company doing business in the State or an agent thereof shall not do any of the following:

(1) ~~issue~~ Issue a policy of insurance or make an agreement other than that plainly expressed in the policy issued to the insured;

1 (2) ~~pay~~ Pay or allow, or offer to pay or allow, as an inducement to
2 insurance, a rebate or premium payable on the policy;

3 (3) ~~grant~~ Grant a special favor or advantage in the dividends or other
4 benefits to accrue thereon;

5 (4) ~~provide~~ Provide any valuable consideration or inducement not
6 specified in the policy.

7 (5)(A) Condition insurance rates, the provision or renewal of insurance
8 coverage or benefits, or other conditions of insurance for any individual on:

9 (i) any requirement or agreement of the individual to undergo
10 genetic testing;

11 (ii) genetic information of the individual that may be associated
12 with a potential genetic condition in that individual but that has not resulted in
13 a diagnosed condition in the individual; or

14 (iii) genetic information of a member of the individual's family.

15 (B) As used in this subdivision (5), "genetic testing" and "genetic
16 information" have the same meaning as in 18 V.S.A. § 9331.

17 (C) Notwithstanding subdivisions (A) and (B) of this subdivision (5),
18 a life insurance company or its agent may condition insurance rates, the
19 provision or renewal of insurance coverage or benefits, or other conditions of
20 insurance for an individual on the individual's family medical history,
21 including the manifestation of a disease or disorder in one or more family

1 members of the individual, provided that there is a relationship between the
2 individual's family medical history and the cost of the insurance risk that the
3 insurer would assume by insuring the individual. In demonstrating the
4 relationship, the insurer can rely on actual or reasonably anticipated
5 experience.

6 (6) Request, require, purchase, or use information obtained from an
7 entity providing direct-to-consumer genetic testing without the informed
8 written consent of the individual who has been tested.

9 Sec. 5. 8 V.S.A. § 4724 is amended to read:

10 § 4724. UNFAIR METHODS OF COMPETITION OR UNFAIR OR

11 DECEPTIVE ACTS OR PRACTICES DEFINED

12 The following are hereby defined as unfair methods of competition or unfair
13 or deceptive acts or practices in the business of insurance:

14 * * *

15 (7) Unfair discrimination; arbitrary underwriting action.

16 * * *

17 (D) Making or permitting any unfair discrimination against any
18 individual by conditioning insurance rates, the provision or renewal of
19 insurance coverage, or other conditions of insurance based on medical
20 information, ~~including the results of genetic testing,~~ where there is not a
21 relationship between the medical information and the cost of the insurance risk

1 that the insurer would assume by insuring the proposed insured. In
2 demonstrating the relationship, the insurer can rely on actual or reasonably
3 anticipated experience. ~~As used in this subdivision, “genetic testing” shall be~~
4 ~~defined as the term is defined in 18 V.S.A. § 9331(7).~~

5 * * *

6 (F)(i) Making or permitting any unfair discrimination against any
7 individual by conditioning insurance rates, the provision or renewal of
8 insurance coverage, or other conditions of insurance on:

9 (I) any requirement or agreement of the individual to undergo
10 genetic testing;

11 (II) genetic information of the individual that may be
12 associated with a potential genetic condition in that individual but that has not
13 resulted in a diagnosed condition in the individual; or

14 (III) genetic information of a member of the individual’s
15 family.

16 (ii) As used in this subdivision (7)(F), “genetic testing” and
17 “genetic information” have the same meaning as in 18 V.S.A. § 9331.

18 * * *

19 (22) Genetic testing.

1 (A) Conditioning insurance rates, the provision or renewal of
2 insurance coverage or benefits, or other conditions of insurance for any
3 individual on:

4 (i) any requirement or agreement of the individual to undergo
5 genetic testing; ~~or~~

6 (ii) genetic information of the individual that may be associated
7 with a potential genetic condition in that individual but that has not resulted in
8 a diagnosed condition in the individual; or

9 (iii) ~~the results of genetic testing~~ genetic information of a member
10 of the individual's family ~~unless the results are contained in the individual's~~
11 ~~medical record.~~

12 (B) As used in this subdivision (22), "genetic testing" ~~shall be~~
13 ~~defined as the term is defined~~ and "genetic information" have the same
14 meaning as in 18 V.S.A. § 9331(7) 9331.

15 Sec. 6. 8 V.S.A. § 5115 is amended to read:

16 § 5115. DUTY OF NONPROFIT HEALTH MAINTENANCE
17 ORGANIZATIONS

18 (a) Any nonprofit health maintenance organization subject to this chapter
19 shall offer nongroup plans to individuals in accordance with section 4080b of
20 this title without discrimination based on age, gender, industry, genetic
21 information, and medical history, except as allowed ~~by subdivisions~~

1 ~~4080a(h)(2)(B) and 4080b(h)(2)(B) of this title~~ pursuant to 33 V.S.A.
2 § 1811(f)(2)(A).

3 (b) As used in this section, “genetic information” has the same meaning as
4 in 18 V.S.A. § 9331.

5 Sec. 7. 8 V.S.A. § 8086 is amended to read:

6 § 8086. PREEXISTING CONDITIONS; GENETIC TESTING

7 * * *

8 (b)(1) No long-term care insurance policy or certificate may exclude
9 coverage for a loss or confinement which is the result of a preexisting
10 condition, unless such loss or confinement begins within six months following
11 the effective date of coverage of an insured person.

12 (2)(A) No long-term care insurance policy or certificate may condition
13 insurance rates, the provision or renewal of insurance coverage or benefits, or
14 other conditions of insurance for any individual on:

15 (i) any requirement or agreement of the individual to undergo
16 genetic testing;

17 (ii) genetic information of the individual that may be associated
18 with a potential genetic condition in that individual but that has not resulted in
19 a diagnosed condition in the individual; or

20 (iii) genetic information of a member of the individual’s family.

1 religion, ancestry, national origin, sex, sexual orientation, gender identity,
2 place of birth, crime victim status, genetic information, age, or disability;

3 (3) For any employment agency to fail or refuse to classify properly or
4 refer for employment or to otherwise discriminate against any individual
5 because of race, color, religion, ancestry, national origin, sex, sexual
6 orientation, gender identity, place of birth, crime victim status, genetic
7 information, or age or against a qualified individual with a disability;

8 (4) For any labor organization, because of race, color, religion, ancestry,
9 national origin, sex, sexual orientation, gender identity, place of birth, crime
10 victim status, genetic information, or age to discriminate against any individual
11 or against a qualified individual with a disability or to limit, segregate, or
12 qualify its membership;

13 * * *

14 Sec. 9. 21 V.S.A. § 495d is amended to read:

15 § 495d. DEFINITIONS

16 As used in this subchapter:

17 * * *

18 (16) “Genetic information” has the same meaning as in 18 V.S.A.

19 § 9331.

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* * * Labor Relations * * *

Sec. 10. 3 V.S.A. § 902 is amended to read:

§ 902. DEFINITIONS

As used in this chapter:

* * *

(13) “Genetic information” has the same meaning as in 18 V.S.A.

§ 9331.

* * *

Sec. 11. 3 V.S.A. § 904 is amended to read:

§ 904. SUBJECTS FOR BARGAINING

(a) All matters relating to the relationship between the employer and employees shall be the subject of collective bargaining except those matters that are prescribed or controlled by statute. The matters appropriate for collective bargaining to the extent they are not prescribed or controlled by statute include:

* * *

(9) rules for personnel administration, except the following: rules relating to persons exempt from the classified service under section 311 of this title and rules relating to applicants for employment in State service and employees in an initial probationary status, including any extension or extensions thereof, provided the rules are not discriminatory by reason of an

1 applicant's race, color, creed, sex, national origin, sexual orientation, gender
2 identity, ancestry, place of birth, age, genetic information, or physical or
3 mental condition; and

4 * * *

5 Sec. 12. 3 V.S.A. § 961 is amended to read:

6 § 961. EMPLOYERS

7 It shall be an unfair labor practice for an employer:

8 * * *

9 (6) to discriminate against an employee on account of race, color, creed,
10 religion, age, disability, sex, sexual orientation, gender identity, genetic
11 information, or national origin;

12 * * *

13 Sec. 13. 3 V.S.A. § 963 is amended to read:

14 § 963. MEMBERSHIP; EMPLOYEES' RIGHTS

15 An employee organization entering into an agreement shall not:

16 (1) discriminate against a person seeking or holding membership ~~therein~~
17 in the organization on account of race, color, creed, religion, age, disability,
18 sex, sexual orientation, gender identity, genetic information, or national origin;

19 * * *

1 Sec. 19. 3 V.S.A. § 1041 is amended to read:

2 § 1041. GRIEVANCES; APPLICANTS AND EXCLUDED PERSONNEL

3 (a) An applicant for employment in a position included in the bargaining
4 unit and employees who are in the initial or extended probationary period may
5 appeal to the Board if they believe they were discriminated against on account
6 of race, color, creed, sex, sexual orientation, gender identity, age, national
7 origin, religion, genetic information, or disability.

8 * * *

9 Sec. 20. 21 V.S.A. § 1502 is amended to read:

10 § 1502. DEFINITIONS

11 As used in this chapter:

12 * * *

13 (15) “Genetic information” has the same meaning as in 18 V.S.A.
14 § 9331.

15 Sec. 21. 21 V.S.A. § 1621 is amended to read:

16 § 1621. UNFAIR LABOR PRACTICES

17 (a) It shall be an unfair labor practice for an employer:

18 * * *

19 (7) To discriminate against an employee on account of race, color,
20 creed, religion, sex, sexual orientation, gender identity, national origin, age,
21 genetic information, or disability.

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2 (b) It shall be an unfair labor practice for a labor organization or its agents:

3 * * *

4 (8) ~~Compulsory membership; employees' rights. A~~ To, where the labor
5 organization ~~entering~~ has entered into an agreement requiring a person's
6 membership ~~therein~~ in the labor organization as a condition of employment by
7 the employer ~~shall not~~:

8 (A) discriminate against a person seeking or holding membership
9 ~~therein~~ in the labor organization on account of race, color, disability, religion,
10 creed, sex, sexual orientation, gender identity, age, genetic information, or
11 national origin;

12 * * *

13 Sec. 22. 21 V.S.A. § 1631 is amended to read:

14 § 1631. DEFINITIONS

15 As used in this chapter:

16 * * *

17 (5) "Genetic information" has the same meaning as in 18 V.S.A. § 9331.

18 (6) "Grievance" means the exclusive representative's formal written
19 complaint regarding the improper application of one or more terms of the
20 collective bargaining agreement, the failure to abide by any agreement
21 reached, or the discriminatory application of a rule or regulation, which has not

1 been resolved to a satisfactory result through informal discussion with the
2 State.

3 ~~(6)~~(7) “Independent direct support provider” means any individual who
4 provides home- and community-based services to a service recipient and is
5 employed by the service recipient, shared living provider, or surrogate.

6 ~~(7)~~(8) “Labor organization” means an organization of any kind in which
7 independent direct support providers participate and which exists, in whole or
8 in part, for the purpose of representing independent direct support providers.

9 ~~(8)~~(9) “Service recipient” means a person who receives home- and
10 community-based services under the Choices for Care Medicaid waiver, the
11 Attendant Services Program (ASP), the Children’s Personal Care Service
12 Program, the Developmental Disabilities Services Program, or any successor
13 program or similar program subsequently established.

14 ~~(9)~~(10) “Shared living provider” means a person who operates under a
15 contract with an authorized agency and provides individualized home support
16 for one or two people who live in his or her home. An authorized agency
17 includes a designated agency for developmental services.

18 ~~(10)~~(11) “Surrogate” means a service recipient’s authorized family
19 member, legal guardian, or a person identified in a written agreement as having
20 responsibility for the care of a service recipient.

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(6) discriminate against an early care and education provider based on race, color, religion, ancestry, age, sex, sexual orientation, gender identity, national origin, place of birth, genetic information, or marital status, or against a qualified disabled individual; or

* * *

* * * Social and Medical Services * * *

Sec. 28. 8 V.S.A. § 4588 is amended to read:

§ 4588. ANNUAL REPORT TO COMMISSIONER

(a) Annually, on or before March 1, a medical service corporation shall file with the Commissioner of Financial Regulation a statement sworn to by the president and treasurer of the corporation showing its condition on December 31, which shall be in such form and contain such matters as the Commissioner shall prescribe. To qualify for the tax exemption set forth in section 4590 of this title, the statement shall include a certification that the medical service corporation operates on a nonprofit basis for the purpose of providing an adequate medical service plan to individuals of the State, both groups and nongroups, without discrimination based on age, gender, geographic area, industry, genetic information, and medical history, except as allowed by ~~subdivisions 4080a(h)(2)(B) and 4080b(h)(2)(B) of this title~~ pursuant to 33 V.S.A. § 1811(f)(2)(A).

1 (b) As used in this section, “genetic information” has the same meaning as
2 in 18 V.S.A. § 9331.

3 Sec. 29. 8 V.S.A. § 4516 is amended to read:

4 § 4516. ANNUAL REPORT TO COMMISSIONER

5 (a) Annually, on or before March 1, a hospital service corporation shall file
6 with the Commissioner of Financial Regulation a statement sworn to by the
7 president and treasurer of the corporation showing its condition on
8 December 31. The statement shall be in such form and contain such matters as
9 the Commissioner shall prescribe. To qualify for the tax exemption set forth in
10 section 4518 of this title, the statement shall include a certification that the
11 hospital service corporation operates on a nonprofit basis for the purpose of
12 providing an adequate hospital service plan to individuals of the State, both
13 groups and nongroups, without discrimination based on age, gender,
14 geographic area, industry, genetic information, and medical history, except as
15 allowed by ~~subdivisions 4080a(h)(2)(B) and 4080b(h)(2)(B) of this title~~
16 pursuant to 33 V.S.A. § 1811(f)(2)(A).

17 (b) As used in this section, “genetic information” has the same meaning as
18 in 18 V.S.A. § 9331.

19 Sec. 30. 33 V.S.A. § 101 is amended to read:

20 § 101. POLICY

21 It is the policy of the State of Vermont that:

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(3) Assistance and benefits shall be administered promptly, with due regard for the preservation of family life, and without restriction of individual rights or discrimination on account of race, religion, political affiliation, genetic information, or place of residence within the State.

* * *

* * * Financial Services * * *

Sec. 31. 8 V.S.A. § 10403 is amended to read:

§ 10403. ~~PROHIBITION ON DISCRIMINATION BASED ON SEX, MARITAL STATUS, RACE, COLOR, RELIGION, NATIONAL ORIGIN, AGE, SEXUAL ORIENTATION, GENDER IDENTITY, OR DISABILITY~~

(a) Discrimination prohibited. No financial institution shall discriminate against any applicant for credit services on the basis of the sex, marital status, race, color, religion, national origin, age, sexual orientation, gender identity, genetic information, or disability of the applicant, provided the applicant has the legal capacity to contract.

* * *

(c) Definitions. As used in this section:

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(8) “Genetic information” has the same meaning as in 18 V.S.A. § 9331.

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Sec. 32. 9 V.S.A. § 2362 is amended to read:

§ 2362. PROHIBITION ON DISCRIMINATION ~~BASED ON SEX,~~
~~SEXUAL ORIENTATION, GENDER IDENTITY, MARITAL~~
~~STATUS, RACE, COLOR, RELIGION, NATIONAL ORIGIN, AGE,~~
~~OR DISABILITY~~

(a) No seller shall discriminate against any buyer or prospective buyer who desires to establish a retail installment contract because of the sex, sexual orientation, gender identity, marital status, race, color, religion, national origin, age, genetic information, or disability of the buyer.

(b) As used in this section, “genetic information” has the same meaning as in 18 V.S.A. § 9331.

Sec. 33. 9 V.S.A. § 2410 is amended to read:

§ 2410. PROHIBITION ON DISCRIMINATION ~~BASED ON SEX,~~
~~SEXUAL ORIENTATION, GENDER IDENTITY, MARITAL~~
~~STATUS, RACE, COLOR, RELIGION, NATIONAL ORIGIN, AGE,~~
~~OR DISABILITY~~

(a) No seller shall discriminate against any buyer or prospective buyer who desires to establish a retail installment contract or retail charge agreement because of the sex, sexual orientation, gender identity, marital status, race,

1 color, religion, national origin, age, genetic information, or disability of the
2 buyer.

3 (b) As used in this section, “genetic information” has the same meaning as
4 in 18 V.S.A. § 9331.

5 * * * Real Estate, Housing, and Public Accommodations * * *

6 Sec. 34. 9 V.S.A. § 2388 is amended to read:

7 § 2388. PROHIBITION ON DISCRIMINATION ~~BASED ON SEX,~~
8 ~~SEXUAL ORIENTATION, GENDER IDENTITY, MARITAL~~
9 ~~STATUS, RACE, COLOR, RELIGION, NATIONAL ORIGIN, AGE,~~
10 ~~OR DISABILITY~~

11 (a) No person shall discriminate against any lessee or prospective lessee
12 who has entered into an agricultural finance lease, or who desires to enter into
13 an agricultural finance lease, because of the sex, sexual orientation, gender
14 identity, marital status, race, color, religion, national origin, age, genetic
15 information, or disability of the lessee.

16 (b) As used in this section, “genetic information” has the same meaning as
17 in 18 V.S.A. § 9331.

18 Sec. 35. 9 V.S.A. § 4501 is amended to read:

19 § 4501. DEFINITIONS

20 As used in this chapter:

21 * * *

1 (2) To discriminate against, or to harass any person in the terms,
2 conditions, privileges, and protections of the sale or rental of a dwelling or
3 other real estate, or in the provision of services or facilities in connection
4 therewith, because of the race, sex, sexual orientation, gender identity, age,
5 marital status, religious creed, color, national origin, genetic information, or
6 disability of a person, or because a person intends to occupy a dwelling with
7 one or more minor children, or because a person is a recipient of public
8 assistance, or because a person is a victim of abuse, sexual assault, or stalking.

9 (3) To make, print, or publish, or cause to be made, printed, or published
10 any notice, statement, or advertisement, with respect to the sale or rental of a
11 dwelling or other real estate that indicates any preference, limitation, or
12 discrimination based on race, sex, sexual orientation, gender identity, age,
13 marital status, religious creed, color, national origin, genetic information, or
14 disability of a person, or because a person intends to occupy a dwelling with
15 one or more minor children, or because a person is a recipient of public
16 assistance, or because a person is a victim of abuse, sexual assault, or stalking.

17 (4) To represent to any person because of the race, sex, sexual
18 orientation, gender identity, age, marital status, religious creed, color, national
19 origin, genetic information, or disability of a person, or because a person
20 intends to occupy a dwelling with one or more minor children, or because a
21 person is a recipient of public assistance, or because a person is a victim of

1 abuse, sexual assault, or stalking, that any dwelling or other real estate is not
2 available for inspection, sale, or rental when the dwelling or real estate is in
3 fact so available.

4 * * *

5 (6) To discriminate against any person in the making or purchasing of
6 loans or providing other financial assistance for real-estate-related transactions
7 or in the selling, brokering, or appraising of residential real property, because
8 of the race, sex, sexual orientation, gender identity, age, marital status,
9 religious creed, color, national origin, genetic information, or disability of a
10 person, or because a person intends to occupy a dwelling with one or more
11 minor children, or because a person is a recipient of public assistance, or
12 because a person is a victim of abuse, sexual assault, or stalking.

13 (7) To engage in blockbusting practices, for profit, which may include
14 inducing or attempting to induce a person to sell or rent a dwelling by
15 representations regarding the entry into the neighborhood of a person or
16 persons of a particular race, sex, sexual orientation, gender identity, age,
17 marital status, religious creed, color, national origin, genetic information, or
18 disability of a person, or because a person intends to occupy a dwelling with
19 one or more minor children, or because a person is a recipient of public
20 assistance, or because a person is a victim of abuse, sexual assault, or stalking.

