



Sen. Bill Cunningham

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10300HB4317sam001

LRB103 35975 LNS 74149 a

1 AMENDMENT TO HOUSE BILL 4317

2 AMENDMENT NO. _____. Amend House Bill 4317 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Genetic Information Privacy Act is amended
5 by changing Section 25 as follows:

6 (410 ILCS 513/25)

7 Sec. 25. Use of genetic testing information by employers.

8 (a) An employer, employment agency, labor organization,
9 and licensing agency shall treat genetic testing and genetic
10 information in such a manner that is consistent with the
11 requirements of federal law, including but not limited to the
12 Genetic Information Nondiscrimination Act of 2008, the
13 Americans with Disabilities Act, Title VII of the Civil Rights
14 Act of 1964, the Family and Medical Leave Act of 1993, the
15 Occupational Safety and Health Act of 1970, the Federal Mine
16 Safety and Health Act of 1977, or the Atomic Energy Act of

1 1954.

2 (b) An employer may release genetic testing information
3 only in accordance with this Act.

4 (c) An employer, employment agency, labor organization,
5 and licensing agency shall not directly or indirectly do any
6 of the following:

7 (1) except as set forth in subsection (f-5), solicit,
8 request, require or purchase genetic testing or genetic
9 information of a person or a family member of the person,
10 or administer a genetic test to a person or a family member
11 of the person as a condition of employment, preemployment
12 application, labor organization membership, or licensure;

13 (2) affect the terms, conditions, or privileges of
14 employment, preemployment application, labor organization
15 membership, or licensure, or terminate the employment,
16 labor organization membership, or licensure of any person
17 because of genetic testing or genetic information with
18 respect to the employee or family member, or information
19 about a request for or the receipt of genetic testing by
20 such employee or family member of such employee;

21 (3) limit, segregate, or classify employees in any way
22 that would deprive or tend to deprive any employee of
23 employment opportunities or otherwise adversely affect the
24 status of the employee as an employee because of genetic
25 testing or genetic information with respect to the
26 employee or a family member, or information about a

1 request for or the receipt of genetic testing or genetic
2 information by such employee or family member of such
3 employee; and

4 (4) retaliate through discharge or in any other manner
5 against any person alleging a violation of this Act or
6 participating in any manner in a proceeding under this
7 Act.

8 (d) An agreement between a person and an employer,
9 prospective employer, employment agency, labor organization,
10 or licensing agency, or its employees, agents, or members
11 offering the person employment, labor organization membership,
12 licensure, or any pay or benefit in return for taking a genetic
13 test is prohibited.

14 (e) An employer shall not use genetic information or
15 genetic testing in furtherance of a workplace wellness program
16 benefiting employees unless (1) health or genetic services are
17 offered by the employer, (2) the employee provides written
18 authorization in accordance with Section 30 of this Act, (3)
19 only the employee or family member if the family member is
20 receiving genetic services and the licensed health care
21 professional or licensed genetic counselor involved in
22 providing such services receive individually identifiable
23 information concerning the results of such services, and (4)
24 any individually identifiable information is only available
25 for purposes of such services and shall not be disclosed to the
26 employer except in aggregate terms that do not disclose the

1 identity of specific employees. An employer shall not penalize
2 an employee who does not disclose his or her genetic
3 information or does not choose to participate in a program
4 requiring disclosure of the employee's genetic information.

5 (f) Nothing in this Act shall be construed to prohibit
6 genetic testing of an employee who requests a genetic test and
7 who provides written authorization, in accordance with Section
8 30 of this Act, from taking a genetic test for the purpose of
9 initiating a workers' compensation claim under the Workers'
10 Compensation Act.

11 (f-5) Nothing in this Act shall be construed to prohibit
12 an employer or potential employer from requiring a job
13 candidate or existing employee to participate in a
14 pre-employment physical examination or an employment-related
15 physical examination, including an examination that asks
16 questions regarding familial medical background or genetic
17 information, so long as:

18 (1) the job candidate or employee has consented, in
19 writing, to participate in such physical examination; and

20 (2) no genetic information is provided or made
21 available to the employer or potential employer or used by
22 the employer or potential employer to make any
23 employment-related decisions other than to determine an
24 employee's or job candidate's fitness to work or ability
25 to perform the required job duties.

26 Not later than 6 months after the effective date of this

1 amendatory Act of the 103rd General Assembly, if a
2 pre-employment physical examination or employment-related
3 physical examination will collect genetic information, a
4 consent form that clearly and in plain language explains the
5 rights of an individual under this Act, including this
6 Section, must be provided by the employer or potential
7 employer in writing and signed by the individual.

8 (g) A purchase of commercially and publicly available
9 documents, including newspapers, magazines, periodicals, and
10 books but not including medical databases or court records or
11 inadvertently requesting family medical history by an
12 employer, employment agency, labor organization, and licensing
13 agency does not violate this Act.

14 (h) Nothing in this Act shall be construed to prohibit an
15 employer that conducts DNA analysis for law enforcement
16 purposes as a forensic laboratory and that includes such
17 analysis in the Combined DNA Index System pursuant to the
18 federal Violent Crime Control and Law Enforcement Act of 1994
19 from requesting or requiring genetic testing or genetic
20 information of such employer's employees, but only to the
21 extent that such genetic testing or genetic information is
22 used for analysis of DNA identification markers for quality
23 control to detect sample contamination.

24 (i) Nothing in this Act shall be construed to prohibit an
25 employer from requesting or requiring genetic information to
26 be used for genetic monitoring of the biological effects of

1 toxic substances in the workplace, but only if (1) the
2 employer provides written notice of the genetic monitoring to
3 the employee; (2) the employee provides written authorization
4 under Section 30 of this Act or the genetic monitoring is
5 required by federal or State law; (3) the employee is informed
6 of individual monitoring results; (4) the monitoring is in
7 compliance with any federal genetic monitoring regulations or
8 State genetic monitoring regulations under the authority of
9 the federal Occupational Safety and Health Act of 1970; and
10 (5) the employer, excluding any health care provider, health
11 care professional, or health facility that is involved in the
12 genetic monitoring program, receives the results of the
13 monitoring only in aggregate terms that do not disclose the
14 identity of specific employees.

15 (j) Despite lawful acquisition of genetic testing or
16 genetic information under subsections (e) through (i) of this
17 Section, an employer, employment agency, labor organization,
18 and licensing agency still may not use or disclose the genetic
19 test or genetic information in violation of this Act.

20 (k) Except as provided in subsections (e), (f), (h), and
21 (i) of this Section, a person shall not knowingly sell to or
22 interpret for an employer, employment agency, labor
23 organization, or licensing agency, or its employees, agents,
24 or members, a genetic test of an employee, labor organization
25 member, or license holder, or of a prospective employee,
26 member, or license holder.

1 (Source: P.A. 100-396, eff. 1-1-18.)

2 Section 99. Effective date. This Act takes effect upon
3 becoming law.".