

FIRST REGULAR SESSION

HOUSE BILL NO. 974

91ST GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES LEVIN, HOLT, MOORE, FOLEY, KELLY (27), SCOTT, REID, ABEL (Co-sponsors), GASKILL LOWE, HOHULIN, ROBIRDS, LINTON, LADD BAKER, CARNAHAN, FRASER, SMITH, CIERPIOT, ENZ, MAY (149) WALTON, BARNETT, SECREST AND BOWMAN.

Read 1st time March 14, 2001, and 1000 copies ordered printed.

TED WEDEL, Chief Clerk

1862L.011

AN ACT

To repeal sections 375.1303, 375.1306 and 375.1309, RSMo 2000, relating to personal information, and to enact in lieu thereof four new sections relating to the same subject, with penalty provisions.

Be it resolved by the House of Representatives, the Senate concurring therein:

Section A. Sections 375.1303, 375.1306 and 375.1309, RSMo 2000, are repealed and
2 four new sections enacted in lieu thereof, to be known as sections 375.1303, 375.1306, 375.1309
3 and 578.036, to read as follows:

375.1303. 1. **Except as provided in subsection 2 of this section**, any insurer, in
2 determining eligibility for coverage, establishing premiums, limiting coverage, renewing
3 coverage or any other underwriting decision, shall not, in connection with the offer, sale or
4 renewal of a health plan:

5 (1) Require or request a person or blood relative of such person to provide genetic
6 information or take a genetic test;

7 (2) Except as provided in [subdivisions (3) and] **subdivision** (4) of this subsection,
8 inquire to determine whether a person or blood relative of such person has taken or refused a
9 genetic test or what the results of any such test were;

10 (3) Consider [without the approval of such person] the fact that genetic information or
11 a genetic test was taken or refused by a person or blood relative of such person; or

12 (4) Consider [without the approval of such person genetic information or the results of],

EXPLANATION — Matter enclosed in bold faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

13 **unless specifically requested to do so by such person, any genetic information or the results**
14 **of any genetic test taken by a person or blood relative of such person.**

15 **2. No insurer may terminate, restrict, limit or otherwise apply conditions to the**
16 **coverage of, restrict the sale of, cancel or refuse to renew the coverage of, deny coverage**
17 **or exclude an individual or family member from coverage, impose a rider that excludes**
18 **certain benefits or services, establish differentials in premium rates or cost sharing for**
19 **coverage under a health insurance policy or plan, otherwise discriminate against an**
20 **individual or family member in the provision of health insurance on the basis of any**
21 **genetic information concerning an individual or family member.**

22 **3. A violation of this section shall be subject to the provisions of sections 375.930 to**
23 **375.948 relating to unfair trade practices.**

24 **[3.] 4. For purposes of this section, "health plan" does not include any policy, contract**
25 **or certificate of life insurance, reinsurance, disability income or long-term care coverage. This**
26 **section applies to applications for coverage made on or after January 1, [1999] 2002, and to**
27 **policies, contracts and certificates issued or renewed on or after such date to provide coverage**
28 **to residents of this state.**

375.1306. 1. An employer shall not use any genetic information or genetic test results,
2 as those terms are defined in subdivisions (3) and (4) of section 375.1300, of an employee or
3 prospective employee to distinguish between, discriminate against, or restrict any right or benefit
4 otherwise due or available to such employee or prospective employee. The requirements of this
5 section shall not prohibit:

6 (1) Underwriting in connection with individual or group life, disability income or
7 long-term care insurance;

8 (2) Any action required or permissible by law or regulation;

9 (3) Action taken with the written permission of an employee or prospective employee
10 or such person's authorized representative; or

11 (4) The use of genetic information when such information is directly related to a person's
12 ability to perform assigned job responsibilities.

13 **2. An employer shall not seek to obtain or obtain any genetic information or genetic**
14 **test results of an employee or prospective employee.**

15 **3. An employer shall not require the collection of a DNA sample of an employee or**
16 **prospective employee for analysis.**

17 **4. Any person who violates the provisions of this section shall be fined not more than**
18 **five hundred dollars for each violation of this section and may be liable in a civil action for**
19 **damages or equitable relief.**

375.1309. 1. Any person who, in the ordinary course of business, practice of a

2 profession or rendering of a service, creates, stores, receives or furnishes genetic information,
3 as such term is defined in subdivision (3) of section 375.1300, shall hold such information as
4 confidential medical records and shall not disclose **by any means of communication** such
5 genetic information **or test results** except pursuant to written authorization of the person to
6 whom such information **or test results** pertains or to that person's authorized representative. The
7 requirements of this section shall not apply to:

8 (1) Statistical data compiled without reference to the identity of an individual;

9 (2) Health research conducted in accordance with the provisions of the federal common
10 rule protecting the rights and welfare of research participants (45 CFR 46 and 21 CFR 50 and
11 56), or to health research using medical archives or databases in which the identity of individuals
12 is protected from disclosure by coding or encryption, or by removing all identities;

13 (3) The release of such information pursuant to legal or regulatory process; or

14 (4) The release of such information for body identification.

15 2. Any person who violates the provisions of this section shall be fined not more than
16 five hundred dollars **and may be liable in a civil action for damages and equitable relief.**

578.036. 1. It is unlawful to require or request that any person provide or submit
2 **to one or more of the following as a condition of doing business, applying for employment**
3 **or any other purpose:**

4 (1) **Fingerprints;**

5 (2) **Retina Scan;**

6 (3) **Voice print;**

7 (4) **DNA test.**

8 2. Subsection 1 of this section shall not apply to:

9 (1) **Law enforcement agencies that require fingerprints of suspects, offenders or**
10 **applicants for employment;**

11 (2) **The Missouri bar examiners for purposes of identification and background**
12 **checks for applicants to be admitted to the Missouri Bar;**

13 (3) **Any state or federally regulated depository institution that collects the**
14 **information solely within its organization for identification, qualification, fraud prevention**
15 **or detection purposes and does not provide such information to unaffiliated third parties;**
16 **or**

17 (4) **Any person or entity specifically provided for by federal or state law.**

18 3. Any person who violates the provisions of subsection 1 of this section is guilty of
19 a class C misdemeanor and may be fined an amount up to one thousand dollars.

20 4. Any entity that violates the provisions of subsection 1 of this section is subject to
21 a civil penalty of up to one hundred thousand dollars.