

HOUSE JUDICIARY COMMITTEE SUBSTITUTE FOR  
HOUSE BILL 183

47TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2005

AN ACT

RELATING TO GENETIC INFORMATION; PROHIBITING THE USE OF GENETIC  
INFORMATION IN NONMEDICAL CONTEXTS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 24-21-2 NMSA 1978 (being Laws 1998,  
Chapter 77, Section 2) is amended to read:

"24-21-2. DEFINITIONS.--As used in the Genetic  
Information Privacy Act:

A. "DNA" means deoxyribonucleic acid, including  
mitochondrial DNA, complementary DNA and DNA derived from  
ribonucleic acid;

B. "gene products" means gene fragments,  
ribonucleic acids or proteins derived from DNA that would be a  
reflection of or indicate DNA sequence information;

C. "genetic analysis" means a test of a person's

.155998.3

1 DNA, gene products or chromosomes that indicates a propensity  
2 for or susceptibility to illness, disease, impairment or other  
3 disorders, whether physical or mental; that demonstrates  
4 genetic or chromosomal damage due to environmental factors; or  
5 that indicates carrier status for disease or disorder;  
6 excluded, however, are routine physical measurements, chemical,  
7 blood and urine analysis, tests for drugs, [~~and~~] tests for the  
8 presence of HIV virus and any other tests or analyses commonly  
9 accepted in clinical practice at the time ordered;

10 D. "genetic information" means information about  
11 the genetic makeup of a person or members of a person's family,  
12 including information resulting from genetic testing, genetic  
13 analysis, DNA composition, participation in genetic research or  
14 use of genetic services;

15 E. "genetic propensity" means the presence in a  
16 person or members of a person's family of real or perceived  
17 variations in DNA or other genetic material from that of the  
18 normal genome that do not represent the outward physical or  
19 medical signs of a genetic disease at the time of  
20 consideration; [~~and~~]

21 F. "genetic testing" means a test of an  
22 individual's DNA, ribonucleic acid, chromosomes or proteins,  
23 including carrier status, that are linked with physical or  
24 mental disorders, impairments or genetic characteristics or  
25 that indicate that an individual may be predisposed to an

1 illness, disease, impairment or other disorder; and

2           ~~[F-]~~ G. "insurer" means an insurance company,  
3 insurance service or insurance organization that is licensed to  
4 engage in the business of insurance in the state and that is  
5 subject to state law that regulates insurance within the  
6 meaning of Paragraph (2) of Subsection (b) of Section 514 of  
7 the federal Employee Retirement Income Security Act of 1974, as  
8 amended. "Insurer" does not include an insurance company that  
9 is licensed under the Prepaid Dental Plan Law or a company that  
10 is solely engaged in the sale of dental insurance and is not  
11 licensed under the Prepaid Dental Plan Law, but under another  
12 provision of the New Mexico Insurance Code."

13           Section 2. Section 24-21-4 NMSA 1978 (being Laws 1998,  
14 Chapter 77, Section 4) is amended to read:

15           "24-21-4. GENETIC DISCRIMINATION PROHIBITED.--

16           A. Discrimination by an insurer against a person or  
17 member of the person's family on the basis of genetic analysis,  
18 genetic information or genetic propensity is prohibited.

19           B. The provisions of this section do not require a  
20 health insurer to provide particular benefits other than those  
21 provided under the terms of the plan or coverage. A health  
22 insurer shall not consider a genetic propensity, susceptibility  
23 or carrier status as a pre-existing condition for the purpose  
24 of limiting or excluding benefits, establishing rates or  
25 providing coverage.

.155998.3

1           C. The provisions of this section do not prohibit  
2 use of genetic analysis, genetic propensity or genetic  
3 information by an insurer in the ordinary conduct of business  
4 in connection with life, disability income or long-term care  
5 insurance if use of genetic analysis, genetic propensity or  
6 genetic information in underwriting is based on sound actuarial  
7 principles or related to actual or reasonably anticipated  
8 experience.

9           D. It is unlawful for a person to use genetic  
10 information in employment, recruiting, housing or lending  
11 decisions or in extending public accommodations and services."

12           Section 3. EFFECTIVE DATE.--The effective date of the  
13 provisions of this act is July 1, 2005.