

By the Committee on Banking and Insurance; and Senator Silver

311-1494-01

1 A bill to be entitled
2 An act relating to unfair methods of
3 competition and unfair or deceptive trade
4 practices; amending s. 626.9541, F.S.;
5 prohibiting certain insurers from specified
6 discriminatory acts based upon an applicant or
7 insureds having been or likelihood to become a
8 victim of specified abuse; providing
9 exceptions; providing an effective date.

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11 Be It Enacted by the Legislature of the State of Florida:

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13 Section 1. Paragraph (g) of subsection (1) of section
14 626.9541, Florida Statutes, is amended to read:

15 626.9541 Unfair methods of competition and unfair or
16 deceptive acts or practices defined.--

17 (1) UNFAIR METHODS OF COMPETITION AND UNFAIR OR
18 DECEPTIVE ACTS.--The following are defined as unfair methods
19 of competition and unfair or deceptive acts or practices:

20 (g) Unfair discrimination.--

21 1. Knowingly making or permitting any unfair
22 discrimination between individuals of the same actuarially
23 supportable class and equal expectation of life, in the rates
24 charged for any life insurance or annuity contract, in the
25 dividends or other benefits payable thereon, or in any other
26 of the terms and conditions of such contract.

27 2. Knowingly making or permitting any unfair
28 discrimination between individuals of the same actuarially
29 supportable class and essentially the same hazard, in the
30 amount of premium, policy fees, or rates charged for any
31 policy or contract of accident, disability, or health

1 insurance, in the benefits payable thereunder, in any of the
2 terms or conditions of such contract, or in any other manner
3 whatever.

4 3. For a health insurer, life insurer, disability
5 insurer, property and casualty insurer, automobile insurer, or
6 managed care provider to underwrite a policy, or refuse to
7 issue, reissue, or renew a policy, refuse to pay a claim,
8 cancel or otherwise terminate a policy, or increase rates
9 based ~~solely~~ upon the fact that an insured or applicant who is
10 also the proposed insured has made a claim or sought or should
11 have sought medical or psychological treatment in the past for
12 abuse, protection from abuse, or shelter from abuse, or that a
13 claim was caused in the past by, or might occur as a result
14 of, any future assault, battery, or sexual assault by a family
15 or household member upon another family or household member as
16 defined in s. 741.28(2). A health insurer, life insurer,
17 disability insurer, or managed care provider ~~An insurer~~ may
18 refuse to underwrite, issue, or renew a policy based on the
19 applicant's medical condition, but shall not consider whether
20 such condition was caused by an act of abuse. For purposes of
21 this section, the term "abuse" means the occurrence of one or
22 more of the following acts:

- 23 a. Attempting or committing assault, battery, sexual
24 assault, or sexual battery;
- 25 b. Placing another in fear of imminent serious bodily
26 injury by physical menace;
- 27 c. False imprisonment;
- 28 d. Physically or sexually abusing a minor child; or
- 29 e. An act of domestic violence as defined in s.
30 741.28.

31 Section 2. This act shall take effect July 1, 2001.

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STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
COMMITTEE SUBSTITUTE FOR
SB 788

Clarifies that the current law provision which allows insurers to refuse to underwrite, issue, or renew a policy based on the applicant's medical condition, with the exception that insurers shall not consider whether such condition was caused by an act of abuse, applies only to health, life, and disability insurers, or managed care providers.