ASSEMBLY, No. 4170

STATE OF NEW JERSEY
212th LEGISLATURE

INTRODUCED MAY 14, 2007

Sponsored by:
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District 15 (Mercer)
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SYNOPSIS
“Genetic Nondiscrimination in Employment Act;” prohibits employment discrimination based on genetic information.

CURRENT VERSION OF TEXT
As introduced.
AN ACT providing that genetic information and genetic testing results be kept private, prohibiting discrimination based on genetic information and supplementing P.L.1996, c.126.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. As used in the act:

“DNA” means deoxyribonucleic acid.

“Employer” means a person engaged in business who has employees, including the State and any political subdivision or other instrumentality of the State.

“Genetic information” means the information about genes, gene products or inherited characteristics that may derive from an individual or family member. Genetic information shall not include family history, the results of a routine physical examination or test, the results of a chemical, blood or urine analysis, the results of a test to determine drug use, the results of a test for the presence of the human immunodeficiency virus, or the results of any other test commonly accepted in clinical practice at the time it is ordered by the insurer.

“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. Genetic test shall not include a routine physical examination or a routine test performed as part of a routine physical examination; a chemical, blood or urine analysis; a test to determine drug use; a test for the presence of the human immunodeficiency virus; or any other test commonly accepted in clinical practice at the time it is ordered by the insurer.

“RNA” means ribonucleic acid.

2. This act shall be known and may be cited as the “Genetic Nondiscrimination in Employment Act.”

3. a. No employer shall:

(1) Seek to obtain or use a genetic test or genetic information of an employee or perspective employee;

(2) Require a genetic test of or require genetic information from the employee or perspective employee;

(3) Access or otherwise take into consideration genetic information about an individual;

(4) Request or require an individual to consent to a release for the purpose of accessing genetic information about the individual;

(5) Request or require an individual or his blood relative to submit to a genetic test; or
(6) Inquire into the fact that an individual or his blood relative has taken or refused to take a genetic test.

b. Any person who violates any of the provisions of section 3 of this act shall, in addition to any other relief or affirmative action provided by law, be liable for the following penalties:

(1) In an amount not exceeding $10,000 if the respondent has not been adjudged to have committed any prior violation within the five-year period ending on the date of the filing of this charge;

(2) In an amount not exceeding $25,000 if the respondent has been adjudged to have committed one other violation within the five-year period ending on the date of the filing of this charge; and

(3) In an amount not exceeding $50,000 if the respondent has been adjudged to have committed two or more violations within the seven-year period ending on the date of the filing of this charge.

The penalties shall be determined by the Commissioner of Labor and Workforce Development in such amounts as he deems proper upon his finding of an unlawful discrimination or an unlawful employment practice. Any such amounts collected by the director shall be paid forthwith into the State Treasury for the general purposes of the State.

4. Notwithstanding any provision to the contrary, this act shall not apply to an insurer or to an individual or third-party dealing with an insurer in the ordinary course of underwriting, conducting, or administering the business of life, disability income, or long-term care insurance, including but not limited to, actions taken by an insurer or to an individual or third-party dealing with an insurer in connection with life, disability income or long-term care insurance made available by an employer to its employees.

5. This act shall take effect on the 90th day following enactment.

STATEMENT

This bill prohibits an employer, in connection with a hiring, promotion, retention or other related decision from:

(1) Seeking to obtain or use a genetic test or genetic information of an employee or perspective employee;

(2) Requiring a genetic test of or require genetic information from the employee or perspective employee;

(3) Accessing or otherwise take into consideration genetic information about an individual;

(4) Requesting or require an individual to consent to a release for the purpose of accessing genetic information about the individual;
(5) Requesting or require an individual or his blood relative to submit to a genetic test; or

(6) Inquiring into the fact that an individual or his blood relative has taken or refused to take a genetic test.

Any person who violates any the provisions of this act shall be liable for the following penalties:

(1) In an amount not exceeding $10,000 if the respondent has not been adjudged to have committed any prior violation within the five-year period ending on the date of the filing of this charge;

(2) In an amount not exceeding $25,000 if the respondent has been adjudged to have committed one other violation within the five-year period ending on the date of the filing of this charge; and

(3) In an amount not exceeding $50,000 if the respondent has been adjudged to have committed two or more violations within the seven-year period ending on the date of the filing of this charge.

Finally, the bill exempts an insurer or to an individual or third-party dealing with an insurer in the ordinary course of underwriting, conducting, or administering the business of life, disability income, or long-term care insurance in connection with life, disability income or long-term care insurance made available by an employer to its employees.