

106TH CONGRESS
1ST SESSION

H. R. 2457

To prohibit health insurance and employment discrimination against individuals and their family members on the basis of predictive genetic information or genetic services.

IN THE HOUSE OF REPRESENTATIVES

JULY 1, 1999

Ms. SLAUGHTER (for herself, Mrs. LOWEY, Mr. ABERCROMBIE, Mr. ACKERMAN, Mr. BOUCHER, Mr. DELAHUNT, Ms. DELAURO, Mr. FROST, Mr. GREEN of Texas, Mr. HINCHEY, Ms. MILLENDER-McDONALD, Mr. MORAN of Virginia, Ms. NORTON, Mr. REGULA, Mr. ROMERO-BARCELÓ, Mr. SANDERS, Mr. SANDLIN, and Mr. SERRANO) introduced the following bill; which was referred to the Committee on Commerce, and in addition to the Committees on Ways and Means, and Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To prohibit health insurance and employment discrimination against individuals and their family members on the basis of predictive genetic information or genetic services.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Genetic Non-
3 discrimination in Health Insurance and Employment Act
4 of 1999”.

5 **TITLE I—PROHIBITION OF**
6 **HEALTH INSURANCE DIS-**
7 **CRIMINATION ON THE BASIS**
8 **OF PREDICTIVE GENETIC IN-**
9 **FORMATION**

10 **SEC. 101. AMENDMENTS TO EMPLOYEE RETIREMENT IN-**
11 **COME SECURITY ACT OF 1974.**

12 (a) PROHIBITION OF HEALTH INSURANCE DISCRIMI-
13 NATION ON THE BASIS OF GENETIC SERVICES OR PRE-
14 DICTIVE GENETIC INFORMATION.—

15 (1) NO ENROLLMENT RESTRICTION FOR GE-
16 NETIC SERVICES.—Section 702(a)(1)(F) of the Em-
17 ployee Retirement Income Security Act of 1974 (29
18 U.S.C. 1182(a)(1)(F)) is amended by inserting be-
19 fore the period “(or information about a request for
20 or the receipt of genetic services by such individual
21 or family member of such individual)”.

22 (2) NO DISCRIMINATION IN GROUP RATE BASED
23 ON PREDICTIVE GENETIC INFORMATION.—

24 (A) IN GENERAL.—Subpart B of Part 7 of
25 subtitle B of title I of the Employee Retirement
26 Income Security Act of 1974 (29 U.S.C. 1185

1 et seq.) is amended by adding at the end the
 2 following:

3 **“SEC. 714. PROHIBITING DISCRIMINATION AGAINST**
 4 **GROUPS ON THE BASIS OF PREDICTIVE GE-**
 5 **NETIC INFORMATION.**

6 “A group health plan, and a health insurance issuer
 7 offering group health insurance coverage in connection
 8 with a group health plan, shall not deny eligibility to a
 9 group or adjust premium or contribution rates for a group
 10 on the basis of predictive genetic information concerning
 11 an individual in the group (or information about a request
 12 for or the receipt of genetic services by such individual
 13 or family member of such individual).”.

14 (B) CONFORMING AMENDMENTS.—

15 (i) Section 702(b)(2)(A) of the Em-
 16 ployee Retirement Income Security Act of
 17 1974 (29 U.S.C. 1182(b)) is amended to
 18 read as follows:

19 “(A) to restrict the amount that an em-
 20 ployer may be charged for coverage under a
 21 group health plan, except as provided in section
 22 714; or”.

23 (ii) Section 732(a) of the Employee
 24 Retirement Income Security Act of 1974
 25 (29 U.S.C. 1191a(a)) is amended by strik-

ing “section 711” and inserting “subsections (a)(1)(F), (b) (with respect to cases relating to genetic information or information about a request or receipt of genetic services by an individual or family member of such individual), (c), (d), (e), (f), or (g) of section 702, section 711 and section 714”.

(b) LIMITATIONS ON GENETIC TESTING AND ON COLLECTION AND DISCLOSURE OF PREDICTIVE GENETIC INFORMATION.—Section 702 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1182) is amended by adding at the end the following:

“(c) GENETIC TESTING.—

“(1) LIMITATION ON REQUESTING OR REQUIRING GENETIC TESTING.—A group health plan, or a health insurance issuer offering health insurance coverage in connection with a group health plan, shall not request or require an individual or a family member of such individual to undergo a genetic test.

“(2) RULE OF CONSTRUCTION.—Nothing in this title shall be construed to limit the authority of a health care professional, who is providing treatment with respect to an individual and who is employed by a group health plan or a health insurance

1 issuer, to request that such individual or family
2 member of such individual undergo a genetic test.
3 Such a health care professional shall not require
4 that such individual or family member undergo a ge-
5 netic test.

6 “(d) COLLECTION OF PREDICTIVE GENETIC INFOR-
7 MATION.—Except as provided in subsections (f) and (g),
8 a group health plan, or a health insurance issuer offering
9 health insurance coverage in connection with a group
10 health plan, shall not request, require, collect, or purchase
11 predictive genetic information concerning an individual (or
12 information about a request for or the receipt of genetic
13 services by such individual or family member of such indi-
14 vidual).

15 “(e) DISCLOSURE OF PREDICTIVE GENETIC INFOR-
16 MATION.—A group health plan, or a health insurance
17 issuer offering health insurance coverage in connection
18 with a group health plan, shall not disclose predictive ge-
19 netic information about an individual (or information
20 about a request for or the receipt of genetic services by
21 such individual or family member of such individual) to—

22 “(1) any entity that is a member of the same
23 controlled group as such issuer or plan sponsor of
24 such group health plan;

1 “(2) any other group health plan or health in-
2 surance issuer or any insurance agent, third party
3 administrator, or other person subject to regulation
4 under State insurance laws;

5 “(3) the Medical Information Bureau or any
6 other person that collects, compiles, publishes, or
7 otherwise disseminates insurance information;

8 “(4) the individual’s employer or any plan spon-
9 sor; or

10 “(5) any other person the Secretary may speci-
11 fy in regulations.

12 “(f) INFORMATION FOR PAYMENT FOR GENETIC
13 SERVICES.—

14 “(1) IN GENERAL.—With respect to payment
15 for genetic services conducted concerning an indi-
16 vidual or the coordination of benefits, a group health
17 plan, or a health insurance issuer offering group
18 health insurance coverage in connection with a group
19 health plan, may request that the individual provide
20 the plan or issuer with evidence that such services
21 were performed.

22 “(2) RULE OF CONSTRUCTION.—Nothing in
23 paragraph (1) shall be construed to—

24 “(A) permit a group health plan or health
25 insurance issuer to request (or require) the re-

1 sults of the services referred to in such para-
2 graph; or

3 “(B) require that a group health plan or
4 health insurance issuer make payment for serv-
5 ices described in such paragraph where the in-
6 dividual involved has refused to provide evi-
7 dence of the performance of such services pur-
8 suant to a request by the plan or issuer in ac-
9 cordance with such paragraph.

10 “(g) INFORMATION FOR PAYMENT OF OTHER
11 CLAIMS.—With respect to the payment of claims for bene-
12 fits other than genetic services, a group health plan, or
13 a health insurance issuer offering group health insurance
14 coverage in connection with a group health plan, may re-
15 quest that an individual provide predictive genetic infor-
16 mation so long as such information—

17 “(1) is used solely for the payment of a claim;

18 “(2) is limited to information that is directly re-
19 lated to and necessary for the payment of such claim
20 and the claim would otherwise be denied but for the
21 predictive genetic information; and

22 “(3) is used only by an individual (or individ-
23 uals) within such plan or issuer who needs access to
24 such information for purposes of payment of a
25 claim.

1 “(h) RULES OF CONSTRUCTION.—

2 “(1) COLLECTION OR DISCLOSURE AUTHORIZED
3 BY INDIVIDUAL.—The provisions of subsections (d)
4 (regarding collection) and (e) shall not apply to an
5 individual if the individual (or the legal representa-
6 tive of the individual) provides prior, knowing, vol-
7 untary, and written authorization for the collection
8 or disclosure of predictive genetic information.

9 “(2) DISCLOSURE FOR HEALTH CARE TREAT-
10 MENT.—Nothing in this section shall be construed to
11 limit or restrict the disclosure of predictive genetic
12 information from a health care provider to another
13 health care provider for the purpose of providing
14 health care treatment to the individual involved.

15 “(i) DEFINITIONS.—In this section:

16 “(1) CONTROLLED GROUP.—The term ‘con-
17 trolled group’ means any group treated as a single
18 employer under subsection (b), (c), (m), or (o) of
19 section 414 of the Internal Revenue Code of 1986.

20 “(2) GROUP HEALTH PLAN, HEALTH INSUR-
21 ANCE ISSUER.—The terms ‘group health plan’ and
22 ‘health insurance issuer’ include a third party ad-
23 ministrator or other person acting for or on behalf
24 of such plan or issuer.”.

1 (c) ENFORCEMENT.—Section 502 (29 U.S.C. 1132)
2 is amended by adding at the end the following:

3 “(n) VIOLATION OF GENETIC DISCRIMINATION OR
4 GENETIC DISCLOSURE PROVISIONS.—In any action under
5 this section against any administrator of a group health
6 plan, or health insurance issuer offering group health in-
7 surance coverage in connection with a group health plan
8 (including any third party administrator or other person
9 acting for or on behalf of such plan or issuer) alleging
10 a violation of subsection (a)(1)(F), (b) (with respect to
11 cases relating to genetic information or information about
12 a request or receipt of genetic services by an individual
13 or family member of such individual), (c), (d), (e), (f), or
14 (g) of section 702, or section 714, the court may award
15 any appropriate legal or equitable relief. Such relief may
16 include a requirement for the payment of attorney’s fees
17 and costs, including the costs of expert witnesses.

18 “(o) CIVIL PENALTY.—The monetary provisions of
19 section 308(b)(2)(C) of Public Law 101–336 (42 U.S.C.
20 12188(b)) shall apply for purposes of the Secretary en-
21 forcing the provisions referred to in subsection (n), except
22 that any such relief awarded shall be paid only into the
23 general fund of the Treasury.”.

1 (d) PREEMPTION.—Section 731 of the Employee Re-
2 tirement Income Security Act of 1974 (29 U.S.C. 1191)
3 is amended—

4 (1) in subsection (a)(1), by inserting “or (e)”
5 after “subsection (b)”; and

6 (2) by adding at the end the following:

7 “(e) SPECIAL RULE IN CASE OF GENETIC INFORMA-
8 TION.—With respect to group health insurance coverage
9 offered by a health insurance issuer, the provisions of this
10 part relating to genetic information (including information
11 about a request for or the receipt of genetic services by
12 an individual or a family member of such individual) shall
13 not be construed to supersede any provision of State law
14 which establishes, implements, or continues in effect a
15 standard, requirement, or remedy that more completely—

16 “(1) protects the confidentiality of genetic in-
17 formation (including information about a request for
18 or the receipt of genetic services by an individual or
19 a family member of such individual) or the privacy
20 of an individual or a family member of the individual
21 with respect to genetic information (including infor-
22 mation about a request for or the receipt of genetic
23 services by an individual or a family member of such
24 individual) than does this part; or

1 “(2) prohibits discrimination on the basis of ge-
2 netic information than does this part.”.

3 (e) DEFINITIONS.—Section 733(d) of the Employee
4 Retirement Income Security Act of 1974 (29 U.S.C.
5 1191b(d)) is amended by adding at the end the following:

6 “(5) FAMILY MEMBER.—The term ‘family
7 member’ means with respect to an individual—

8 “(A) the spouse of the individual;

9 “(B) a dependent child of the individual,
10 including a child who is born to or placed for
11 adoption with the individual; and

12 “(C) all other individuals related by blood
13 to the individual or the spouse or child de-
14 scribed in subparagraph (A) or (B).

15 “(6) GENETIC INFORMATION.—The term ‘ge-
16 netic information’ means information about genes,
17 gene products, or inherited characteristics that may
18 derive from an individual or a family member of
19 such individual (including information about a re-
20 quest for or the receipt of genetic services by such
21 individual or family member of such individual).

22 “(7) GENETIC SERVICES.—The term ‘genetic
23 services’ means health services, including genetic
24 tests, provided to obtain, assess, or interpret genetic

1 information for diagnostic and therapeutic purposes,
2 and for genetic education and counseling.

3 “(8) GENETIC TEST.—The term ‘genetic test’
4 means the analysis of human DNA, RNA, chro-
5 mosomes, proteins, and certain metabolites in order
6 to detect genotypes, mutations, or chromosomal
7 changes.

8 “(9) PREDICTIVE GENETIC INFORMATION.—

9 “(A) IN GENERAL.—The term ‘predictive
10 genetic information’ means—

11 “(i) information about an individual’s
12 genetic tests;

13 “(ii) information about genetic tests
14 of family members of the individual; or

15 “(iii) information about the occur-
16 rence of a disease or disorder in family
17 members.

18 “(B) LIMITATIONS.—The term ‘predictive
19 genetic information’ shall not include—

20 “(i) information about the sex or age
21 of the individual;

22 “(ii) information about chemical,
23 blood, or urine analyses of the individual,
24 unless these analyses are genetic tests; or

1 “(iii) information about physical
2 exams of the individual, and other informa-
3 tion relevant to determining the current
4 health status of the individual.”.

5 (f) AMENDMENT CONCERNING SUPPLEMENTAL EX-
6 CEPTED BENEFITS.—Section 732(c)(3) of the Employee
7 Retirement Income Security Act of 1974 (29 U.S.C.
8 1191a(c)(3)) is amended by inserting “, other than the
9 requirements of subsections (a)(1)(F), (b) (in cases relat-
10 ing to genetic information or information about a request
11 for or the receipt of genetic services by an individual or
12 a family member of such individual), (c), (d), (e), (f) and
13 (g) of section 702 and section 714,” after “The require-
14 ments of this part”.

15 (g) EFFECTIVE DATE.—

16 (1) IN GENERAL.—Except as provided in this
17 section, this section and the amendments made by
18 this section shall apply with respect to group health
19 plans for plan years beginning after October 1,
20 2000.

21 (2) SPECIAL RULE FOR COLLECTIVE BAR-
22 GAINING AGREEMENTS.—In the case of a group
23 health plan maintained pursuant to one or more col-
24 lective bargaining agreements between employee rep-
25 resentatives and one or more employers ratified be-

1 fore the date of the enactment of this Act, this sec-
 2 tion and the amendments made by this section shall
 3 not apply to plan years beginning before the later
 4 of—

5 (A) the date on which the last of the col-
 6 lective bargaining agreements relating to the
 7 plan terminates (determined without regard to
 8 any extension thereof agreed to after the date
 9 of the enactment of this Act), or

10 (B) October 1, 2000.

11 For purposes of subparagraph (A), any plan amend-
 12 ment made pursuant to a collective bargaining
 13 agreement relating to the plan which amends the
 14 plan solely to conform to any requirement of the
 15 amendments made by this section shall not be treat-
 16 ed as a termination of such collective bargaining
 17 agreement.

18 **SEC. 102. AMENDMENTS TO THE PUBLIC HEALTH SERVICE**

19 **ACT.**

20 (a) AMENDMENTS RELATING TO THE GROUP MAR-
 21 KET.—

22 (1) PROHIBITION OF HEALTH INSURANCE DIS-
 23 CRIMINATION ON THE BASIS OF PREDICTIVE GE-
 24 NETIC INFORMATION OR GENETIC SERVICES.—

(A) NO ENROLLMENT RESTRICTION FOR GENETIC SERVICES.—Section 2702(a)(1)(F) of the Public Health Service Act (42 U.S.C. 300gg–1(a)(1)(F)) is amended by inserting before the period the following: “(or information about a request for or the receipt of genetic services by an individual or a family member of such individual)”.

(B) NO DISCRIMINATION IN GROUP RATE BASED ON PREDICTIVE GENETIC INFORMATION.—

(i) IN GENERAL.—Subpart 2 of part A of title XXVII of the Public Health Service (42 U.S.C. 300gg–4 et seq.) is amended by adding at the end the following:

“SEC. 2707. PROHIBITING DISCRIMINATION AGAINST GROUPS ON THE BASIS OF PREDICTIVE GENETIC INFORMATION.

“A group health plan, and a health insurance issuer offering group health insurance coverage in connection with a group health plan, shall not deny eligibility to a group or adjust premium or contribution rates for a group on the basis of predictive genetic information concerning an individual in the group (or information about a request

1 for or the receipt of genetic services by such individual
2 or family member of such individual).”.

3 (ii) CONFORMING AMENDMENTS.—

4 (I) Section 2702(b)(2)(A) of the
5 Public Health Service Act (42 U.S.C.
6 300gg–1(b)(2)(A)) is amended to read
7 as follows:

8 “(A) to restrict the amount that an em-
9 ployer may be charged for coverage under a
10 group health plan, except as provided in section
11 2707; or”.

12 (II) Section 2721(a) of the Pub-
13 lic Health Service Act (42 U.S.C.
14 300gg–21(a)) is amended by inserting
15 “(other than subsections (a)(1)(F),
16 (b) (with respect to cases relating to
17 genetic information or information
18 about a request or receipt of genetic
19 services by an individual or family
20 member of such individual), (c), (d),
21 (e), (f), or (g) of section 2702 and
22 section 2707)” after “subparts 1 and
23 3”.

24 (2) LIMITATIONS ON GENETIC TESTING AND ON
25 COLLECTION AND DISCLOSURE OF PREDICTIVE GE-

1 NETIC INFORMATION.—Section 2702 of the Public
2 Health Service Act (42 U.S.C. 300gg–1) is amended
3 by adding at the end the following:

4 “(c) GENETIC TESTING.—

5 “(1) LIMITATION ON REQUESTING OR REQUIR-
6 ING GENETIC TESTING.—A group health plan, or a
7 health insurance issuer offering health insurance
8 coverage in connection with a group health plan,
9 shall not request or require an individual or a family
10 member of such individual to undergo a genetic test.

11 “(2) RULE OF CONSTRUCTION.—Nothing in
12 this title shall be construed to limit the authority of
13 a health care professional, who is providing treat-
14 ment with respect to an individual and who is em-
15 ployed by a group health plan or a health insurance
16 issuer, to request that such individual or family
17 member of such individual undergo a genetic test.
18 Such a health care professional shall not require
19 that such individual or family member undergo a ge-
20 netic test.

21 “(d) COLLECTION OF PREDICTIVE GENETIC INFOR-
22 MATION.—Except as provided in subsections (f) and (g),
23 a group health plan, or a health insurance issuer offering
24 health insurance coverage in connection with a group
25 health plan, shall not request, require, collect, or purchase

1 predictive genetic information concerning an individual (or
2 information about a request for or the receipt of genetic
3 services by such individual or family member of such indi-
4 vidual).

5 “(e) DISCLOSURE OF PREDICTIVE GENETIC INFOR-
6 MATION.—A group health plan, or a health insurance
7 issuer offering health insurance coverage in connection
8 with a group health plan, shall not disclose predictive ge-
9 netic information about an individual (or information
10 about a request for or the receipt of genetic services by
11 such individual or family member of such individual) to—

12 “(1) any entity that is a member of the same
13 controlled group as such issuer or plan sponsor of
14 such group health plan;

15 “(2) any other group health plan or health in-
16 surance issuer or any insurance agent, third party
17 administrator, or other person subject to regulation
18 under State insurance laws;

19 “(3) the Medical Information Bureau or any
20 other person that collects, compiles, publishes, or
21 otherwise disseminates insurance information;

22 “(4) the individual’s employer or any plan spon-
23 sor; or

24 “(5) any other person the Secretary may speci-
25 fy in regulations.

1 “(f) INFORMATION FOR PAYMENT FOR GENETIC
2 SERVICES.—

3 “(1) IN GENERAL.—With respect to payment
4 for genetic services conducted concerning an indi-
5 vidual or the coordination of benefits, a group health
6 plan, or a health insurance issuer offering group
7 health insurance coverage in connection with a group
8 health plan, may request that the individual provide
9 the plan or issuer with evidence that such services
10 were performed.

11 “(2) RULE OF CONSTRUCTION.—Nothing in
12 paragraph (1) shall be construed to—

13 “(A) permit a group health plan or health
14 insurance issuer to request (or require) the re-
15 sults of the services referred to in such para-
16 graph; or

17 “(B) require that a group health plan or
18 health insurance issuer make payment for serv-
19 ices described in such paragraph where the in-
20 dividual involved has refused to provide evi-
21 dence of the performance of such services pur-
22 suant to a request by the plan or issuer in ac-
23 cordance with such paragraph.

24 “(g) INFORMATION FOR PAYMENT OF OTHER
25 CLAIMS.—With respect to the payment of claims for bene-

1 fits other than genetic services, a group health plan, or
 2 a health insurance issuer offering group health insurance
 3 coverage in connection with a group health plan, may re-
 4 quest that an individual provide predictive genetic infor-
 5 mation so long as such information—

6 “(1) is used solely for the payment of a claim;

7 “(2) is limited to information that is directly re-
 8 lated to and necessary for the payment of such claim
 9 and the claim would otherwise be denied but for the
 10 predictive genetic information; and

11 “(3) is used only by an individual (or individ-
 12 uals) within such plan or issuer who needs access to
 13 such information for purposes of payment of a
 14 claim.

15 “(h) RULES OF CONSTRUCTION.—

16 “(1) COLLECTION OR DISCLOSURE AUTHORIZED
 17 BY INDIVIDUAL.—The provisions of subsections (d)
 18 (regarding collection) and (e) shall not apply to an
 19 individual if the individual (or legal representative
 20 of, the individual) provides prior, knowing, vol-
 21 untary, and written authorization for the collection
 22 or disclosure of predictive genetic information.

23 “(2) DISCLOSURE FOR HEALTH CARE TREAT-
 24 MENT.—Nothing in this section shall be construed to
 25 limit or restrict the disclosure of predictive genetic

1 information from a health care provider to another
2 health care provider for the purpose of providing
3 health care treatment to the individual involved.

4 “(i) DEFINITIONS.—In this section:

5 “(1) CONTROLLED GROUP.—The term ‘con-
6 trolled group’ means any group treated as a single
7 employer under subsections (b), (c), (m), or (o) of
8 section 414 of the Internal Revenue Code of 1986.

9 “(2) GROUP HEALTH PLAN, HEALTH INSUR-
10 ANCE ISSUER.—The terms ‘group health plan’ and
11 ‘health insurance issuer’ include a third party ad-
12 ministrator or other person acting for or on behalf
13 of such plan or issuer.”.

14 (3) DEFINITIONS.—Section 2791(d) of the Pub-
15 lic Health Service Act (42 U.S.C. 300gg–91(d)) is
16 amended by adding at the end the following new
17 paragraphs:

18 “(15) FAMILY MEMBER.—The term ‘family
19 member’ means with respect to an individual—

20 “(A) the spouse of the individual;

21 “(B) a dependent child of the individual,
22 including a child who is born to or placed for
23 adoption with the individual; and

1 “(C) all other individuals related by blood
2 to the individual or the spouse or child de-
3 scribed in subparagraph (A) or (B).

4 “(16) GENETIC INFORMATION.—The term ‘ge-
5 netic information’ means information about genes,
6 gene products, or inherited characteristics that may
7 derive from an individual or a family member of
8 such individual (including information about a re-
9 quest for or the receipt of genetic services by such
10 individual or family member of such individual).

11 “(17) GENETIC SERVICES.—The term ‘genetic
12 services’ means health services, including genetic
13 tests, provided to obtain, assess, or interpret genetic
14 information for diagnostic and therapeutic purposes,
15 and for genetic education and counselling.

16 “(18) GENETIC TEST.—The term ‘genetic test’
17 means the analysis of human DNA, RNA, chro-
18 mosomes, proteins, and certain metabolites in order
19 to detect genotypes, mutations, or chromosomal
20 changes.

21 “(19) PREDICTIVE GENETIC INFORMATION.—

22 “(A) IN GENERAL.—The term ‘predictive
23 genetic information’ means—

24 “(i) information about an individual’s
25 genetic tests;

1 “(ii) information about genetic tests
2 of family members of the individual; or

3 “(iii) information about the occur-
4 rence of a disease or disorder in family
5 members.

6 “(B) LIMITATIONS.—The term ‘predictive
7 genetic information’ shall not include—

8 “(i) information about the sex or age
9 of the individual;

10 “(ii) information about chemical,
11 blood, or urine analyses of the individual,
12 unless these analyses are genetic tests; or

13 “(iii) information about physical
14 exams of the individual, and other informa-
15 tion relevant to determining the current
16 health status of the individual.”.

17 (b) AMENDMENT RELATING TO THE INDIVIDUAL
18 MARKET.—The first subpart 3 of part B of title XXVII
19 of the Public Health Service Act (42 U.S.C. 300gg–51 et
20 seq.) is amended—

21 (1) by redesignating such subpart as subpart 2;

22 and

23 (2) by adding at the end the following:

1 **“SEC. 2753. PROHIBITION OF HEALTH INSURANCE DIS-**
2 **CRIMINATION AGAINST INDIVIDUALS ON THE**
3 **BASIS OF PREDICTIVE GENETIC INFORMA-**
4 **TION.**

5 “(a) IN ELIGIBILITY TO ENROLL.—A health insur-
6 ance issuer offering health insurance coverage in the indi-
7 vidual market may not establish rules for eligibility to en-
8 roll in individual health insurance coverage that are based
9 on predictive genetic information concerning the individual
10 (or information about a request for or the receipt of ge-
11 netic services by such individual or family member of such
12 individual).

13 “(b) IN PREMIUM RATES.—A health insurance issuer
14 offering health insurance coverage in the individual mar-
15 ket shall not adjust premium rates on the basis of pre-
16 dictive genetic information concerning an individual (or in-
17 formation about a request for or the receipt of genetic
18 services by such individual or family member of such indi-
19 vidual).

20 **“SEC. 2754. LIMITATIONS ON GENETIC TESTING AND ON**
21 **COLLECTION AND DISCLOSURE OF PRE-**
22 **DICTIVE GENETIC INFORMATION.**

23 “(a) GENETIC TESTING.—

24 “(1) LIMITATION ON REQUESTING OR REQUIR-
25 ING GENETIC TESTING.—A health insurance issuer
26 offering health insurance coverage in the individual

1 market shall not request or require an individual or
2 a family member of such individual to undergo a ge-
3 netic test.

4 “(2) RULE OF CONSTRUCTION.—Nothing in
5 this title shall be construed to limit the authority of
6 a health care professional, who is providing treat-
7 ment with respect to an individual and who is em-
8 ployed by a group health plan or a health insurance
9 issuer, to request that such individual or family
10 member of such individual undergo a genetic test.
11 Such a health care professional shall not require
12 that such individual or family member undergo a ge-
13 netic test.

14 “(b) COLLECTION OF PREDICTIVE GENETIC INFOR-
15 MATION.—Except as provided in subsections (d) and (e),
16 a health insurance issuer offering health insurance cov-
17 erage in the individual market shall not request, require,
18 collect, or purchase predictive genetic information con-
19 cerning an individual (or information about a request for
20 or the receipt of genetic services by such individual or fam-
21 ily member of such individual).

22 “(c) DISCLOSURE OF PREDICTIVE GENETIC INFOR-
23 MATION.—A health insurance issuer offering health insur-
24 ance coverage in the individual market shall not disclose
25 predictive genetic information about an individual (or in-

1 formation about a request for or the receipt of genetic
2 services by such individual or family member of such indi-
3 vidual) to—

4 “(1) any entity that is a member of the same
5 controlled group as such issuer or plan sponsor of
6 such group health plan;

7 “(2) any other group health plan or health in-
8 surance issuer or any insurance agent, third party
9 administrator, or other person subject to regulation
10 under State insurance laws;

11 “(3) the Medical Information Bureau or any
12 other person that collects, compiles, publishes, or
13 otherwise disseminates insurance information;

14 “(4) the individual’s employer or any plan spon-
15 sor; or

16 “(5) any other person the Secretary may speci-
17 fy in regulations.

18 “(d) INFORMATION FOR PAYMENT FOR GENETIC
19 SERVICES.—

20 “(1) IN GENERAL.—With respect to payment
21 for genetic services conducted concerning an indi-
22 vidual or the coordination of benefits, a health insur-
23 ance issuer offering health insurance coverage in the
24 individual market may request that the individual

1 provide the plan or issuer with evidence that such
2 services were performed.

3 “(2) RULE OF CONSTRUCTION.—Nothing in
4 paragraph (1) shall be construed to—

5 “(A) permit a health insurance issuer to
6 request (or require) the results of the services
7 referred to in such paragraph; or

8 “(B) require that a health insurance issuer
9 make payment for services described in such
10 paragraph where the individual involved has re-
11 fused to provide evidence of the performance of
12 such services pursuant to a request by the plan
13 or issuer in accordance with such paragraph.

14 “(e) INFORMATION FOR PAYMENT OF OTHER
15 CLAIMS.—With respect to the payment of claims for bene-
16 fits other than genetic services, a health insurance issuer
17 offering health insurance coverage in the individual mar-
18 ket may request that an individual provide predictive ge-
19 netic information so long as such information—

20 “(1) is used solely for the payment of a claim;

21 “(2) is limited to information that is directly re-
22 lated to and necessary for the payment of such claim
23 and the claim would otherwise be denied but for the
24 predictive genetic information; and

1 “(3) is used only by an individual (or individ-
 2 uals) within such plan or issuer who needs access to
 3 such information for purposes of payment of a
 4 claim.

5 “(f) RULES OF CONSTRUCTION.—

6 “(1) COLLECTION OR DISCLOSURE AUTHORIZED
 7 BY INDIVIDUAL.—The provisions of subsections (c)
 8 (regarding collection) and (d) shall not apply to an
 9 individual if the individual (or legal representative
 10 of, the individual) provides prior, knowing, vol-
 11 untary, and written authorization for the collection
 12 or disclosure of predictive genetic information.

13 “(2) DISCLOSURE FOR HEALTH CARE TREAT-
 14 MENT.—Nothing in this section shall be construed to
 15 limit or restrict the disclosure of predictive genetic
 16 information from a health care provider to another
 17 health care provider for the purpose of providing
 18 health care treatment to the individual involved.

19 “(g) DEFINITIONS.—In this section:

20 “(1) CONTROLLED GROUP.—The term ‘con-
 21 trolled group’ means any group treated as a single
 22 employer under subsections (b), (c), (m), or (o) of
 23 section 414 of the Internal Revenue Code of 1986.

24 “(2) GROUP HEALTH PLAN, HEALTH INSUR-
 25 ANCE ISSUER.—The terms ‘group health plan’ and

1 ‘health insurance issuer’ include a third party ad-
 2 ministrator or other person acting for or on behalf
 3 of such plan or issuer.”.

4 (c) ENFORCEMENT.—

5 (1) GROUP PLANS.—Section 2722 of the Public
 6 Health Service Act (42 U.S.C. 300gg–22) is amend-
 7 ed by adding at the end the following:

8 “(c) VIOLATION OF GENETIC DISCRIMINATION OR
 9 GENETIC DISCLOSURE PROVISIONS.—In any action under
 10 this section against any administrator of a group health
 11 plan, or health insurance issuer offering group health in-
 12 surance coverage in connection with a group health plan
 13 (including any third party administrator or other person
 14 acting for or on behalf of such plan or issuer) alleging
 15 a violation of subsections (a)(1)(F), (b) (with respect to
 16 cases relating to genetic information or information about
 17 a request or receipt of genetic services by an individual
 18 or family member of such individual), (c), (d), (e), (f), or
 19 (g) of section 2702 and section 2707 the court may award
 20 any appropriate legal or equitable relief. Such relief may
 21 include a requirement for the payment of attorney’s fees
 22 and costs, including the costs of expert witnesses.

23 “(d) CIVIL PENALTY.—The monetary provisions of
 24 section 308(b)(2)(C) of Public Law 101–336 (42 U.S.C.
 25 12188(b)) shall apply for purposes of the Secretary en-

1 forcing the provisions referred to in subsection (c), except
2 that any such relief awarded shall be paid only into the
3 general fund of the Treasury.”.

4 (2) INDIVIDUAL PLANS.—Section 2761 of the
5 Public Health Service Act (42 U.S.C. 300gg–45) is
6 amended by adding at the end the following:

7 “(c) VIOLATION OF GENETIC DISCRIMINATION OR
8 GENETIC DISCLOSURE PROVISIONS.—In any action under
9 this section against any health insurance issuer offering
10 health insurance coverage in the individual market (in-
11 cluding any other person acting for or on behalf of such
12 issuer) alleging a violation of section 2753 and 2754 the
13 court in which the action is commenced may award any
14 appropriate legal or equitable relief. Such relief may in-
15 clude a requirement for the payment of attorney’s fees and
16 costs, including the costs of expert witnesses.

17 “(d) CIVIL PENALTY.—The monetary provisions of
18 section 308(b)(2)(C) of Public Law 101–336 (42 U.S.C.
19 12188(b)) shall apply for purposes of the Secretary en-
20 forcing the provisions referred to in subsection (c), except
21 that any such relief awarded shall be paid only into the
22 general fund of the Treasury.”.

23 (d) PREEMPTION.—

1 (1) GROUP MARKET.—Section 2723 of the Pub-
2 lic Health Service Act (42 U.S.C. 300gg-23) is
3 amended—

4 (A) in subsection (a)(1), by inserting “or
5 (e)” after “subsection (b)”; and

6 (B) by adding at the end the following:

7 “(e) SPECIAL RULE IN CASE OF GENETIC INFORMA-
8 TION.—With respect to group health insurance coverage
9 offered by a health insurance issuer, the provisions of this
10 part relating to genetic information (including information
11 about a request for or the receipt of genetic services by
12 an individual or a family member of such individual) shall
13 not be construed to supersede any provision of State law
14 which establishes, implements, or continues in effect a
15 standard, requirement, or remedy that more completely—

16 “(1) protects the confidentiality of genetic in-
17 formation (including information about a request for
18 or the receipt of genetic services by an individual or
19 a family member of such individual) or the privacy
20 of an individual or a family member of the individual
21 with respect to genetic information (including infor-
22 mation about a request for or the receipt of genetic
23 services by an individual or a family member of such
24 individual); or

1 “(2) prohibits discrimination on the basis of ge-
2 netic information than does this part.”.

3 (2) INDIVIDUAL MARKET.—Section 2762 of the
4 Public Health Service Act (42 U.S.C. 300gg–46) is
5 amended—

6 (A) in subsection (a), by inserting “and ex-
7 cept as provided in subsection (c),” after “Sub-
8 ject to subsection (b),”; and

9 (B) by adding at the end the following:

10 “(c) SPECIAL RULE IN CASE OF GENETIC INFORMA-
11 TION.—With respect to individual health insurance cov-
12 erage offered by a health insurance issuer, the provisions
13 of this part (or part C insofar as it applies to this part)
14 relating to genetic information (including information
15 about a request for or the receipt of genetic services by
16 an individual or a family member of such individual) shall
17 not be construed to supersede any provision of State law
18 (as defined in section 2723(d)) which establishes, imple-
19 ments, or continues in effect a standard, requirement, or
20 remedy that more completely—

21 “(1) protects the confidentiality of genetic in-
22 formation (including information about a request for
23 or the receipt of genetic services of an individual or
24 a family member of such individual) or the privacy
25 of an individual or a family member of the individual

1 with respect to genetic information (including infor-
 2 mation about a request for or the receipt of genetic
 3 services by an individual or a family member of such
 4 individual) than does this part (or part C insofar as
 5 it applies to this part); or

6 “(2) prohibits discrimination on the basis of ge-
 7 netic information than does this part (or part C in-
 8 sofar as it applies to this part).”.

9 (e) ELIMINATION OF OPTION OF NON-FEDERAL
 10 GOVERNMENTAL PLANS TO BE EXCEPTED FROM RE-
 11 QUIREMENTS CONCERNING GENETIC INFORMATION.—
 12 Section 2721(b)(2) of the Public Health Service Act (42
 13 U.S. C. 300gg–21(b)(2)) is amended—

14 (1) in subparagraph (A), by striking “If the
 15 plan sponsor” and inserting “Except as provided in
 16 subparagraph (D), if the plan sponsor”; and

17 (2) by adding at the end the following:

18 “(D) ELECTION NOT APPLICABLE TO RE-
 19 QUIREMENTS CONCERNING GENETIC INFORMA-
 20 TION.—The election described in subparagraph
 21 (A) shall not be available with respect to the
 22 provisions of subsections (a)(1)(F), (c), (d), (e),
 23 (f), and (g) of section 2702 and section 2707,
 24 and the provisions of section 2702(b) to the ex-
 25 tent that they apply to genetic information (or

1 information about a request for or the receipt
 2 of genetic services by an individual or a family
 3 member of such individual).”.

4 (f) AMENDMENT CONCERNING SUPPLEMENTAL EX-
 5 CEPTED BENEFITS.—

6 (1) GROUP MARKET.—Section 2721(d)(3) of
 7 the Public Health Service Act (42 U.S.C. 300gg–
 8 23(d)(3)) is amended by inserting “, other than the
 9 requirements of subsections (a)(1)(F), (b) (in cases
 10 relating to genetic information or information about
 11 a request for or the receipt of genetic services by an
 12 individual or a family member of such individual)),
 13 (c), (d), (e), (f) and (g) of section 2702 and section
 14 2707,” after “The requirements of this part”.

15 (2) INDIVIDUAL MARKET.—Section 2763(b) of
 16 the Public Health Service Act (42 U.S.C. 300gg–
 17 47(b)) is amended—

18 (A) by striking “The requirements of this
 19 part” and inserting the following:

20 “(1) IN GENERAL.—Except as provided in para-
 21 graph (2), the requirements of this part”; and

22 (B) by adding at the end the following:

23 “(2) LIMITATION.—The requirements of sec-
 24 tions 2753 and 2754 shall apply to excepted benefits
 25 described in section 2791(c)(4).”.

1 (g) EFFECTIVE DATE.—

2 (1) IN GENERAL.—The amendments made by
3 this section shall apply with respect to—

4 (A) group health plans, and health insur-
5 ance coverage offered in connection with group
6 health plans, for plan years beginning; and

7 (B) health insurance coverage offered,
8 sold, issued, renewed, in effect, or operated in
9 the individual market, after;

10 October 1, 2000.

11 (2) SPECIAL RULE FOR COLLECTIVE BAR-
12 GAINING AGREEMENTS.—In the case of a group
13 health plan maintained pursuant to one or more col-
14 lective bargaining agreements between employee rep-
15 resentatives and one or more employers ratified be-
16 fore the date of the enactment of this Act, the
17 amendments made by this section shall not apply to
18 plan years beginning before the later of—

19 (A) the date on which the last of the col-
20 lective bargaining agreements relating to the
21 plan terminates (determined without regard to
22 any extension thereof agreed to after the date
23 of the enactment of this Act); or

24 (B) October 1, 2000.

1 For purposes of subparagraph (A), any plan amend-
 2 ment made pursuant to a collective bargaining
 3 agreement relating to the plan which amends the
 4 plan solely to conform to any requirement of the
 5 amendments made by this section shall not be treat-
 6 ed as a termination of such collective bargaining
 7 agreement.

8 **SEC. 103. AMENDMENTS TO INTERNAL REVENUE CODE OF**
 9 **1986.**

10 (a) PROHIBITION OF HEALTH INSURANCE DISCRIMI-
 11 NATION ON THE BASIS OF GENETIC SERVICES OR PRE-
 12 DICTIVE GENETIC INFORMATION.—

13 (1) NO ENROLLMENT RESTRICTION FOR GE-
 14 NETIC SERVICES.—Section 9802(a)(1)(F) of the In-
 15 ternal Revenue Code of 1986 is amended by insert-
 16 ing before the period “(or information about a re-
 17 quest for or the receipt of genetic services by such
 18 individual or family member of such individual)”.

19 (2) NO DISCRIMINATION IN GROUP RATE BASED
 20 ON PREDICTIVE GENETIC INFORMATION.—

21 (A) IN GENERAL.—Subchapter B of chap-
 22 ter 100 of the Internal Revenue Code of 1986
 23 is amended by adding at the end the following:

1 **“SEC. 9813. PROHIBITING DISCRIMINATION AGAINST**
2 **GROUPS ON THE BASIS OF PREDICTIVE GE-**
3 **NETIC INFORMATION.**

4 “A group health plan shall not deny eligibility to a
5 group or adjust premium or contribution rates for a group
6 on the basis of predictive genetic information concerning
7 an individual in the group (or information about a request
8 for or the receipt of genetic services by such individual
9 or family member of such individual).”.

10 (B) CONFORMING AMENDMENTS.—

11 (i) Section 9802(b)(2)(A) of the Inter-
12 nal Revenue Code of 1986 is amended to
13 read as follows:

14 “(A) to restrict the amount that an em-
15 ployer may be charged for coverage under a
16 group health plan, except as provided in section
17 9813; or”.

18 (ii) Section 9831(a) of the Internal
19 Revenue Code of 1986 is amended by in-
20 serting “(other than subsections (a)(1)(F),
21 (b) (with respect to cases relating to ge-
22 netic information or information about a
23 request or receipt of genetic services by an
24 individual or family member of such indi-
25 vidual), (d) (e), (f), (g) or (h) of section
26 9802 or section 9813) after “chapter”.

1 (b) LIMITATIONS ON GENETIC TESTING AND ON
2 COLLECTION AND DISCLOSURE OF PREDICTIVE GENETIC
3 INFORMATION.—Section 9802 of the Internal Revenue
4 Code of 1986 is amended by adding at the end the fol-
5 lowing:

6 “(d) GENETIC TESTING.—

7 “(1) LIMITATION ON REQUESTING OR REQUIR-
8 ING GENETIC TESTING.—A group health plan may
9 not request or require an individual or a family
10 member of such individual to undergo a genetic test.

11 “(2) RULE OF CONSTRUCTION.—Nothing in
12 this title shall be construed to limit the authority of
13 a health care professional, who is providing treat-
14 ment with respect to an individual and who is em-
15 ployed by a group health plan, to request that such
16 individual or family member of such individual un-
17 dergo a genetic test. Such a health care professional
18 shall not require that such individual or family mem-
19 ber undergo a genetic test.

20 “(e) COLLECTION OF PREDICTIVE GENETIC INFOR-
21 MATION.—Except as provided in subsections (g) and (h),
22 a group health plan shall not request, require, collect, or
23 purchase predictive genetic information concerning an in-
24 dividual (or information about a request for or the receipt

1 of genetic services by such individual or family member
2 of such individual).

3 “(f) DISCLOSURE OF PREDICTIVE GENETIC INFOR-
4 MATION.—A group health plan shall not disclose predictive
5 genetic information about an individual (or information
6 about a request for or the receipt of genetic services by
7 such individual or family member of such individual) to—

8 “(1) any entity that is a member of the same
9 controlled group as such issuer or plan sponsor of
10 such group health plan;

11 “(2) any other group health plan or health in-
12 surance issuer or any insurance agent, third party
13 administrator, or other person subject to regulation
14 under State insurance laws;

15 “(3) the Medical Information Bureau or any
16 other person that collects, compiles, publishes, or
17 otherwise disseminates insurance information;

18 “(4) the individual’s employer or any plan spon-
19 sor; or

20 “(5) any other person the Secretary may speci-
21 fy in regulations.

22 “(g) INFORMATION FOR PAYMENT FOR GENETIC
23 SERVICES.—

24 “(1) IN GENERAL.—With respect to payment
25 for genetic services conducted concerning an indi-

1 vidual or the coordination of benefits, a group health
2 plan may request that the individual provide the
3 plan with evidence that such services were per-
4 formed.

5 “(2) RULE OF CONSTRUCTION.—Nothing in
6 paragraph (1) shall be construed to—

7 “(A) permit a group health plan to request
8 (or require) the results of the services referred
9 to in such paragraph; or

10 “(B) require that a group health plan
11 make payment for services described in such
12 paragraph where the individual involved has re-
13 fused to provide evidence of the performance of
14 such services pursuant to a request by the plan
15 in accordance with such paragraph.

16 “(h) INFORMATION FOR PAYMENT OF OTHER
17 CLAIMS.—With respect to the payment of claims for bene-
18 fits other than genetic services, a group health plan may
19 request that an individual provide predictive genetic infor-
20 mation so long as such information—

21 “(1) is used solely for the payment of a claim;

22 “(2) is limited to information that is directly re-
23 lated to and necessary for the payment of such claim
24 and the claim would otherwise be denied but for the
25 predictive genetic information; and

1 “(3) is used only by an individual (or individ-
 2 uals) within such plan or issuer who needs access to
 3 such information for purposes of payment of a
 4 claim.

5 “(i) RULES OF CONSTRUCTION.—

6 “(1) COLLECTION OR DISCLOSURE AUTHORIZED
 7 BY INDIVIDUAL.—The provisions of subsections (e)
 8 (regarding collection) and (f) shall not apply to an
 9 individual if the individual (or legal representative
 10 of, the individual) provides prior, knowing, vol-
 11 untary, and written authorization for the collection
 12 or disclosure of predictive genetic information.

13 “(2) DISCLOSURE FOR HEALTH CARE TREAT-
 14 MENT.—Nothing in this section shall be construed to
 15 limit or restrict the disclosure of predictive genetic
 16 information from a health care provider to another
 17 health care provider for the purpose of providing
 18 health care treatment to the individual involved.

19 “(j) DEFINITIONS.—In this section:

20 “(1) CONTROLLED GROUP.—The term ‘con-
 21 trolled group’ means any group treated as a single
 22 employer under subsections (b), (c), (m), or (o) of
 23 section 414.

24 “(2) GROUP HEALTH PLAN, HEALTH INSUR-
 25 ANCE ISSUER.—The terms ‘group health plan’ and

1 ‘health insurance issuer’ include a third party ad-
2 ministrator or other person acting for or on behalf
3 of such plan or issuer.

4 “(k) VIOLATION OF GENETIC DISCRIMINATION OR
5 GENETIC DISCLOSURE PROVISIONS.—In any action under
6 this section against any administrator of a group health
7 plan (including any third party administrator or other per-
8 son acting for or on behalf of such plan) alleging a viola-
9 tion of subsection (a)(1)(F), (b) (with respect to cases re-
10 lating to genetic information or information about a re-
11 quest or receipt of genetic services by an individual or fam-
12 ily member of such individual), (d), (e), (f), (g) or (h) of
13 this section or section 9813, the court may award any ap-
14 propriate legal or equitable relief. Such relief may include
15 a requirement for the payment of attorney’s fees and
16 costs, including the costs of expert witnesses.

17 “(l) CIVIL PENALTY.—The monetary provisions of
18 section 308(b)(2)(C) of Public Law 101–336 (42 U.S.C.
19 12188(b)) shall apply for purposes of the Secretary en-
20 forcing the provisions referred to in subsection (k), except
21 that any such relief awarded shall be paid only into the
22 general fund of the Treasury.”.

23 (c) DEFINITIONS.—Section 9832(d) of the Internal
24 Revenue Code of 1986 is amended by adding at the end
25 the following:

1 “(6) FAMILY MEMBER.—The term ‘family
2 member’ means with respect to an individual—

3 “(A) the spouse of the individual;

4 “(B) a dependent child of the individual,
5 including a child who is born to or placed for
6 adoption with the individual; and

7 “(C) all other individuals related by blood
8 to the individual or the spouse or child de-
9 scribed in subparagraph (A) or (B).

10 “(7) GENETIC INFORMATION.—The term ‘ge-
11 netic information’ means information about genes,
12 gene products, or inherited characteristics that may
13 derive from an individual or a family member of
14 such individual (including information about a re-
15 quest for or the receipt of genetic services by such
16 individual or family member of such individual).

17 “(8) GENETIC SERVICES.—The term ‘genetic
18 services’ means health services, including genetic
19 tests, provided to obtain, assess, or interpret genetic
20 information for diagnostic and therapeutic purposes,
21 and for genetic education and counseling.

22 “(9) GENETIC TEST.—The term ‘genetic test’
23 means the analysis of human DNA, RNA, chro-
24 mosomes, proteins, and certain metabolites in order

1 to detect genotypes, mutations, or chromosomal
2 changes.

3 “(10) PREDICTIVE GENETIC INFORMATION.—

4 “(A) IN GENERAL.—The term ‘predictive
5 genetic information’ means—

6 “(i) information about an individual’s
7 genetic tests;

8 “(ii) information about genetic tests
9 of family members of the individual; or

10 “(iii) information about the occur-
11 rence of a disease or disorder in family
12 members.

13 “(B) LIMITATIONS.—The term ‘predictive
14 genetic information’ shall not include—

15 “(i) information about the sex or age
16 of the individual;

17 “(ii) information about chemical,
18 blood, or urine analyses of the individual,
19 unless these analyses are genetic tests; or

20 “(iii) information about physical
21 exams of the individual, and other informa-
22 tion relevant to determining the current
23 health status of the individual.”.

24 (d) EFFECTIVE DATE.—

1 (1) IN GENERAL.—Except as provided in this
2 section, this section and the amendments made by
3 this section shall apply with respect to group health
4 plans for plan years beginning after October 1,
5 2000.

6 (2) SPECIAL RULE FOR COLLECTIVE BAR-
7 GAINING AGREEMENTS.—In the case of a group
8 health plan maintained pursuant to one or more col-
9 lective bargaining agreements between employee rep-
10 resentatives and one or more employers ratified be-
11 fore the date of the enactment of this Act, this sec-
12 tion and the amendments made by this section shall
13 not apply to plan years beginning before the later
14 of—

15 (A) the date on which the last of the col-
16 lective bargaining agreements relating to the
17 plan terminates (determined without regard to
18 any extension thereof agreed to after the date
19 of the enactment of this Act), or

20 (B) October 1, 2000.

21 For purposes of subparagraph (A), any plan amend-
22 ment made pursuant to a collective bargaining
23 agreement relating to the plan which amends the
24 plan solely to conform to any requirement of the
25 amendments made by this section shall not be treat-

1 ed as a termination of such collective bargaining
2 agreement.

3 **SEC. 104. AMENDMENTS TO TITLE XVIII OF THE SOCIAL SE-**
4 **CURITY ACT RELATING TO MEDIGAP.**

5 (a) NONDISCRIMINATION.—

6 (1) IN GENERAL.—Section 1882(s)(2) of the
7 Social Security Act (42 U.S.C. 1395ss(s)(2)) is
8 amended by adding at the end the following:

9 “(E)(i) An issuer of a medicare supple-
10 mental policy shall not deny or condition the
11 issuance or effectiveness of the policy, and may
12 not discriminate in the pricing of the policy (in-
13 cluding the adjustment of premium rates) of an
14 eligible individual on the basis of predictive ge-
15 netic information concerning the individual (or
16 information about a request for, or the receipt
17 of, genetic services by such individual or family
18 member of such individual).

19 “(ii) For purposes of clause (i), the terms
20 ‘family member’, ‘genetic services’, and ‘pre-
21 dictive genetic information’ shall have the
22 meanings given such terms in subsection (v).”.

23 (2) EFFECTIVE DATE.—The amendment made
24 by paragraph (1) shall apply with respect to a policy
25 for policy years beginning after October 1, 2000.

1 (b) LIMITATIONS ON GENETIC TESTING AND ON
2 COLLECTION AND DISCLOSURE OF PREDICTIVE GENETIC
3 INFORMATION.—

4 (1) IN GENERAL.—Section 1882 of the Social
5 Security Act (42 U.S.C. 1395ss) is amended by add-
6 ing at the end the following:

7 “(v) LIMITATIONS ON GENETIC TESTING AND ON
8 COLLECTION AND DISCLOSURE OF PREDICTIVE GENETIC
9 INFORMATION.—

10 “(1) GENETIC TESTING.—

11 “(A) LIMITATION ON REQUESTING OR RE-
12 QUIRING GENETIC TESTING.—An issuer of a
13 medicare supplemental policy shall not request
14 or require an individual or a family member of
15 such individual to undergo a genetic test.

16 “(B) RULE OF CONSTRUCTION.—Nothing
17 in this title shall be construed to limit the au-
18 thority of a health care professional, who is pro-
19 viding treatment with respect to an individual
20 and who is employed by an issuer of a medicare
21 supplemental policy, to request that such indi-
22 vidual or family member of such individual un-
23 dergo a genetic test. Such a health care profes-
24 sional shall not require that such individual or
25 family member undergo a genetic test.

1 “(2) COLLECTION OF PREDICTIVE GENETIC IN-
2 FORMATION.—Except as provided in paragraphs (4)
3 and (5), an issuer of a medicare supplemental policy
4 shall not request, require, collect, or purchase pre-
5 dictive genetic information concerning an individual
6 (or information about a request for or the receipt of
7 genetic services by such individual or family member
8 of such individual).

9 “(3) DISCLOSURE OF PREDICTIVE GENETIC IN-
10 FORMATION.—An issuer of a medicare supplemental
11 policy shall not disclose predictive genetic informa-
12 tion about an individual (or information about a re-
13 quest for or the receipt of genetic services by such
14 individual or family member of such individual) to—

15 “(A) any entity that is a member of the
16 same controlled group as such issuer;

17 “(B) any issuer of a medicare supple-
18 mental policy, group health plan or health in-
19 surance issuer, or any insurance agent, third
20 party administrator, or other person subject to
21 regulation under State insurance laws;

22 “(C) the Medical Information Bureau or
23 any other person that collects, compiles, pub-
24 lishes, or otherwise disseminates insurance in-
25 formation;

1 “(D) the individual’s employer or any plan
2 sponsor; or

3 “(E) any other person the Secretary may
4 specify in regulations.

5 “(4) INFORMATION FOR PAYMENT FOR GE-
6 NETIC SERVICES.—

7 “(A) IN GENERAL.—With respect to pay-
8 ment for genetic services conducted concerning
9 an individual or the coordination of benefits, an
10 issuer of a medicare supplemental policy may
11 request that the individual provide the issuer
12 with evidence that such services were per-
13 formed.

14 “(B) RULE OF CONSTRUCTION.—Nothing
15 in subparagraph (A) shall be construed to—

16 “(i) permit an issuer to request (or
17 require) the results of the services referred
18 to in such subparagraph; or

19 “(ii) require that an issuer make pay-
20 ment for services described in such sub-
21 paragraph where the individual involved
22 has refused to provide evidence of the per-
23 formance of such services pursuant to a re-
24 quest by the issuer in accordance with such
25 subparagraph.

1 “(5) INFORMATION FOR PAYMENT OF OTHER
2 CLAIMS.—With respect to the payment of claims for
3 benefits other than genetic services, an issuer of a
4 medicare supplemental policy may request that an
5 individual provide predictive genetic information so
6 long as such information—

7 “(A) is used solely for the payment of a
8 claim;

9 “(B) is limited to information that is di-
10 rectly related to and necessary for the payment
11 of such claim and the claim would otherwise be
12 denied but for the predictive genetic informa-
13 tion; and

14 “(C) is used only by an individual (or indi-
15 viduals) within such issuer who needs access to
16 such information for purposes of payment of a
17 claim.

18 “(6) RULES OF CONSTRUCTION.—

19 “(A) COLLECTION OR DISCLOSURE AU-
20 THORIZED BY INDIVIDUAL.—The provisions of
21 paragraphs (2) (regarding collection) and (3)
22 shall not apply to an individual if the individual
23 (or legal representative of, the individual) pro-
24 vides prior, knowing, voluntary, and written au-

1 thorization for the collection or disclosure of
2 predictive genetic information.

3 “(B) DISCLOSURE FOR HEALTH CARE
4 TREATMENT.—Nothing in this section shall be
5 construed to limit or restrict the disclosure of
6 predictive genetic information from a health
7 care provider to another health care provider
8 for the purpose of providing health care treat-
9 ment to the individual involved.

10 “(7) VIOLATION OF GENETIC DISCRIMINATION
11 OR GENETIC DISCLOSURE PROVISIONS.—In any ac-
12 tion under this subsection against any administrator
13 of a medicare supplemental policy (including any
14 third party administrator or other person acting for
15 or on behalf of such policy) alleging a violation of
16 this subsection, the court may award any appro-
17 priate legal or equitable relief. Such relief may in-
18 clude a requirement for the payment of attorney’s
19 fees and costs, including the costs of expert wit-
20 nesses.

21 “(8) CIVIL PENALTY.—The monetary provisions
22 of section 308(b)(2)(C) of Public Law 101–336 (42
23 U.S.C. 12188(b)) shall apply for purposes of the
24 Secretary enforcing the provisions of this subsection,

1 except that any such relief awarded shall be paid
2 only into the general fund of the Treasury.

3 “(9) SPECIAL RULE IN CASE OF GENETIC IN-
4 FORMATION.—This subsection (relating to genetic
5 information or information about a request for, or
6 the receipt of, genetic services by an individual or a
7 family member of such individual) shall not be con-
8 strued to supersede any provision of State law which
9 establishes, implements, or continues in effect a
10 standard, requirement, or remedy that more
11 completely—

12 “(A) protects the confidentiality of genetic
13 information (including information about a re-
14 quest for, or the receipt of, genetic services by
15 an individual or a family member of such indi-
16 vidual) or the privacy of an individual or a fam-
17 ily member of the individual with respect to ge-
18 netic information (including information about
19 a request for, or the receipt of, genetic services
20 by an individual or a family member of such in-
21 dividual) than does this subsection; or

22 “(B) prohibits discrimination on the basis
23 of genetic information than does this sub-
24 section.

25 “(10) DEFINITIONS.—In this subsection:

1 “(A) CONTROLLED GROUP.—The term
2 ‘controlled group’ means any group treated as
3 a single employer under subsection (b), (c),
4 (m), or (o) of section 414 of the Internal Rev-
5 enue Code of 1986.

6 “(B) FAMILY MEMBER.—The term ‘family
7 member’ means with respect to an individual—

8 “(i) the spouse of the individual;

9 “(ii) a dependent child of the indi-
10 vidual, including a child who is born to or
11 placed for adoption with the individual;
12 and

13 “(iii) all other individuals related by
14 blood to the individual or the spouse or
15 child described in clause (i) or (ii).

16 “(C) GENETIC INFORMATION.—The term
17 ‘genetic information’ means information about
18 genes, gene products, or inherited characteris-
19 tics that may derive from an individual or a
20 family member of such individual (including in-
21 formation about a request for, or the receipt of,
22 genetic services by such individual or family
23 member of such individual).

24 “(D) GENETIC SERVICES.—The term ‘ge-
25 netic services’ means health services, including

1 genetic tests, provided to obtain, assess, or in-
2 terpret genetic information for diagnostic and
3 therapeutic purposes, and for genetic education
4 and counseling.

5 “(E) GENETIC TEST.—The term ‘genetic
6 test’ means the analysis of human DNA, RNA,
7 chromosomes, proteins, and certain metabolites
8 in order to detect genotypes, mutations, or
9 chromosomal changes.

10 “(F) ISSUER OF A MEDICARE SUPPLE-
11 MENTAL POLICY.—The term ‘issuer of a medi-
12 care supplemental policy’ includes a third-party
13 administrator or other person acting for or on
14 behalf of such issuer.

15 “(G) PREDICTIVE GENETIC INFORMA-
16 TION.—

17 “(i) IN GENERAL.—The term ‘pre-
18 dictive genetic information’ means—

19 “(I) information about an indi-
20 vidual’s genetic tests;

21 “(II) information about genetic
22 tests of family members of the indi-
23 vidual; or

1 “(III) information about the oc-
2 currence of a disease or disorder in
3 family members.

4 “(ii) LIMITATIONS.—The term ‘pre-
5 dictive genetic information’ shall not
6 include—

7 “(I) information about the sex or
8 age of the individual;

9 “(II) information about chemical,
10 blood, or urine analyses of the indi-
11 vidual, unless these analyses are ge-
12 netic tests; or

13 “(III) information about physical
14 exams of the individual, and other in-
15 formation relevant to determining the
16 current health status of the indi-
17 vidual.”.

18 (2) CONFORMING AMENDMENT.—Section
19 1882(o) of the Social Security Act (42 U.S.C.
20 1395ss(o)) is amended by adding at the end the fol-
21 lowing:

22 “(4) The issuer of the medicare supplemental
23 policy complies with subsection (s)(2)(E) and sub-
24 section (v).”.

1 (3) EFFECTIVE DATE.—The amendments made
2 by this subsection shall apply with respect to an
3 issuer of a medicare supplemental policy for policy
4 years beginning after October 1, 2000.

5 (c) TRANSITION PROVISIONS.—

6 (1) IN GENERAL.—If the Secretary of Health
7 and Human Services identifies a State as requiring
8 a change to its statutes or regulations to conform its
9 regulatory program to the changes made by this sec-
10 tion, the State regulatory program shall not be con-
11 sidered to be out of compliance with the require-
12 ments of section 1882 of the Social Security Act due
13 solely to failure to make such change until the date
14 specified in paragraph (4).

15 (2) NAIC STANDARDS.—If, not later than June
16 30, 2000, the National Association of Insurance
17 Commissioners (in this subsection referred to as the
18 “NAIC”) modifies its NAIC Model Regulation relat-
19 ing to section 1882 of the Social Security Act (re-
20 ferred to in such section as the 1991 NAIC Model
21 Regulation, as subsequently modified) to conform to
22 the amendments made by this section, such revised
23 regulation incorporating the modifications shall be
24 considered to be the applicable NAIC model regula-
25 tion (including the revised NAIC model regulation

1 and the 1991 NAIC Model Regulation) for the pur-
2 poses of such section.

3 (3) SECRETARY STANDARDS.—If the NAIC
4 does not make the modifications described in para-
5 graph (2) within the period specified in such para-
6 graph, the Secretary of Health and Human Services
7 shall, not later than October 1, 2000, make the
8 modifications described in such paragraph and such
9 revised regulation incorporating the modifications
10 shall be considered to be the appropriate regulation
11 for the purposes of such section.

12 (4) DATE SPECIFIED.—

13 (A) IN GENERAL.—Subject to subpara-
14 graph (B), the date specified in this paragraph
15 for a State is the earlier of—

16 (i) the date the State changes its stat-
17 utes or regulations to conform its regu-
18 latory program to the changes made by
19 this section, or

20 (ii) October 1, 2000.

21 (B) ADDITIONAL LEGISLATIVE ACTION RE-
22 QUIRED.—In the case of a State which the Sec-
23 retary identifies as—

24 (i) requiring State legislation (other
25 than legislation appropriating funds) to

1 conform its regulatory program to the
2 changes made in this section, but

3 (ii) having a legislature which is not
4 scheduled to meet in 2000 in a legislative
5 session in which such legislation may be
6 considered,

7 the date specified in this paragraph is the first
8 day of the first calendar quarter beginning after
9 the close of the first legislative session of the
10 State legislature that begins on or after July 1,
11 2000. For purposes of the previous sentence, in
12 the case of a State that has a 2-year legislative
13 session, each year of such session shall be
14 deemed to be a separate regular session of the
15 State legislature.

16 **TITLE II—PROHIBITION OF EM-**
17 **PLOYMENT DISCRIMINATION**
18 **ON THE BASIS OF PRE-**
19 **DICTIVE GENETIC INFORMA-**
20 **TION**

21 **SEC. 201. DEFINITIONS.**

22 In this title:

23 (1) EMPLOYEE; EMPLOYER; EMPLOYMENT
24 AGENCY; LABOR ORGANIZATION; MEMBER.—The
25 terms “employee”, “employer”, “employment agen-

cy”, and “labor organization” have the meanings given such terms in section 701 of the Civil Rights Act of 1964 (42 U.S.C. 2000e), except that the terms “employee” and “employer” shall also include the meanings given such terms in section 717 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–16). The terms “employee” and “member” include an applicant for employment and an applicant for membership in a labor organization, respectively.

(2) FAMILY MEMBER.—The term “family member” means with respect to an individual—

(A) the spouse of the individual;

(B) a dependent child of the individual, including a child who is born to or placed for adoption with the individual; and

(C) all other individuals related by blood to the individual or the spouse or child described in subparagraph (A) or (B).

(3) GENETIC MONITORING.—The term “genetic monitoring” means the periodic examination of employees to evaluate acquired modifications to their genetic material, such as chromosomal damage or evidence of increased occurrence of mutations, that may have developed in the course of employment due to exposure to toxic substances in the workplace, in

1 order to identify, evaluate, and respond to the ef-
2 fects of or control adverse environmental exposures
3 in the workplace.

4 (4) GENETIC SERVICES.—The term “genetic
5 services” means health services, including genetic
6 tests, provided to obtain, assess, or interpret genetic
7 information for diagnostic and therapeutic purposes,
8 and for genetic education and counseling.

9 (5) GENETIC TEST.—The term “genetic test”
10 means the analysis of human DNA, RNA, chro-
11 mosomes, proteins, and certain metabolites in order
12 to detect genotypes, mutations, or chromosomal
13 changes.

14 (6) PREDICTIVE GENETIC INFORMATION.—

15 (A) IN GENERAL.—The term “predictive
16 genetic information” means—

17 (i) information about an individual’s
18 genetic tests;

19 (ii) information about genetic tests of
20 family members of the individual; or

21 (iii) information about the occurrence
22 of a disease or disorder in family members.

23 (B) LIMITATIONS.—The term “predictive
24 genetic information” shall not include—

- 1 (i) information about the sex or age of
2 the individual;
- 3 (ii) information about chemical, blood,
4 or urine analyses of the individual, unless
5 these analyses are genetic tests; or
- 6 (iii) information about physical exams
7 of the individual, and other information
8 relevant to determining the current health
9 status of the individual.

10 **SEC. 202. EMPLOYER PRACTICES.**

11 (a) IN GENERAL.—It shall be an unlawful employ-
12 ment practice for an employer—

13 (1) to fail or refuse to hire or to discharge any
14 individual, or otherwise to discriminate against any
15 individual with respect to the compensation, terms,
16 conditions, or privileges of employment of the indi-
17 vidual, because of predictive genetic information
18 with respect to the individual (or information about
19 a request for or the receipt of genetic services by
20 such individual or family member of such individual;

21 (2) to limit, segregate, or classify the employees
22 of the employer in any way that would deprive or
23 tend to deprive any individual of employment oppor-
24 tunities or otherwise adversely affect the status of
25 the individual as an employee, because of predictive

1 genetic information with respect to the individual, or
2 information about a request for or the receipt of ge-
3 netic services by such individual or family member
4 of such individual; or

5 (3) to request, require, collect or purchase pre-
6 dictive genetic information with respect to an indi-
7 vidual or a family member of the individual except—

8 (A) where used for genetic monitoring of
9 biological effects of toxic substances in the
10 workplace, but only if—

11 (i) the employee has provided prior,
12 knowing, voluntary, and written authoriza-
13 tion;

14 (ii) the employee is informed of indi-
15 vidual monitoring results;

16 (iii) the monitoring conforms to any
17 genetic monitoring regulations that may be
18 promulgated by the Secretary of Labor
19 pursuant to the Occupational Safety and
20 Health Act of 1970 (29 U.S.C. 651 et
21 seq.) or the Federal Mine Safety and
22 Health Act of 1977 (30 U.S.C. 801 et
23 seq.); and

24 (iv) the employer, excluding any li-
25 censed health care professional that is in-

1 involved in the genetic monitoring program,
2 receives the results of the monitoring only
3 in aggregate terms that do not disclose the
4 identity of specific employees; or

5 (B) where genetic services are offered by
6 the employer and the employee provides prior,
7 knowing, voluntary, and written authorization,
8 and only the employee or family member of
9 such employee receives the results of such serv-
10 ices.

11 (b) LIMITATION.—In the case of predictive genetic in-
12 formation to which subparagraph (A) or (B) of subsection
13 (a)(3) applies, such information may not be used in viola-
14 tion of paragraph (1) or (2) of subsection (a).

15 **SEC. 203. EMPLOYMENT AGENCY PRACTICES.**

16 It shall be an unlawful employment practice for an
17 employment agency—

18 (1) to fail or refuse to refer for employment, or
19 otherwise to discriminate against, any individual be-
20 cause of predictive genetic information with respect
21 to the individual (or information about a request for
22 or the receipt of genetic services by such individual
23 or family member of such individual);

24 (2) to limit, segregate, or classify individuals or
25 fail or refuse to refer for employment any individual

1 in any way that would deprive or tend to deprive any
2 individual of employment opportunities or would
3 limit the employment opportunities or otherwise ad-
4 versely affect the status of the individual as an em-
5 ployee, because of predictive genetic information
6 with respect to the individual (or information about
7 a request for or the receipt of genetic services by
8 such individual or family member of such indi-
9 vidual);

10 (3) to request, require, collect or purchase pre-
11 dictive genetic information with respect to an indi-
12 vidual (or information about a request for or the re-
13 ceipt of genetic services by such individual or family
14 member of such individual); or

15 (4) to cause or attempt to cause an employer to
16 discriminate against an individual in violation of this
17 title.

18 **SEC. 204. LABOR ORGANIZATION PRACTICES.**

19 It shall be an unlawful employment practice for a
20 labor organization—

21 (1) to exclude or to expel from the membership
22 of the organization, or otherwise to discriminate
23 against, any individual because of predictive genetic
24 information with respect to the individual (or infor-
25 mation about a request for or the receipt of genetic

1 services by such individual or family member of such
2 individual);

3 (2) to limit, segregate, or classify the members
4 of the organization, or fail or refuse to refer for em-
5 ployment any individual, in any way that would de-
6 prive or tend to deprive any individual of employ-
7 ment opportunities, or would limit the employment
8 opportunities or otherwise adversely affect the status
9 of the individual as an employee, because of pre-
10 dictive genetic information with respect to the indi-
11 vidual (or information about a request for or the re-
12 ceipt of genetic services by such individual or family
13 member of such individual);

14 (3) to request, require, collect or purchase pre-
15 dictive genetic information with respect to an indi-
16 vidual (or information about a request for or the re-
17 ceipt of genetic services by such individual or family
18 member of such individual); or

19 (4) to cause or attempt to cause an employer to
20 discriminate against an individual in violation of this
21 title.

22 **SEC. 205. TRAINING PROGRAMS.**

23 It shall be an unlawful employment practice for any
24 employer, labor organization, or joint labor-management

1 committee controlling apprenticeship or other training or
2 retraining, including on-the-job training programs—

3 (1) to discriminate against any individual be-
4 cause of predictive genetic information with respect
5 to the individual (or information about a request for
6 or the receipt of genetic services by such individual),
7 in admission to, or employment in, any program es-
8 tablished to provide apprenticeship or other training
9 or retraining;

10 (2) to limit, segregate, or classify the members
11 of the organization, or fail or refuse to refer for em-
12 ployment any individual, in any way that would de-
13 prive or tend to deprive any individual of employ-
14 ment opportunities, or would limit the employment
15 opportunities or otherwise adversely affect the status
16 of the individual as an employee, because of pre-
17 dictive genetic information with respect to the indi-
18 vidual (or information about a request for or receipt
19 of genetic services by such individual or family mem-
20 ber of such individual);

21 (3) to request, require, collect or purchase pre-
22 dictive genetic information with respect to an indi-
23 vidual (or information about a request for or receipt
24 of genetic services by such individual or family mem-
25 ber of such individual); or

1 (4) to cause or attempt to cause an employer to
2 discriminate against an individual in violation of this
3 title.

4 **SEC. 206. MAINTENANCE AND DISCLOSURE OF PREDICTIVE**
5 **GENETIC INFORMATION.**

6 (a) MAINTENANCE OF PREDICTIVE GENETIC INFOR-
7 MATION.—If an employer possesses predictive genetic in-
8 formation about an employee (or information about a re-
9 quest for or receipt of genetic services by such employee
10 or family member of such employee), such information
11 shall be treated or maintained as part of the employee’s
12 confidential medical records.

13 (b) DISCLOSURE OF PREDICTIVE GENETIC INFORMA-
14 TION.—An employer shall not disclose predictive genetic
15 information (or information about a request for or receipt
16 of genetic services by such employee or family member of
17 such employee) except—

18 (1) to the employee who is the subject of the in-
19 formation at the request of the employee;

20 (2) to an occupational or other health re-
21 searcher if the research is conducted in compliance
22 with the regulations and protections provided for
23 under part 46 of title 45, Code of Federal Regula-
24 tions;

1 (3) under legal compulsion of a Federal court
2 order, except that if the court order was secured
3 without the knowledge of the individual to whom the
4 information refers, the employer shall provide the in-
5 dividual with adequate notice to challenge the court
6 order unless the court order also imposes confiden-
7 tiality requirements; and

8 (4) to government officials who are inves-
9 tigating compliance with this Act if the information
10 is relevant to the investigation.

11 **SEC. 207. CIVIL ACTION.**

12 (a) IN GENERAL.—One or more employees, members
13 of a labor organization, or participants in training pro-
14 grams may bring an action in a Federal or State court
15 of competent jurisdiction against an employer, employ-
16 ment agency, labor organization, or joint labor-manage-
17 ment committee or training program who commits a viola-
18 tion of this title.

19 (b) ENFORCEMENT BY THE EQUAL EMPLOYMENT
20 OPPORTUNITY COMMISSION.—

21 (1) IN GENERAL.—The powers, remedies, and
22 procedures set forth in sections 705, 706, 707, 709,
23 710, and 717 of the Civil Rights Act of 1964 (42
24 U.S.C. 2000e-4, 2000e-5, 2000e-6, 2000e-8,
25 2000e-9, and 2000e-16) shall be the powers, rem-

1 edies, and procedures provided to the Equal Employ-
2 ment Opportunity Commission to enforce this title.
3 The Commission may promulgate regulations to im-
4 plement these powers, remedies, and procedures.

5 (2) EXHAUSTION OF REMEDIES.—Nothing in
6 this subsection shall be construed to require that an
7 individual exhaust the administrative remedies avail-
8 able through the Equal Employment Opportunity
9 Commission prior to commencing a civil action
10 under this section, except that if an individual files
11 a charge of discrimination with the Commission that
12 alleges a violation of this title, the individual shall
13 exhaust the administrative remedies available
14 through the Commission prior to commencing a civil
15 action under this section.

16 (c) REMEDY.—A Federal or State court may award
17 any appropriate legal or equitable relief under this section.
18 Such relief may include a requirement for the payment
19 of attorney’s fees and costs, including the costs of experts.

20 **SEC. 208. CONSTRUCTION.**

21 Nothing in this title shall be construed to—

22 (1) limit the rights or protections of an indi-
23 vidual under the Americans with Disabilities Act of
24 1990 (42 U.S.C. 12101 et seq.), including coverage

1 afforded to individuals under section 102 of such
2 Act;

3 (2) limit the rights or protections of an indi-
4 vidual under the Rehabilitation Act of 1973 (29
5 U.S.C. 701 et seq.);

6 (3) limit the rights or protections of an indi-
7 vidual under any other Federal or State statute that
8 provides equal or greater protection to an individual
9 than the rights accorded under this Act;

10 (4) apply to the Armed Forces Repository of
11 Specimen Samples for the Identification of Remains;
12 or

13 (5) limit the statutory or regulatory authority
14 of the Occupational Safety and Health Administra-
15 tion or the Mine Safety and Health Administration
16 to promulgate or enforce workplace safety and
17 health laws and regulations.

18 **SEC. 209. AUTHORIZATION OF APPROPRIATIONS.**

19 There are authorized to be appropriated such sums
20 as may be necessary to carry out this title.

21 **SEC. 210. EFFECTIVE DATE.**

22 This title shall become effective on October 1, 2000.

○