

By the Committee on Banking and Insurance; and Senator Stargel

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1 A bill to be entitled
2 An act relating to the use of genetic information;
3 amending s. 627.4301, F.S.; revising the definition of
4 the term "genetic information"; defining the terms
5 "life insurer" and "long-term care insurer";
6 specifying criteria that must be met before a life
7 insurer, long-term care insurer, or disability income
8 insurer may use genetic information for underwriting
9 purposes; specifying prohibited acts by such insurers
10 relating to genetic information; amending s. 760.40,
11 F.S.; prohibiting companies providing direct-to-
12 consumer commercial genetic testing from sharing
13 certain information about a consumer with a life
14 insurer or health insurer unless the company obtains
15 the consumer's prior written consent; providing an
16 effective date.

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

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20 Section 1. Section 627.4301, Florida Statutes, is amended
21 to read:

22 627.4301 Genetic information for insurance purposes.—

23 (1) DEFINITIONS.—As used in this section, the term:

24 (a) "Genetic information" means information derived from
25 genetic testing to determine the presence or absence of
26 variations or mutations, including carrier status, in an
27 individual's genetic material or genes that are scientifically
28 or medically believed to cause a disease, disorder, or syndrome,
29 or are associated with a statistically increased risk of

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30 developing a disease, disorder, or syndrome, which is
31 asymptomatic at the time of testing. Such testing does not
32 include routine physical examinations or chemical, blood, or
33 urine analysis, unless conducted purposefully to obtain genetic
34 information, or questions regarding family history. Genetic
35 information includes the results of direct-to-consumer
36 commercial genetic testing.

37 (b) "Health insurer" means an authorized insurer offering
38 health insurance as defined in s. 624.603, a self-insured plan
39 as defined in s. 624.031, a multiple-employer welfare
40 arrangement as defined in s. 624.437, a prepaid limited health
41 service organization as defined in s. 636.003, a health
42 maintenance organization as defined in s. 641.19, a prepaid
43 health clinic as defined in s. 641.402, a fraternal benefit
44 society as defined in s. 632.601, or any health care arrangement
45 whereby risk is assumed.

46 (c) "Life insurer" has the same meaning as provided in s.
47 624.602 and includes an insurer issuing life insurance contracts
48 that grant additional benefits in the event of the insured's
49 disability.

50 (d) "Long-term care insurer" means an insurer that issues
51 long-term care insurance policies as defined in s. 627.9404.

52 (2) USE OF GENETIC INFORMATION.—

53 (a) In the absence of a diagnosis of a condition related to
54 genetic information, no health insurer authorized to transact
55 insurance in this state may cancel, limit, or deny coverage, or
56 establish differentials in premium rates, based on such
57 information.

58 (b) Health insurers may not require or solicit genetic

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59 information, use genetic test results, or consider a person's
60 decisions or actions relating to genetic testing in any manner
61 for any insurance purpose.

62 (c) A life insurer, long-term care insurer, or disability
63 income insurer may use genetic information for underwriting
64 purposes only if all of the following criteria are met:

65 1. The genetic information is contained in the medical
66 record.

67 2. The use of any genetic testing results is limited to
68 what is in the medical record.

69 3. The genetic information is relevant to a potential
70 medical condition that impacts mortality or morbidity risk.

71 4. The genetic information is related to expected mortality
72 or morbidity based on sound actuarial principles or reasonably
73 expected experience.

74 (d) A life insurer, long-term care insurer, or disability
75 income insurer may not:

76 1. Cancel coverage based solely on genetic information;

77 2. Require an applicant to take a genetic test as a
78 condition of insurability; or

79 3. Obtain, request, or otherwise require the complete
80 genome sequence of an applicant's DNA.

81 (e) This section does not apply to the underwriting or
82 issuance of ~~an a life insurance policy, disability income~~
83 ~~policy, long-term care policy,~~ accident-only policy, a hospital
84 indemnity or fixed indemnity policy, a dental policy, or a
85 vision policy or any other actions of an insurer directly
86 related to ~~an a life insurance policy, disability income policy,~~
87 ~~long-term care policy,~~ accident-only policy, a hospital

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88 indemnity or fixed indemnity policy, a dental policy, or a
89 vision policy.

90 Section 2. Subsection (4) is added to section 760.40,
91 Florida Statutes, to read:

92 760.40 Genetic testing; informed consent; confidentiality;
93 penalties; notice of use of results.—

94 (4) A company providing direct-to-consumer commercial
95 genetic testing may not share any genetic information or
96 personally identifiable information about a consumer with a life
97 insurer or health insurer unless the company obtains prior
98 written consent from the consumer.

99 Section 3. This act shall take effect July 1, 2020.