

106TH CONGRESS  
1ST SESSION

# S. 1322

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

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## IN THE SENATE OF THE UNITED STATES

JULY 1, 1999

Mr. DASCHLE (for himself, Mr. HARKIN, Mr. DODD, and Mr. KENNEDY) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

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## 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,*

3       **SECTION 1. SHORT TITLE.**

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

1 **TITLE I—PROHIBITION OF**  
 2 **HEALTH INSURANCE DIS-**  
 3 **CRIMINATION ON THE BASIS**  
 4 **OF PREDICTIVE GENETIC IN-**  
 5 **FORMATION**

6 **SEC. 101. AMENDMENTS TO EMPLOYEE RETIREMENT IN-**  
 7 **COME SECURITY ACT OF 1974.**

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

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

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

20 (A) IN GENERAL.—Subpart B of Part 7 of  
 21 subtitle B of title I of the Employee Retirement  
 22 Income Security Act of 1974 (29 U.S.C. 1185  
 23 et seq.) is amended by adding at the end the  
 24 following:

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

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

12 (B) CONFORMING AMENDMENTS.—

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

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

21 (ii) Section 732(a) of the Employee  
 22 Retirement Income Security Act of 1974  
 23 (29 U.S.C. 1191a(a)) is amended by strik-  
 24 ing “section 711” and inserting “sub-  
 25 sections (a)(1)(F), (b) (with respect to  
 26 cases relating to genetic information or in-

formation 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 issuer, to request that such individual or family member of such individual undergo a genetic test. Such a health care professional shall not require

1       that such individual or family member undergo a ge-  
2       netic test.

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

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

19           “(1) any entity that is a member of the same  
20           controlled group as such issuer or plan sponsor of  
21           such group health plan;

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

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

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

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

8           “(f) INFORMATION FOR PAYMENT FOR GENETIC  
9           SERVICES.—

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

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

20           “(A) permit a group health plan or health  
21           insurance issuer to request (or require) the re-  
22           sults of the services referred to in such para-  
23           graph; or

24           “(B) require that a group health plan or  
25           health insurance issuer make payment for serv-

1           ices described in such paragraph where the in-  
 2           dividual involved has refused to provide evi-  
 3           dence of the performance of such services pur-  
 4           suant to a request by the plan or issuer in ac-  
 5           cordance with such paragraph.

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

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

14           “(2) is limited to information that is directly re-  
 15 lated to and necessary for the payment of such claim  
 16 and the claim would otherwise be denied but for the  
 17 predictive genetic information; and

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

22           “(h) RULES OF CONSTRUCTION.—

23           “(1) COLLECTION OR DISCLOSURE AUTHORIZED  
 24 BY INDIVIDUAL.—The provisions of subsections (d)  
 25 (regarding collection) and (e) shall not apply to an

1 individual if the individual (or legal representative of  
 2 the individual) provides prior, knowing, voluntary,  
 3 and written authorization for the collection or disclo-  
 4 sure of predictive genetic information.

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

11 “(i) DEFINITIONS.—In this section:

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

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

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

23 “(n) VIOLATION OF GENETIC DISCRIMINATION OR  
 24 GENETIC DISCLOSURE PROVISIONS.—In any action under  
 25 this section against any administrator of a group health

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

13 “(o) CIVIL PENALTY.—The monetary provisions of  
 14 section 308(b)(2)(C) of Public Law 101–336 (42 U.S.C.  
 15 12188(b)) shall apply for purposes of the Secretary en-  
 16 forcing the provisions referred to in subsection (n), except  
 17 that any such relief awarded shall be paid only into the  
 18 general fund of the Treasury.”.

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

- 22 (1) in subsection (a)(1), by inserting “or (e)”  
 23 after “subsection (b)”; and  
 24 (2) by adding at the end the following:

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

10           “(1) protects the confidentiality of genetic in-  
 11 formation (including information about a request for  
 12 or the receipt of genetic services by an individual or  
 13 a family member of such individual) or the privacy  
 14 of an individual or a family member of the individual  
 15 with respect to genetic information (including infor-  
 16 mation about a request for or the receipt of genetic  
 17 services by an individual or a family member of such  
 18 individual) than does this part; or

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

21       (e) DEFINITIONS.—Section 733(d) of the Employee  
 22 Retirement Income Security Act of 1974 (29 U.S.C.  
 23 1191b(d)) is amended by adding at the end the following:

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

1 “(A) the spouse of the individual;

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

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

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

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

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

25 “(9) PREDICTIVE GENETIC INFORMATION.—

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

3                   “(i) information about an individual’s  
4                   genetic tests;

5                   “(ii) information about genetic tests  
6                   of family members of the individual; or

7                   “(iii) information about the occur-  
8                   rence of a disease or disorder in family  
9                   members.

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

12                  “(i) information about the sex or age  
13                  of the individual;

14                  “(ii) information about chemical,  
15                  blood, or urine analyses of the individual,  
16                  unless these analyses are genetic tests; or

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

21                  (f) AMENDMENT CONCERNING SUPPLEMENTAL EX-  
22                  CEPTED BENEFITS.—Section 732(c)(3) of the Employee  
23                  Retirement Income Security Act of 1974 (29 U.S.C.  
24                  1191a(c)(3)) is amended by inserting “, other than the  
25                  requirements of subsections (a)(1)(F), (b) (in cases relat-

1 ing to genetic information or information about a request  
 2 for or the receipt of genetic services by an individual or  
 3 a family member of such individual), (c), (d), (e), (f) and  
 4 (g) of section 702 and section 714,” after “The require-  
 5 ments of this part”.

6 (g) EFFECTIVE DATE.—

7 (1) IN GENERAL.—Except as provided in this  
 8 section, this section and the amendments made by  
 9 this section shall apply with respect to group health  
 10 plans for plan years beginning after October 1,  
 11 2000.

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

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

1 (B) October 1, 2000.

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

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

10 **ACT.**

11 (a) AMENDMENTS RELATING TO THE GROUP MAR-  
 12 KET.—

13 (1) PROHIBITION OF HEALTH INSURANCE DIS-  
 14 CRIMINATION ON THE BASIS OF PREDICTIVE GE-  
 15 NETIC INFORMATION OR GENETIC SERVICES.—

16 (A) NO ENROLLMENT RESTRICTION FOR  
 17 GENETIC SERVICES.—Section 2702(a)(1)(F) of  
 18 the Public Health Service Act (42 U.S.C.  
 19 300gg–1(a)(1)(F)) is amended by inserting be-  
 20 fore the period the following: “(or information  
 21 about a request for or the receipt of genetic  
 22 services by an individual or a family member of  
 23 such individual)”.

1 (B) NO DISCRIMINATION IN GROUP RATE  
 2 BASED ON PREDICTIVE GENETIC INFORMA-  
 3 TION.—

4 (i) IN GENERAL.—Subpart 2 of part  
 5 A of title XXVII of the Public Health  
 6 Service (42 U.S.C. 300gg-4 et seq.) is  
 7 amended by adding at the end the fol-  
 8 lowing:

9 **“SEC. 2707. PROHIBITING DISCRIMINATION AGAINST**  
 10 **GROUPS ON THE BASIS OF PREDICTIVE GE-**  
 11 **NETIC INFORMATION.**

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

20 (ii) CONFORMING AMENDMENTS.—

21 (I) Section 2702(b)(2)(A) of the  
 22 Public Health Service Act (42 U.S.C.  
 23 300gg-1(b)(2)(A)) is amended to read  
 24 as follows:

“(A) to restrict the amount that an employer may be charged for coverage under a group health plan, except as provided in section 2707; or”.

(II) Section 2721(a) of the Public Health Service Act (42 U.S.C. 300gg-21(a)) is amended by inserting “(other than 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 2702 and section 2707)” after “subparts 1 and 3”.

(2) LIMITATIONS ON GENETIC TESTING AND ON COLLECTION AND DISCLOSURE OF PREDICTIVE GENETIC INFORMATION.—Section 2702 of the Public Health Service Act (42 U.S.C. 300gg-1) 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

1 coverage in connection with a group health plan,  
2 shall not request or require an individual or a family  
3 member of such individual to undergo a genetic 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 “(d) COLLECTION OF PREDICTIVE GENETIC INFOR-  
15 MATION.—Except as provided in subsections (f) and (g),  
16 a group health plan, or a health insurance issuer offering  
17 health insurance coverage in connection with a group  
18 health plan, shall not request, require, collect, or purchase  
19 predictive genetic information concerning an individual (or  
20 information about a request for or the receipt of genetic  
21 services by such individual or family member of such indi-  
22 vidual).

23 “(e) DISCLOSURE OF PREDICTIVE GENETIC INFOR-  
24 MATION.—A group health plan, or a health insurance  
25 issuer offering health insurance coverage in connection

1 with a group health plan, shall not disclose predictive ge-  
 2 netic information about an individual (or information  
 3 about a request for or the receipt of genetic services by  
 4 such individual or family member of such individual) to—

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

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

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

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

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

19          “(f) INFORMATION FOR PAYMENT FOR GENETIC  
 20          SERVICES.—

21               “(1) IN GENERAL.—With respect to payment  
 22          for genetic services conducted concerning an indi-  
 23          vidual or the coordination of benefits, a group health  
 24          plan, or a health insurance issuer offering group  
 25          health insurance coverage in connection with a group

1 health plan, may request that the individual provide  
 2 the plan or issuer with evidence that such services  
 3 were performed.

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

6 “(A) permit a group health plan or health  
 7 insurance issuer to request (or require) the re-  
 8 sults of the services referred to in such para-  
 9 graph; or

10 “(B) require that a group health plan or  
 11 health insurance issuer make payment for serv-  
 12 ices described in such paragraph where the in-  
 13 dividual involved has refused to provide evi-  
 14 dence of the performance of such services pur-  
 15 suant to a request by the plan or issuer in ac-  
 16 cordance with such paragraph.

17 “(g) INFORMATION FOR PAYMENT OF OTHER  
 18 CLAIMS.—With respect to the payment of claims for bene-  
 19 fits other than genetic services, a group health plan, or  
 20 a health insurance issuer offering group health insurance  
 21 coverage in connection with a group health plan, may re-  
 22 quest that an individual provide predictive genetic infor-  
 23 mation so long as such information—

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

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

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

9           “(h) RULES OF CONSTRUCTION.—

10           “(1) COLLECTION OR DISCLOSURE AUTHORIZED  
 11           BY INDIVIDUAL.—The provisions of subsections (d)  
 12           (regarding collection) and (e) shall not apply to an  
 13           individual if the individual (or legal representative of  
 14           the individual) provides prior, knowing, voluntary,  
 15           and written authorization for the collection or disclo-  
 16           sure of predictive genetic information.

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

23           “(i) DEFINITIONS.—In this section:

24           “(1) CONTROLLED GROUP.—The term ‘con-  
 25           trolled group’ means any group treated as a single

1 employer under subsections (b), (c), (m), or (o) of  
 2 section 414 of the Internal Revenue Code of 1986.

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

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

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

14 “(A) the spouse of the individual;

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

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

21 “(16) GENETIC INFORMATION.—The term ‘ge-  
 22 netic information’ means information about genes,  
 23 gene products, or inherited characteristics that may  
 24 derive from an individual or a family member of  
 25 such individual (including information about a re-

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

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

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

13              “(19) PREDICTIVE GENETIC INFORMATION.—

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

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

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

20                              “(iii) information about the occur-  
21                              rence of a disease or disorder in family  
22                              members.

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

1 “(i) information about the sex or age  
2 of the individual;

3 “(ii) information about chemical,  
4 blood, or urine analyses of the individual,  
5 unless these analyses are genetic tests; or

6 “(iii) information about physical  
7 exams of the individual, and other informa-  
8 tion relevant to determining the current  
9 health status of the individual.”.

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

14 (1) by redesignating such subpart as subpart 2;  
15 and

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

17 **“SEC. 2753. PROHIBITION OF HEALTH INSURANCE DIS-**  
18 **CRIMINATION AGAINST INDIVIDUALS ON THE**  
19 **BASIS OF PREDICTIVE GENETIC INFORMA-**  
20 **TION.**

21 “(a) IN ELIGIBILITY TO ENROLL.—A health insur-  
22 ance issuer offering health insurance coverage in the indi-  
23 vidual market shall not establish rules for eligibility to en-  
24 roll in individual health insurance coverage that are based  
25 on predictive genetic information concerning the individual

1 (or information about a request for or the receipt of ge-  
 2 netic services by such individual or family member of such  
 3 individual).

4 “(b) IN PREMIUM RATES.—A health insurance issuer  
 5 offering health insurance coverage in the individual mar-  
 6 ket shall not adjust premium rates on the basis of pre-  
 7 dictive genetic information concerning an individual (or in-  
 8 formation about a request for or the receipt of genetic  
 9 services by such individual or family member of such indi-  
 10 vidual).

11 **“SEC. 2754. LIMITATIONS ON GENETIC TESTING AND ON**  
 12 **COLLECTION AND DISCLOSURE OF PRE-**  
 13 **DICTIVE GENETIC INFORMATION.**

14 “(a) GENETIC TESTING.—

15 “(1) LIMITATION ON REQUESTING OR REQUIR-  
 16 ING GENETIC TESTING.—A health insurance issuer  
 17 offering health insurance coverage in the individual  
 18 market shall not request or require an individual or  
 19 a family member of such individual to undergo a ge-  
 20 netic test.

21 “(2) RULE OF CONSTRUCTION.—Nothing in  
 22 this title shall be construed to limit the authority of  
 23 a health care professional, who is providing treat-  
 24 ment with respect to an individual and who is em-  
 25 ployed 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 “(b) COLLECTION OF PREDICTIVE GENETIC INFOR-  
7 MATION.—Except as provided in subsections (d) and (e),  
8 a health insurance issuer offering health insurance cov-  
9 erage in the individual market shall not request, require,  
10 collect, or purchase predictive genetic information con-  
11 cerning an individual (or information about a request for  
12 or the receipt of genetic services by such individual or fam-  
13 ily member of such individual).

14 “(c) DISCLOSURE OF PREDICTIVE GENETIC INFOR-  
15 MATION.—A health insurance issuer offering health insur-  
16 ance coverage in the individual market shall not disclose  
17 predictive genetic information about an individual (or in-  
18 formation about a request for or the receipt of genetic  
19 services by such individual or family member of such indi-  
20 vidual) to—

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

24 “(2) any other group health plan or health in-  
25 surance issuer or any insurance agent, third party

1 administrator, or other person subject to regulation  
 2 under State insurance laws;

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

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

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

10 “(d) INFORMATION FOR PAYMENT FOR GENETIC  
 11 SERVICES.—

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

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

21 “(A) permit a health insurance issuer to  
 22 request (or require) the results of the services  
 23 referred to in such paragraph; or

24 “(B) require that a health insurance issuer  
 25 make payment for services described in such

1 paragraph where the individual involved has re-  
 2 fused to provide evidence of the performance of  
 3 such services pursuant to a request by the plan  
 4 or issuer in accordance with such paragraph.

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

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

12 “(2) is limited to information that is directly re-  
 13 lated to and necessary for the payment of such claim  
 14 and the claim would otherwise be denied but for the  
 15 predictive genetic information; and

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

20 “(f) RULES OF CONSTRUCTION.—

21 “(1) COLLECTION OR DISCLOSURE AUTHORIZED  
 22 BY INDIVIDUAL.—The provisions of subsections (c)  
 23 (regarding collection) and (d) shall not apply to an  
 24 individual if the individual (or legal representative of  
 25 the individual) provides prior, knowing, voluntary,

1 and written authorization for the collection or disclo-  
 2 sure of predictive genetic information.

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

9 “(g) DEFINITIONS.—In this section:

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

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

19 (c) ENFORCEMENT.—

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

23 “(c) VIOLATION OF GENETIC DISCRIMINATION OR  
 24 GENETIC DISCLOSURE PROVISIONS.—In any action under  
 25 this section against any administrator of a group health

1 plan, or health insurance issuer offering group health in-  
 2 surance coverage in connection with a group health plan  
 3 (including any third party administrator or other person  
 4 acting for or on behalf of such plan or issuer) alleging  
 5 a violation of subsections (a)(1)(F), (b) (with respect to  
 6 cases relating to genetic information or information about  
 7 a request or receipt of genetic services by an individual  
 8 or family member of such individual), (c), (d), (e), (f), or  
 9 (g) of section 2702 and section 2707 the court may award  
 10 any appropriate legal or equitable relief. Such relief may  
 11 include a requirement for the payment of attorney’s fees  
 12 and costs, including the costs of expert witnesses.

13 “(d) CIVIL PENALTY.—The monetary provisions of  
 14 section 308(b)(2)(C) of Public Law 101–336 (42 U.S.C.  
 15 12188(b)) shall apply for purposes of the Secretary en-  
 16 forcing the provisions referred to in subsection (c), except  
 17 that any such relief awarded shall be paid only into the  
 18 general fund of the Treasury.”.

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

22 “(c) VIOLATION OF GENETIC DISCRIMINATION OR  
 23 GENETIC DISCLOSURE PROVISIONS.—In any action under  
 24 this section against any health insurance issuer offering  
 25 health insurance coverage in the individual market (in-

cluding any other person acting for or on behalf of such issuer) alleging a violation of section 2753 and 2754 the court in which the action is commenced may award any appropriate legal or equitable relief. Such relief may include a requirement for the payment of attorney’s fees and costs, including the costs of expert witnesses.

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

(d) PREEMPTION.—

(1) GROUP MARKET.—Section 2723 of the Public Health Service Act (42 U.S.C. 300gg–23) is amended—

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

(B) by adding at the end the following:

“(e) SPECIAL RULE IN CASE OF GENETIC INFORMATION.—With respect to group health insurance coverage offered by a health insurance issuer, the provisions of this part relating to genetic information (including information about a request for or the receipt of genetic services by an individual or a family member of such individual) shall

1 not be construed to supersede any provision of State law  
 2 which establishes, implements, or continues in effect a  
 3 standard, requirement, or remedy that more completely—

4 “(1) protects the confidentiality of genetic in-  
 5 formation (including information about a request for  
 6 or the receipt of genetic services by an individual or  
 7 a family member of such individual) or the privacy  
 8 of an individual or a family member of the individual  
 9 with respect to genetic information (including infor-  
 10 mation about a request for or the receipt of genetic  
 11 services by an individual or a family member of such  
 12 individual); or

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

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

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

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

22 “(c) SPECIAL RULE IN CASE OF GENETIC INFORMA-  
 23 TION.—With respect to individual health insurance cov-  
 24 erage offered by a health insurance issuer, the provisions  
 25 of this part (or part C insofar as it applies to this part)

1 relating to genetic information (including information  
 2 about a request for or the receipt of genetic services by  
 3 an individual or a family member of such individual) shall  
 4 not be construed to supersede any provision of State law  
 5 (as defined in section 2723(d)) which establishes, imple-  
 6 ments, or continues in effect a standard, requirement, or  
 7 remedy that more completely—

8           “(1) protects the confidentiality of genetic in-  
 9 formation (including information about a request for  
 10 or the receipt of genetic services of an individual or  
 11 a family member of such individual) or the privacy  
 12 of an individual or a family member of the individual  
 13 with respect to genetic information (including infor-  
 14 mation about a request for or the receipt of genetic  
 15 services by an individual or a family member of such  
 16 individual) than does this part (or part C insofar as  
 17 it applies to this part); or

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

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

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

(2) by adding at the end the following:

“(D) ELECTION NOT APPLICABLE TO REQUIREMENTS CONCERNING GENETIC INFORMATION.—The election described in subparagraph (A) shall not be available with respect to the provisions of subsections (a)(1)(F), (c), (d), (e), (f), and (g) of section 2702 and section 2707, and the provisions of section 2702(b) to the extent that they apply to genetic information (or information about a request for or the receipt of genetic services by an individual or a family member of such individual).”.

(f) AMENDMENT CONCERNING SUPPLEMENTAL EXCEPTED BENEFITS.—

(1) GROUP MARKET.—Section 2721(d)(3) of the Public Health Service Act (42 U.S.C. 300gg–23(d)(3)) is amended by inserting “, other than the requirements of subsections (a)(1)(F), (b) (in cases relating to genetic information or information about a request for or the receipt of genetic services by an individual or a family member of such individual)),

1 (c), (d), (e), (f) and (g) of section 2702 and section  
 2 2707,” after “The requirements of this part”.

3 (2) INDIVIDUAL MARKET.—Section 2763(b) of  
 4 the Public Health Service Act (42 U.S.C. 300gg–  
 5 47(b)) is amended—

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

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

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

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

14 (g) EFFECTIVE DATE.—

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

17 (A) group health plans, and health insur-  
 18 ance coverage offered in connection with group  
 19 health plans, for plan years beginning; and

20 (B) health insurance coverage offered,  
 21 sold, issued, renewed, in effect, or operated in  
 22 the individual market, after;

23 October 1, 2000.

24 (2) SPECIAL RULE FOR COLLECTIVE BAR-  
 25 GAINING AGREEMENTS.—In the case of a group

1 health plan maintained pursuant to one or more col-  
 2 lective bargaining agreements between employee rep-  
 3 resentatives and one or more employers ratified be-  
 4 fore the date of the enactment of this Act, the  
 5 amendments made by this section shall not apply to  
 6 plan years beginning before the later of—

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

12 (B) October 1, 2000.

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

20 **SEC. 103. AMENDMENTS TO INTERNAL REVENUE CODE OF**  
 21 **1986.**

22 (a) PROHIBITION OF HEALTH INSURANCE DISCRIMI-  
 23 NATION ON THE BASIS OF GENETIC SERVICES OR PRE-  
 24 DICTIVE GENETIC INFORMATION.—

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

7           (2) NO DISCRIMINATION IN GROUP RATE BASED  
 8           ON PREDICTIVE GENETIC INFORMATION.—

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

12   **“SEC. 9813. PROHIBITING DISCRIMINATION AGAINST**  
 13                   **GROUPS ON THE BASIS OF PREDICTIVE GE-**  
 14                   **NETIC INFORMATION.**

15           “A group health plan shall not deny eligibility to a  
 16   group or adjust premium or contribution rates for a group  
 17   on the basis of predictive genetic information concerning  
 18   an individual in the group (or information about a request  
 19   for or the receipt of genetic services by such individual  
 20   or family member of such individual).”.

21           (B) CONFORMING AMENDMENTS.—

22                   (i) Section 9802(b)(2)(A) of the Inter-  
 23           nal Revenue Code of 1986 is amended to  
 24           read as follows:

1           “(A) to restrict the amount that an em-  
 2           ployer may be charged for coverage under a  
 3           group health plan, except as provided in section  
 4           9813; or”.

5                   (ii) Section 9831(a) of the Internal  
 6           Revenue Code of 1986 is amended by in-  
 7           serting “(other than subsections (a)(1)(F),  
 8           (b) (with respect to cases relating to ge-  
 9           netic information or information about a  
 10          request for or receipt of genetic services by  
 11          an individual or family member of such in-  
 12          dividual), (d) (e), (f), (g) or (h) of section  
 13          9802 or section 9813) after “chapter”.

14          (b) LIMITATIONS ON GENETIC TESTING AND ON  
 15          COLLECTION AND DISCLOSURE OF PREDICTIVE GENETIC  
 16          INFORMATION.—Section 9802 of the Internal Revenue  
 17          Code of 1986 is amended by adding at the end the fol-  
 18          lowing:

19           “(d) GENETIC TESTING.—

20                   “(1) LIMITATION ON REQUESTING OR REQUIR-  
 21          ING GENETIC TESTING.—A group health plan shall  
 22          not request or require an individual or a family  
 23          member of such individual to undergo a genetic test.

24                   “(2) RULE OF CONSTRUCTION.—Nothing in  
 25          this title shall be construed to limit the authority of

1 a health care professional, who is providing treat-  
 2 ment with respect to an individual and who is em-  
 3 ployed by a group health plan, to request that such  
 4 individual or family member of such individual un-  
 5 dergo a genetic test. Such a health care professional  
 6 shall not require that such individual or family mem-  
 7 ber undergo a genetic test.

8 “(e) COLLECTION OF PREDICTIVE GENETIC INFOR-  
 9 MATION.—Except as provided in subsections (g) and (h),  
 10 a group health plan shall not request, require, collect, or  
 11 purchase predictive genetic information concerning an in-  
 12 dividual (or information about a request for or the receipt  
 13 of genetic services by such individual or family member  
 14 of such individual).

15 “(f) DISCLOSURE OF PREDICTIVE GENETIC INFOR-  
 16 MATION.—A group health plan shall not disclose predictive  
 17 genetic information about an individual (or information  
 18 about a request for or the receipt of genetic services by  
 19 such individual or family member of such individual) to—

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

23 “(2) any other group health plan or health in-  
 24 surance issuer or any insurance agent, third party

1 administrator, or other person subject to regulation  
 2 under State insurance laws;

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

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

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

10 “(g) INFORMATION FOR PAYMENT FOR GENETIC  
 11 SERVICES.—

12 “(1) IN GENERAL.—With respect to payment  
 13 for genetic services conducted concerning an indi-  
 14 vidual or the coordination of benefits, a group health  
 15 plan may request that the individual provide the  
 16 plan with evidence that such services were per-  
 17 formed.

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

20 “(A) permit a group health plan to request  
 21 (or require) the results of the services referred  
 22 to in such paragraph; or

23 “(B) require that a group health plan  
 24 make payment for services described in such  
 25 paragraph where the individual involved has re-

1           fused to provide evidence of the performance of  
 2           such services pursuant to a request by the plan  
 3           in accordance with such paragraph.

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

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

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

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

18           “(i) RULES OF CONSTRUCTION.—

19           “(1) COLLECTION OR DISCLOSURE AUTHORIZED  
 20 BY INDIVIDUAL.—The provisions of subsections (e)  
 21 (regarding collection) and (f) shall not apply to an  
 22 individual if the individual (or legal representative of  
 23 the individual) provides prior, knowing, voluntary,  
 24 and written authorization for the collection or disclo-  
 25 sure of predictive genetic information.

1           “(2) DISCLOSURE FOR HEALTH CARE TREAT-  
 2           MENT.—Nothing in this section shall be construed to  
 3           limit or restrict the disclosure of predictive genetic  
 4           information from a health care provider to another  
 5           health care provider for the purpose of providing  
 6           health care treatment to the individual involved.

7           “(j) DEFINITIONS.—In this section:

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

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

17          “(k) VIOLATION OF GENETIC DISCRIMINATION OR  
 18          GENETIC DISCLOSURE PROVISIONS.—In any action under  
 19          this section against any administrator of a group health  
 20          plan (including any third party administrator or other per-  
 21          son acting for or on behalf of such plan) alleging a viola-  
 22          tion of subsection (a)(1)(F), (b) (with respect to cases re-  
 23          lating to genetic information or information about a re-  
 24          quest or receipt of genetic services by an individual or fam-  
 25          ily member of such individual), (d), (e), (f), (g) or (h) of

1 this section or section 9813, the court may award any ap-  
 2 propriate legal or equitable relief. Such relief may include  
 3 a requirement for the payment of attorney’s fees and  
 4 costs, including the costs of expert witnesses.

5 “(l) CIVIL PENALTY.—The monetary provisions of  
 6 section 308(b)(2)(C) of Public Law 101–336 (42 U.S.C.  
 7 12188(b)) shall apply for purposes of the Secretary en-  
 8 forcing the provisions referred to in subsection (k), except  
 9 that any such relief awarded shall be paid only into the  
 10 general fund of the Treasury.”.

11 (c) DEFINITIONS.—Section 9832(d) of the Internal  
 12 Revenue Code of 1986 is amended by adding at the end  
 13 the following:

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

16 “(A) the spouse of the individual;

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

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

23 “(7) GENETIC INFORMATION.—The term ‘ge-  
 24 netic information’ means information about genes,  
 25 gene products, or inherited characteristics that may

1       derive from an individual or a family member of  
 2       such individual (including information about a re-  
 3       quest for or the receipt of genetic services by such  
 4       individual or family member of such individual).

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

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

15          “(10) PREDICTIVE GENETIC INFORMATION.—

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

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

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

22               “(iii) information about the occur-  
 23               rence of a disease or disorder in family  
 24               members.

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

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

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

“(iii) information about physical exams of the individual, and other information relevant to determining the current health status of the individual.”.

(d) EFFECTIVE DATE.—

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

(2) SPECIAL RULE FOR COLLECTIVE BARGAINING AGREEMENTS.—In the case of a group health plan maintained pursuant to one or more collective bargaining agreements between employee representatives and one or more employers ratified before the date of the enactment of this Act, this section and the amendments made by this section shall

1 not apply to plan years beginning before the later  
2 of—

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

8 (B) October 1, 2000.

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

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

18 (a) NONDISCRIMINATION.—

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

22 “(E)(i) An issuer of a medicare supple-  
23 mental policy shall not deny or condition the  
24 issuance or effectiveness of the policy, and shall  
25 not discriminate in the pricing of the policy (in-

cluding the adjustment of premium rates) of an eligible individual on the basis of predictive genetic information concerning the individual (or information about a request for, or the receipt of, genetic services by such individual or family member of such individual).

“(ii) For purposes of clause (i), the terms ‘family member’, ‘genetic services’, and ‘predictive genetic information’ shall have the meanings given such terms in subsection (v).”.

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

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

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

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

“(1) GENETIC TESTING.—

“(A) LIMITATION ON REQUESTING OR REQUIRING GENETIC TESTING.—An issuer of a

1 medicare supplemental policy shall not request  
2 or require an individual or a family member of  
3 such individual to undergo a genetic test.

4 “(B) RULE OF CONSTRUCTION.—Nothing  
5 in this title shall be construed to limit the au-  
6 thority of a health care professional, who is pro-  
7 viding treatment with respect to an individual  
8 and who is employed by an issuer of a medicare  
9 supplemental policy, to request that such indi-  
10 vidual or family member of such individual un-  
11 dergo a genetic test. Such a health care profes-  
12 sional shall not require that such individual or  
13 family member undergo a genetic test.

14 “(2) COLLECTION OF PREDICTIVE GENETIC IN-  
15 FORMATION.—Except as provided in paragraphs (4)  
16 and (5), an issuer of a medicare supplemental policy  
17 shall not request, require, collect, or purchase pre-  
18 dictive genetic information concerning an individual  
19 (or information about a request for or the receipt of  
20 genetic services by such individual or family member  
21 of such individual).

22 “(3) DISCLOSURE OF PREDICTIVE GENETIC IN-  
23 FORMATION.—An issuer of a medicare supplemental  
24 policy shall not disclose predictive genetic informa-  
25 tion about an individual (or information about a re-

1       quest for or the receipt of genetic services by such  
2       individual or family member of such individual) to—

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

5               “(B) any issuer of a medicare supple-  
6       mental policy, group health plan or health in-  
7       surance issuer, or any insurance agent, third  
8       party administrator, or other person subject to  
9       regulation under State insurance laws;

10              “(C) the Medical Information Bureau or  
11       any other person that collects, compiles, pub-  
12       lishes, or otherwise disseminates insurance in-  
13       formation;

14              “(D) the individual’s employer or any plan  
15       sponsor; or

16              “(E) any other person the Secretary may  
17       specify in regulations.

18              “(4) INFORMATION FOR PAYMENT FOR GE-  
19       NETIC SERVICES.—

20              “(A) IN GENERAL.—With respect to pay-  
21       ment for genetic services conducted concerning  
22       an individual or the coordination of benefits, an  
23       issuer of a medicare supplemental policy may  
24       request that the individual provide the issuer

1 with evidence that such services were per-  
2 formed.

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

5 “(i) permit an issuer to request (or  
6 require) the results of the services referred  
7 to in such subparagraph; or

8 “(ii) require that an issuer make pay-  
9 ment for services described in such sub-  
10 paragraph where the individual involved  
11 has refused to provide evidence of the per-  
12 formance of such services pursuant to a re-  
13 quest by the issuer in accordance with such  
14 subparagraph.

15 “(5) INFORMATION FOR PAYMENT OF OTHER  
16 CLAIMS.—With respect to the payment of claims for  
17 benefits other than genetic services, an issuer of a  
18 medicare supplemental policy may request that an  
19 individual provide predictive genetic information so  
20 long as such information—

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

23 “(B) is limited to information that is di-  
24 rectly related to and necessary for the payment  
25 of such claim and the claim would otherwise be

1           denied but for the predictive genetic informa-  
2           tion; and

3           “(C) is used only by an individual (or indi-  
4           viduals) within such issuer who needs access to  
5           such information for purposes of payment of a  
6           claim.

7           “(6) RULES OF CONSTRUCTION.—

8           “(A) COLLECTION OR DISCLOSURE AU-  
9           THORIZED BY INDIVIDUAL.—The provisions of  
10          paragraphs (2) (regarding collection) and (3)  
11          shall not apply to an individual if the individual  
12          (or legal representative of the individual) pro-  
13          vides prior, knowing, voluntary, and written au-  
14          thorization for the collection or disclosure of  
15          predictive genetic information.

16          “(B) DISCLOSURE FOR HEALTH CARE  
17          TREATMENT.—Nothing in this section shall be  
18          construed to limit or restrict the disclosure of  
19          predictive genetic information from a health  
20          care provider to another health care provider  
21          for the purpose of providing health care treat-  
22          ment to the individual involved.

23          “(7) VIOLATION OF GENETIC DISCRIMINATION  
24          OR GENETIC DISCLOSURE PROVISIONS.—In any ac-  
25          tion under this subsection against any administrator

1 of a medicare supplemental policy (including any  
 2 third party administrator or other person acting for  
 3 or on behalf of such policy) alleging a violation of  
 4 this subsection, the court may award any appro-  
 5 priate legal or equitable relief. Such relief may in-  
 6 clude a requirement for the payment of attorney's  
 7 fees and costs, including the costs of expert wit-  
 8 nesses.

9 “(8) CIVIL PENALTY.—The monetary provisions  
 10 of section 308(b)(2)(C) of Public Law 101–336 (42  
 11 U.S.C. 12188(b)) shall apply for purposes of the  
 12 Secretary enforcing the provisions of this subsection,  
 13 except that any such relief awarded shall be paid  
 14 only into the general fund of the Treasury.

15 “(9) SPECIAL RULE IN CASE OF GENETIC IN-  
 16 FORMATION.—This subsection (relating to genetic  
 17 information or information about a request for, or  
 18 the receipt of, genetic services by an individual or a  
 19 family member of such individual) shall not be con-  
 20 strued to supersede any provision of State law which  
 21 establishes, implements, or continues in effect a  
 22 standard, requirement, or remedy that more  
 23 completely—

24 “(A) protects the confidentiality of genetic  
 25 information (including information about a re-

quest for, or the receipt of, genetic services by an individual or a family member of such individual) or the privacy of an individual or a family member of the individual with respect to genetic information (including information about a request for, or the receipt of, genetic services by an individual or a family member of such individual) than does this subsection; or

“(B) prohibits discrimination on the basis of genetic information than does this subsection.

“(10) DEFINITIONS.—In this subsection:

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

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

“(i) the spouse of the individual;

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

1                   “(iii) all other individuals related by  
2                   blood to the individual or the spouse or  
3                   child described in clause (i) or (ii).

4                   “(C) GENETIC INFORMATION.—The term  
5                   ‘genetic information’ means information about  
6                   genes, gene products, or inherited characteris-  
7                   tics that may derive from an individual or a  
8                   family member of such individual (including in-  
9                   formation about a request for, or the receipt of,  
10                  genetic services by such individual or family  
11                  member of such individual).

12                  “(D) GENETIC SERVICES.—The term ‘ge-  
13                  netic services’ means health services, including  
14                  genetic tests, provided to obtain, assess, or in-  
15                  terpret genetic information for diagnostic and  
16                  therapeutic purposes, and for genetic education  
17                  and counseling.

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

23                  “(F) ISSUER OF A MEDICARE SUPPLE-  
24                  MENTAL POLICY.—The term ‘issuer of a medi-  
25                  care supplemental policy’ includes a third-party

1 administrator or other person acting for or on  
2 behalf of such issuer.

3 “(G) PREDICTIVE GENETIC INFORMA-  
4 TION.—

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

7 “(I) information about an indi-  
8 vidual’s genetic tests;

9 “(II) information about genetic  
10 tests of family members of the indi-  
11 vidual; or

12 “(III) information about the oc-  
13 currence of a disease or disorder in  
14 family members.

15 “(ii) LIMITATIONS.—The term ‘pre-  
16 dictive genetic information’ shall not  
17 include—

18 “(I) information about the sex or  
19 age of the individual;

20 “(II) information about chemical,  
21 blood, or urine analyses of the indi-  
22 vidual, unless these analyses are ge-  
23 netic tests; or

24 “(III) information about physical  
25 exams of the individual, and other in-

1                   formation relevant to determining the  
 2                   current health status of the indi-  
 3                   vidual.”.

4           (2) CONFORMING AMENDMENT.—Section  
 5           1882(o) of the Social Security Act (42 U.S.C.  
 6           1395ss(o)) is amended by adding at the end the fol-  
 7           lowing:

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

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

15          (c) TRANSITION PROVISIONS.—

16          (1) IN GENERAL.—If the Secretary of Health  
 17          and Human Services identifies a State as requiring  
 18          a change to its statutes or regulations to conform its  
 19          regulatory program to the changes made by this sec-  
 20          tion, the State regulatory program shall not be con-  
 21          sidered to be out of compliance with the require-  
 22          ments of section 1882 of the Social Security Act due  
 23          solely to failure to make such change until the date  
 24          specified in paragraph (4).

1           (2) NAIC STANDARDS.—If, not later than June  
2       30, 2000, the National Association of Insurance  
3       Commissioners (in this subsection referred to as the  
4       “NAIC”) modifies its NAIC Model Regulation relat-  
5       ing to section 1882 of the Social Security Act (re-  
6       ferred to in such section as the 1991 NAIC Model  
7       Regulation, as subsequently modified) to conform to  
8       the amendments made by this section, such revised  
9       regulation incorporating the modifications shall be  
10      considered to be the applicable NAIC model regula-  
11      tion (including the revised NAIC model regulation  
12      and the 1991 NAIC Model Regulation) for the pur-  
13      poses of such section.

14          (3) SECRETARY STANDARDS.—If the NAIC  
15      does not make the modifications described in para-  
16      graph (2) within the period specified in such para-  
17      graph, the Secretary of Health and Human Services  
18      shall, not later than October 1, 2000, make the  
19      modifications described in such paragraph and such  
20      revised regulation incorporating the modifications  
21      shall be considered to be the appropriate regulation  
22      for the purposes of such section.

23          (4) DATE SPECIFIED.—

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

4 (i) the date the State changes its stat-  
5 utes or regulations to conform its regu-  
6 latory program to the changes made by  
7 this section, or

8 (ii) October 1, 2000.

9 (B) ADDITIONAL LEGISLATIVE ACTION RE-  
10 QUIRED.—In the case of a State which the Sec-  
11 retary identifies as—

12 (i) requiring State legislation (other  
13 than legislation appropriating funds) to  
14 conform its regulatory program to the  
15 changes made in this section, but

16 (ii) having a legislature which is not  
17 scheduled to meet in 2000 in a legislative  
18 session in which such legislation may be  
19 considered,

20 the date specified in this paragraph is the first  
21 day of the first calendar quarter beginning after  
22 the close of the first legislative session of the  
23 State legislature that begins on or after July 1,  
24 2000. For purposes of the previous sentence, in  
25 the case of a State that has a 2-year legislative

1 session, each year of such session shall be  
2 deemed to be a separate regular session of the  
3 State legislature.

4 **TITLE II—PROHIBITION OF EM-**  
5 **PLOYMENT DISCRIMINATION**  
6 **ON THE BASIS OF PRE-**  
7 **DICTIVE GENETIC INFORMA-**  
8 **TION**

9 **SEC. 201. DEFINITIONS.**

10 In this title:

11 (1) EMPLOYEE; EMPLOYER; EMPLOYMENT  
12 AGENCY; LABOR ORGANIZATION; MEMBER.—The  
13 terms “employee”, “employer”, “employment agen-  
14 cy”, and “labor organization” have the meanings  
15 given such terms in section 701 of the Civil Rights  
16 Act of 1964 (42 U.S.C. 2000e), except that the  
17 terms “employee” and “employer” shall also include  
18 the meanings given such terms in section 717 of the  
19 Civil Rights Act of 1964 (42 U.S.C. 2000e–16). The  
20 terms “employee” and “member” include an appli-  
21 cant for employment and an applicant for member-  
22 ship in a labor organization, respectively.

23 (2) FAMILY MEMBER.—The term “family mem-  
24 ber” means with respect to an individual—

25 (A) the spouse of the individual;

1 (B) a dependent child of the individual, in-  
2 cluding a child who is born to or placed for  
3 adoption with the individual; and

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

7 (3) GENETIC MONITORING.—The term “genetic  
8 monitoring” means the periodic examination of em-  
9 ployees to evaluate acquired modifications to their  
10 genetic material, such as chromosomal damage or  
11 evidence of increased occurrence of mutations, that  
12 may have developed in the course of employment due  
13 to exposure to toxic substances in the workplace, in  
14 order to identify, evaluate, and respond to the ef-  
15 fects of or control adverse environmental exposures  
16 in the workplace.

17 (4) 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 (5) 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 (6) 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 of  
9 family members of the individual; or

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

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

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

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

19 (iii) information about physical exams  
20 of the individual, and other information  
21 relevant to determining the current health  
22 status of the individual.

23 **SEC. 202. EMPLOYER PRACTICES.**

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

1           (1) to fail or refuse to hire or to discharge any  
2           individual, or otherwise to discriminate against any  
3           individual with respect to the compensation, terms,  
4           conditions, or privileges of employment of the indi-  
5           vidual, 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 individual;

9           (2) to limit, segregate, or classify the employees  
10          of the employer in any way that would deprive or  
11          tend to deprive any individual of employment oppor-  
12          tunities or otherwise adversely affect the status of  
13          the individual as an employee, because of predictive  
14          genetic information with respect to the individual, or  
15          information about a request for or the receipt of ge-  
16          netic services by such individual or family member  
17          of such individual; or

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

21                (A) where used for genetic monitoring of  
22                biological effects of toxic substances in the  
23                workplace, but only if—

1 (i) the employee has provided prior,  
2 knowing, voluntary, and written authoriza-  
3 tion;

4 (ii) the employee is informed of indi-  
5 vidual monitoring results;

6 (iii) the monitoring conforms to any  
7 genetic monitoring regulations that may be  
8 promulgated by the Secretary of Labor  
9 pursuant to the Occupational Safety and  
10 Health Act of 1970 (29 U.S.C. 651 et  
11 seq.) or the Federal Mine Safety and  
12 Health Act of 1977 (30 U.S.C. 801 et  
13 seq.); and

14 (iv) the employer, excluding any li-  
15 censed health care professional that is in-  
16 volved in the genetic monitoring program,  
17 receives the results of the monitoring only  
18 in aggregate terms that do not disclose the  
19 identity of specific employees; or

20 (B) where genetic services are offered by  
21 the employer and the employee provides prior,  
22 knowing, voluntary, and written authorization,  
23 and only the employee or family member of  
24 such employee receives the results of such serv-  
25 ices.

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

5 **SEC. 203. EMPLOYMENT AGENCY PRACTICES.**

6 It shall be an unlawful employment practice for an  
7 employment agency—

8 (1) to fail or refuse to refer for employment, or  
9 otherwise to discriminate against, any individual be-  
10 cause of predictive genetic information with respect  
11 to the individual (or information about a request for  
12 or the receipt of genetic services by such individual  
13 or family member of such individual);

14 (2) to limit, segregate, or classify individuals or  
15 fail or refuse to refer for employment any individual  
16 in any way that would deprive or tend to deprive any  
17 individual of employment opportunities or would  
18 limit the employment opportunities or otherwise ad-  
19 versely affect the status of the individual as an em-  
20 ployee, because of predictive genetic information  
21 with respect to the individual (or information about  
22 a request for or the receipt of genetic services by  
23 such individual or family member of such indi-  
24 vidual);

1           (3) to request, require, collect or purchase pre-  
2       dictive genetic information with respect to an indi-  
3       vidual (or information about a request for or the re-  
4       ceipt of genetic services by such individual or family  
5       member of such individual); or

6           (4) to cause or attempt to cause an employer to  
7       discriminate against an individual in violation of this  
8       title.

9   **SEC. 204. LABOR ORGANIZATION PRACTICES.**

10       It shall be an unlawful employment practice for a  
11   labor organization—

12           (1) to exclude or to expel from the membership  
13       of the organization, or otherwise to discriminate  
14       against, any individual because of predictive genetic  
15       information with respect to the individual (or infor-  
16       mation about a request for or the receipt of genetic  
17       services by such individual or family member of such  
18       individual);

19           (2) to limit, segregate, or classify the members  
20       of the organization, or fail or refuse to refer for em-  
21       ployment any individual, in any way that would de-  
22       prive or tend to deprive any individual of employ-  
23       ment opportunities, or would limit the employment  
24       opportunities or otherwise adversely affect the status  
25       of the individual as an employee, because of pre-

1       dictive genetic information with respect to the indi-  
2       vidual (or information about a request for or the re-  
3       ceipt of genetic services by such individual or family  
4       member of such individual);

5           (3) to request, require, collect or purchase pre-  
6       dictive genetic information with respect to an indi-  
7       vidual (or information about a request for or the re-  
8       ceipt of genetic services by such individual or family  
9       member of such individual); or

10          (4) to cause or attempt to cause an employer to  
11       discriminate against an individual in violation of this  
12       title.

13   **SEC. 205. TRAINING PROGRAMS.**

14       It shall be an unlawful employment practice for any  
15   employer, labor organization, or joint labor-management  
16   committee controlling apprenticeship or other training or  
17   retraining, including on-the-job training programs—

18          (1) to discriminate against any individual be-  
19       cause of predictive genetic information with respect  
20       to the individual (or information about a request for  
21       or the receipt of genetic services by such individual),  
22       in admission to, or employment in, any program es-  
23       tablished to provide apprenticeship or other training  
24       or retraining;

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

12          (3) to request, require, collect or purchase pre-  
 13          dictive genetic information with respect to an indi-  
 14          vidual (or information about a request for or receipt  
 15          of genetic services by such individual or family mem-  
 16          ber of such individual); or

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

20 **SEC. 206. MAINTENANCE AND DISCLOSURE OF PREDICTIVE**  
 21 **GENETIC INFORMATION.**

22          (a) MAINTENANCE OF PREDICTIVE GENETIC INFOR-  
 23 MATION.—If an employer possesses predictive genetic in-  
 24 formation about an employee (or information about a re-  
 25 quest for or receipt of genetic services by such employee

1 or family member of such employee), such information  
2 shall be treated or maintained as part of the employee's  
3 confidential medical records.

4 (b) DISCLOSURE OF PREDICTIVE GENETIC INFORMA-  
5 TION.—An employer shall not disclose predictive genetic  
6 information (or information about a request for or receipt  
7 of genetic services by such employee or family member of  
8 such employee) except—

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

11 (2) to an occupational or other health re-  
12 searcher if the research is conducted in compliance  
13 with the regulations and protections provided for  
14 under part 46 of title 45, Code of Federal Regula-  
15 tions;

16 (3) under legal compulsion of a Federal court  
17 order, except that if the court order was secured  
18 without the knowledge of the individual to whom the  
19 information refers, the employer shall provide the in-  
20 dividual with adequate notice to challenge the court  
21 order unless the court order also imposes confiden-  
22 tiality requirements; and

23 (4) to government officials who are inves-  
24 tigating compliance with this Act if the information  
25 is relevant to the investigation.

1 **SEC. 207. CIVIL ACTION.**

2 (a) IN GENERAL.—One or more employees, members  
3 of a labor organization, or participants in training pro-  
4 grams may bring an action in a Federal or State court  
5 of competent jurisdiction against an employer, employ-  
6 ment agency, labor organization, or joint labor-manage-  
7 ment committee or training program who commits a viola-  
8 tion of this title.

9 (b) ENFORCEMENT BY THE EQUAL EMPLOYMENT  
10 OPPORTUNITY COMMISSION.—

11 (1) IN GENERAL.—The powers, remedies, and  
12 procedures set forth in sections 705, 706, 707, 709,  
13 710, and 717 of the Civil Rights Act of 1964 (42  
14 U.S.C. 2000e-4, 2000e-5, 2000e-6, 2000e-8,  
15 2000e-9, and 2000e-16) shall be the powers, rem-  
16 edies, and procedures provided to the Equal Employ-  
17 ment Opportunity Commission to enforce this title.  
18 The Commission may promulgate regulations to im-  
19 plement these powers, remedies, and procedures.

20 (2) EXHAUSTION OF REMEDIES.—Nothing in  
21 this subsection shall be construed to require that an  
22 individual exhaust the administrative remedies avail-  
23 able through the Equal Employment Opportunity  
24 Commission prior to commencing a civil action  
25 under this section, except that if an individual files  
26 a charge of discrimination with the Commission that

1 alleges a violation of this title, the individual shall  
2 exhaust the administrative remedies available  
3 through the Commission prior to commencing a civil  
4 action under this section.

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

9 **SEC. 208. CONSTRUCTION.**

10 Nothing in this title shall be construed to—

11 (1) limit the rights or protections of an indi-  
12 vidual under the Americans with Disabilities Act of  
13 1990 (42 U.S.C. 12101 et seq.), including coverage  
14 afforded to individuals under section 102 of such  
15 Act;

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

19 (3) limit the rights or protections of an indi-  
20 vidual under any other Federal or State statute that  
21 provides equal or greater protection to an individual  
22 than the rights accorded under this Act;

23 (4) apply to the Armed Forces Repository of  
24 Specimen Samples for the Identification of Remains;  
25 or

1           (5) limit the statutory or regulatory authority  
2       of the Occupational Safety and Health Administra-  
3       tion or the Mine Safety and Health Administration  
4       to promulgate or enforce workplace safety and  
5       health laws and regulations.

6   **SEC. 209. AUTHORIZATION OF APPROPRIATIONS.**

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

9   **SEC. 210. EFFECTIVE DATE.**

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

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